

TRUST-WIDE POLICY DOCUMENT

Raising Concerns Policy (Freedom to Speak Up)

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Lead Author(s):	Associate Director of Nursing and Freedom to Speak Up Guardian

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Version 5

*Striving for perfect care
and a just culture*

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Raising Concerns Policy (Freedom to Speak Up)

Further information about this document:

Document name	Raising Concern Policy (Freedom to Speak Up) (HR06)
Document summary	This policy states the Trust's commitment to openness, which includes encouraging our staff to raise their concerns with what they see happening at work
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To be read in conjunction with	Standards of Business Conduct (F04) Disciplinary Policy (HR01) Early Resolution Policy (HR41) Corporate Policy for the Reporting, Management and Review of Adverse Incidents. (SA03) Policy for the management of Complaints/Concerns. (SA06) Safeguarding and Protection Of Children. (SD13) Safeguarding Adults (SD17) Standards documents from Professional Regulatory Bodies
This document can be made available in a range of alternative formats including various languages, large print and braille etc	
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Version 5	For consideration at the Board of Directors Meeting on 25 March 2020 (Item D2)	March 2020 (TBC)

SUPPORTING STATEMENTS - this document should be read in conjunction with the following statements:

SAFEGUARDING IS EVERYBODY'S BUSINESS

All Mersey Care NHS Foundation Trust employees have a statutory duty to safeguard and promote the welfare of children and adults, including:

- being alert to the possibility of child / adult abuse and neglect through their observation of abuse, or by professional judgement made as a result of information gathered about the child / adult;
- knowing how to deal with a disclosure or allegation of child /adult abuse;
- undertaking training as appropriate for their role and keeping themselves updated;
- being aware of and following the local policies and procedures they need to follow if they have a child / adult concern;
- ensuring appropriate advice and support is accessed either from managers, *Safeguarding Ambassadors* or the trust's safeguarding team;
- participating in multi-agency working to safeguard the child or adult (if appropriate to your role);
- ensuring contemporaneous records are kept at all times and record keeping is in strict adherence to Mersey Care NHS Foundation Trust policy and procedures and professional guidelines. Roles, responsibilities and accountabilities, will differ depending on the post you hold within the organisation;
- ensuring that all staff and their managers discuss and record any safeguarding issues that arise at each supervision session

EQUALITY AND HUMAN RIGHTS

Mersey Care NHS Foundation Trust recognises that some sections of society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the *protected characteristics* of age, disability, sex, race, religion and belief (or lack thereof), sexual orientation, gender reassignment, pregnancy and maternity and marital and civil partnership status. The Equality Act also requires regard to socio-economic factors.

The trust is committed to promoting and advancing equality and removing and reducing discrimination and harassment and fostering good relations between people that hold a protected characteristic and those that do not both in the provision of services and in our role as a major employer. The trust believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

Mersey Care NHS Foundation Trust also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires all public authorities to uphold and promote Human Rights in everything they do. It is unlawful for a public authority to perform any act which contravenes the Human Rights Act.

Mersey Care NHS Foundation Trust is committed to carrying out its functions and service delivery in line with a Human Rights based approach and the FREDA principles of **Fairness, Respect, Equality Dignity, and Autonomy**

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1. PURPOSE AND RATIONALE

- 1.1 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.
- 1.2 You may feel worried about raising a concern and we understand this. But please do not let this put you off. In accordance with our professional and NHS obligations, including our duty of candour to patients, 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.
- 1.3 This policy is aimed at promoting the raising of concerns but, in doing so, addresses the protection that the Trust and the law provides to those that do so.

2. OUTCOME FOCUSED AIMS AND OBJECTIVES

- 2.1 This Trust celebrates those who speak up about their concerns in the work place. The organisation encourages you to share information about errors in practice and failings in the provision of care or support to you and your colleagues in the work place. The aim is to learn from your experiences and improve the experiences of patients, their families and staff. The Trust wants to create an open, restorative and just culture to reassure staff that concerns raised under this policy will be listened to and acted on appropriately. It is an internal mechanism for:
 - i. reporting, investigating and remedying any wrong doing in the workplace.
 - ii. continuously improving services for our service users, staff and the organisation especially in the areas of safety, protecting others, quality and effectiveness
 - iii. being accountable for our practice, respecting each other and being enthusiastic about what we do and why we do it
- 2.2 The Trust wants you to know that staff who raise concerns that they reasonably believe are in the public interest are protected from adverse treatment by Mersey Care NHS Foundation Trust, or from suffering a detriment, such as bullying or harassment from colleagues.
- 2.3 The Trust does encourage staff to raise any concerns in the first instance with their line manager. This is to ensure concerns are dealt with promptly and informally where possible. Where staff feel unable to, it would be inappropriate to, or would prefer not to, staff can raise their concerns with the FTSU Guardian [See Appendix A for the role of the FTSU Guardian, Appendix B for the FTSU Principles of Approach] or with another appropriate person such as your Staff Side representative / HR Link. [See Appendix C].
- 2.4 Freedom to Speak Up Guardians (FTSUG) will be able to support and signpost staff raising concerns to additional support services if required and/or to the appropriate lead to take any relevant action.

- 2.5 The Trust wants to make it easier and safer for staff to raise concerns without fear of reprisal and that lessons identified are learned from, shared and actioned in line with our Restorative Just and Learning culture.

3. SCOPE

- 3.1 This policy should be used in situations where the NHS complaints or Early Resolution procedure is not appropriate.
- 3.2 This policy should be used where staff want to discuss issues they are concerned about. These concerns may be about general risks, errors in practice, malpractice or wrong doing that they believe is harming the service we deliver.

