

FREEDOM TO SPEAK UP POLICY: RAISING CONCERNS (WHISTLEBLOWING) POLICY

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1. INTRODUCTION

This policy does not form part of any employee's contract of employment and the terms may be amended by East Coast Community Healthcare CIC (ECCH for short) from time to time, subject to the provisions contained within Agenda for Change.

Any reference to the 'company' refers to East Coast Community Healthcare CIC.

2. PURPOSE

All of us at one time or another may have concerns about what is happening at work. Usually these are easily resolved. However, when the concern feels serious because it is about a possible danger, professional misconduct, criminal activity or financial malpractice that might affect patients, colleagues or the organisation itself, it can be difficult to know what to do.

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

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.

We have this policy to reassure you that it is safe and acceptable to speak up about a genuine concern, to detail the appropriate channels through which you can raise a concern and to set out the steps we will take to consider and act on your concern. As a learning organisation, we want to hear about how we can improve at early stages; rather than wait for proof, we would prefer you to raise the matter when it is still a concern.

3. SCOPE

All employees of ECCH; other individuals performing functions in relation to the organisation, such as agency workers, bank staff, students, volunteers, customers, contractors and stakeholders are encouraged to use this policy and procedure.

This procedure is for concerns related to the direct activities, or supply chains of the organisation including potential criminal activities or public safety. If an employee is concerned that their own individual contract has been, or is likely to be, broken, for example not being paid on time, being demoted unfairly, they should use ECCH's Grievance Procedure.

If you have a concern about fraud, bribery, corruption or financial misconduct, please refer to our Counter Fraud Anti Bribery & Corruption Policy.

This policy does not replace professional or ethical responsibilities, rules, guidance and codes of conduct.

4. DEFINITIONS *(if relevant)*

The following definitions are intended to provide a brief explanation of the various terms used within this policy.

Term	Definition
Policy	A policy is a formal written statement detailing an enforceable set of principles or rules. Policies set the boundaries within which we operate. They also reflect the philosophy of our organisation.

5. RESPONSIBILITIES

- **ECCH Employees** – Are responsible for the implementation of this policy and following the requirements of the policy.
- **Chief Executive of ECCH** – Overall responsibility for the enforcement of this policy lies with the Chief Executive of ECCH

6. POLICY STATEMENT

It is important to ECCH that any fraud, misconduct, criminal activity or wrongdoing by employees or workers of the organisation is reported and properly dealt with. ECCH therefore encourages all individuals to raise any concerns that they may have about the conduct of others in the organisation or the way in which the organisation is run. This policy sets out the way in which individuals may raise any concerns that they have and how those concerns will be dealt with and the protection given to them if they make a Qualifying Disclosure.

WHISTLEBLOWING AND THE LAW

The Public Interest Disclosure Act 1998 (PIDA) provides protection for employees and workers who raise legitimate concerns about matters that may be considered in the Public Interest. These are called "qualifying disclosures" and may be made on the basis of a reasonable belief that any of the following is being, has been, or is likely to be, committed:

- a criminal offence.
- a miscarriage of justice.
- an act creating risk to health and safety.
- an act causing damage to the environment.
- a breach of any other legal obligation; or
- concealment of any of the above.

Any of these may constitute a risk to an individual, a patient or client or staff safety. It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.

A worker who makes such a qualifying disclosure, following the channels as set out within this policy has protection under law against being dismissed, victimised, or subjected to any other detriment, because they made a disclosure.

Raising a concern, no matter how legitimate it is, or you believe it to be, outside the channels set out in this policy, such as making contact to a journalist or posting on social media will not be treated as a qualifying disclosure and therefore you may not rely on the same rights to legal protection.

ECCH encourages workers to raise their legitimate concerns under this procedure in the first instance.

This policy is primarily for individuals who work for ECCH and have concerns where the interests of patients or others or of the organisation itself are at risk. If in doubt – raise it!

