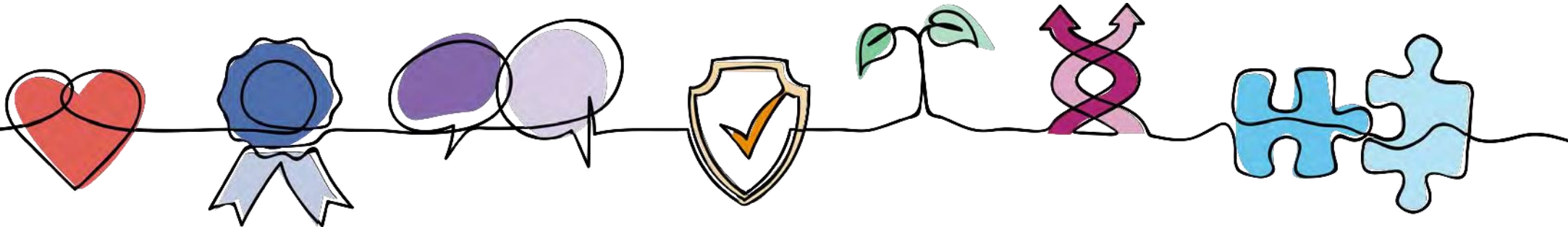


Freedom to Speak Up policy

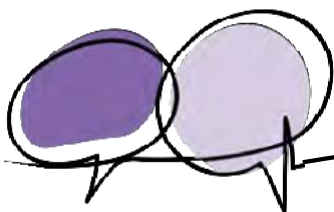
June 2023



Procedure Title:	Freedom to Speak Up Policy
Description:	National Freedom to Speak Up Policy for adoption by CWICB
This procedure will impact on:	All staff at the ICB.
Financial Implications:	No change.
Policy Area:	HR
Version No:	1
Issued By:	CWICB Human Resources
Author:	CWICB Human Resources FTSU Guardian
Effective Date:	June 2023
Review Date:	June 2026 or before if statutory changes are required.
Impact Assessment Date:	May 2023

APPROVAL RECORD

	<u>Committees / Groups / Individual</u>	Date
Approved by Committees:	Social Partnership Forum	6 th June 2023
	People Committee	28 th June 2023



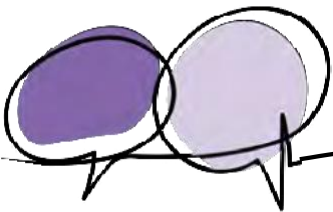
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Equality and Health Inequalities Statement

Promoting equality and addressing health inequalities are at the heart of NHS England's and Coventry & Warwickshire ICB's values. Throughout the development of the policies and processes cited in this document, we have:

- Given due regard to the need to eliminate discrimination, harassment, and victimisation, to advance equality of opportunity, and to foster good relations between people who share a relevant protected characteristic (as cited under the Equality Act 2010) and those who do not share it; and
- Given regard to the need to reduce inequalities between patients in access to, and outcomes from healthcare services and to ensure services are provided in an integrated way where this might reduce health inequalities.



Speak up – we will listen

We welcome speaking up and we will listen. By speaking up at work you will be playing a vital role in helping us to keep improving our services for all patients and the working environment for our staff.

This policy is for all our colleagues. The [NHS People Promise](#) commits to ensuring that “we each have a voice that counts, that we all feel safe and confident to speak up, and take the time to really listen to understand the hopes and fears that lie behind the words”.

We want to hear about any concerns you have, whichever part of the organisation or system you work in. We know some groups in our workforce feel they are seldom heard or are reluctant to speak up. You could be an agency or bank colleague, locum, or student. We also know that colleagues with disabilities, or from a minority ethnic background or the LGBTQ+ community do not always feel able to speak up. **This policy is for all colleagues, and we want to hear all our colleagues' concerns.**

We ask all our colleagues to complete the [online training](#) on speaking up. The online module on listening up is specifically for managers to complete and the module on following up is for senior leaders to complete.