For example, but not restricted to: -

- unsafe patient care
- unsafe working conditions
- inadequate induction or training to undertake their role
- lack of, or poor response to a reported patient safety incident
- suspicions of fraud (which can also be reported to local counter-fraud team)
- a bullying/harassing culture (across a team or organisation rather than individual instances of bullying)

- 3.3 It should also be used where staff want to raise a concern that falls under a Public Interest Disclosure (see Section 6) and involves raising a concern (whistle blowing)

- that a criminal offence has been committed, is being committed or is likely to be committed:
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he / she is subject
- that a miscarriage of justice has occurred, is occurring or is likely to occur
- that the health and safety of an individual has, may have been or is likely to be endangered and / or
- that the environment has been, is being or is likely to be damaged
- deliberate concealing of information about any of the above

- 3.4 Raising concerns about issues in your workplace is different to making a personal complaint about how your employer treats you. You should raise a “concern” when you are worried about an issue that affects others and you are acting to protect them. For example, you might be concerned that the policy of your employer might risk patient safety or you may be concerned about their behaviour of a colleague you work with. Employers normally have separate processes for employees to raise issues about their treatment in the workplace.

- 3.5 It is not uncommon for staff to initially not be clear what their concern is about, they just know that they feel uncomfortable about what they have seen and or experienced. The FTSUG can help you work through the information you have and where possible define the issues you want to raise and how best to do this. .

4. DEFINITIONS

WHISTLE BLOWING AND MAKING A 'PROTECTED DISCLOSURE'

What is whistle blowing?

- 4.1 Although there is currently no legal definition, "whistleblowing" has come to be accepted as the disclosure by an employee of confidential information which relates to some danger, fraud or other illegal or unethical conduct connected with the workplace, be it of the employer or of his / her fellow employees.
- 4.2 Therefore a 'whistle blower' is someone who discovers something is wrong or amiss and alerts his employer or the relevant authorities to what is going on. The law protects whistle blowers from their employer subjecting them to detriment or dismissal by reason of their having 'blown the whistle' and from detrimental treatment by their colleagues. See Appendix for Public Interest Disclosure/ PIDA information

5. DUTIES

PRINCIPLES OF APPROACH

- 5.1 The Trust is committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, and it will respond in line with them [See Appendix B]
- 5.2 The Trust will do all in its power to protect people who raise from detrimental treatment their concerns using legislation where possible. You should not be at risk of losing your job or suffering any form of reprisal as a result of raising a concern. The Trust will not tolerate the harassment or victimisation of anyone raising a concern; nor will it tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as an organisation .
- 5.3 Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent or alternative explanation for your concerns.

6. PROCESS

Who can raise concerns?

- 6.1 Anyone working in the NHS, including those working for an independent organisation providing NHS services. This includes agency workers, temporary workers, students, volunteers and governors. Please note this policy applies to all staff and is not restricted to clinical staff.
- 6.2 This policy also applies to that staffs that have recently left the trust and which to raise concerns about patient care or about their own treatment and management.

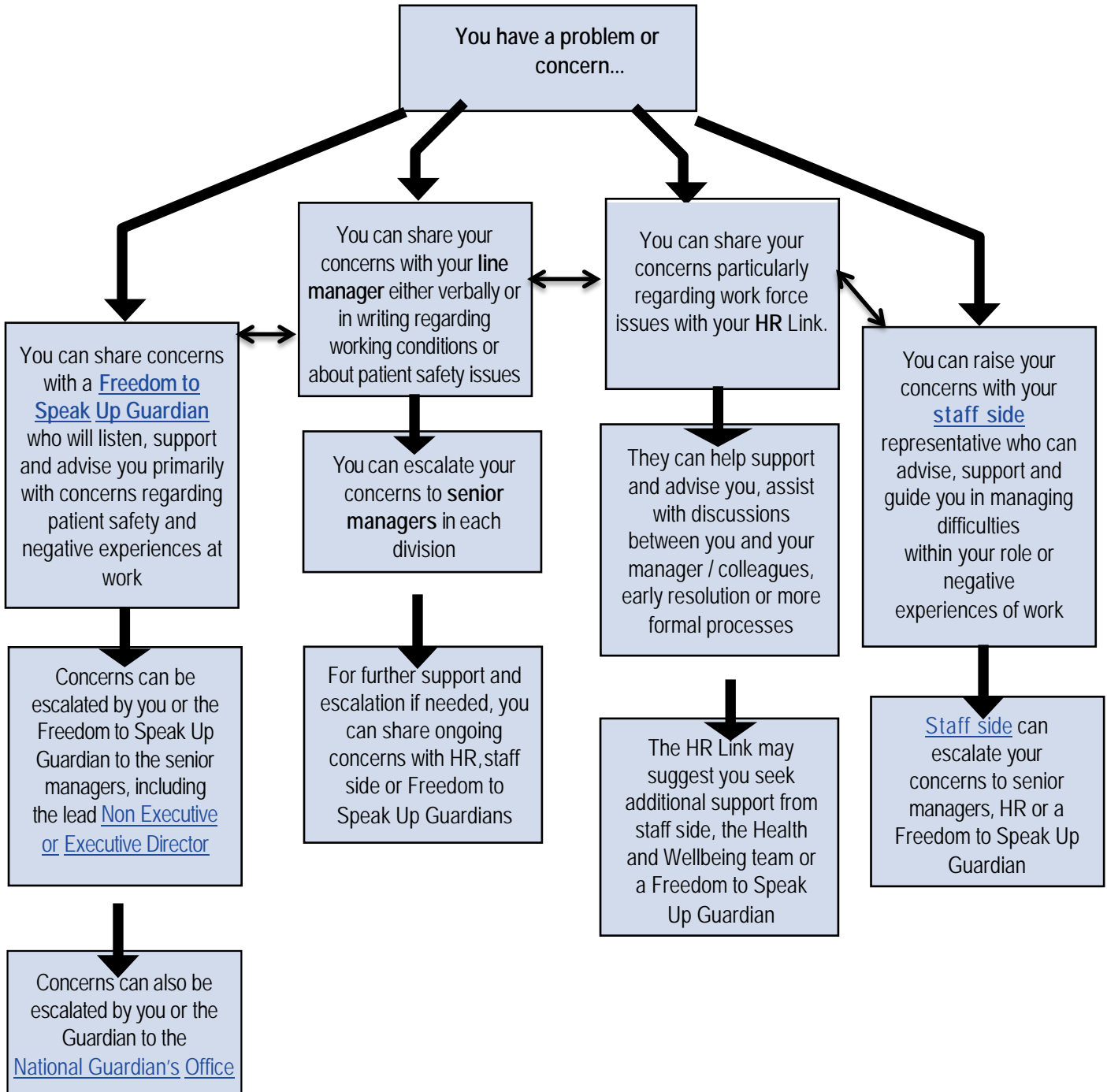
Who should I raise my concerns with?

