

The NHS Confederation

Charity number 1090329

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Whistleblowing Policy

Owner of policy	Director of People & Governance
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Version Control Table

Version	Date	Revisions
1	March 2022	N/A
2	March 2025	<ul style="list-style-type: none">• Changes have been made to reflect references to updated corporate policies within the organisation.• Emphasis on the corporate culture which supports speaking up, raising concerns and reporting with respective managers and teams.• Cosmetic changes to reflect a comprehensive list of who is covered under this policy and to reflect accurately the protections under law.• Equality Impact Assessment of the Policy included - as required by the updated templates of new policies.

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Introduction

Purpose of this policy

NHS Confederation is committed to the highest standards of openness, probity, and accountability. In line with that commitment, NHS Confederation has implemented this policy to support and encourage individuals to be able to raise genuine concerns they may have about suspected wrongdoing within the organisation, without fear of reprisal or victimisation.

Individuals are protected when making a protected disclosure under the Public Interest Disclosure Act 1998 and this policy is in line with EU Whistleblowing Directive 2021, as a mark of best practice.

Scope

This policy applies to everyone working at or with the NHS Confederation¹. It applies to:

- all staff, including chief executives, directors, senior managers, employees (whether permanent, fixed-term or temporary), seconded staff, homeworkers, agency workers, apprentices, interns and volunteers
- consultants and contractors, including their own employees, subcontractors, and suppliers
- Trustees, non-executive directors, independent members and other committee members.
- Job applicants

Any employing or contracting manager must ensure that all temporary staff, consultants, or contractors are aware of this policy.

The NHS Confederation includes the NHS Confederation charity, any subsidiary companies, and any hosted network organisation.

The NHS Confederation has designated the Director of People and Governance as the individual who is responsible for ensuring that the NHS Confederation implements this policy.

¹ Collectively referred to as workers in this policy

[This policy should be read in conjunction with the organisation's Complaints Policy, Fairness and Respect Policy, Anti Financial Corruption Policy, Ethical Decision Making Policy .]

Roles and Responsibilities

The NHS Confederation Trustees have overall responsibility for ensuring this policy complies with our legal and ethical obligations and that all those under our control comply with it.

The **Director of People & Governance** has primary responsibility for implementing this policy across the NHS Confederation as a whole, and for monitoring its use and effectiveness and dealing with any queries on its interpretation.

Directors and Managers are responsible for ensuring this policy is implemented and they understand their roles within the whistleblowing process. They are responsible for creating an open and honest culture in which concerns can be raised and there is transparency around decisions and actions. They are also responsible for ensuring individuals can raise concerns without fear of victimisation or harassment.

All **workers** must ensure that they read, understand, and comply with this policy and make sure any individuals such as contractors or suppliers are aware of this policy.

Policy statement

The NHS Confederation is committed to the highest standards of openness, probity, and accountability. As such it aims to create a culture of open dialogue where individuals can speak up, challenge and question actions of others and the organisation in a constructive and mutually supportive way, and in return there is a high level of transparency around key practices and decisions taken. These are core to our values of being:

- respectful
- inclusive
- bold
- collaborative
- And we act with integrity

However, NHS Confederation recognises the importance of creating a clear route where individuals may raise genuine concerns about suspected wrongdoing or malpractice within the organisation. As such NHS Confederation has set up a secure internal reporting channels for oral or written disclosures, where individuals are supported to raise concerns without fear of reprisals or victimisation.

The NHS Confederation is committed to following best practice as well as legal requirements concerning Whistleblowing. All concerns raised will be treated fairly and properly. NHS Confederation is committed to protecting whistleblowers from retaliation and providing support throughout the duration of the whistleblowing process and beyond. NHS Confederation recognises that the act of whistleblowing can take significant courage and can also affect individual wellbeing, such as causing significant stress and anxiety. The organisation will work to ensure a smooth and effective process that minimises the individual impact and is committed to ensuring any individual raising a concern is provided with appropriate support both during and after the process, which will also include offers of support around wellbeing. In addition, the organisation will not tolerate the bullying, harassment or victimisation of an individual raising a concern. Any such harassment or victimisation of an individual raising a concern will be subject to disciplinary procedures as per the Disciplinary Policy. In addition, NHS Confederation will not tolerate a situation where the individual raising a concern suffers direct or indirect detriments, such as denial of opportunities or services (contractors), blacklisting or boycotting.

The NHS Confederation recognises that individuals may want to raise a concern in confidence under this policy. The identity of the person raising the concern will not be disclosed without their consent. However, in situations where concerns cannot be resolved without revealing their identity (for instance because their evidence is needed in court), this will be discussed with the person raising the concern and a decision reached on how and whether NHS Confederation can proceed.

