

### Item 3.2a

## FRANCIS RECOMMENDATIONS - RAISING CONCERNS SAFELY – APPENDIX 1

Action Point	Recommendation	Principles and additional context	Current Raising Concerns Policy/Other measures currently in place	Actions Required by the end of June 2015
1.1	Boards should ensure that progress in creating and maintaining a safe learning culture is measured, monitored and published on a regular basis	<p><i>Every organisation Involved in providing NHS healthcare, should actively foster a culture of safety and learning in which all staff feel safe to raise concerns</i></p> <p>Responsibility for policy and practice should rest with the executive board member who has responsibility for safety and quality, rather than human resources</p>	<p>Policy written by HR but with joint input from Governance.</p> <p>Policy identifies CEO has overall responsibility for ensuring the Trust has a Policy and the Director of Strategy and Organisational Development is responsible for the development and implementation of the policy</p> <p>Managers/Lead Clinicians are responsible for ensuring concerns raised are reported to the Head of Workforce and for arrangements to be made for an investigation to take place as quickly as possible</p> <p>HR are responsible for providing guidance and support and keeping a log of all incidents</p> <p>For Staff the policy refers to it being a responsibility to report any concerns without delay and that they are required to ensure concerns are raised in good faith, with a reasonable belief that their concern</p>	<p>The 'Speak Out Safely' campaign/arrangements run alongside the Policy but came in after the Policy was issued which has meant some cross- over of responsibilities e.g. through the campaign Governance are keeping the log of incidents but consult HR as appropriate. The Policy needs to be updated to capture the link with Speak out Safely</p> <p>'In good faith' was removed in June 2013 through the Enterprise and</p>

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			is genuine and in the public interest (this give the legal protection under PIDA)	Regulatory Reform Act so this needs revising <b>Action: Janet Doran</b>
2.1	Every organisation should have an integrated policy and a common procedure for employees to formally report incidents or raise concerns. In formulating that policy and procedure organisations should have regards to the descriptions of good practice in the report	<p><i>Raising concerns should be part of the normal routine business of any well-led NHS organisation</i></p> <p>Needs to be acceptance by staff that their own performance may be the subject of comment, and that this needs to be seen as an opportunity to learn rather than a source of criticism</p> <p>From Principle 18 -Non permanent staff are more vulnerable as not fully integrated members of a team and may miss out on induction explaining how concerns should be raised and lack support yet may bring objectivity and good practice from other organisations which should be welcomed. They should have access to the same support and procedures as permanent members of staff.</p> <p>From Principle 18 – All the guidance and Principles should be available to support students and trainees working towards a career in healthcare.</p> <p>For BME staff the culture can</p>	<p>Policy states that it applies to all permanent and temporary employees, part time and full time, bank staff, contractors, consultants and agency staff working for the Trust or with the Trust. It goes on to state that this includes students, trainee and volunteers.</p> <p>See above</p>	<p>This should be reflected in the Policy and accompanying guide</p> <p>The term ‘consultants’ may be misleading as it suggests it does not apply to other medical staff. In this context it means management type consultants therefore a different phrase needs to be used in the revised policy</p>

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		sometimes leave minority groups feeling excluded and cultural misunderstandings may exacerbate difficulties – Boards need to be aware that this is an issues and should consider whether they need to take action over and above what is set out in the report to support and protect BME staff who raise concerns in their organisation		<b>Action: Janet Doran</b>
3.1	Bullying of staff should consistently be considered, and be shown to be unacceptable. All NHS organisations should be proactive in detecting and changing behaviours which amount collectively or individually, to bullying or any form of deterrence against reporting incidents and raising concerns; and should have regards to the descriptions of good practice in this report.	<i>Freedom to speak up about concerns depends on staff being able to work in a culture which is free from bullying and other opposing views</i>	The Policy is silent in this respect	Proposed that the following wording is included in the revised Policy - You may be worried that by reporting such issues you will be ‘victimised’, suffer a detriment or be disadvantaged in some way. The Trust assures you that if you make a disclosure that meets the conditions stated in this Policy then you should not experience such treatment and that it will take seriously and respond appropriately to any complaints raised in this respect. <b>Action: Janet Doran</b>
3.3	Any evidence that bullying has been condoned or covered up should be taken into consideration when assessing whether someone is a fit and proper person to hold a post at director level in an organisation		The Policy is silent in this respect	This will be built into the Trusts Fit and Proper Persons process and cross referenced in the Policy  <b>Action: Debbie Herring / Lucy Lavan</b>