You can find out more about what Freedom to Speak Up (FTSU) is in these [videos](#)

This policy



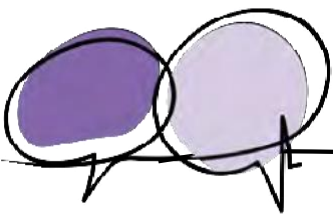
What can I speak up about?

You can speak up about anything that gets in the way of patient care or affects your working life. That could be something which doesn't feel right to you: for example, a way of working or a process that isn't being followed; you feel you are being discriminated against; or you feel the behaviors of others is affecting your wellbeing, or that of your colleagues or patients.

Speaking up is about all these things.

Speaking up, therefore, captures a range of issues, some of which may be appropriate for other existing processes (for example, HR or patient safety/quality) - Please see [Appendix A](#) for a list of relevant links to local policy/process documents.

As an organisation, we will listen and work with you to identify the most appropriate way of responding to the issue you raise.



We want you to feel safe to speak up

Your speaking up to us is a gift because it helps us identify opportunities for improvement that we might not otherwise know about.

We will not tolerate anyone being prevented or deterred from speaking up or being mistreated because they have spoken up.

Who can speak up?

Anyone who works in NHS healthcare, including pharmacy, optometry, and dentistry. This encompasses any healthcare professionals, non-clinical, receptionists, directors, managers, contractors, volunteers, students, trainees, junior doctors, locum, bank and agency colleagues, and former colleagues.

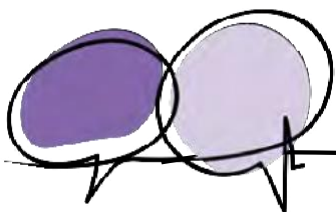
Who can I speak up to?

Speaking up internally

Most speaking up happens through conversations with supervisors and line managers where challenges are raised and resolved quickly. We strive for a culture where that is normal, everyday practice and encourage you to explore this option – it may well be the easiest and simplest way of resolving matters.

However, you have other options in terms of who you can speak up to, depending on what feels most appropriate to you and depending on the size of the organisation you work in (some of the options set out below will only be available in larger organisations).

- Senior manager or director with responsibility for the subject matter you are speaking up about.
- The patient safety team or clinical governance team (where concerns relate to patient safety or wider quality) You can contact cwicb.nursingadmin@nhs.net who will forward to the appropriate lead.
- Local counter fraud team, alternatively you can contact the fraud team via <https://cfa.nhs.uk/reportfraud>, or 0800 028 4060
- Our Freedom to Speak Up Guardians are angela.mcdonald8@nhs.net and mary.mansfield3@nhs.net (For CWICB) and m.elftise@nhs.net (for Primary Care) who can support you to speak up if you feel unable to do so by other routes. The guardian will ensure that people who speak up are thanked for doing so, that the issues they raise are responded to, and that the person speaking up receives feedback on the actions taken. You can find out more about the guardian role [here](#).
- Our HR team icb.cwhr@nhs.net or call 02476246134
- Our senior lead responsible for Freedom to Speak Up is [Theresa Nelson](#) - they provide senior support for our speaking-up guardian and are responsible for reviewing the effectiveness of our FTSU arrangements.
- Our non-executive director responsible for Freedom to Speak Up is Bill Butler William.butler2@nhs.net, this role is specific to organisations with boards and can provide more independent support for the guardian; provide a fresh pair of eyes to ensure that investigations are conducted with rigor; and help escalate issues, where needed.



Speaking up externally

If you do not want to speak up to someone within your organisation, you can speak up externally to:

- [Care Quality Commission](#) (CQC) for quality and safety concerns about the services it regulates – you can find out more about how the CQC handles concerns [here](#).
- [NHS England](#) for concerns about:
 - GP surgeries
 - dental practices
 - optometrists
 - pharmacies
 - how NHS trusts and foundation trusts are being run (this includes ambulance trusts and community and mental health trusts)
 - NHS procurement and patient choice
 - the national tariff.

NHS England may decide to investigate your concern themselves, ask your employer or another appropriate organisation to investigate (usually with their oversight) and/or use the information you provide to inform their oversight of the relevant organisation. The precise action they take will depend on the nature of your concern and how it relates to their various roles.

