

Lincolnshire Partnership NHS Foundation Trust (LPFT)

Speaking Up And Raising Concerns

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1. Introduction

1.1 Our Commitment

Lincolnshire Partnership Foundation Trust (LPFT) is committed to providing the very highest standards of care possible to all of our service users. In striving to achieve this, we recognise the expertise of our staff in helping us identify where improvements need to be made. We will therefore welcome any opportunities to learn and improve offered to us by staff raising concerns. We will work to foster an open, honest and transparent culture in which staff feel not only safe to speak up, but feel valued for doing so. Where staff do raise concerns they will be supported and will receive feedback at the conclusion of any processes taken as a result of their concerns.

1.2 Concerns raised must be in the public interest as defined by The Public Interest Disclosure Act 1998. Staff are encouraged to speak up about any risk, malpractice or wrongdoing that is harming the services LPFT delivers. Examples 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 counter-fraud team. The Counter Fraud service for LPFT is provided by 360 Assurance and the nominated LCFS is **Ian Morris**, who can be contacted on **0116 225 6120** or via the e-mail address of ian.morris7@nhs.net)
- a bullying culture (across a team or organisation rather than individual instances of bullying)

1.3 The Freedom To Speak Up (FTSU) Guardian is a nationally mandated post, which is independent and has been appointed specifically for the purpose of supporting an open culture where any issues of safety, malpractice etc. can be raised. The Trust's FTSU Guardian should be approached where a staff member is unsatisfied with their line manager's handling of their concerns or where a staff member does not feel able to raise concerns to their line manager. The role of the FTSU Guardian does not prevent workers from raising concerns via other channels such as senior manager, trade union representative, human resources etc.

1.4 Speaking Up, Whistleblowing and Raising Concerns – are terms that may be used interchangeably to describe any reports made in line with the Public Interest Disclosure Act 1998 (see 1.2).

2. Purpose

- 2.1 The procedures were developed in line with the Public Interest Disclosure Act 1998 and as a response to an agreement between Senior Managers and Staff Side within the Trust that there is a requirement to have clear, accountable procedures in place in the event of a worker wishing to highlight any area(s) of malpractice or illegal acts.
- 2.2 The procedure can be used by any member of staff, agency staff, locum staff, remunerated individuals, volunteers or any other appropriate individuals providing or observing services delivered by the Trust.
- 2.3 Key principles in this procedure being formulated are:
- Protecting patients, carers and staff from harm
 - Equity of treatment for workers and service users
 - Compliance with legislation
 - Clear guidelines for managers and workers
 - Simplicity of application
- 2.4 This procedure is not appropriate for raising individual or collective grievances in relation to contractual matters or terms and conditions of employment. The Trust shall however maintain grievance procedures to allow workers to raise a grievance.

3. Duties

3.1 The Board of Directors is accountable for:

- Commitment through endorsement of the Speaking Up Corporate Governance Document (this document).
- Identification and allocation of any resources required for the procedure's implementation.
- Appointing a Non-Executive Director to act in an advisory capacity to the FTSU Guardian where needed.
- Chair's investigation of any case of speaking up where the Chief Executive is under investigation.
- A prima facie fact-finding investigation of any case of speaking up where the Chair is under investigation.

3.2 The Chief Executive is accountable for:

- Ensuring cases of reported Speaking Up are thoroughly investigated.
- Ensuring the proper application of the Scheme through appropriate management arrangements.
- Ensuring the ongoing commitment by the Trust to the application of equality and diversity within employment.
- Delegating authority to the FTSU Guardian for reporting cases of Speaking Up in an anonymous manner to the Audit Committee.

- Allocating investigators for cases as and when they arise in conjunction with the Trust Secretary.

3.3 **The Line Management is responsible for:**

- Acting as point of contact for staff who have concerns.
- Providing evidence to investigations if required.
- Communicating the Speaking Up Procedures to workers, through induction, mandatory training and team briefing.
- Ensure support in the workplace for any individuals who are known to have raised concerns.
- Manage via the Disciplinary procedures any worker who is discriminating against a staff member who has raised concerns.

3.4 **Employees/Workers are responsible for:**

- Raising any concerns that they may have about the conduct of others in the care provided to service users, patient or carers.
- Raising any concerns that they may have about the conduct of others in the business of the Trust or the way in which the business of the Trust is run.
- Not discriminating against persons who have raised concerns under this policy. Doing so will result in an investigation under the Disciplinary Policy.