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4.1	Employers should ensure and be able to demonstrate that staff have open access to senior leaders in order to raise concerns, informally and formally	<i>All employers of NHS staff should demonstrate , through visible leadership at all levels in the organisation, that they welcome and encourage the raising of concerns by staff</i>	The Policy identifies a non Executive Director and Director of Nursing at Stage 2 and the CEO at Stage 3	
5.1	Boards should consider and implement ways in which the raising of concerns can be publicly celebrated	<i>Employers should show that they value staff who raise concerns and celebrate the benefits for patients and the public from the improvement made in response to the issues identified</i>	No specific arrangements in place	The Trust is identifying opportunities to do this e.g. employee of the month, Team Brief , corporate communications etc <b>Action: Debbie Herring / Lucy Lavan</b>
6.1	All NHS organisations should provide the resources, support and facilities to enable staff to engage in reflective practice with their colleagues and their teams	<i>There should be opportunities for all staff to engage in regular reflection of concerns in their work</i>		The implementation of Listening into Action will be an opportunity for this  <b>Action: Debbie Herring</b>
7.1	Staff should be encouraged to raise concerns informally and work together with colleagues to find solutions	<i>All NHS organisations should have structures to facilitate both informal and formal raising and resolution of concerns</i>  Many concerns are raised every day and resolved quickly and informally. This should be encouraged wherever possible, provided it is done openly and positively. Serious issues/incidents or where there is disagreement about the seriousness of the concern requires a more formal mechanism for logging it, processing it and monitoring how it is being handled	Policy has the Manager/Lead Clinician at Step One however it does not really distinguish between informal/formal and is not cross referenced to the Speak out Safely campaign	The Policy and Speak Out Safely arrangements need to be captured in a single policy document  <b>Action: Sue Pemberton / Debbie Herring</b>

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7.2	All NHS organisations should have a clear process for recording all formal reports of incidents and concerns, and for sharing that record with the person who reported the matter, in line with the good practice in this report.	<p>Any system needs to be as simple and free from bureaucracy as possible but needs to provide clarity to the person who raises the concern about what will happen next and how they will be kept informed of progress</p> <p>CEO or designated board member needs to be involved and should regularly review all concerns that have been logged formally to ensure they are being dealt with appropriately and swiftly</p> <p>Anonymous concerns have an important role to play and should be treated as formal concerns</p>	<p>Through the Speak Out Safely process these are being recorded by Governance. Any issues that become formal Whistleblowing would go on the HR Employment Relations log. The Policy places responsibility on the nominated individual to keep in contact with the individual making the complaint</p> <p>Policy states that we will investigate fully.</p>	<p>The Policy and Speak Out Safely arrangements need to be captured in a single policy document with a clear flow chart for the process</p> <p>Review current arrangements</p> <p><b>Action: Sue Pemberton / Debbie Herring</b></p>
8.1	All NHS organisations should devise and implement systems which enable such investigations to be undertaken, where appropriate by external investigators, and have regard to the good practice suggested in this report	<p><i>When a formal concern has been raised, there should be prompt, swift, proportionate, fair and blame free investigations to establish the facts</i></p> <p>Investigator should have an appropriate level of independence, appropriate expertise ,have the training and the time to undertake the investigation</p> <p>Not necessary to insist that all</p>	<p>Policy refers to investigations but with no detail</p> <p>Internal staff undertake a range of investigations but not all will have had specific training and not all will be given dedicated time to undertake the investigation</p> <p>External investigators are engaged for</p>	<p>Provision of training for investigators</p> <p>Bank of available external investigators to be made available.</p>

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		<p>investigations are undertaken by external investigators, nor appropriate to prescribe timescales for the investigation</p> <p>Suspensions and special leave should only be used where there is a risk to patient or staff safety, or concern about criminal wrongdoing or tampering with the evidence. Efforts should be made to redeploy elsewhere on the site or to a non-patient facing role or to limit practice</p> <p>A working environment can become intolerable if someone has or is believed to have raised a concern about criminal wrongdoing or tampering with the evidence.</p>	complex case investigations under any policy	<p>Ensure wording in Policy covers exclusions sufficiently.</p> <p><b>Action: Janet Doran</b></p>
9.1	<p>All NHS organisations should have access to resources to deploy alternative dispute resolution techniques, including mediation and reconciliation to:-</p> <ul style="list-style-type: none"> <li>Address unresolved disputes between staff or between staff and management as a result of or associated with reporting a concern</li> <li>Repair trust and build constructive relationships</li> </ul>	<p><i>Consideration should be given at an early stage to the use of expert interventions to resolve conflict, rebuild trust or support staff who have raised concerns</i></p>	<p>Deficiencies in the current records means it is not possible to identify any trained mediators on the workforce</p> <p>The Trusts would use an external service such as ACAS if mediation was an agreed way forward and no internal mentors were identified</p>	<p>Internal training for Mediators</p> <p>Use External Mediators</p>