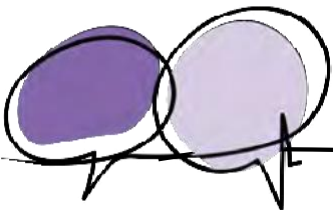
Please note that neither the Care Quality Commission nor NHS England can get involved in individual employment matters, such as a concern from an individual about feeling bullied.



- [NHS Counter Fraud Agency](#) for concerns about fraud and corruption, using their [online reporting form](#) or calling their freephone line **0800 028 4060**.

If you would like to speak up about the conduct of a member of staff, you can do this by contacting the relevant professional body such as the General Medical Council, Nursing and Midwifery Council, Health & Care Professions Council, General Dental Council, General Optical Council or General Pharmaceutical Council.

Appendix C contains information about making a 'protected disclosure'.



How should I speak up?

You can speak up to any of the people or organisations listed above in person, by phone or in writing (including email).

Confidentiality

The most important aspect of your speaking up is the information you can provide, not your identity.

You have a choice about how you speak up:

- **Openly:** you are happy that the person you speak up to knows your identity and that they can share this with anyone else involved in responding.
- **Confidentially:** you are happy to reveal your identity to the person you choose to speak up to on the condition that they will not share this without your consent.
- **Anonymously:** you do not want to reveal your identity to anyone. This can make it difficult for others to ask you for further information about the matter and may make it more complicated to act to resolve the issue. It also means that you might not be able to access any extra support you need and receive any feedback on the outcome.

In all circumstances, please be ready to explain as fully as you can the information and circumstances that prompted you to speak up.

Advice and support

You can find out about the local support available to you at [either link to organisation intranet or reference other locations where this information can be found]. Your local staff networks [include link to local networks] can be a valuable source of support.

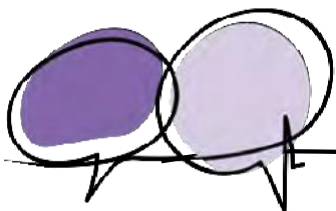
You can access a range of health and wellbeing support via NHS England:

- [Support available for our NHS people.](#)
- [Looking after you: confidential coaching and support for the primary care workforce.](#)

NHS England has a [Speak Up Support Scheme](#) that you can apply to for support.

You can also contact the following organisations:

- [Speak Up Direct](#) provides free, independent, confidential advice on the speaking up process.
- The charity [Protect](#) provides confidential and legal advice on speaking up.
- The [Trades Union Congress](#) provides information on how to join a trade union.
- [The Law Society](#) may be able to point you to other sources of advice and support.
- [The Advisory, Conciliation and Arbitration Service](#) gives advice and assistance, including on early conciliation regarding employment disputes.



What will we do?

The matter you are speaking up about may be best considered under a specific existing policy/process; for example, our process for dealing with bullying and harassment. If so, we will discuss that with you. If you speak up about something that does not fall into an HR or patient safety incident process, this policy ensures that the matter is still addressed.

What you can expect to happen after speaking up is shown in Appendix B.

Resolution and investigation

We support our managers/supervisors to listen to the issue you raise and take action to resolve it wherever possible. In most cases, it's important that this opportunity is fully explored, which may be with facilitated conversations and/or mediation.

Where an investigation is needed, this will be objective and conducted by someone who is suitably independent (this might be someone outside your organisation or from a different part of the organisation) and trained in investigations. It will reach a conclusion within a reasonable timescale (which we will notify you of), and a report will be produced that identifies any issues to prevent problems recurring.

Any employment issues that have implications for you/your capability or conduct identified during the investigation will be considered separately.

Communicating with you

We will always treat you with respect and will thank you for speaking up. We will discuss the issues with you to ensure we understand exactly what you are worried about. If we decide to investigate, we will tell you how long we expect the investigation to take and agree with you how to keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others and recognising that some matters may be strictly confidential; as such it may be that we cannot even share the outcome with you).