PRINCIPLES

- Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Workers should be watchful for illegal or unethical conduct in relation to the activities of the organisation and report anything of that nature that they become aware of.
- Staff have a duty to ensure that their client/patient group are safe, and they have a responsibility to raise the concern if they observe any inappropriate interaction or behaviour towards the patient/client or become aware of or suspect any criminal activity.
- Managers have a duty to ensure that concerns raised under this procedure are escalated confidentially and appropriately.
- At all stages of raising, escalating, and investigating the concern, anonymity of the whistle-blower should be assumed as far as is reasonably practicable without obstructing the investigation and explicit consent gained from the whistle-blower for any additional person that is privy to their identity.
- Investigations will be evidence-based and led by someone suitably independent in the organisation, producing a report which focuses on learning lessons and improving care.
- Those appointed to carry out a Whistleblowing investigation have a duty to ensure that the concerns are investigated thoroughly, promptly and confidentially.

- The general aim of the Investigation will be to ascertain whether there is any validity to the concern, evaluate the risks of any proven concerns, make recommendations for next steps and identify any potential for individual misconduct.
- The investigator will update the person raising the concern at appropriate points in the investigation.
- The Freedom to Speak up Guardians will ensure that the person raising the concern receives feedback including a summary of the outcomes, once the investigation has been submitted and considered.
- No worker will be victimised for raising a legitimate concern under this procedure. This means that the continued employment and opportunities for future promotion or training of the worker will not be prejudiced because they raised a legitimate concern as set out in this policy.
- Proven victimisation of a worker for raising a qualified disclosure will be subject to Disciplinary Sanction.
- Any individual misconduct identified in the investigation will trigger separate process in line with the terms on which that individual is engaged i.e., Disciplinary Procedure for workers and employees. As well as considering referral to professional bodies externally. This will be done without the need to reveal the identity of the Whistle-blower unless required by law.
- If it is found that a false concern has been made maliciously then it will not count as a qualifying disclosure and may result in disciplinary action.
- An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, workers should not agree to remain silent. They should report the matter to a director.
- As stated under 'Scope', this procedure is for disclosures about matters other than a breach of an employee's own contract of employment.

Your confidence

With the assurances as stated in Principles above, we hope you will raise your concern openly. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, please say so at the outset. In order to ensure concerns are dealt with properly, it is usual for a manager to seek support and guidance upon hearing a concern from a relevant but confidential party such as a senior manager, Safeguarding, Health & Safety, HR or a Freedom to Speak up Guardian or Champion. If you do not wish your identity to be made known confidentially to these people, you should make this clear to your manager.

We will not disclose your identity as the Whistle-blower without your consent unless required by law. Breaches of a Whistle-blower's confidentiality once you have made a qualifying disclosure may be subject to action under ECCH's Disciplinary Policy.

You should understand that there may be times when not revealing your identity may limit the investigation into your concerns, for example where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

Feedback can be given to you once the investigation has been completed if you wish, via email or another avenue of your choice.

If you are unsure about raising a concern at any stage and would like to speak to someone confidentially within ECCH, we have set up an internal telephone line for this purpose.

ECCH CONFIDENTIAL TELEPHONE LINE – 01502 448611

Or Email : whistleblowing@ecchcic.nhs.uk

The telephone line will be operated by the Clinical Quality Manager during the hours of 9:00am to 5:00pm on Monday to Friday, with a secure voicemail facility for all times when they are not available. In the absence of the Clinical Quality Manager, the voicemail may be accessed only by the Deputy Director of Quality.

You may also obtain independent advice from your trade union representative or Public Concern at Work (see contact details below under 'Speaking up Externally').

Please remember that you do not need to have firm evidence before raising a concern. However, we do ask that you explain as fully as you can the information or circumstances that give rise to your concern.

Guidance for Managers, Investigators, HR and Quality

It is important that you consider the whistleblowing indications in any concern that is raised by a member of staff. A staff member may not, at the time of raising the concern, consider it to be whistleblowing, therefore they may not use the form or label it as whistleblowing procedurally but, if any of the below are indicated in a concern being raised to you or investigated by you, it may be considered a Whistleblowing. If you wish to discuss whether the concern is Whistleblowing please discuss with the Freedom to Speak Up Guardians. In the meantime, ensure that the matter is dealt with in strictest confidence and without identifying the person raising the concern with you.

- a criminal offence.
- a miscarriage of justice.
- an act creating risk to health and safety.
- an act causing damage to the environment.
- a breach of any other legal obligation; or

- concealment of any of the above.