The NHS Confederation recognises that the individual may, in exceptional circumstances decide to raise a concern directly with an appropriate external body, such

as the Charity Commission, rather than through the internal whistleblowing channel. Where such cases arise, the NHS Confederation will work honestly and openly with any such body to resolve the concern and ensure the spirit of this policy is upheld with regards fully supporting the individual and ensuring they do not suffer harassment or victimisation as a result.

The NHS Confederation is keen to ensure a culture that supports the honest raising of concerns. It recognises that individuals may make a disclosure in good faith that are believed to be reasonably true but may turn out to be unfounded by the subsequent investigation. In such circumstances, the individual's concerns will be recognised, and the individual will still receive the same level of support. However, NHS Confederation will not tolerate abuse of this policy or concerns being raised maliciously or knowingly untrue.

Guidance notes

What is Whistleblowing?

Whistleblowing is the act of raising a concern or reporting an act of wrongdoing in relation to professional practice and ethical standards at work. To raise a concern as a whistleblower, you must be doing so as a matter of public interest. Matters of public interest can be deemed as concerns raised that are for the good of the wider public and not for the private interests of the person raising the concern.

Examples of potential concerns which could lead to a whistleblowing claim may include (but are not limited to):

- financial reporting.
- fraud.
- corruption, bribery, or blackmail.
- criminal offences.
- failure to comply with a legal or regulatory obligation
- miscarriage of justice
- endangering the health and safety of an individual
- damage to the environment
- Any other unethical or improper conduct
- concealment of any of the above

Personal grievances (e.g., bullying, harassment, discrimination) are not covered by whistleblowing law or this policy, unless the case is in the public interest. Concerns such as these should be raised in accordance with the organisation's Fairness and Respect Policy

What is the Public Interest Disclosure Act 1998?

All UK employees will be protected under the Public Interest Disclosure Act 1998 (PIDA), where they make a qualifying protected disclosure, from suffering any detrimental treatment or victimisation. These are disclosures of information, which in the reasonable belief of the individual making the disclosure, is substantially true and falls within a category of wrongdoing included within the legislation:

- a criminal offence has been, is being, or is likely to be, committed.
- that a person has failed, is failing or is likely to have failed to comply with any legal obligation to which they are subject.
- a miscarriage of justice has occurred, is occurring, or is likely to occur.
- health and safety of an individual has been, is being or is likely to be endangered.
- that the environment has been, is being or is likely to be damaged; and
- that information relating to the above is being deliberately concealed

Principles

The following principles apply to all disclosures

- all concerns raised will be treated fairly and properly
- we will not tolerate the harassment or victimisation of anyone raising a genuine concern and anyone raising a concern will be provided with appropriate support, including wellbeing support during, and beyond, the whistleblowing process.
- anyone making a disclosure will retain their anonymity unless they agree otherwise
- we will ensure no one will be at risk of suffering some form of retribution because of raising a concern even if they are mistaken. We do not however extend this assurance to someone who maliciously raises a matter they know to be untrue
- all disclosures will be acknowledged within seven days
- Individuals making a disclosure will receive feedback within 3 months. Feedback will inform the whistle-blower of what happened or what will happen because of their disclosure. We will ensure this information is as comprehensive as far as possible. However, we may not be able to inform you of any matters which would infringe our duty of confidentiality to others or have been asked to keep confidential by an external authority if the matter is under external investigation.

Individuals are not expected to be able to prove beyond doubt the truth of their suspicion, however they need to demonstrate that they have a genuine concern and that there are reasonable grounds for the concern. If an allegation is made in good faith and is reasonably believing to be true, but not confirmed by the investigation, the NHS Confederation will recognise the concern and the individual will be appropriately supported.

The NHS Confederation cannot condone abuse of this procedure, and if following the investigation, the employee is found to have made a disclosure maliciously, the matter will be dealt with under the Disciplinary Procedure.

Monitoring and Review

The Director of People & Governance will monitor the effectiveness and review the implementation of this policy, regularly considering its suitability, adequacy, and effectiveness, considering legal developments and changes in the organisation's business.

Annex 1: Whistleblowing process

How to report a concern

1. Overall Culture of the Organisation

The NHS Confederation values support a culture of collaborating and holding each other to account as well as speaking up, reporting and raising concerns with colleagues or respective managers and teams. An open culture should mean that we can address concerns straight away and informally. However, it is appreciated there may be an occasion where an individual may not feel comfortable to speak up or there is a necessity to use this Whistle-blowing Policy:

2. Tell Your Line Manager

If an individual believes reasonably and in good faith that malpractice exists, then they should report this immediately to their own line manager who will report it to the Director of People and Governance.