How we learn from your speaking up

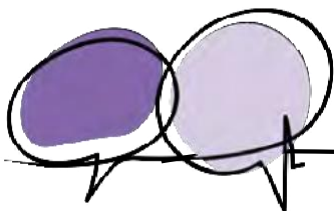
We want speaking up to improve the services we provide for patients and the environment our staff work in. Where it identifies improvements that can be made, we will ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

Review

We will seek feedback from colleagues about their experience of speaking up. We will review the effectiveness of this policy and our local process annually, with the outcome published and changes made as appropriate.

Senior leaders' oversight

Our most senior leaders will receive a report at least annually providing a thematic overview of speaking up by our staff to our FTSU guardian(s).



Appendix A:

Relevant links to local policy/process documents

Safeguarding Children and Adults at Risk Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/04/Safeguarding-Children-and-Adults-at-Risk-Policy.pdf>

Dignity at work HR Policy

https://www.happyhealthylives.uk/document-library/?keyword_search=dignity&category_id=8&sub_category_id=all&file_date_month=&file_date_year=&file_type=#

Grievance HR Policy

https://www.happyhealthylives.uk/document-library/?keyword_search=grievance&category_id=8&sub_category_id=all&file_date_month=&file_date_year=&file_type=#

Managing Safeguarding Allegations Against Staff Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/04/Managing-Safeguarding-Allegations-Against-Staff-Policy.pdf>

Violence Aggression and Abuse Management Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/04/Violence-Aggression-and-Abuse-Management-Policy.pdf>

Health and Safety Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/04/Health-and-Safety-Policy.pdf>

Serious Incident Policy

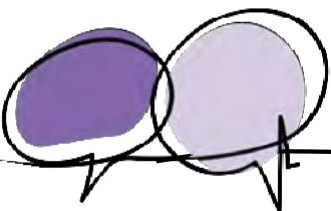
<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/07/Serious-Incident-Policy.pdf>

Learning and Development Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/07/Learning-Development-Policy.pdf>

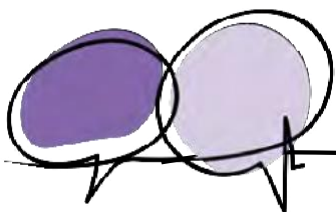
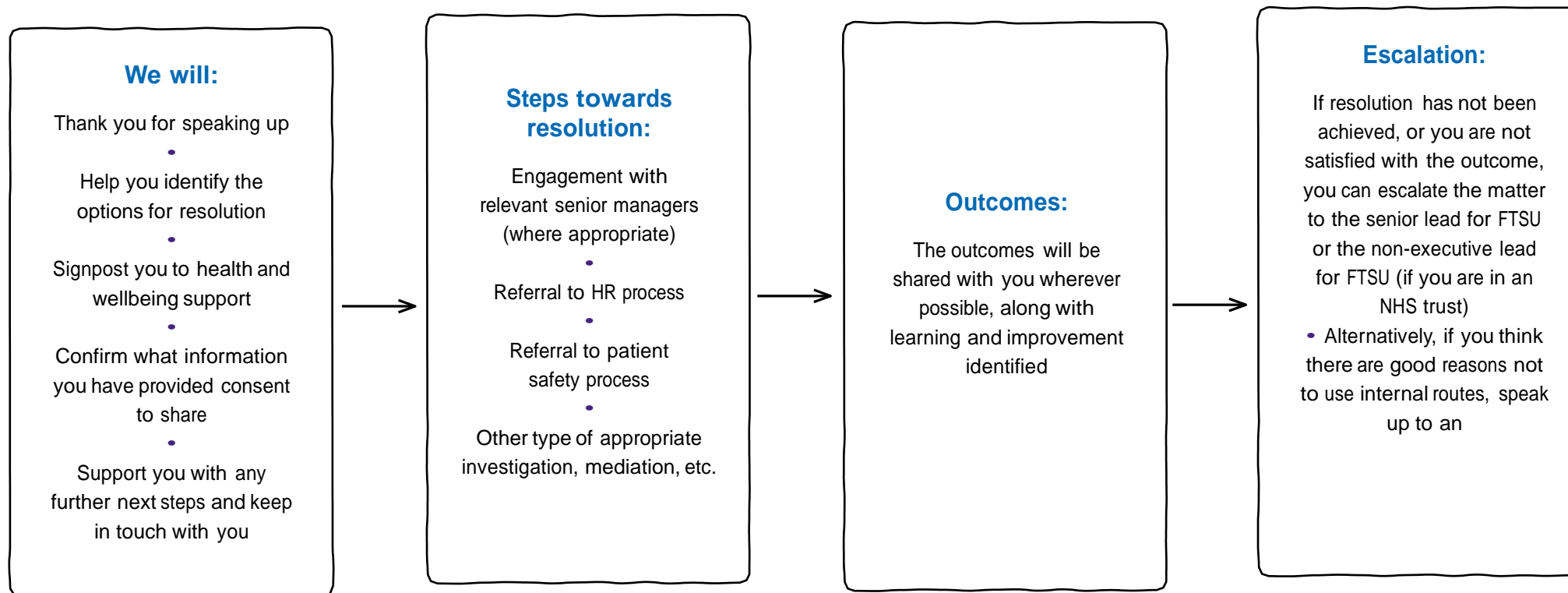
Maternity Support Policy