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				<b>Action: Janet Doran</b>
10.1	Every organisation should provide training which complies with national standards. Based on a curriculum devised jointly by HEE and NHS England in consultation with stakeholders. This should be in accordance with the good practice set out in this report	<p><i>Every member of staff should receive training in their organisations approach to raising concerns and in receiving and acting on them</i></p> <p>Training should be provided through face to face sessions which provide insight into others perspectives.</p> <p>Training in multi-disciplinary teams can help to create a shared understanding and common language and break down silos.</p> <p>More senior members of staff will require additional training on how to handle concerns</p> <p>Raising concerns and the role of Human Factors should be included in the curriculum of all healthcare professional training</p>	<p>The Policy and Speak Out Safely Campaign was launched through Executive Roadshows, posters and briefings to managers</p> <p>Raising concerns is covered at Corporate Induction</p>	<p>Further raining requirements will be considered as part of the review of the Policy in 2015/16 and training given</p> <p><b>Action: Janet Doran / Steven Colfar</b></p>
11.1	<p>The Boards of all NHS organisations should ensure that their procedure for raising concerns offer a variety of personnel, internal and external, to support staff who raise concerns, including:</p> <ul style="list-style-type: none"> <li>• A person (Freedom to Speak</li> </ul>	<p><i>All NHS organisations should ensure that there is a range of person to whom concerns can be easily reported and without formality. They should also provide staff who raise concerns with ready access to mentoring, advocacy, advice and counselling</i></p>		<p>Consider the establishment of Freedom to Speak Up Guardian Review None Exec and Exec identification</p> <p>Strengthen the reference to manager's responsibility.</p> <p>Departments to identify who their</p>

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	<p>up Guardian) appointed by the organisations CEO to act genuinely in an independent capacity</p> <ul style="list-style-type: none"> <li>• A nominated non-executive director to receive reports of concerns directly from employees (of from the Freedom to Speak Up Guardian) and to make regular reports on concerns raised by staff and the organisations culture to the Board</li> <li>• At least one nominated executive director to receive and handle concerns</li> <li>• At least one nominated manager in each department to receive reports of concerns</li> <li>• A nominated independent external organisation (such as the Whistleblowing Helpline) whom staff can approach for advice and support</li> </ul>	<p>Two things needed – clarity about to whom concerns can be reported and clarity about where they go for support. Some Trusts have nominated a NED to receive concerns; some allocate a senior person to act as a buddy, or named executive directors, both to receive concerns and offer advice</p> <p>Some Trusts have established the role of ‘cultural ambassador’ or ‘patient safety ombudsman’ to act as an independent and impartial source of advice to staff, with access to anyone in the organisation, including the CEO or if necessary outside the organisation. They can ensure the primary focus is on the safety issue; that the case is handled appropriately, investigated promptly and issues addressed; that there are no repercussions for the person who raised it. They can also act as the ‘honest broker’ to verify that is there were pre-existing performance issues that were already being addressed, these should continue and cannot be portrayed as a consequence of speaking up. Common job title such as Freedom to Speak Up Guardian’. Boards should decide what is</p>	<p>No identified Guardian in the Policy</p> <p>Current Policy has David Bricknell as nominated Non Executive Director</p> <p>Director of Nursing and CEO identified in Policy to receive concerns</p> <p>All managers identified in Policy as responsible for reporting the concern and arrangements to investigate</p> <p>Whistleblowing Helpline is not referred to in Policy</p> <p>Counselling and other support provided through Occupational Health and the Employee Assistance Programme (EAP)</p>	<p>nominated manager is</p> <p>Consideration to be given to the identification of a suitable Trust Guardian. This should be someone considered to be “unbiased”</p> <p>Whistleblowing Helpline to be referenced in Policy</p>



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		<p>appropriate for their organisation but as a minimum there needs to be someone to whom staff can go, who is recognised as independent and impartial, has the authority to speak to anyone within or outside the Trust, is expert in all aspects of raising and handling concerns, has the tenacity to ensure safety issues are addressed and had dedicated time to perform this role. There should, however, be a range of others to whom people can go for advice including at least one executive director, which may be the person responsible for patient safety and/or the medical director, at least one nominated manager in each department; and one external organisation such as the Whistleblowing Helpline.</p> <p>Support should also be available in the form of counselling and other psychological support</p>		<p><b>Action: Chief Executive</b></p>
11.2	All NHS organisations should have access to resources to deploy counselling and other means of addressing stress and reducing the risk of resulting illness after staff have raised a concern		Occupational Health and EAP services available but not referenced in the Policy	<p>To be included in revised Policy</p> <p><b>Action: Janet Doran</b></p>