3.5 **The FTSU Guardian is responsible for:**

- Supporting any worker to raise concerns. Recording concerns and reporting investigation recommendations back to worker.
- Summarising significant concerns for Chief Executive, making recommendations about investigation, overseeing investigations and making recommendations for learning.
- Ensuring the annual review of the Speaking Up Procedure.
- Maintaining a register of concerns raised through the Speaking Up Procedure.
- Providing reports to Audit Committee and National Guardians Office.
- Undertaking educational programmes with staff and managers on raising concerns.
- Maintaining and developing the mechanisms for raising concerns.
- Proactively promoting a culture of speaking up.
- Reporting all concerns raised through the Speaking Up Procedure to the Audit Committee.
- In the absence of FTSU Guardian, the Trust Secretary will assume FTSU responsibilities.

3.6 The Speaking Up NED Advisor

- The Chair of the Trust shall appoint one of the NED's to act as a speaking up advisor.
- The NED will act as an independent advisor and be available to the FTSU Guardian and the Chief Executive to seek second opinions and support in progressing complex matters.
- The NED advisor will act as an independent route between the Trust and any party who raises concerns.

3.7 FTSU Champions are responsible for:

- Promoting speaking up process and signposting to FTSU Guardian.
- Raising concerns on behalf of staff members if requested.
- Proactively promoting a culture of speaking up.
- Undertaking educational programmes on raising concerns alongside or in lieu of FTSU Guardian, when needed.
- Assisting with development of service.

4. Development of Policies and Procedures

4.1.1 Where a concern is not about a member of staff's personal employment position and is regarding concerns where the interests of service users or the Trust is at risk, the provisions of this Speaking Up Procedure should be followed.

Note: Where a worker suspects that there is a risk of immediate harm to a patient, the staff member must report their concern immediately. Where there is an allegation of abuse against a child or a vulnerable adult, the staff member is required to immediately report their concern in line with the local safeguarding procedures.

4.1.2 Where the Trust is notified of a Speaking Up complaint received by a regulator or professional body the principles of this policy shall apply and the complaint will be registered on the Trust's Speaking Up register, investigated and reported to the Audit Committee. The Trust shall respond in accordance with the legislative requirements that apply in each case.

*** Where fraud or bribery is suspected, this should be reported directly to the Director of Finance and Information or the Local Counter Fraud Specialist as outlined in the County Fraud and Anti Bribery Policy. The Counter Fraud service for LPFT is provided by 360 Assurance and the nominated LCFS is **Ian Morris**, who can be contacted on **0116 225 6120** or via the e-mail address of ian.morris7@nhs.net.

4.2 Assurances to Staff

- 4.2.1 Reasonably held concerns raised under this procedure will not incur the risk of disciplinary action or the suffering any form of reprisal as a result. Lincolnshire Partnership NHS Foundation Trust will not tolerate the harassment or victimisation of anyone raising a reasonably held concern. Nor will attempts to bully individuals into not raising any such concern be tolerated. Any such behaviour is a breach of our values as a Trust and, if upheld following investigation, could result in disciplinary action.

Provided individuals act honestly, they can raise their concern without fear of retribution or risk of losing their jobs. It is good practice for such reasonably held concerns to be reported and promptly investigated.

- 4.2.2 Lincolnshire Partnership NHS Foundation Trust hopes that individuals will feel comfortable raising your concern openly, but also appreciate that some may want to raise it confidentially. This means that while they are willing for their identity to be known to the person they report their concern to, they do not want anyone else to know their identity. Therefore, we will keep their identity confidential, if that is what they want, unless required to disclose it by law (for example, by the police). They can choose to raise your concern anonymously, without giving anyone their name, but that may make it more difficult for us to investigate thoroughly and give them feedback on the outcome.

Where staff are considering such a disclosure they should discuss their concerns with the FTSU Guardian who will be able to discuss these matters in confidence with the staff member.

- 4.2.3 Where staff are considering such a disclosure they should discuss their concerns with the FTSU Guardian who will be able to discuss these matters in confidence with the staff member.

4.3 The Speaking Up Procedure

4.3.1 To Whom Concerns should be reported

- 4.3.1.1 If workers have a concern about malpractice or wrong-doing, the Trust hopes that they will feel able to raise it first with their Manager or Director. This may be done orally or in writing as soon as possible but within a reasonable time-frame. In cases involving the employee's line manager or director, alternative routes should be used such as the FTSU Guardian.
- 4.3.1.2 Alternatively, the FTSU Guardian can be contacted via telephone on **01522 597936** or via the dedicated email address: [**speakup@lpft.nhs.uk**](mailto:speakup@lpft.nhs.uk). The FTSU Guardian will ensure that initial enquiries are dealt with in the strictest confidence and will agree the next steps with the individual about progressing the concern.
- 4.3.1.3 Staff may also route their concerns through a Freedom to Speak Up Champion who can pass their concerns to the FTSU Guardian.