- 6.3 Where possible and in many circumstances the easiest way to get your concern resolved will be to raise it informally or formally with your line manager (or lead clinician or tutor). Where this does not meet your needs or you do not think it is appropriate to do so, then the FTSU Guardian is one of the key people that you can share your concerns with. They can help you consider what steps you would like to take and support you through any agreed process.
- 6.4 The FTSU Guardian is an important role identified in the Freedom to Speak Up review. The FTSU Guardian acts as an independent and impartial source of advice to staff raising a concern, with access to anyone in the organisation, including the Chief Executive [See Appendix A, B, C, D], or if necessary, outside the organisation [See Appendix E].

How should I raise a concern?

- 6.5 Raise the concern with your line manager where possible and seek their help to resolve the issues. Where this does not meet your needs or you do not feel able to address it with your manager (s), or prefer not to, then the FTSU Guardian is the key person to share your issues with. This can be done face to face, over the phone or in writing via:
- the Freedom to Speak Up Guardian email account*
 - the Freedom to Speak Up guardian mobile phone number*
 - informing the Chief Executive or other executive director either via email or in writing who will pass it on to the FTSU Guardian
 - A letter to the FTSU Guardian and anonymous if needed*
 - Submitting an incident form
 - Your trade Union
 - anti-Fraud or corruption team
 - the Lead Executive and Non-Executive
- * See Appendix C for more details
- 6.6 We hope you will feel comfortable raising your concern openly, but we also appreciate 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, unless required to disclose it by law (for example, by the police) or to protect you and or others, this will be based on an assessment of the risk. You can choose to raise your concern anonymously, without giving anyone your name. This may make it more difficult for us to investigate thoroughly and be able to provide you feedback on the outcome. We would though prefer you to raise any concerns anonymously rather than not at all.
- 6.7 The Trust will always do its very best to manage your anonymity if this is what you would you prefer. However, sometimes due to the nature of the concern raised and action taken, there is no guarantee that your identity will not be deduced by those implicated and / or by colleagues. May we remind you that the Law as well as the Trust does not tolerate any bullying, victimisation or reprisals towards staff who raise concerns and in the event this should occur, the matter will be taken very seriously [See Appendix F for further details on raising concerns anonymously].

6.8 If there is any hesitation about speaking up about a concern then you must put the interests of the patients first and act to protect them, overriding personal and professional loyalties when necessary.



What happens next?

- 6.9 On receipt of your concern, the FTSU Guardian will record it in their central log and we aim for you to receive an acknowledgement within 3 working days.
- 6.10 The central record will only record key data needed, for example (but not restricted to) the date the concern was received, whether you have requested confidentiality, anonymity or are 'owning' the concern (openly identifying yourself), a summary of the concerns, risks, areas involved. You will not be identifiable on this central log. In addition, the FTSU Guardian will keep a separate record of your contact details, updates and any reports / documentation generated.
- 6.11 The FTSU Guardian will make contact with you (unless anonymous route taken) and arrange to meet to discuss the matter further. It is your preference if you would prefer the meeting to take place purely in writing, over the phone, at your work place or another place off site which would be more convenient, private or appropriate to discussing the concerns raised.
- 6.12 The FTSU Guardian will listen to your concerns, clarify and summarise these with you. Remember you do not have to have concrete proof and supporting evidence and documents to confirm what you are saying, only to have just cause for concern and act honestly. The FTSU Guardian will then guide you through Stage 1 of this process, next steps and ensure that you have any additional support that you may need.
- 6.13 Where possible the aim will always be to resolve at a local informal level. But there will be occasions when this may need to be addressed more formally.

Informal Resolution

- 6.14 The FTSU Guardian will work with you to identify where appropriate, if and how the issues and concerns can be resolved informally and locally in the first instance. This may take the form of supporting you, through advocacy, to raise the matter with the appropriate person – this may or may not be your direct line manager. It may be necessary to escalate your concerns via the levels of managerial responsibility through to senior leaders in both the division and or the Trust.
- 6.15 The length of time this may take understandably will vary depending on the nature of the concern but the aim is to resolve all concerns appropriately and as soon as possible. You will be guided, supported and updated throughout this process.
- 6.16 The FTSUG may also feel that your concern needs dealing with via Workforce polices and therefore may advice that you seek support from a Union representative. They can help put you in touch with a staff side representative and or a Human Recourse advisor / manager.

Investigation

- 6.17 If local resolution cannot be achieved or the matter is more complex, the next step would involve undertaking a fact finding investigation. Where possible any investigation undertaken will involve current policies and procedures most

suitable for reviewing your concerns, for example early resolution procedures, incident review processes.

