

Document Title	
Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure	

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4.0	Oct 2012	Provisionally approved by Staff Partnership Forum but agreed to wait until Francis Report available before final approval
4.1	Feb 2013	Addition of Trust responsibilities to Roles & Responsibilities section following recommendations by Francis Report
4.2 (Draft)		Additional information added in respect to the “Speak Up” form on the Trust intranet. Ratified 31/03/2016
4.3	03/11/2016	Local Policy reviewed in light of National NHS Improvement Policy to be complied with by all NHS Trusts

Link with National Standards			
National Health Service Litigation Authority			
Care Quality Commission			
National Institute of Clinical Excellence (NICE) Guidance			
National Patient Safety Agency			
West Midlands Quality Review			
Essence of Care			
Aims Standards			
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Executive Summary Sheet

Document Title: **Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure**

Please tick (☑) as appropriate	This is a new document within the Trust	
	This is a revised document within the Trust	☑

What is the purpose of this document?

To support employees to have the freedom to speak up and raise a concern about risk, malpractice or wrongdoing which is harming the service we deliver.

What key issues does this document explore?

Provides an overview of raising a concern, freedom to speak up and “whistleblowing”, where to seek advice and how to make a protected disclosure under the Public Interest Disclosure Act 1998.

Who is this document aimed at?

All employees and workers at the Trust including temporary agency workers and volunteers.

Employees, workers, and / or contractors who this policy applies to will be expected to uphold the Values of the Trust and exhibit the expected Trust behaviours aligned to the Trust’s values. Individuals have a responsibility to ensure that they display Trust values and behaviours in applying this policy and that individual’s feel able to challenge (or raise a challenge) when other colleagues’ behaviours breach the spirit of Trust value.

What other policies, guidance and directives should this document be read in conjunction with?

- Disciplinary Procedure
- Grievance Policy
- Bullying and Harassment Policy
- National Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure

How and when will this document be reviewed?

Annually or as and when legislation changes

Board Promise

We, the Trust Board, promise to value and support our staff and to be excellent role models of the values designed by them. We will not tolerate bullying, will take action when this occurs and will encourage and support staff speaking out through a culture where it is safe to challenge. This will ensure that staff are empowered to deliver the best possible care to our service users. We will evidence this through staff and patient/service user surveys, listening and acting on staff feedback and living and reviewing our trust values with all our staff.”

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1.0 INTRODUCTION

Dudley and Walsall Mental Health Partnership NHS Trust (“The Trust”) is committed to creating a culture of openness and accountability and encourages employees to raise genuine concerns about malpractice, serious risk or wrongdoing as early as possible to mitigate against any potential damage to service users, staff, the wider public and the organisation. All employees, not just medical and clinical staff, are encouraged to raise concerns as soon as they arise.

This purpose of this policy is to ensure that where employees have genuine concerns about risk, malpractice or wrongdoing may raise those concerns via a number of avenues within the Trust, without fear of reprisals. The policy also seeks to balance the need to provide safeguards for employees who raise genuine concerns about risk, malpractice or wrongdoing against the need to protect others and the Trust against malicious and vexatious allegations.

A whistleblowing concern generally regards a risk, wrong doing or malpractice that affects service users, the wider public or other staff. Where the complaint is of a personal nature, as opposed to a concern for the public interest, the Grievance Policy and Procedure should be followed. If you are not sure which policy is the most appropriate to your concern, contact your line manager, Human Resources Department or Staff Side who will be able to advise you.

2.0 SPEAK UP WE WILL LISTEN

Speaking up about any concern you have at work is really important. In fact, it’s vital because it will help us to keep improving our services for all patients and the working environment for our staff.

You may feel worried about raising a concern, and we understand this. But please don’t be put off. In accordance with our duty of candour, our senior leaders and entire board are committed to an open and honest culture. We will look into what you say and you will always have access to the support you need.

3.0 THIS POLICY

The Trust has adopted this ‘standard integrated policy’ which was one of a number of recommendations of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS.

This policy applies to everybody who is employed by or works for the Trust including temporary agency staff, professional contractors and volunteers. Wherever the term “employee” of “staff” is used, it applies to all of the above as well as substantive staff.

The Trust recognises the diversity of its staff and undertakes to apply this policy equitably and fairly irrespective of an employee’s protected characteristics. In the application of this policy the Trust will recognise its duty to each and every individual employee and will respect their human rights. However, as an employer it also expects that its employees will respect and treat each other and service users in the same way.

4.0 WHAT CONCERNS CAN I RAISE?

You can raise a concern about **risk, malpractice or wrongdoing** you think is harming the service we deliver. Just a few examples of this might include (but are by no means restricted to):

- unsafe patient care
- unsafe working conditions
- inadequate induction or training for staff
- lack of, or poor, response to a reported patient safety incident
- suspicions of fraud, which can also be reported to:
 - our local anti-fraud team
Don Ferguson, Anti-Fraud Specialist
Tel: 0121 612 3914
Email: Don.Ferguson@nhs.net
 - the Trust's Director of Finance
 - There is also a confidential telephone hotline, "NHS Fraud and Corruption Reporting Line" on 0800 028 40 60 which may be used to report suspicions of fraud or corruption in the NHS
- a bullying culture (across a team or organisation rather than individual instances of bullying).

For further examples, please see the [Health Education England video](#).

There are a variety of mechanisms for staff to raise concerns which are detailed in section 8.0.

Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

Don't wait for proof. We would like you to raise the matter while it is still a concern. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled.

This policy is not for people with concerns about their employment that affect only them – that type of concern is better suited to our grievance policy [Link to Policy page - DWMH Intranet](#)

5.0 FEEL SAFE TO RAISE YOUR CONCERN

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.

Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

6.0 CONFIDENTIALITY

We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your concern to, you do not want anyone else to know your identity. Therefore, we will keep your identity confidential, if that is what you want, unless required to disclose it by law (for example, by the police). You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

7.0 WHO CAN RAISE CONCERNS?

Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes agency workers, temporary workers, students, volunteers and governors.

8.0 WHO SHOULD I RAISE MY CONCERN WITH?

In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager (or lead clinician or tutor). But where you don't think it is appropriate to do this, you can use any of the options set out below in the first instance.

If raising it with your line manager (or lead clinician or tutor) does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:

- our Freedom to Speak Up Guardian— this is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff at any stage of raising a concern, with access to anyone in the organisation, including the chief executive, or if necessary, outside the organisation
- our Compliance and Safety Team
Tel: 01384 65200

If you still remain concerned after this, you can contact:

- our Executive Director with responsibility for whistleblowing :
Marsha Ingram
Director of People and Corporate Development
Marsha.ingram@dwmh.nhs.uk
01384 324 522
- our Non-Executive Director with responsibility for whistleblowing
Simon Murphy
Email:
Simon.Murphy@dwmh.nhs.uk
Tel 01384 325002.

All these people have been trained in receiving concerns and will give you information about where you can go for more support.

If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies, listed in Section 10 Advice and Support.

9.0 ROLES & RESPONSIBILITIES

9.1 The Trust

- The Trust is expected to promote and uphold the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure at all times, leading by example and proactively engaging with staff to promote a culture of openness.
- The Trust is committed to ensuring that any person properly using this policy to raise concerns about serious risk, malpractice or wrongdoing does not suffer any detriment.
- The Trust will monitor adherence to the policy, ensuring investigations into whistleblowing complaints are dealt with properly and thoroughly and in a timely manner.
- The Trust will ensure that any lessons learnt from the investigation of whistleblowing concerns are effectively cascaded through the organisation, maximising the opportunity for the Trust to improve standards of care and service delivery on a continual basis.
- The Trust will ensure that staff have a avenues to raise their concerns and have the freedom to speak up if they have a concern.

9.2 Employees

- Employees are expected to raise any public interest concerns as soon as practically possible to their line manager, explicitly stating that they are raising the concern under the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure.
- Employees are expected to cooperate fully in any investigation or inquiry following a public interest disclosure.

- Employees are expected to uphold the policy by treating fellow colleagues that make a qualifying disclosure without detriment; any employee failing to uphold this standard will be subject to the Disciplinary Policy and Procedure.
- Employees are expected to make disclosures in 'good faith'. Employees making a disclosure that is proven to be vexatious or malicious will be subject to the Disciplinary Policy and Procedure. However, employees making a disclosure are not expected to 'prove' the allegations themselves; having a *reasonable suspicion* is sufficient to warrant making a disclosure.

9.3 Line Managers

- Line Managers are expected to promote and uphold the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure at all times, leading by example and proactively engaging with staff to promote a culture of openness.
- Line Managers are expected to handle any protected or qualifying disclosures in a timely, confidential and efficient manner, escalating concerns as appropriate to Senior Management, Local Counter Fraud Specialist, Human Resources and/or Clinical Governance as appropriate.
- Line Managers are expected to report back to the disclosing employee within 5 working days the outcome of any informal concerns raised, whilst maintaining confidentiality of other parties where applicable.
- Any allegations of clinical malpractice reported to managers must be notified to the Clinical Governance Department as soon as possible who will retain a central record of incidents. Any allegations of (potential) misconduct must be notified to the Human Resources Department to ensure that appropriate procedures are followed.

9.4 Freedom to Speak up Guardian (FTSUG)

- The FTSUG will be a point of contact for individuals across the Trust who require advice and support when raising concerns
- The FTSUG will inform individuals of the options available, whether informal or formal and direct individuals to support available.
- The FTSUG will be the Trusts link person to other NHS organisations and the national guardian to developing best practice across the healthcare community.
- The FTSUG will work with the executive team and board of directors to help create an open culture which is based on listening and learning and not blaming.
- The FTSUG act in an independent and impartial capacity, listening to staff and supporting them to raise concerns they may have by using the available structures and policies, both within the organisation and outside.
- The FTSUG will ensure that information about those who speak up is kept confidential at all times, subject to requirements around safeguarding and illegality.
- The FTSUG will report at least every six months to the Board and the organisation as a whole.

9.5 Staff Side

- The Trust acknowledges the role that trade union organisations and their representatives can play in working with managers in partnership to foster a culture of honesty and openness. Any disclosures made directly to Staff Side must be escalated as appropriate to Senior Management, Local Counter Fraud Specialist, Human Resources and/or Clinical Governance.

10.0 ADVICE AND SUPPORT

Details on the local support available to you can be found here [DWMH Speak Up Intranet Page](#).

Employees can raise a concern regarding serious risk, malpractice or wrong doing in instances where they do not feel confident raising concerns via the line management structure through the following means:

- Completing the [Speak Up Form - Intranet](#) held on the Trust Intranet.
- Contact the Trust's Freedom to Speak up Guardian
- Contact a Workplace Advisor [Workplace Advisor Intranet site](#)
- [Compliance and Safety Team Intranet Link](#)

The national Whistleblowing Helpline provides free, independent and confidential advice to all staff and contracted workers within health and social care. While the helpline cannot investigate concerns on behalf of individuals, it can provide invaluable advice on whether your concern is indeed a whistleblowing one and to talk you through the process to ensure it is followed correctly. They are also able to advise on how you can escalate the concern with a relevant prescribed body if needed.

To speak to a helpline advisor call [08000 724 725](tel:08000724725) between 8am and 6pm Monday to Friday. An answer machine and ring-back service is available for calls outside of these times. Alternatively you can email enquiries@wbhelpline.org.uk.

Where there is doubt as to the way forward (i.e. the employee is not sure whether to make a formal disclosure), an employee may seek a confidential meeting with one of the designated officers detailed in Appendix 1 Section 2.1 to discuss whether it would be appropriate to make a formal disclosure under PIDA 1998. An individual seeking or taking part in such a meeting is guaranteed the same protection against personal detriment as is given under the procedure to someone making a formal disclosure, whether or not a formal disclosure follows.

Employees have the option to share their concerns in the first instance with colleagues or other representatives including trade union officials. Staff may also be accompanied by a colleague or representative when discussing allegations and suspicions with management.

Although it is far more effective for management to discuss matters with an identified person it is permissible for concerns to be shared anonymously, where a disclosure would not otherwise be made.

The legislation allows employees to seek legal advice about any malpractice concerns they may have.

Professional staff may also contact their professional registration bodies e.g. GMC, NMC for guidance about any malpractice concerns.

In instances where fraud or corruption is suspected to have occurred, there is a confidential telephone hotline, “NHS Fraud and Corruption Reporting Line” which may be used to report suspicions of fraud or corruption in the NHS – this can be accessed on 0800 028 40 60.

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To speak to a helpline advisor call 08000 724 725 between 8am and 6pm Monday to Friday. An answer machine and ring-back service is available for calls outside of these times. Alternatively you can email enquiries@wbhelpline.org.uk.

Alternatively, employees may contact Public Concern at Work, a charity offering free advice on raising whistleblowing concerns. Their contact details are:

Confidential Telephone: 020 7404 6609
Website: www.pcaw.co.uk
Email: whistle@pcaw.org.uk

Employee may also wish to contact citizen’s advice
Link to [Citizens Advice Website](#)

11.0 HOW SHOULD I RAISE MY CONCERN?

You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).

Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern. Please also see Appendix 1 Stages for Raising a Concern and Annex A Flowchart.

12.0 WHAT WILL WE DO?

We are committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, and will respond in line with them (see Annex B).

We are committed to listening to our staff, learning lessons and improving patient care. On receipt the concern will be recorded and you will receive an acknowledgement within two working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback.

13.0 INVESTIGATION

Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of).

Wherever possible we will carry out a single investigation (so, for example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks at your concern and the wider circumstances of the incident¹). The investigation will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.

We may decide that your concern would be better looked at under another process; for example, our process for dealing with bullying and harassment. If so, we will discuss that with you.

Any employment issues (that affect only you and not others) identified during the investigation will be considered separately.

14.0 COMMUNICATING WITH YOU

We will treat you with respect at all times and will thank you for raising your concerns. We will discuss your concerns with you to ensure we understand exactly what you are worried about. We will tell you how long we expect the investigation to take and 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).

15.0 HOW WILL WE LEARN FROM YOUR CONCERN?

The focus of the investigation will be on improving the service we provide for patients. Where it identifies improvements that can be made, we will track them to ensure necessary changes are

¹ If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the Incident, Near Miss and Serious Incident Reporting Policy

made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

16.0 BOARD OVERSIGHT

The board will be given high level information about all concerns raised by our staff through this policy and what we are doing to address any problems. We will include similar high level information in our annual report. The board supports staff raising concerns and wants you to feel free to speak up.

17.0 REVIEW

We will review the effectiveness of this policy and local process at least annually, with the outcome published and changes made as appropriate.

18.0 RAISING YOUR CONCERN WITH AN OUTSIDE BODY

Alternatively, you can raise your concern outside the organisation (see also Appendix 1 section 3) with:

- [NHS Improvement](#) for concerns about:
 - how NHS trusts and foundation trusts are being run
 - other [providers with an NHS provider licence](#)
 - NHS procurement, choice and competition
 - the national tariff
- [Care Quality Commission](#) for quality and safety concerns
- [NHS England](#) for concerns about:
 - primary medical services (general practice)
 - primary dental services
 - primary ophthalmic services
 - local pharmaceutical services
- [Health Education England](#) for education and training in the NHS
- [NHS Protect](#) for concerns about fraud and corruption.

18.1 Making a 'protected disclosure'

There are very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise a concern (to be able to claim the protection that accompanies it). There is also a defined list of '[prescribed persons](#)', similar to the list of outside bodies in Section 10 Advice and Support, who you can make a protected disclosure to. To help you consider whether you might meet these criteria, please seek independent advice from the [Whistleblowing Helpline](#) for the NHS and social care, [Public Concern at Work](#) or a legal representative.

19.0 THE LEGAL FRAMEWORK: THE PUBLIC INTEREST DISCLOSURE ACT 1998

The Public Interest Disclosure Act 1998 (“PIDA 1998”) protects workers who ‘blow the whistle’ about wrongdoing or malpractice and places a clear responsibility on public sector employers to remind staff of their responsibility to disclose suspected malpractice without fear of recriminations.

PIDA 1998 protects workers from being subjected to a detriment by their employer as a consequence of making a whistleblowing disclosure. Detriment may take a number of forms, such as denial of promotion, facilities or training through to direct intimidation or harassment.

A disclosure qualifies under PIDA 1998 if it regards a risk, wrong doing or malpractice that affects service users, the wider public or other staff. A qualifying disclosure is a disclosure of information which, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following:

- That a criminal offence has been, is being or is likely to be committed (e.g. assault, bribery, theft);
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject. This could include professional malpractice or a failure to comply with any rules, regulations or codes of practice;
- That a miscarriage of justice has occurred, is occurring or is likely to occur;
- That the health and safety of any individual has been, is being or is likely to be endangered;
- That the environment has been, is being or is likely to be damaged; or
- That information tending to show any of the above has been, is being or is likely to be deliberately concealed.

Examples of malpractice which qualify as protected disclosures under PIDA 1998 include (but are not limited to) the following:

- Abuse or mistreatment of service users;
- Exposing service users to unacceptable or unnecessary risk;
- Acts of fraud and theft against the organisation or service users;
- Procuring or accepting bribes from service users, staff or other third parties (e.g. suppliers of goods or services);
- Dangerous Health and Safety situations and breach of fire regulations;
- Deliberately concealing information relating to any malpractice; and
- Staff working under the influence of alcohol or drugs.

PIDA 1998 provides statutory protection, including compensation, against employer reprisals to all employees who disclose information reasonably and responsibly in the public interest. A qualifying disclosure will be **legally protected** where it is made:

- To the worker’s employer, either directly to the employer or by procedures authorised by the employer for that purpose; or

- To another person whom the worker reasonably believes to be solely or mainly responsible for the relevant failure

PIDA 1998 places responsibilities upon the worker making a disclosure. In most cases, the worker must raise the matter **internally** first. The matter must be raised in 'good faith' – it must be done from a reasonable and honest (even if mistaken) belief, and must not be motivated by personal antagonism.

If the employee making the disclosure has not complied with the conditions of PIDA 1998 by following internal procedures first, he or she *may* have committed a fundamental breach of contract by disclosing confidential information belonging to the employer. As an employee, the whistleblower may also have fundamentally breached the duty of trust and confidence owed to the employer and may therefore be liable to the Trust's disciplinary procedures. It is therefore strongly advised that employees follow the internal procedure before considering other options. Employees are encouraged to contact the Royal Mencap Society or Public Concern at Work if they have any questions or concerns about making a disclosure under PIDA 1998

20.0 NATIONAL GUARDIAN FREEDOM TO SPEAK UP

The new National Guardian (once fully operational) can independently review how staff have been treated having raised concerns where NHS trusts and foundation trusts may have failed to follow good practice, working with some of the bodies listed above to take action where needed.

APPENDIX 1 - STAGES FOR RAISING A CONCERN

1.0 Step One: Raising an Informal Concern

- 1.1 If employees have a concern about serious risk, malpractice or wrongdoing they are required to raise the matter immediately with their line manager. If the manager is suspected to be involved or is condoning malpractice, employees are required to raise the matter with the next in line manager in the first instance. This may be done verbally or in writing. Employees are required to explicitly state that they are making a disclosure under the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure to assist the Trust to accurately record and track progress of any whistleblowing concerns.
- 1.2 If you feel unable to raise the matter with your line manager, lead clinician or tutor, for whatever reason, please raise the matter with our Freedom to Speak up Guardian
Michael Hirons
07717 630 345
raisingconcerns@dwmh.nhs.uk

This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:

- treat your concern confidentially unless otherwise agreed
- ensure you receive timely support to progress your concern
- escalate to the board any indications that you are being subjected to detriment for raising your concern
- remind the organisation of the need to give you timely feedback on how your concern is being dealt with
- ensure you have access to personal support since raising your concern may be stressful.

If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

- 1.3 Employees may also raise a concern by completing the [Speak Up Form - Intranet](#) held on the Trust Intranet. This can be done anonymously, however, in such circumstances the Trust will not be able to provide direct feedback to the individual.

Feedback will be given on the management action being taken within 5 working days, with due regard to the Trust's duty of confidence and without infringing the rights of other parties, for example where disciplinary action is being taken against another employee.

2.0 Step Two: Making an Internal Formal Disclosure

- 2.1 If the concerns have not been dealt with satisfactorily at Step 1 or the matter is deemed too serious for the informal stages, employees are encouraged to raise the matter formally immediately to one of the following designated officers:
- The Chief Executive
 - The Director of Finance, IT and Procurement
 - The Director of Nursing, Operations and Estates
 - The Medical Director
 - The Director of People and Corporate Development
 - The Trust Freedom To Speak Up Guardian
- 2.2 Contact can be by telephone, via email or in writing to Trust Headquarters, 2nd Floor Trafalgar House, 47-49 King Street, Dudley. All correspondence should be marked **“in confidence to be opened by the addressee only”** and again employees are required to explicitly state that they are making a disclosure under the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure.
- 2.3 The person making a formal disclosure should as soon as practicable disclose in confidence the grounds for the belief of malpractice or serious risk to one of the designated officers identified above. Any disclosure under this procedure shall, wherever possible, be in writing. The person making the disclosure should provide as much supporting evidence as possible about the grounds for his or her belief although there is no requirement to ‘prove’ the malpractice allegations.
- 2.4 If the person receiving the formal disclosure does not feel that this policy is appropriate to use they may make reference to other Trust policies that exist for dealing with concerns. For example:
- Being Open policy
 - Safeguarding Vulnerable Adults
 - Disciplinary Policy
 - Grievance Policy
 - Bullying and Harassment Policy
- 2.5 A designated officer may decline to become involved on reasonable grounds. Such grounds include previous involvement or interest in the matter concerned, incapacity or unavailability or that the designated officer is satisfied that a different designated officer would be more appropriate to consider the matter in accordance with this procedure.
- 2.6 On receipt of the disclosure, the designated officer will offer to interview, in confidence, the person making the disclosure. Such an interview will take place as soon as practicable after the initial disclosure. The purpose of the interview will be for the designated officer

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to obtain as much information as possible about the grounds of the belief of malpractice and to consult about further steps which could be taken. The person making the disclosure may be accompanied by a local trade union representative or work colleague at the interview. The designated officer may be accompanied by an administrative assistant to take notes. Due regard will be given to confidentiality.

2.7 Where the designated officer is satisfied that the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure is appropriate, they shall decide on the nature of the investigation of the allegations. This may be an internal investigation by Trust staff; or referral of the matter to the police or other appropriate public authority; or the commissioning of an independent enquiry, for example by the Trust's auditors or Local Counter Fraud Officer.

2.8 If the designated officer decides that the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure is not appropriate in respect of the matter disclosed, they shall so inform the discloser, giving reasons in writing. These could be on grounds that:

- The matter should be, is already or already has been the subject of appropriate proceedings under one of the Trust's other procedures;
- The matter is already the subject of legal proceedings, or has already been referred to the police or other public authority;
- There is reasonable doubt as to the discloser's good faith and/or reasonable belief about malpractice or serious risk.

2.9 If the discloser is not satisfied with the designated officer's decision, they may ask the Chair of the Trust Board to review the matter of the disclosure, the information and evidence presented, the process followed and the grounds for the decision. If the Chair of the Trust Board decides that the matter should be investigated under the Freedom to Speak Up: raising concerns (whistleblowing) Policy and Procedure, they shall direct a second designated officer to arrange an appropriate investigation. If they decide to uphold the view of the original designated officer, no further action will be taken under the Trust's processes. The discloser may then consider whether to refer the allegations of malpractice or serious risk to an external agency (Section 6.3).

3.0 Step Three: Making a Regulatory External Disclosure

3.1 While it is hoped that this policy gives employees the confidence to raise their concern internally, there may be circumstances where they can report the concern to an appropriate outside body. Ones relevant to the NHS include:

- The Care Quality Commission (CQC)
- NHS Improvement
- The Audit Commission
- The Health and Safety Executive; or
- The National Patient Safety Agency

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3.2 Disclosures to regulatory bodies may also be 'protected disclosures' under certain circumstances; for example the discloser must make the disclosure in good faith, must reasonably believe the allegations are substantially true, does not make the disclosure for personal gain and if the disclosure is considered reasonable. It is recommended that advice is sought from the Royal Mencap Society or Public Concern at Work if considering making an external disclosure before exhausting internal procedures (Section 7.6).

3.3 If your concern is about fraud and corruption you can also contact the NHS Fraud Hotline.

4.0 Step Four: Making a Wider External Disclosure

4.1 Examples of wider external disclosures include Police, Media, MPs and Non-Prescribed Regulators. Employees are advised that wider disclosures *may* also be 'protected disclosures' under very particular circumstances. As with regulatory disclosures, the discloser must make the disclosure in good faith, must reasonably believe the allegations are substantially true, does not make the disclosure for personal gain and the disclosure is considered reasonable.

4.2 In addition a further pre-condition to secure protection for a wider disclosure must be met. This is either:

- The person reasonably believed he/she would be victimised if the matter was raised either internally or with a prescribed regulator; or
- There was no prescribed regulator and he/she reasonably believed the evidence was likely to be concealed or destroyed; or
- The concern had already been raised with the employer or a prescribed regulator without being addressed in a timely manner; or
- The concern is of an exceptionally serious nature.

4.3 It is strongly recommended that advice is sought from the free, confidential services provided by Public Concern at Work (PCAW) (Section 7.8) if considering making a wider external disclosure before exhausting internal and regulatory disclosure procedures.

4.4 Employees should note that failure to meet these requirements means that they would not qualify for protection under this policy and may be subject to disciplinary action for fundamental breach of contract and/or disclosure of confidential Trust information.