- 4.3.1.4 In the event of failure of these channels, dissatisfaction from the member of staff, or, where it may not be appropriate to pursue concerns through these routes, any Non-Executive Director may be approached to hear the concerns or the Trust's regulators, NHS Improvement or the Care Quality Commission.
- 4.3.1.5 The Trust recognises that workers may wish to seek advice and be represented by their Staff Side Representative when using the provisions of this procedure, and acknowledges and endorses the role Trade Union representatives play in this area. If a worker does not belong to a union or wishes to seek confidential advice from another independent source there is a whistle blowing charity called Protect (formerly Public Concern at Work) that they can contact on 0203 117 2520 – whistle@protect-advice.org.uk The options and guidance within this procedural document should reassure workers of the process for raising any concerns through routes within the Trust; but we understand that there may be circumstances where a worker may wish to raise these concerns with an independent body, such as the Police, NHS Improvement, the Care Quality Commission, NHS Protect, their professional regulator, or the Department of Health Whistleblowing helpline 08000 724 725. Whilst seeking advice from their Trade Union or Protect who can advise individuals on the actions required to raise their concerns with these independent bodies.
- 4.3.1.6 If the concern is about the Chief Executive of the Trust, the complaint should be made to the Chair of the Trust who will decide with the support of the Trust NED Speaking Up Advisor and FTSU Guardian on how the investigation will proceed.
- 4.3.1.7 If the concern is about the Chair of the Trust, the investigation will be carried out by the Standards Committee of Council of Governors.
- 4.3.1.8 All concerns referred under the procedure will be recorded on a Speaking Up register held by the FTSU Guardian. The designated person shall be responsible for ensuring the FTSU Guardian is informed.

4.4 **Process, Investigation and Outcome**

(Where the complaint is not about the Chief Executive or the Chair)

- 4.4.1 Report your concern as soon as possible of becoming aware of the matter (a process flow chart is available in Appendix 2) either verbally or in writing as above to one of the following:
1. Line Manager
 2. Director
 3. FTSU Guardian and/or Speak Up e-mail
 4. Non-Executive Director.

Note: This final option is an added safety mechanism and staff are encouraged to use option 1, 2 or 3 in the first instance.

- 4.4.2 The designated person (chosen from above list) will be the point of contact for a worker who has raised concerns under the provisions of this procedure. They will arrange an initial interview within 3 working days, or, if the view is that serious harm may come to patients/service users as a result of delaying the meeting, they will arrange it within 24 hours at a mutually acceptable venue. The meeting will be strictly confidential and will ascertain the area of concern. The designated person will ensure that the individual raising the concern has access to appropriate support from the staff wellbeing service, or any other such support as may be reasonably available.
- 4.4.3 At this stage, individuals raising the concern will be asked whether they wish to make a brief summary of the interview, which will be agreed by both parties.
- 4.4.4 At this stage the Chief Executive and the Chair will be informed and, if appropriate, a Serious Incident Report will be completed by the designated person. The substance of the concern will be risk-rated and a Non-Executive Director identified to participate in the process if the substance is rated as high risk.
- 4.4.5 An investigation should be completed within 20 working days where possible. This will be carried out by the Chief Executive or an appropriate senior officer designated by the Chief Executive as the investigating officer. This timescale ensures that issues are dealt with in a timely manner.

However, if, due to the complex nature of the investigation, it becomes apparent that the investigation will overrun the 20 day timescale, then the person carrying out the investigation should contact the individual raising the concern and advise them of a suitable timescale. The Chief Executive should also be informed of the delay. It should be recognised that investigations which are carried out over a longer period can cause additional stress to all those concerned. In addition, it prevents the results of the investigation from being implemented thus slowing down performance improvements.

The investigation may need to be carried out under the terms of strict confidentiality i.e. by not informing the subject of the complaint until (or if) it becomes necessary to do so. This will be appropriate in cases of suspected fraud, bribery or corruption. In certain cases, however, such as allegations of ill treatment of patients/service users, suspension from duty may have to be considered immediately. Protection of patients/service users is paramount in all cases.

- 4.4.6 If the result of the investigation is that there is a case to be answered by any individual, the Disciplinary Policy will be used, or, in cases of illegal acts, the Police will be contacted. Where there is an allegation of abuse against a child or vulnerable adult, the Local Authority will be informed in line with local safeguarding procedures.
- 4.4.7 Where there is no case to answer, the designated person should thank the person for raising the concern and provide them with support to ensure that there is no victimisation or discrimination.