<https://coventrywarwickshireccg.nhs.uk/wp-content/uploads/2021/11/Maternity-Support-Paternity-Policy.pdf>



Appendix B:

What will happen when I speak up?

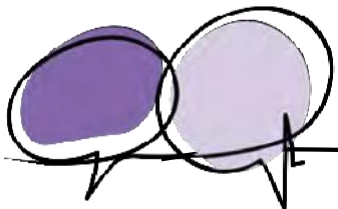


Appendix C:

Making a protected disclosure

Making a 'protected disclosure'

A protected disclosure is defined in the Public Interest Disclosure Act 1998. This legislation allows certain categories of colleagues to lodge a claim for compensation with an employment tribunal if they suffer because of speaking up. The legislation is complex and to qualify for protection under it, very specific criteria must be met in relation to who is speaking up, about what and to whom. To help you consider whether you might meet these criteria, please seek independent advice from the [Protect](#) or a legal representative



Appendix D:

Legal Framework

Public Interest Disclosure Act (PIDA) 1998

This act applies to the public, private and voluntary sectors. It aims to improve accountability and good governance in all organisations by assuring workers who have concerns about malpractice that it is safe to be raised. It also encourages employers to be receptive to such concerns. The Act (which takes effect by amending the Employment Rights Act 1996) sets out circumstances in which disclosure of information may be protected.

In essence, to obtain that protection, workers must act reasonably and responsibly. An employee who makes a rash disclosure (e.g., to the media, about a matter which could and should have been raised internally) will not be protected. A worker who is victimised or penalised for making a protected disclosure can bring action for compensation against the employer at an employment tribunal. The Act applies to people at work raising genuine concerns about crime, failure to comply with any legal duty (including negligence, breach of contract, breach of administrative law, miscarriage of justice, and danger to health and safety or to the environment) and the cover up of any of these. In addition to employees, it covers staff working for contracted organisations, agency staff and all self-employed NHS professionals

Wider disclosures e.g., to the police, the media, MPs, and non-prescribed regulators, are protected by legislation in addition to the requirements which apply to internal disclosures, if:

- They are not made for personal gain
- The concern has first been raised within the Trust or a prescribed regulator (unless the member of staff reasonably believes there will be victimization, or a cover up, or the matter is serious)
- They are made in good faith direct to the Sponsoring Ministerial Department - which in the case of the NHS is the Department of Health

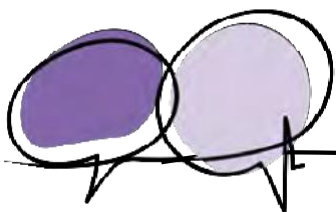
Volunteers and independent consultants may raise any concerns under this policy. Whilst such individuals do not have any statutory rights to protection from detrimental treatment for making a protected disclosure under current disclosure regulations (Public Interest Disclosure Act (PIDA) 1998), the Trust will respond as appropriate to the concern raised.