Individuals are encouraged to put their name to the allegation whenever possible as investigations with the absence of witnesses can be harder to complete. Please see note below concerning confidentiality.

3. If you feel unable to tell your line manager

If for any reason they are reluctant to discuss the matter with their line manager then they should make their disclosure directly to:

- the Director of People and Governance
- their responsible Director/Chief Executive

4. If you feel unable to raise matters within the NHS Confederation staff base

If the individual feels the matter is so serious that it cannot be discussed with any of the above, they should contact either

- the Senior Independent Trustee
- the Chair of the Audit & Risk Committee

5. If you are not an employee

If you are a contractor or consultant working with the NHS Confederation you should inform your contracting manager of their concerns. If you feel unable to inform the contracting manager disclosure should be made to the in nominated posts as indicated under points 3 and 4 above.

If you are a trustee, committee member, independent member or a non-executive director, you should inform either the Director of People & Governance, the Chair of the Board of Trustees, the Senior Independent Trustee or Chair of the Audit and Risk Committee.

You can make your disclosure orally, but written disclosures are preferable as these will make the process more efficient and effective. In your disclosure, it would be helpful if you could:

- provide any relevant context and background, including relevant dates, venues, names etc
- state clearly the reason why the situation causes for concern.

You must say that you are raising your concern using the whistleblowing policy and whether you wish your identity to be kept confidential.

NB It is not expected or necessary that you will have identified all sources of evidence to back up your concern but we hope that you will be able to provide reason for your concern.

Responding to Whistleblowing

The NHS Confederation will respond to any disclosures as quickly as possible. You will receive formal acknowledgement of receipt within 7 days.

After you have raised your concern we will decide how to respond in a responsible and appropriate manner. Usually this will involve making internal enquiries first but it may be necessary to carry out an investigation at a later stage which may be formal or informal depending on the nature of the concern raised.

If you have raised a concern we will, as far as possible, keep you informed of the decisions taken and the outcome of any enquiries and investigations carried out. We aim to provide feedback to you within 3 months, on conclusion of the investigation. As far as legally possible and in the most comprehensive way possible, we will aim to inform you of what happened or what will happen because of your disclosure. However, we may not be able to inform you of any matters which would infringe our duty of confidentiality to others. We may also be restricted by what information we can share should the matter subsequently undergo external investigation. If the investigation did not find any wrongdoing or no actions were taken, you will also be informed of this with a rationale for no action.

Investigations

An appropriate Investigating Officer will be appointed from the organisation. This will normally be the Director of People and Governance but may be allocated to a different individual depending on the nature of the disclosure, to ensure impartiality. The Director of People & Governance may appoint a deputy(s) should the investigation require significant resource.

Alongside this the Director of People & Governance will talk to you about support available to you, including that to support your wellbeing.

The investigation may involve the person raising the concern and other individuals involved giving a written statement. Any investigation will be carried out in accordance with the principles set out in this policy.

The statement of the individual raising the concern will be considered and the individual may be asked to comment on any additional evidence obtained.

The Investigating Officer will then make their findings to the CEO, Board of Trustees and, if necessary, inform any appropriate regulatory agency. The CEO shall invoke any agreed actions required.

External Disclosures

In all but the most exceptional of circumstances concerns about wrongdoing or malpractice should be raised internally by following the process outlined above. The NHS Confederation hopes that this policy gives individuals the reassurance and confidence needed to decide to raise matters internally, and it is expected this will be the most appropriate action to be taken. However, if this is not the case, individuals may wish to raise a concern with the appropriate prescribed regulator (e.g., Health and Safety Executive, Charity Commission).

Information on the process for raising concerns with the Charity Commission can be found on their website here:

<https://www.gov.uk/guidance/report-serious-wrongdoing-at-a-charity-as-a-worker-or-volunteer>

Information on the process for raising concerns with the Health and Safety Executive can be found on their website here:

<http://www.hse.gov.uk/contact/concerns.htm>

Posting to the media or online

If you have good reason for not using the procedures described above, you might consider making wider disclosure by reporting the matter to the media or making a posting on the internet. Please note, if you have not followed internal procedures, whistleblowing disclosures to the media or by other public disclosure will generally be considered to be an unreasonable course of action and you may not be protected under the Public Information Disclosure Act. Reporting your concerns for public circulation, even if done in good faith, before raising them in accordance with these procedures may result in disciplinary proceedings, which could lead to dismissal.