- 6.18 Where this is not possible due to the bespoke nature of your concern the FTSU Guardian will liaise with the Associate Director responsible for FTSU management who will organise this process and outline the Terms of Reference for any investigation.
- 6.19 You will be informed in writing of a summary of your concerns, how we propose handling the matter and who will be involved, how you can contact them and whether your further assistance is needed at this time. The FTSU Guardian will remain involved and support you through this process.
- 6.20 You will be kept up to date with the review process normally by the lead reviewer, any delays will be shared with you and explanations given.
- 6.21 Care will be taken to appoint an investigator who is as objective as possible, in undertaking reviews and able to spend sufficient time on the work to enable it to be completed in a timely manner.
- 6.22 The investigating officer will take statements from all people involved, including you, as well as any witnesses. Documentary and other evidence may also be gathered. Where applicable, a referral may be made to the Anti-Fraud Specialist or other appropriate body. It must also be noted that if the concern raised becomes the subject of a police or other agency investigation the Trust investigation may be temporarily halted.
- 6.23 Whilst the FTSU Guardian walks alongside the investigation process, supporting the process and people involved, the FTSU Guardian does not get involved in the actual investigation. When the investigator finishes the investigation a report will be produced. These findings of the report will be shared with you and your FTSU Guardian, you have the right to challenge the findings and request further clarification.
- 6.24 If the disagreement or discrepancy relates to matters of factual accuracy, then you can challenge these facts in writing and they will be reviewed. Any changes or adjustments made to the report as a result of a factual accuracy review, will result in an amended report / outcome being documented and shared with you; with any further appropriate action taken as a result. You will be informed of what this is.
- 6.25 The finalised and agreed report and outcomes will be kept on the FTSU data base.
- 6.26 Depending on the nature of the concern the outcome of the report may involve changes to policies and procedures, management systems, referrals to external bodies / counter fraud or disciplinary action against a member of staff. We will not however always be able to tell you the precise action we take if disciplinary action is involved with another member of staff, as that may breach confidentiality.
- 6.27 The Trust will aim to close any investigatory process within 25 working days, if this is not possible due to the complex nature of the issues then you will be kept up to date with progress. The investigation should not take longer than six months.

- 6.28 It must be noted that we may not be able to tell you the precise action that is taken where this may infringe a duty of confidence owned by us to someone else or may interfere with any legal action we wish to take.
- 6.29 In circumstance where an allegation is unfounded the subject and informant of the allegation will be notified in writing. And the FTSU Guardian / Investigator will meet with you.

Escalation

- 6.30 If you continue to be unhappy with the outcome, you have the right to escalate your concerns to the Non Executive responsible for FTSU.
- 6.31 You will need to put in writing that you are not happy or in agreement with the outcome and your reasons for this. The FTSU Guardian will still maintain contact with you and will arrange another meeting with you to clarify the issues. You will still be supported throughout this process and should not expect or accept any detrimental treatment for raising or escalating the matter.
- 6.32 The letter / email needs to be sent to the Non-Executive Director (NED) Lead for Raising Concerns at Work [See Appendix C]
- 6.33 The NED will contact the FTSU Guardian, who will forward any supporting documents, data or notes from the initial investigation to them.
- 6.34 The FTSU Guardian will still be in contact with you throughout this stage supporting you, being an advocate for you, attending any meetings with you if required and will keep you updated as to progress. Again, you should not expect or accept any detrimental treatment for raising or escalating the matter. If at any point you do, you MUST inform the FTSU Guardian who will escalate the matter urgently. [See Appendix G].
- 6.35 The NED Lead will write to inform you of their involvement in your concern, outline next steps, time line expectations and their contact details. They will review the report, supporting documentation and process undertaken alongside your concerns or discrepancies. It is likely that they will arrange to meet with you during this process. Once they have reviewed all the available material they will share their findings and decision with you.
- 6.36 They could recommend a further review of the case or believe that the review has been thorough and recommend closure of the case. Their decision represents the end of the Trust's engagement if you are still unhappy with the outcome you can seek to escalate externally to the National Guardians Office.

LESSONS TO BE LEARNT

- 6.37 In line with our Just and Learning culture, it is imperative that lessons to be learnt are learned, shared and feedback into the organisational processes. Some lessons learnt may be only directly relevant to a particular case but where concerns raised impact on organisational policies, processes, quality, safety or effectiveness for example, then these will be addressed accordingly.

RAISING CONCERNS EXTERNALLY

- 6.38 The aim of this policy is to provide an internal mechanism for reporting concerns, investigating and addressing them. In most cases you should not find it necessary to alert anyone externally and we hope that you give Mersey Care, the first opportunity to address any concerns raised and deal with it properly. Please be aware that you can also contact certain external 'prescribed' and regulatory bodies.
- 6.39 If / where you believe the local response has been inadequate, or you believe there would be victimisation if you raised it internally, you can also raise your concerns with external bodies, for example the Care Quality Commission, the Whistle Blowing Helpline for the NHS, The National Freedom to Speak Up Guardian or your Trade Union who may be able to advise you which route is most appropriate in your circumstances. Contact details for many of these organisations can be found in Appendix E.
- 6.40 The National Guardian has a very specific criteria against which they may independently review (upon request) how a concern has been handled by a Trust. For more information see: www.cqc.org.uk/national-guardians-office/content/national-guardians-office.

FINANCIAL AND CONDUCT OF BUSINESS CONCERNS

- 6.41 If you have a concern about the business or financial conduct of another member of staff or someone who has access to the business matters of the Trust, you should raise it.
- 6.42 In cases which may involve improper use of Trust resources, managers who receive such concerns should inform the Executive Director of Finance of this also to ensure that necessary processes are followed.
- 6.43 As an alternative you can telephone the Anti-Fraud Specialist who will deal with your issue in a confidential way, providing support and guidance to you. [See Appendix C].

GOVERNANCE ARRANGEMENTS

- 6.44 A Governance Group will meet six times per year with the aim of reviewing the validity of the processes used to implement Freedom to Speak Up in the Trust, identify trends and to monitor how learning is shared across the trust. The group will have attendance from all divisions, the workforce team, Freedom to Speak Team and Staff Side. The notes of the meeting will be shared with the Trust Wide Patient Safety Strategy Group so that key themes can be shared with them and triangulated with other data collected.
- 6.45 Key themes will be shared with Operational Management Boards on a regular basis with the aim of ensuring that divisions can implement improvement actions where required.
- 6.46 Each Clinical Division will have a lead manager who will be the FTSUG's key link within the division, they will oversee responses to issues raised via the FTSU process and where necessary unblock obstacles to the provision of a timely and effective response. Each Divisional lead will meet with on a regular basis with key staff involved in the freedom to speak up process to ensure that

they are aware of the themes that are emanating from concerns raised by staff.

- 6.47 A member of the FTSU Governance Group will attend each Patient Safety Strategy Group to up date them on the work of the guardians.
- 6.48 The Board will be given high level information about all concerns raised by staff and what is /will be done to address any problems via a twice yearly report.
- 6.49 The Trust will review the effectiveness of this policy and local process at least annually with the outcome published and changes made as appropriate

EXTERNAL ADVICE

- 6.50 Below is a list of other national and local procedures which direct how people can and should speak up about their concerns: -
- Whistle blowing Helpline for the NHS and Social Care, which provides advice and support for both employers and employees
 - Public Interest Disclosure Act 1998. Information on the Act is available online and via the Whistle Blowing Helpline
 - NHS Constitution for England. Available on the NHS Choices website
 - Speak Out Safely Campaign. Further information available online
 - NHS Employers. Further information available online
 - And the following trust policies (available on the trust's website):
 - Standards of Business Conduct (F04)
 - Disciplinary Policy (HR01)
 - Corporate Grievance Procedure (HR02)
 - Corporate Policy for the Reporting, Management and Review of Adverse Incidents (SA03)
 - Policy for the Management of Complaints / concerns (SA06)
 - Safeguarding and protection of Children
 - Safeguarding Vulnerable Adults from Abuse (SD17)

7. CONSULTATION

- 7.1 The Freedom to Speak Up Governance Group has been used to consult up on the contents of this policy. Members include senior HR managers and service managers.
- 7.2 A Survey Monkey has been used with staff from across the Trust, asking them about their experiences and feelings about raising concerns. Some of the findings have been included in this revised policy document.
- 7.3 An independent review has also been undertaken into the way the trust has implemented the FTSU process, some of the reviews findings have been incorporated into this amended policy document.

8. TRAINING AND SUPPORT

- 8.1 Each FTSU guardian has to be registered with the National Guardians office, to do this they have to have attended a training day and be seen as

knowledgeable about the role. Each of the Trust's FTSUG's and the lead executive has attended the registered one day training session.

- 8.2 FTSU guardians provide face to face awareness training regarding the role and function of the FTSU for all staff during the corporate induction programme; they will also provide ad hoc information about their role training and the importance of speaking up when asked.

9. MONITORING

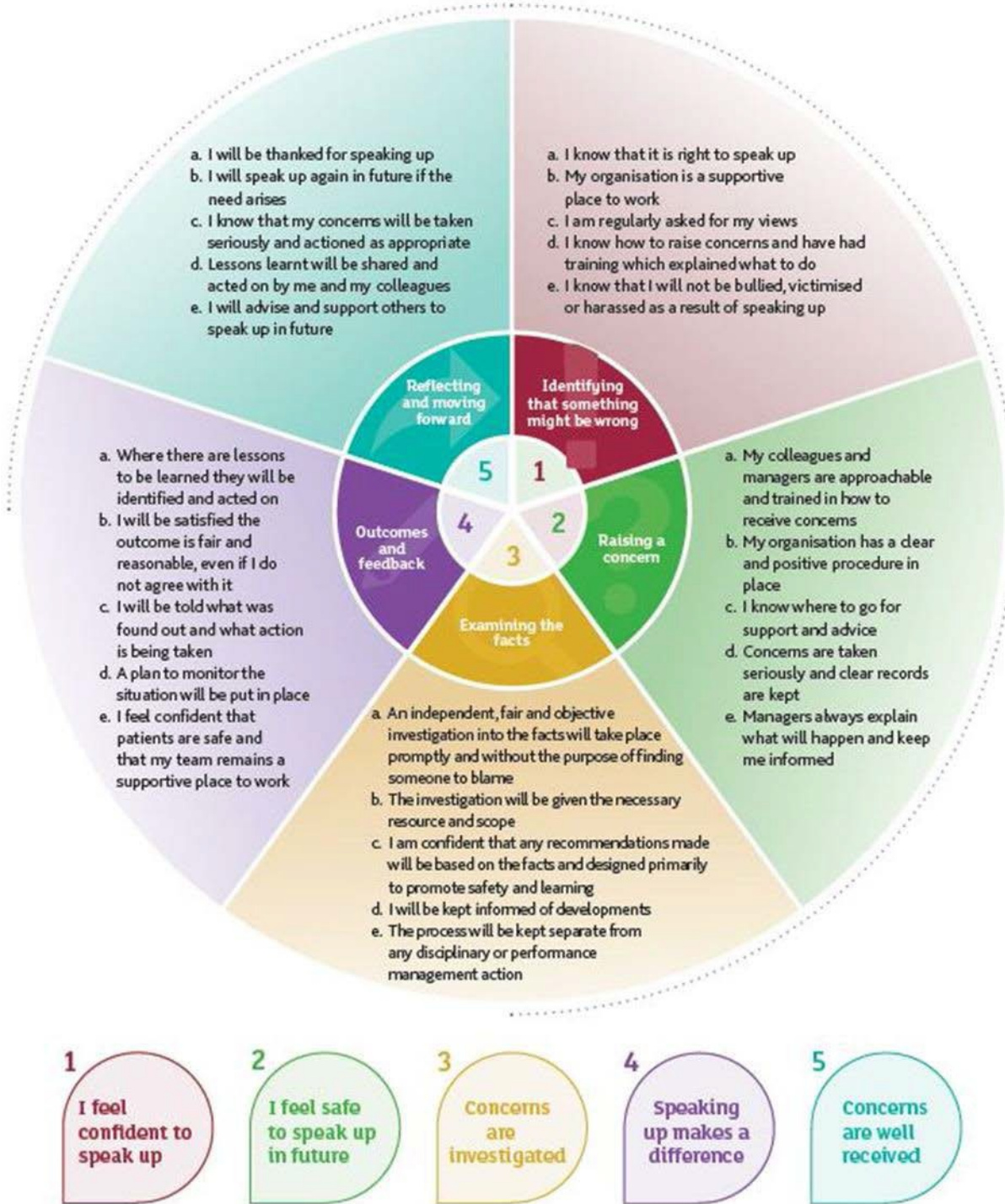
- 9.1 The implementation of this policy will be monitored via the FTSU Governance Group.
- 9.2 The bi annual report to the Audit Committee and Board of Directors will contain data re compliance/non compliance with this policy.