Enterprise and Regulatory Reform Act 2013

These amendments increase protection for genuine whistle-blowers while removing a loophole that previously gave whistleblowing protection to employees who were complaining about their own personal employment position rather than matters in the public interest. There is added protection to ensure that whistle-blowers are not victimised by their co-workers, or their employer. Employers are vicariously liable for these actions if they have not taken all reasonable steps to prevent their workers from acting in this way.

The Bribery Act 2010

The Act makes it a criminal offence to offer, promise or give a bribe to another person, or to request, agree to accept or receive a bribe; where the intention of the bribe is to have someone carry out a function improperly. It also sets out a corporate offence of failing to prevent the bribery of others. An organisation can be prosecuted for failing to prevent the bribery of others where someone associated with the organisation offers or gives a bribe with the intention of obtaining a benefit for the organisation concerned. This latter offence encompasses both employees and others who may associated with the organisation e.g., agents or subsidiaries. It is a defense to this latter offence to show that the organisation had 'adequate procedures' in place to prevent the bribery of others.



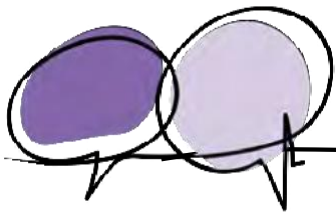
Fraud, Bribery or Other Financial Irregularities

If a member of staff has concerns that relate specifically to possible fraud or bribery, they should share their concerns directly with either the Trust's Local Counter Fraud Specialist or the Trust's Director of Finance, in the first instance. Any information or concerns shared with the Local Counter Fraud Specialist will be treated in strict confidence.

The source of any allegation will not be disclosed to the subject of the investigation without prior consent. Similarly, where the FTSU Team, manager, or HR are made aware of possible fraud or bribery issues by staff, they should make the Trust's Local Counter Fraud Specialist aware of these concerns at the earliest opportunity. Examples of fraud might include (but are not limited to) the submission of false qualification details or faked references to secure a post with the Trust, the submission of falsified pay or expense claims; or the submission of an invoice for goods or services not supplied to the Trust.

Contact details for the Trust's Local Counter Fraud Specialist can be found on the Trust's intranet - see the 'Departments & Services' listing page, and then 'Fraud and Corruption.' Contact your Anti-Fraud Team on tel: 02476 536880 or email antifraudteam@cwaudit.org.uk.

In addition, the NHS also has a confidential national Fraud and Corruption Reporting Line, which anyone (NHS staff or other member of the public) may call to share their concerns. The number is: 0800 028 40 60. All calls to this number are treated in confidence, and callers may remain anonymous if they wish. Alternatively, concerns can be reported online via <https://cfa.nhs.uk/reportfraud>. Further guidance can also be found within the Trust's Fraud, Bribery and Corruption Policy (SWH 00327).



Appendix E

Responding to experiences of disadvantageous or demeaning treatment as a result of speaking up



Freedom to Speak Up

A Best Practice Guide developed by representatives in the Freedom to Speak Up Midlands Regional Network

Introduction

Speaking up is a gift – an opportunity for us to engage with colleagues. A chance to hear different ideas and suggestions, enhance worker experience, prevent patient harm, and learn and improve when things don't go to plan or could be better.

One of the biggest barriers to speaking up is a fear of reprisals. Over 600 healthcare colleagues who spoke up in 2020/21, believed they experienced some form of disadvantageous and/or demeaning treatment as a result.

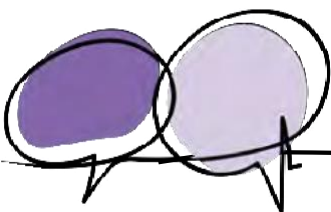
The impact for individuals can be devastating and long-lasting. Our health and wellbeing suffer, and these experiences often lead to sickness absence and resignation. We cannot work at our best when our environment feels psychologically unsafe and this impacts on communication, effective teamwork, and safe patient care. It is important that we hear as soon as possible if someone believes they, or others, are in that position so we can work to resolve the situation.

In our regional Midlands network, Freedom to Speak Up (FTSU) Guardians have come together to develop this best practice guide to help us respond consistently when colleagues tell us about these experiences. Healthcare organisations are welcome to use this guide to support their own Freedom to Speak Up policy and process.