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12.2	All NHS organisations should actively support a scheme to help current and former NHS workers whose performance is sound to find alternative employment in the NHS	<p><i>Where an NHS worker who has raised a concern cannot, as a result, continue in their current employment, the NHS should fulfil its moral obligation to offer support</i></p> <p>Where an ET orders reinstatement NHS organisations have a moral responsibility to reinstate an individual if at all possible, if their performance is sound, with appropriate support and development for them and/or for their colleagues to ensure they are re-integrated effectively</p>	<p>-We need to await details of the scheme. This will be a matter for decision if and when the circumstance arises</p>	Trust to await national recommendations on this scheme
13.1	All NHS organisations that are obliged to publish Quality Accounts or equivalent should include in them quantitative and qualitative data describing the number of formally reported concerns in addition to incident reports, the action taken in respect of them and feedback on the outcome	<i>All NHS organisations should be transparent in the way they exercise their responsibilities in relation to the raising of concerns, including the use of settlement agreements</i>	<p>This is not something that HR is asked to report on</p> <p>The Trust does not currently report on settlement agreements overall. Confidentiality issues need to be considered here</p>	<p>Annual Employee Relations report to Quality Committee to include any settlement agreements</p> <p><b>Action: Janet Doran</b></p>
13.2	All NHS organisations should be required to report to the National Learning and Reporting System (NLRS), or to the Independent National Officer described in Principle 15, their relevant regulators and their commissioners any formally reported concerns/public interest disclosures or		Need to await further details in this respect	Await national guidance / directive

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	incidences of disputed outcomes to investigations. NLRs or the Independent National Officer should publish regular reports on the performance of organisations with regard to the raising of and acting on public interest concerns; draw out themes that emerge from the reports; and identify good practice			
13.3	<ul style="list-style-type: none"> <li>CEO's should personally review all settlement agreements made in an employment context that contain confidentiality clauses to satisfy themselves that such clause are genuinely in the public interest</li> <li>All such settlement agreements should be available for inspection by the CQC as part of their assessment of whether an organisation is well-led</li> <li>If confidentiality clauses are to be included in such settlement agreements for which Treasury approval is required, the Trust should be required to demonstrate as part of the approval process that such clauses are in the public interest in that particular case</li> </ul>	Greater care needs to be taken in the drafting of confidentiality clauses in Settlement Agreements	<p>Current template for SA's has been produced by legal advisers following the Enterprise and Regulatory Reform Act 2013 to ensure that there is no suggestion of gagging clauses. There is a confidentiality clause but that relates to the terms of the settlement. It is clear that there is no restriction with regard to public service disclosure</p> <p>If any specific confidentiality clauses were proposed legal advice would be taken before including</p>	Annual Employee Relations report to Quality Committee to include any settlement agreements and give assurance on confidentiality clauses

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	<ul style="list-style-type: none"> <li>NHS TDA and Monitor should consider whether the role of reviewing such agreements should be delegated to the Independent National Officer recommended under Principle 15</li> </ul>			<b>Action: Janet Doran</b>
14.1	Employers should ensure that staff who are responsible for, participate in, or permit such conduct (victimisation etc) are liable to appropriate and proportionate disciplinary process	<p><i>Everyone should expect to be held accountable for adopting fair, honest and open behaviours and practices when raising or receiving and handling concerns. There should be personal and organisational accountability for:</i></p> <ul style="list-style-type: none"> <li><i>Poor practice in relation to encouraging the raising of concerns and responding to them</i></li> <li><i>The victimisation of workers for making public interest disclosures</i></li> <li><i>Raising false concerns in bad faith or for personal benefit</i></li> <li><i>Acting with disrespect or other unreasonable behaviour when raising or responding to concerns</i></li> <li><i>Inappropriate use of confidentiality clauses</i></li> </ul> <p>It is the responsibility of boards to</p>	Is referenced in the Policy on in current Policy	Strengthen wording in the revised Policy and the conduct Policy

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		<p>ensure that there is no victimisation of or retaliation against whistleblowers and they should be held to account for it. This will require them to maintain constant vigilance and effective systems to enable them to keep track of what is happening.</p> <p>Do not believe it is appropriate to introduce regulation of managers at present. The Fit and Proper Person Test has only just been introduced and it should be given time to bed down and its impact assessed</p>		<p><b>Action: Janet Doran</b></p>
14.2	Trust Boards, CQC, Monitor and the NHS TDA should have regard to any evidence of responsibility for, participation in or permitting such conduct (victimisation etc) in any assessment if whether a person is a fit and proper person to hold an appointment as a director or equivalent in accordance with eh Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 Regulation 5		Evidence would be sought through the employment checks process	<p><b>Action: Janet Doran / Rebecca Elliott</b></p>
14.3	All organisations associated with the provision, oversight or regulation of healthcare service should have regard to any evidence of poor conduct in relation to staff who have raised		Evidence would be sought through the employment checks process and the fit and proper person process	

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	concerns when deciding whether it is appropriate to employ any person to a senior management or leadership position and whether the organisation is well-led			Action: Janet Doran / Rebecca Elliott