Appendix A – The Role of the FTSU Guardian

The FTSU Guardian will be the main point of contact for staff who would like to raise a concern if it has not been addressed through their manager. The FTSU Guardian will:

1. Try and work with the person raising the concern and their managers to attain local resolution.
2. Forward the concern for formal review if the issues cannot be locally resolved or the member of staff does not want to adopt a discursive process.
3. Work with concerns that are given anonymously.
4. Support staff who raise concerns by 'walking along' side them and advocating for them during any meetings or investigation process.
5. Raise high risk concerns immediately with clinical managers or other appropriate senior/executive managers to ensure safety is maintained at all times.
6. Work closely with staff side representatives
7. Monitor the outcome of the process to ensure that no negative effects are experienced by the staff member raising the concern.
8. Visit wards and teams formally and informally to discuss any concerns they may have and to gain an understanding of the general experiences of staff on those departments.
10. Share generic issues and concerns with managers of the service so that they are aware of pressures within services and can instigate remedial action.
11. Provide feedback to the staff member raising the concern and the findings bi-annually to the Trust Board via a report outlining issues raised causes and actions taken.
12. Ensure that the role and outcomes of the work of the FTSU is known by the majority of staff by publication of newsletters, including information in Chief Executive bulletins and attending staff meetings.

Appendix B – Principles of Approach



Appendix C – Contact details of key staff involved (Internal)

There is an alternative route for raising concerns which can be used if you feel unable to talk to your immediate manager or the next level manager in your management structure. In such cases you can contact:

- i. Steven Morgan – Freedom to Speak Up Guardian
email steven.morgan@merseycare.nhs.uk or telephone 07469 396 927.
- ii. Mark Riding-Freedom to Speak Up Guardian

Email mark.riding@merseycare.nhs.uk
Lorretta Murray Moon
Email Lorretta.murraymoon@merseycare.nhs.uk
Bernie Rochford – Freedom to Speak Up Guardian
email Bernie.rochford@merseycare.nhs.uk or telephone 07867 341 050 or
Email via the central email address –
freedomtospeak.guardian@merseycare.nhs.uk
or a letter marked PRIVATE and CONFIDENTIAL. FAO: The FTSU
Guardian, c/o The Patient Safety Team, V7 Building, Kings Business Park,
Prescot, Mersey,L34 1PJ
- iii. Elaine Darbyshire -The Executive Director of Communications and
Corporate Governance –Lead Non Executive for Raising Concerns
- iv. Gerry O’Keeffe - Non-Executive Director Lead for *Raising Concerns at Work*
email raisingconcerns@merseycare.nhs.uk
- v. your Human Resources Advisor, Manager or Business Partner for your
area (for details please go the Workforce Portal on the Trust’s intranet site
by [clicking here](#)), or
- vi. your Trade Union representative for advice

You may also raise a matter directly with the Chief Executive Joe Rafferty through the ‘Tell Joe’ by emailing telljoe@merseycare.nhs.uk.

Where an issue relates to potential fraud and/or corruption you can raise your concerns with:

Darrell Davies, Anti Fraud Specialist
Email Darrell.Davies@miaa.nhs.uk or
Telephone 0151 285 4520 / 4500 and ask for the Local Counter Fraud
Team or

Neil Smith, Executive Director of Finance
email neil.smith@merseycare.nhs.uk or
Telephone 0151 471 2205

if you feel that this avenue is not appropriate, you can call the NHS National
Fraud and Corruption Reporting Line on 0800 028 4060 (Monday to Friday,
08.00 hrs to 18.00 hrs).

Should you wish to avail yourself of Mersey Care’s Staff Support Service, they are
available at 0151 330 8103.

Appendix D – Roles of further staff involved

The Chief Executive

The Chief Executive has delegated responsibility for ensuring compliance with this policy to the Executive Director of Nursing.

The Executive Director of Communications and Corporate Governance

The Executive Director of Nursing has a responsibility to ensure that there are adequate systems in place to ensure that concerns at work or matters of business probity and / or conduct are adequately and timeously resolved and will report to Trust Board as and when the Policy is evoked.

The Executive Director of Finance

In line with the Trust's governance arrangements, the Executive Director of Finance will take the lead for those concerns raised in respect of financial probity.