We call on the support of all healthcare workers to make it as safe as possible for us all to speak up by living our organisational values, treating each other with civility and respect, and creating a just culture where listening and learning happens every day.

Guiding Principles

- We can expect to be thanked and treated with dignity and respect when we speak up
- We expect all colleagues to create a psychologically safe environment where speaking up is business as usual
- We won't tolerate mistreatment or poor behaviour towards colleagues who speak up
- We appreciate speaking up can affect people in different ways and will do all we can to support everyone involved fairly and with compassion
- Our focus will be on learning and improving
- We encourage colleagues to report any concerns about disadvantageous and/or demeaning treatment
- We will refer all concerns about disadvantageous and/or demeaning treatment to the Chief Executive Officer / Executive Lead for Freedom to Speak Up /or other nominated Board member
- We will follow our Freedom to Speak Up process to ensure any such concerns are fully explored and any necessary steps taken
- We will keep colleagues informed and updated throughout the process



What we mean by disadvantageous /demeaning treatment

This guide refers to treatment as a result of the act of speaking up, rather than the specifics of the matter raised by speaking up. It can be a deliberate act or a failure to act /omission. Sometimes these actions can be subtle and not always easy to recognise. Whilst behaviours might not be intentional, the impact can still be significant if a person believes they are being treated poorly or differently.

Such treatment may include: (these are examples and not limited to)

- experiencing poor behaviours not in line with our organisational values e.g., being ostracised, gaslighting, gossiping, incivility (suggest inserting link to organisational value/behaviour charter)
- given unfavorable shifts; repeated denial of overtime/bank shifts; being denied shifts in a certain area/department without good reason; changes to shifts at short notice with no apparent reason
- repeatedly denied annual leave; failure on a regular basis to approve in reasonable time; or leave cancelled without good reason
- micro-managing; excessive scrutiny
- sudden and unexplained changes to work responsibilities, or not being given adequate support
- being moved from a team or inexplicable management of change
- being denied access to development opportunities; training or study leave without good reason
- being overlooked for promotion

Responsibilities

We appreciate that speaking up can at times, feel challenging, particularly when we are involved in the issues that are being raised. However, we rely on each other to do the right thing and we all share a responsibility to speak up when we see something that doesn't feel right. By working together and supporting everyone affected by speaking up, we can prevent colleagues experiencing poor treatment.

As individuals we share a responsibility to:

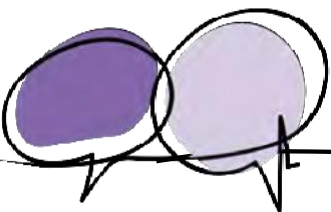
- create a psychologically safe environment where speaking up is business as usual
- treat our colleagues well when they speak up
- speak up and be an ally when we witness disadvantageous and/or demeaning treatment
- listen up and learn from speaking up

As an organisation we have a responsibility to:

- protect workers who speak up from disadvantageous / demeaning treatment
- ensure the working environment is a safe one
- respond to concerns of disadvantageous / demeaning treatment by examining the facts, reviewing outcomes, providing feedback, and reflecting and learning

Recording

- Reports of disadvantageous/demeaning treatment will be recorded by the Freedom to Speak Up Guardian on the central speak up database.
- Information will be kept strictly confidential, only shared on a need-to-know basis.
- Freedom to Speak Up Guardians are required to report speak up activity on a quarterly basis to the National Guardian's Office. The number of people sharing concerns relating to perceived disadvantageous/demeaning treatment as a result of speaking up is included in this data.



What to do

I /my colleague spoke up and now I believe I am/my colleague is experiencing disadvantageous or demeaning treatment as a result.

Speak to a manager or the Freedom to Speak Up Guardian as soon as possible
(or see FTSU policy for other options of who to speak to)

- ▶ Your concern will be taken seriously
- ▶ You will be supported whilst your concern is reviewed
- ▶ You will be kept informed and provided with

A colleague reports disadvantageous or demeaning treatment after speaking up to a manager or the Freedom to Speak Up (FTSU) Guardian