- 4.4.8 A report on the investigation, the decision and any recommendation for action should be compiled for the attention of the Chief Executive and the FTSU Guardian.
- 4.4.9 Following the investigation, the FTSU Guardian and Chief Executive will be briefed by the investigating officer as to the outcome of the investigation. The FTSU Guardian will then arrange a meeting with the reporter to give feedback on any action taken. (This will not include details of any disciplinary action, which will remain confidential to the individual concerned). The feedback will be provided within 10 working days of the conclusion of the investigation.
- 4.4.10 The relevant manager will be requested to provide an action plan to address any recommendation arising from the investigation.
- 4.4.11 The FTSU Guardian will routinely report the outcome of investigations and any recommendations for action to the Board of Directors via the Audit Committee.
- 4.4.12 In the event of the complaint being a matter which might affect the reputation of the Trust, or constitute a 'significant failing', the Chief Executive will arrange for NHS Improvement or the Care Quality Commission to be informed through the usual reporting arrangements.
- 4.4.13 Where as a result of a speaking up matter the continued employment of an individual in their current environment becomes untenable, at the request of the individual, the Trust shall take all reasonable steps to afford that individual the opportunity to have suitable alternative employment.

4.5 **Appeals**

- 4.5.1 If the individual raising the concern is not satisfied with the process or outcome of the investigation, the Trust recognises the lawful rights of employees and ex-employees to make disclosures to prescribed persons, subject to normal time limits being adhered to. Prescribed persons are listed in Appendix 1.

4.6 **Records and Monitoring**

4.6.1 **General Records**

- 4.6.1.1 The Trust will maintain adequate records of all concerns raised through this procedure, how the concerns were handled and the outcome of any investigations. The records will be secured with the FTSU Guardian in accordance with the Trust's Records Management policy and will be retained for a period of three years.
- 4.6.1.2 The FTSU Guardian will provide a quarterly report to Board of Directors via Audit Committee outlining the number of times the procedure has been applied, the issues raised, broad outcomes and lessons learnt.

4.6.2 Legal Action

4.6.2.1 In the event that a speaking up investigation leads to legal action being taken by the Trust, then records will be retained for 10 years.

4.6.3 Disciplinary Action

4.6.3.1 In the event that a speaking up investigation leads to disciplinary action being taken against an employee(s), then records will also be retained on the personal file, in accordance with the timeframes set out in the Disciplinary rules and procedures.

5. Consultation, Approval and Ratification Process

Consultation feedback will be maintained as per the Trust's Policy for Policies and appropriate amendments made to the document before approval.

6. Review and Revision Arrangements including Version Control

The Office of the Chair and Chief Executive will maintain a version control sheet.

The JCNC will be consulted on revisions of this procedure.

7. Dissemination and Implementation

This procedure will be disseminated as per Trust Policy.

8. Policy Control including Archiving Arrangements

The Office of the Chair and Chief Executive will retain a copy of each Trust document for 10 years in line with the recommendations contained within 'Records Management NHS Code of Practice' (2006).

9. Monitoring Compliance with and Effectiveness of Policies and Procedures

Systems	Monitoring and/or Audit				
	Measurables	Lead Officer	Frequency	Reporting to	Action Plan/Monitoring
Record all complaints	A log is available to	FTSU Guardian	As complaints	Board of Directors	Audit Committee

made within speaking up procedure	be inspected		made		
All records are kept according to procedure	All investigations documented	FTSU Guardian		Board of Directors	Audit Committee
Appeals against outcomes	Nil				

Standards/Key Performance Indicators

TARGET/STANDARDS	KEY PERFORMANCE INDICATOR
All documentation and procedures are to standard laid down in procedure	Where deficiencies are identified an action plan will be drawn up to address same

10. References

The Public Interest Disclosure Act 1998

HSC 1999/198: The Public Disclosure Act 1998 - Whistleblowing in the NHS

Nursing Midwifery Council (2013): *Raising Concerns: Guidance for Nurses and Midwives*

Speaking up for a Healthy NHS: *How to Implement and Review Whistleblowing Arrangements; July 2010*

The Enterprise and Regulatory Reform Act 2013

Whistleblowing and gagging clauses: the Public Interest Disclosure Act 1998, Standards note SN00248 25 June 2013, House of Commons' Library

Freedom to Speak up: An independent review into creating an open and honest reporting culture in the NHS, February 2015

11. Associated Documentation

Appendix 1 Prescribed Persons

Appendix 2 Process Flow Chart

Appeals – Prescribed Persons

A worker may contact the organisation shown below at any time. However, the process has been designed to ensure that openness, integrity and transparency are applied in all cases of speaking up within the Trust.

Therefore, it is hoped that a member of staff will have the confidence to use this procedure and the terms contained within this to raise any concerns they may have, and that they can be confident in the professionalism and integrity with which any complaint is handled.

However in the event that a member of staff is dissatisfied with the process of a speaking up investigation, or the outcome of an investigation, they have the right to contact the following body to pursue their concerns:

- Protect – **Tel 020 3117 2520** – whistle@protect-advice.org.uk

WHAT TO DO IF YOU WANT TO RAISE A CONCERN