Divisional Leads

Each Division will have a lead manager, nominated by their Chief Operating Officer. They are responsible for overseeing responses to concerns raised by staff via the Freedom to Speak Up process and unblocking any obstacles that occur in relation to the provision of a timely and effective response to the staff member. They will meet on a regular basis with their link FTSU Guardian and other associated staff to ensure they are aware of themes emanating from concerns raised by staff.

Divisional and Team Managers

Managers have a responsibility to ensure that staff are made aware of this policy should they wish to raise a concern at work. They also have a responsibility to listen to their staff and try to sort out any problems that they may have as they occur.

Human Resources Business Partners, Managers and Advisors

Human Resources Business Partners, Managers and Advisors have a responsibility to ensure that the advice given to staff regarding this policy is accurate and in line with the content and spirit of the policy.

Members of Staff, Contractors, Students and Volunteers

Your responsibility - the *NHS Constitution* emphasises that staff have a responsibility to raise concerns, which has been reinforced by the development of a statutory *duty of candor*

Non Executive Director

The lead Non Executive Director is a further point of contact for staff to raise concerns with. He can try and resolve the concern locally with senior managers or move it forward for a formal investigation.

The Non Executive will also brief the board on any issues of concerns on an on-going basis and formally via the sharing of the bi annual report written by the FTSU and Director of Patient Safety.

The Non Executive Director will meet with the FTSU at least quarterly to receive information about their role and issues that are being raised by staff and when required support and guide the FTSU.

Associate Director of Nursing

The Associate Director of Nursing provides direct line management support on a day to day basis to the FTSU Guardian to ensure that any concerns they have about their working experiences are dealt with quickly and efficiently.

They will coordinate the completion of any formal investigations commissioned into a concern raised by staff and ensure the response is fed back to staff and the actions emanating from the report are implanted by the service.

They will work with the FTSU to complete the bi annual Trust Board Report, summarising a high level view of issues of concern raised by staff. They will oversee the completion of the staff concerns data base to ensure that all actions taken and issues raised are documented and can be used to triangulate issues raised in relation to areas of practice or individuals.

Appendix E – Contact details for Key Organisations (External)

You could approach for further advice:.

1. The Whistleblowing Helpline for the NHS and Social Care for independent and confidential advice call Tel 08000 724 725
2. Protect -Speak to Stop(Formally Public Concerns at Work) providing free and confidential advice Tel: 020 7404 6609 or www.pcaw.org.uk
3. Care Quality Commission (CQC), www.cqc.org.uk/contact-us .Tel: 03000 616161
4. General Medical Council www.gmc-uk.org Tel 0161 923 6602
5. Health Professionals Council, www.hpc-uk.org/complaints Tel 0300 500 6184
6. Nursing & Midwifery Council www.nmc-uk.org Tel 0207 637 7181
7. Royal Pharmaceutical Society of Great Britain www.rpsgb.org.uk Tel 0207 572 2737
8. NHS Fraud, Bribery and Corruption. Reporting suspicions of NHS fraud, bribery and corruption are as follows: Anti Fraud Specialist (LCFS) Tel: 0151 285 4500 & NHS Fraud and Corruption Reporting Line Tel: 0800 028 40 60. NHS online reporting form: www.reportnhsfraud.nhs.uk

And NHS Protect www.nhsbsa.nhs.uk/nhs-protect-1

For a full list of the external 'Prescribed Persons' you can make a disclosure of concern to please refer to the latest government guidance (updated 01 October 2017).

<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies#healthcare>

In addition, you can also blow the whistle to your legal advisor or to your MP.

Mersey Care NHS FT would prefer that you raise the matter internally first so that they are aware of any issues and have an opportunity to address these immediately. But if you decide to blow the whistle to a prescribed person rather than your employer, you must make sure that you have chose then correct person or body for your issue.

Appendix F – Raising concerns anonymously

The Trust respects your decision to raise a concern anonymously, and would prefer you did so, rather than stay silent about an issue and not raise it at all. But please remember if you choose to raise a concern anonymously the Trust may be limited as to how comprehensively they can explore the concerns raised.

If you are hesitating about reporting a concern and are considering doing so anonymously, please be aware: -

- You must put the interests of patients first and act to protect them, overriding personal and professional loyalties when necessary
- The law provides legal protection against victimisation and / or dismissal for members of staff who disclose information in the public interest
- You do not need to wait for absolute proof in order to raise a concern. You can justify raising a concern if you do so in the public interest and through the appropriate channels, even if you are mistaken
- By maintaining anonymity, there is no guarantee your identity will not be deduced by those implicated and / or by colleagues.

If you provide your name In Confidence the Trust can:

- Respond directly to you in respect of the concerns you have raised
- Ensure that it has taken your concerns seriously and ask for further information (if necessary)
- By providing your name the Trust will be in a better position to support you

Appendix G - The Public Interest Disclosure Act 1998 (“PIDA 1998”)

PIDA 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.

The enactment of the Public Interest Disclosure Act (PIDA) is an opportunity to review and strengthen existing arrangements and remind staff of their responsibility to disclose suspected “malpractice” or concerns about the organisation without fear of recriminations. In recent years the public has been shocked by disasters and scandals that have claimed lives and damaged others.

The enquiries set up to uncover the facts behind these catastrophes have revealed all too often that they had been a consequence of a pattern of poor practice over a long period of time and that, although not officially recognised, were often known about by employees who had been too scared to speak up, or who had raised the matter only to find their concerns ignored. The NHS has had its share of incidents which could, and should, have been prevented had staff felt able to raise concerns in a responsible way without fear of victimisation. These incidents have damaged public confidence in the NHS.

The Francis Speak Up Report (2015) recommends that:

- Compromise agreements containing clauses seeking to prevent disclosures protected under the PIDA 1998 are not acceptable.
- Reporting of incidents of concern relevant to patient safety, compliance with fundamental standards or some higher requirement of the employer needs to be not only encouraged but insisted upon.