Limits to protection from the Public Information Disclosure Act

If you do not follow the internal or regulatory disclosure procedures, you are recommended to take legal advice before following any other course of action as the PIDA only affords protection to whistleblowers in certain circumstances.

No protection is given if the disclosure is made for personal gain.

It is important to also note that a disclosure will not be protected under PIDA where you are committing an offence by making that disclosure, for example by breaching the Official Secrets Act or Section 59 of the Data Protection Act.

No protection under this Act is given to trustees, committee members, independent members and non-executive directors.

Confidentiality

The organisation recognises that employees may want to raise a concern in confidence under this procedure. If an employee asks for their identity to be protected, then it will not be disclosed without consent, and they will not suffer detrimental treatment as a result.

In certain circumstances e.g., if a criminal investigation follows, the employee may need to be a witness. If this happens then the Director of People and Governance will inform the employee at the earliest opportunity.

Where can I seek independent advice?

Independent advice can be sought at any stage of the process. There are several options available:

Public Concerns at Work

This is a whistleblowing charity which also provides confidential advice, free of charge. Visit: www.pcaw.org.uk

Call the: whistleblowing advice line 020 7404 6609 / general enquiries line 020 3117 2520 or email whistle@pcaw.org.uk

Advice, Conciliation and Arbitration Services (ACAS)

Free information and advice can also be obtained from ACAS. Call the helpline on 0845 474747.

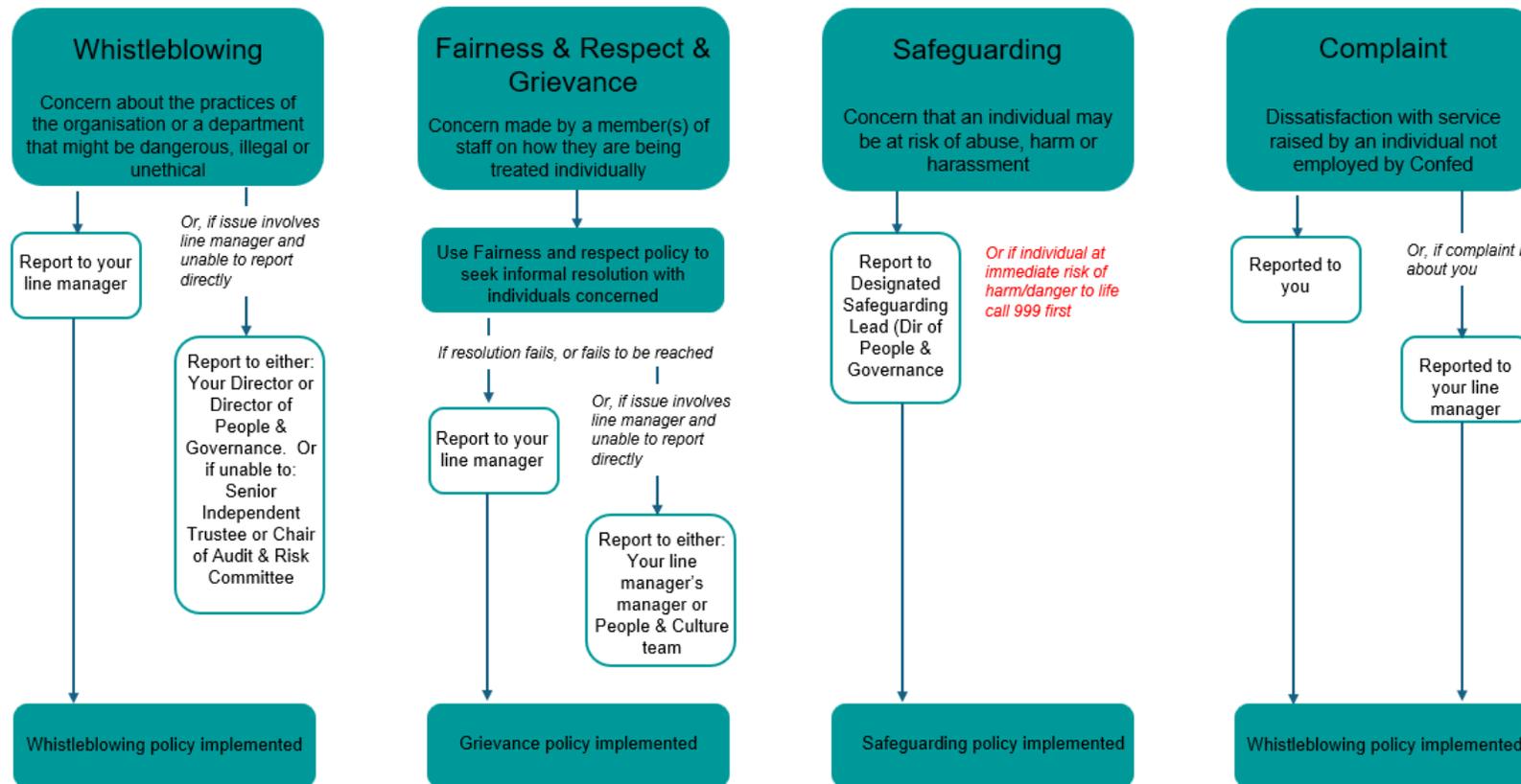
You may also want to discuss with an internal Speak Up Champion in confidence who can:

- Listen to your concerns and act as a sounding board
- Support you in reaching a decision on what you want to happen next and the steps you want to take
- Signpost to where to go next and support you in making those steps if necessary

How do I know who the appropriate prescribed regulator is?

Information on prescribed regulators and bodies who an individual can make a disclosure to can be found at <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>

Annex 1: Raising Concerns – a guide for staff.



In some cases (e.g. harassment and bullying) it is not uncommon for the safeguarding and grievance policy to be enacted side-by-side to ensure the individuals affected are kept safe and prevented from further harm while the grievance investigation addresses the offender's behaviour.

Not sure which policy to use? Then talk it through with your line manager, a Speak Up Champion or the People and Governance teams.

Equality Impact Assessment - Policies

The following guidance and checklist provides a framework for Equality Impact Assessments (EIA). It should be used when carrying out equality impact assessments (EIA) in relation to any new or revised policy. The checklist will help in considering the impact of the policy in relation to equality and diversity (E&D).

The Checklist is to be used for any new or revised policy, not just those that appear to have high relevance in relation to equality and diversity issues. Completion of the Checklist does not need to be a time-consuming or difficult process but should raise some important questions as you carry out the process.

Name of policy being assessed	Whistleblowing Policy
Policy Owner	Director of People & Governance
EIA completed by	Governance Manager
Date Completed	14 February 2025
Summary of purpose of the policy	The purpose of this policy is to make sure individuals connected to or working for the Confed, are protected when making a protected disclosure under the Public Interest Disclosure Act 1998 and this policy is in line with EU Whistleblowing Directive 2021, as a mark of best practice.
Who are the main stakeholders and what involvement and consultation have they had in the policy development. Include staff groups, trade unions and board committees as applicable.	<p>The main stakeholders are all staff including, chief executives, directors, senior managers agency workers, volunteers, consultants, contractors, trustees, committee members, Non-Executive Directors and the Confed.</p> <p>The policy is reviewed and agreed at the JNC meeting and then reviewed by the Audit and Risk Committee for recommendation to the Board.</p>
Who is affected by the policy	The main stakeholders are all staff including, chief executives, directors, senior managers agency workers, volunteers, consultants, contractors, trustees, committee members, Non-Executive Directors and the Confed.

What are the arrangements for monitoring and reviewing the actual impact of the policy	The policy is reviewed every 3 years.
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Please indicate against each of the following protected characteristics, what the impact of the policy would be and actions that will be / have been taken to mitigate any negative or adverse impact identified.

(Where the policy is found to have either a positive or negative impact on a particular group it will need to be reviewed or justified within the permits of the law.)

Protected Characteristics	Impact Y/N	Action(s) you will take to mitigate or remove the negative or adverse impact if identified?	Action Owner
Age <i>Consider impact on young people, older people etc.</i>	N		
Disability <i>Consider people with physical disabilities, hidden disabilities and neurodiversity.</i>	N		
Gender Reassignment <i>Consider people undergoing or have undergone gender reassignment</i>	N		
Pregnancy and Maternity <i>Consider those who are pregnant and those on pregnancy and parenthood leave. Consider those</i>	N		

<i>wishing to take parenthood leave</i>			
Race / Ethnicity <i>Consider potential impact on people from different ethnic groups and nationalities.</i>	N		
Religion or Belief <i>Consider people with different religious, faith and non-beliefs</i>	N		
Gender <i>Consider all genders.</i>	N		
Sexual Orientation <i>Consider LGBTQ+ people.</i>	N		
Marriage and Civil Partnership <i>Consider marriage and civil partnership in respect of the due regard to the need to eliminate unlawful discrimination in employment.</i>	N		
Does the policy promote fairness and equal opportunities? Provide details.	Yes – the policy is applicable to all staff including seconded staff, remote and hybrid staff, agency workers and volunteers, consultants and contractors, trustees, committee members and Non-Executive Directors		
Manager Signature:	HR Review Signature:		
Date:	Date:		