FREEDOM TO SPEAK UP GUARDIANS AND CHAMPIONS

Freedom to Speak Up Guardians have a very important, unique role. They are a point of contact that you can confidentially speak to if you have questions about a public interest concern or have concerns that it's not being taken seriously or dealt with effectively by your manager or other appropriate person.

The Guardians have been given special responsibility and training in dealing with whistleblowing concerns. They will:

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

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

In ECCH, the Freedom to Speak up Guardians are:

Paul Benton, Executive Director of Quality

Mobile: 07805 143776 or email: paul.benton@ecchcic.nhs.uk

Sally Goodsell Non-Executive Director (NED)

Mobile: 07752 227248 or email sally.goodsell@ecchcic.nhs.uk

Note: Whilst we are confident that all our Non-Executive Directors are selected for their impartiality and their dedication to ECCH's employees and patients, we recognise that there may be a perceived conflict of interest in raising concerns related to Quality or any teams reporting into Quality to the NED leading on that area. The policy will be updated with a name and contact once an appropriate NED has been identified and trained for this purpose.

The Freedom to Speak Up Champions play an important role in supporting the work of the Guardians by increasing the availability and reach of the Freedom to Speak Up network across the organisation.

In ECCH, the Freedom to Speak Up Champions are:

Ali Jennings, Deputy Director of Quality

Mobile: 07771623950. Email: ali.jennings@ecchcic.nhs.uk

Rob Black, Named Nurse Safeguarding

Mobile: 07880832270. Email: rob.black@ecchcic.nhs.uk

7. PROCEDURE FOR SPEAKING UP / RAISING A CONCERN

Speaking Up Internally

In the first instance, if you feel this appropriate raise your concerns with your line manager. However, if you reasonably believe that your line manager is involved in the wrongdoing or if for any other reason you do not wish to approach your line manager, then you should proceed straight to a trusted Senior Manager, Lead Clinician or Supervisor.

If you feel unable to raise the matter with your manager, Lead Clinician or Supervisor, for whatever reason, please raise the matter with a Freedom to Speak Up Guardian or email: whistleblowing@ecchcic.nhs.uk or call the Whistleblowing helpline 01502 448611:

If for any other reason you do not wish to approach the Director of Quality, or if you reasonably believe that the appropriate action has not been taken, you should report the matter to Freedom to Speak Up Guardian Anna McCreddie, Non-Executive Director (Tel: 07801 240682 email: anna.mccreadie@ecchcic.nhs.uk).

HR and Quality will also monitor their Casework and Datix Investigations – suggestions or evidence of any of the below will be referred to the Freedom to Speak Up Guardians to decide whether it needs to be considered and Investigated (separately or in tandem) as a Whistleblowing concern.

- a criminal offence.
- a miscarriage of justice.
- an act creating risk to health and safety.
- an act causing damage to the environment.
- a breach of any other legal obligation; or
- concealment of any of the above.

Consideration and action

The person you raise your concern with will decide whether this is an internal investigation or should go via the Whistleblowing process, where a decision will be made regarding the correct route of investigation. With your consent a manager may seek advice from the Freedom to Speak up Guardians in order to make the correct decision.

Should it be decided that your concern meets the criteria of a Whistleblowing concern, the Freedom to Speak up Guardians (or Champions in their absence) will be notified and basic details logged. This is to meet our obligations to monitor and be able to report the number of Whistleblowing Concerns raised – identifiable details will not be logged.

The Freedom to Speak up Guardians (or Champions in their absence) will commission an investigation. Any investigation will be carried out in accordance with the principles set out above. Your statement will be taken into account, and you may be asked to comment on any additional evidence obtained.

The investigator will then report to the Freedom to Speak Up Guardians who will take any necessary action, including reporting the matter to the Executive team and any appropriate government department or regulatory agency.

If further action is recommended in the investigation that concern individual's employment terms (i.e., Performance Management or Disciplinary), the Freedom to Speak up Guardians (or Champions in their absence) will report the matter to the human resources department and a separate report will be prepared with pertinent evidence from the Whistleblowing Investigation. The Whistleblowing Investigator may also be asked to prepare this subsequent report with support from HR.

What happens if anyone has concerns about how the investigation is carried out – goes back to the lead of the investigation.