What is covered under PIDA?

To be protected by the law, the act of whistle blowing must fall within the legal rules and the whistle blower must reasonably believe that their disclosure of wrong doing is made in the public interest.

If you reasonably believe that any of the following has happened, is happening or is likely to affect any of our activities you should raise it, even if you think others may have done so already.

- that a criminal offence has been committed, is being committed or is likely to be committed
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he / she is subject
- that a miscarriage of justice has occurred, is occurring or is likely to occur
- that the health and safety of an individual has, may have been or is likely to be endangered
- that the environment has been, is being or is likely to be damaged
- deliberate concealing of information about any of the above

Raise your concern immediately with your line manager. Freedom to Speak Up Guardian or escalation route / alternatives outlined in this policy.

There is very specific criteria that needs to be met for an individual to be covered by whistle blowing 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 (see Appendix E), who you can make a protected disclosure to, to gain this protection.

To help you consider whether you might meet the specific criteria, it is strongly recommended that you seek independent advice from free confidential services such as the Whistle Blowing Helpline for the NHS and social care and / or Public Concern at Work or seek advice from a legal representative. But in general, a further pre-condition to secure protection for a wider disclosure to be met is that 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.

Remember if you are a healthcare professional you also have professional duties to report concerns. If in doubt, please raise it and provide as much information as you can.

Vicarious liability

The law (PIDA) only protects workers if they have been subjected to a detriment by their employer after making a Public Interest Disclosure. The Enterprise and Regulatory Reform Act 2013 Act proposes to protect whistle blowers from any detriment, suffered at the hands of co-workers as well as their employer. However, if an employer can show that it took reasonable steps to prevent the detrimental treatment then it will not be held liable for the actions of the co-workers ('the reasonable steps defence').

Equality and Human Rights Analysis

Title: Raising Concerns Policy (Freedom to Speak Up)
Area covered: Trust Wide

<p>What are the intended outcomes of this work? <i>Include outline of objectives and function aims</i></p> <p>All trust employees will be aware of the new freedom to speak up policy and processes</p> <p>Who will be affected? <i>e.g. staff, patients, service users etc</i></p> <p>Service Users/Carers/Staff/Volunteers/representatives of agencies undertaking work on behalf or within buildings of Mersey Care NHS Trust.</p>

Evidence
<p>What evidence have you considered?</p> <p>The previous policy</p>
<p>Disability (including learning disability)</p> <p>This policy applies to all staff regardless of disability</p>
<p>Sex</p> <p>Promotes and supports equality in relation to sex</p>
<p>Race</p> <p>The NHS Race Equality Standard requirements are identified in relation to the workforce</p>
<p>Age</p> <p>Promotes and supports equality in relation to age</p>
<p>Gender reassignment (including transgender)</p>
<p>Sexual orientation</p> <p>Promotes and supports equality in relation to Sexual Orientation (Also within Marriage and Civil Partnership)</p>
<p>Religion or belief</p> <p>Promotes and supports equality in relation to religion and belief</p>
<p>Pregnancy and maternity</p> <p>Promotes and supports equality in relation to pregnancy and maternity rights for parents</p>
<p>Carers</p> <p>Promotes and supports equality in relation to carers, taking into consideration flexible working patterns</p>
<p>Other identified groups</p> <p>Asylum seekers, traveller families</p>
<p>Cross Cutting <i>implications to more than 1 protected characteristic</i></p> <p>This policy applies to all</p>

Human Rights	Is there an impact? How this right could be protected?
Right to life (Article 2)	<i>Not engaged</i>
Right of freedom from inhuman and degrading treatment (Article 3)	<i>The policy seeks to ensure that people are treated with respect and dignity.</i>
Right to liberty (Article 5)	Human Rights based approach supported
Right to a fair trial (Article 6)	Human Rights based approach supported
Right to private and family life (Article 8)	Human Rights based approach supported
Right of freedom of religion or belief (Article 9)	Human Rights based approach supported
Right to freedom of expression Note: this does not include insulting language such as racism (Article 10)	Human Rights based approach supported
Right freedom from discrimination (Article 14)	Human Rights based approach supported

Engagement and Involvement *detail any engagement and involvement that was completed inputting this together.*

Safeguarding Team

Patient Safety Team have been consulted on how learning from concerns raised via the FTSU process can be shared across the trust.

Staff Side - staff side have been consulted on the way freedom to speak up works in this organisation.

Summary of Analysis *This highlights specific areas which indicate whether the whole of the document supports the trust to meet general duties of the Equality Act 2010*

This policy gives all staff the opportunity to raise their concerns , there are a variety of ways that staff can contact FTSU guardians , it is not just reliant on access and understanding of how to use a computer. Telephone referral is available and encouraged as is face to face discussion via visits to wards/teams .

Eliminate discrimination, harassment and victimisation

The policy sets out clear requirements in relation to HR practice.
Links into other associated policies.

Advance equality of opportunity

This policy and its implementation supports the 'Just Culture' within the workforce

What is the overall impact?

A positive and open working environment free from blame

Addressing the impact on equalities

There needs to be consideration of ensuring that staff in small teams in out lying areas can contact and know about the services, possibly via cultural ambassadors sharing information at different types of meetings throughout the trust.

Action planning for improvement

Detail in the action plan below the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

NONE

For the record

Name of persons who carried out this assessment:

Steven Morgan

Date assessment completed:

26th February 2020

Name of responsible Director:

Steven Morgan

Date assessment was signed:

26th February 2020

Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their area of responsibility
Engagement	Liaise with the Human Recourse Team to identify how the role of the Cultural Ambassadors can be altered to include raising awareness of the freedom to speak up guardians and the importance of sharing their concerns	April 2020	Lynne Lowe, Associate Director of HR
Monitoring			
Increasing accessibility			