Feedback

On conclusion of any investigation. If you have requested feedback you will receive feedback. If no action is to be taken, the reason for this will be explained. Due to confidentiality, feedback will not include the subsequent steps taken with individual employees.

Speaking up Externally

If for any other reason you do not wish to approach a Freedom to Speak Up Guardian, or if on conclusion of Internal Procedures, you reasonably believe that the appropriate action has not been taken, you should report the matter to the proper authority. For NHS services this is likely to be one of the following:

- NHS Improvement (<https://www.england.nhs.uk>)
- NHS Counter Fraud Authority (<https://cfa.nhs.uk/>)
- Care Quality Commission (www.cqc.org.uk).
- Department of Health & Social Care (<https://contactus.dhsc.gov.uk/>).
- Health and Safety Executive (www.hse.gov.uk)

Additionally, Gov.uk sets out a number of other external bodies to which qualifying disclosures may be made externally <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>.

Further support for those considering Speaking Up can also be sought from the below two independent organisations:

Speak Up Direct - a free, independent, confidential advice on the speaking up
<https://speakup.direct/>

Protect - a charity that provides free, legal, and confidential whistleblowing advice to people who are concerned about wrongdoing at work and not sure whether, or how, to raise their concern <https://protect-advice.org.uk/>

8. **MONITORING AND REVIEW**

This document will be reviewed by The Quality Team/Human Resources Department & they will be responsible for monitoring the overall effectiveness of the Whistleblowing Policy and will keep the policy under review in consultation with the Quality Assurance Group. This policy will be reviewed periodically and improved in the light of operational practice and experience.

Any new statutory provisions affecting this policy will automatically take precedence. This will be communicated to all employees and the policy will be updated accordingly.

9. **REFERENCES** *(if relevant)*

- Grievance Policy and Procedure
- Bullying and Harassment Policy
- Counter Fraud Anti Bribery & Corruption Policy

10. **ASSOCIATED POLICIES & PROCEDURES** *(To include but not limited to)*

- Freedom to Speak Up: raising concerns (whistleblowing) policy: NHS Improvement/NHS England (2016)
- 'Freedom to speak up in Primary Care, NHS England (Nov 2016)'. Guidance to primary care providers on supporting whistleblowing in the NHS.
- [Link: <https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowingguidance.pdf>] (Also provided as a PDF document on ECCHO, see Appendix 2)

11. **AUTHOR**

ADD Designation – Month/Year

12. APPENDICES

1. Appendix 1 – Whistleblowing/‘Speaking Up’ Form - Reporting a dangerous or illegal activity or omission

This form can be posted (if you wish to remain anonymous)

Marked for the attention of Whistleblowing at Hamilton House, private and confidential

To: Insert name in space below

(Line Manager * / Director of Quality * / Non-Executive Director *)

Please refer to procedure for further guidance

I wish to raise the following concern(s):

I base my concern(s) on:

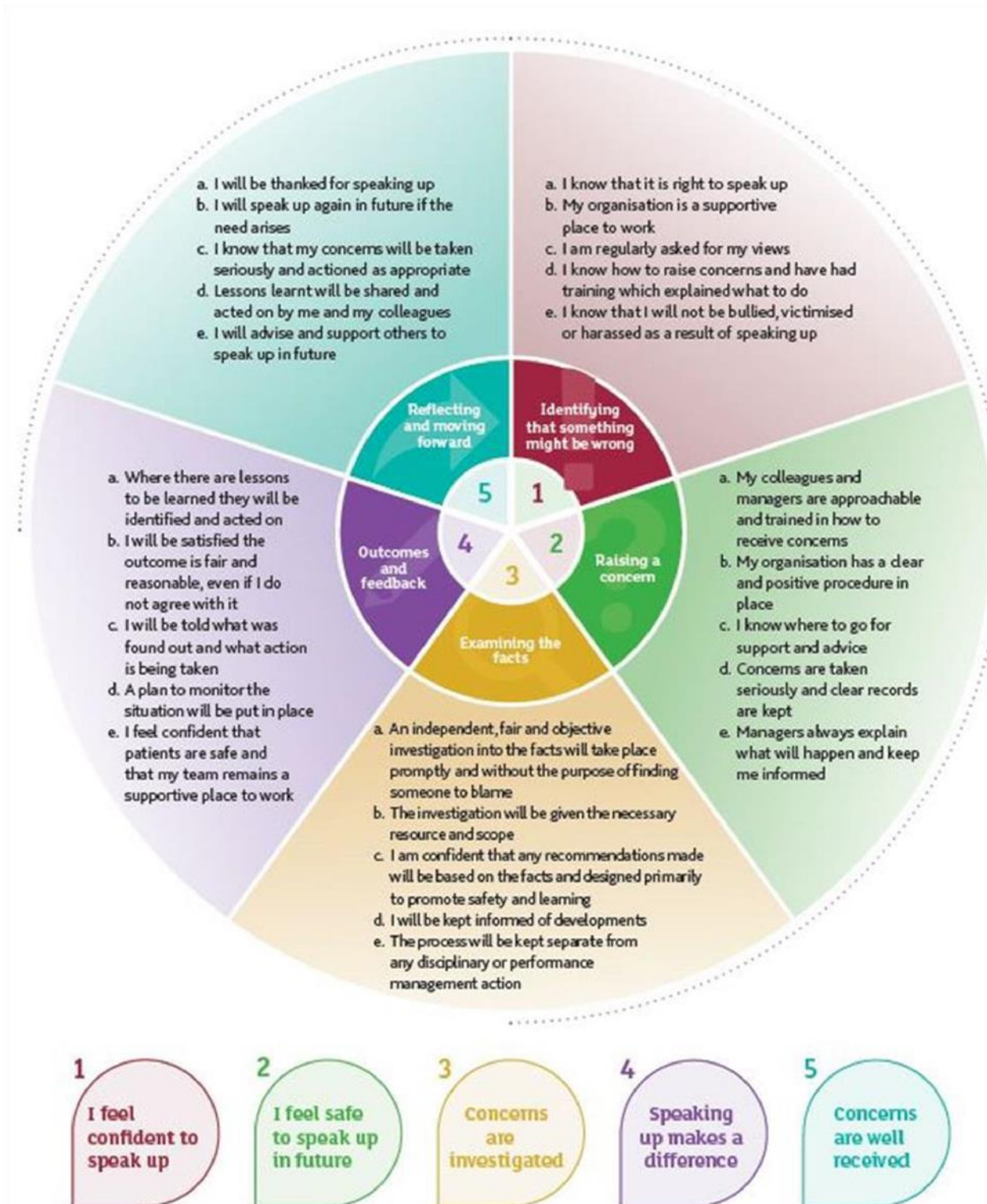
If my concerns are not addressed, I believe the following problems could occur:

The reasons why I believe these problems might occur are:

I believe that those affected by this problem could include:	
Have you raised this concern through any other process such as Grievance which has not yet been concluded? Yes / No	
Print Name (Optional)	
Date	
Signature	

**Please delete as appropriate.*

2. Appendix 2 – Annex B: A vision for raising concerns in the NHS



13. EQUALITY & DIVERSITY IMPACT ASSESSMENT

In reviewing this policy, the HR Policy Group considered, as a minimum, the following questions:

- Are the aims of this policy clear?
- Are responsibilities clearly identified?
- Has the policy been reviewed to ascertain any potential discrimination?
- Are there any specific groups impacted upon?
- Is this impact positive or negative?
- Could any impact constitute unlawful discrimination?
- Are communication proposals adequate?
- Does training need to be given? If so is this planned?

Adverse impact has been considered for age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation.


Blank version of the full Equality & Diversity Impact assessment can be found here:

http://eccho/Home/FormsGuidance.aspx?udt_575_param_index=E&udt_575_param_page=2

14. DOCUMENT CONTROL

Version Date	Version No.	Author/ Reviewer	Comments
February 2015	6	S Sullivan	<p>Rebranding change of logo from NHS Great Yarmouth and Waveney and references throughout from Trust to East Coast Community Healthcare CIC, and references to ECCH.</p> <p>Significantly streamlined to provide clarity and ease of use.</p> <p>Updated review date to February 2016 (i.e., yearly review required) following advice/guidance received from Baker Tilly Risk Advisory Services.</p> <p>Updated contact details (Director of Nursing, Quality and Therapies to Director of Quality and Development)</p>
April 2016	7	L Henderson	Updated job title for Executive Director of Quality and Primary Care

July 2016	8	L Henderson	Version number updated on table on page 2 and on page footers (inconsistencies also addressed)
April 2017	9	D French	<p>'Date Due for Review' extended to September 2017 as this is the date of end of term of office for Michael Cotton, NED, subsequently this responsibility will require transferring to another NED and communicated and the policy will require updating (page 9, point 1 of Step 3).</p> <p>ECCH Confidential Helpline telephone amended in light of Head Office move to Hamilton House, Lowestoft, in January 2017 (page 8),</p> <p>Noreen Cushen-Brewster's telephone number amended for reason as outlined above (page 9).</p> <p>Added within the list of 'RELATED DOCUMENTS' at page 10 and as an additional appendix (Appendix 2), for further information and awareness and cross reference within the policy;</p> <p><i>'Freedom to speak up in Primary Care, NHS England (Nov 2016)'. Guidance to primary care providers on supporting whistleblowing in the NHS.</i></p>
July 2017	10	L Henderson	Amended Pg. 8 "Your Confidence", Confidential Helpline contact details
December 2017	11	L Henderson	<p>Amended Pg.9/Step 3 to change Mike Cotton (NED) to Anna McCreadie (NED) as Mike Cotton has left the organisation.</p> <p>Amended Pg. 8 ECCH Confidential Helpline details. Reflecting revised access to helpline</p>

January – May 2018	12	L Henderson / A Jennings	Title amended from Whistleblowing Policy to Freedom to Speak Up – Raising Concerns Policy. To meet with national guidance Information inserted about Freedom to Speak Up. Policy rewording
November 2019	13	L Henderson	FTSU Guardian contacts updated
February 2020	14	L Henderson	Further update to FTSU contacts-changed JSF to HR
May 2020	15	L Henderson / A Jennings	Policy Group Added whistleblowing email address/amended to remove reference to Primary care providers process/version control update and future review date amended.
October 2021  Incidents Involving Another Provider Fe	16	R Howe, HR	Version 16 Page 6: Amended counter fraud and anti-bribery to correct title. Executive team changed to FTSUG Page 9: FTSU Champions: telephone number removed. Page 9/10: Amended to wording, content not changed Page 10 removed Executive team responsibility Appendix 1: Postal option inserted Gendered terminology replaced. Some terminology added and changed to make less formal/intimidating and try to encourage people to Speak Up. Stepped procedure taken out to prevent confusion More detail added to section 4 for transparency, clarity and to try to protect identity/confidentiality. Ability to pick up whistleblowing in HR casework and Datix (6) added to increase awareness and opportunity for concerns to be picked up. Extra step in section 6 of reporting to Guardian added for transparency and clarity on process.

			<p>Updated external links</p> <p>More explicit description of qualifying disclosures and protection</p> <p>Simplify distinction between Grievance & Whistleblowing</p> <p>Explicit consequences for breaches of Whistle blowers identity</p>
May 2022	17	A Jennings	<p>Version 17</p> <p>FTSUP Guardian changed from Anna McCreadie (NED) to Sally Goodsell (NED)</p>

DOCUMENT CONTROL SHEET

Name of Document:	FREEDOM TO SPEAK UP POLICY – RAISING CONCERNS (Whistleblowing Policy)
Version:	17
File Location / Document Name:	ECCHO
Date Of This Version:	June 2022
Produced By (Designation):	Human Resources/Safeguarding Lead (Quality)
Reviewed By:	HR Policy Group
Synopsis And Outcomes Of Consultation Undertaken:	Changes relating to relevant committees/groups involved in ratification processes.
Synopsis And Outcomes Of Equality and Diversity Impact Assessment:	
Ratified By (Committee):-	ECCH Integrated Governance Committee
Date Ratified:	
Distribute To:	Intranet, all managers, all departments
Date Due For Review:	July 2023
Enquiries To:	Human Resources Department
Approved by Appropriate Group/Committee Approved by Policy Group Presented to IGC for information	<input type="checkbox"/> Date: <input type="checkbox"/> Date: <input type="checkbox"/> Date: