

Freedom to speak up: Raising Concerns (Whistleblowing) Policy

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REVIEW AND AMENDMENT LOG

Version Number	Date	Author	Description of Change or reason for update
3	Oct 18	Adam James	Update to Anti-Fraud Officer's contact details. Inclusion of Safeguarding Contacts
4	May 2019	Demi Shaw	Update to Policy numbering and review date.

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1 Introduction

- 1.1 The publication of Robert Francis QC's final report into the tragedy that occurred at Mid Staffordshire NHS Trust serves as a critical reminder of the importance of a healthy, open working culture where employees have the confidence to raise concerns about the welfare of patients and people who use NHS services.

2 A National Integrated Whistleblowing Policy

- 2.1 A 'standard integrated whistleblowing policy' was one of a number of recommendations made by Sir Robert Francis in his [Freedom to Speak Up review](#), aimed at improving the experience of whistleblowing in the NHS, and standardising the way NHS organisations should support staff who raise concerns. It is expected that this policy (produced by NHS Improvement and NHS England) will be adopted by all NHS organisations in England as a minimum standard to help to normalise the raising of concerns for the benefit of all patients.
- 2.2 NHS East Lancashire Clinical Commissioning Group (EL CCG) is committed to encouraging anyone having reasonable suspicions or concerns in relation to the CCG, or the services it commissions to report them, and our local procedures have been integrated into this policy and provide more detail about how we will look into any concerns that are raised.
- 2.3 The aim of this policy is to promote a culture within the CCG which promotes honesty and accountability and enables individuals to report any genuine non malicious concerns they have in confidence.

3 Speak up – we will listen

- 3.1 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.
- 3.2 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 Governing Body 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.

4 What concerns can I raise?

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

- unsafe patient care
 - unsafe working conditions
 - inadequate induction or training for staff
 - lack of, or poor, response to a reported patient safety incident
 - suspicions of fraud which should also be reported to the CCG's Anti-Fraud Specialist Dave Alford, who can be contacted on (07554) 227477 or david.alford@miaa.nhs.uk or d.alford@nhs.net
 - a bullying culture (across a team or organisation rather than individual instances of bullying).
- 4.2 For further examples, please see the [Health Education England video](#).
- 4.3 Remember that if you are a healthcare professional you may have a professional duty to report a concern. If in doubt, please raise it.
- 4.4 Don't wait for proof. We would like you to raise the matter while it is still a concern. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled.
- 4.5 This policy is not for people with concerns about their employment that affect only them – that type of concern is better suited to our grievance policy which can be viewed [Here](#)
- 4.6 In the event there are any concerns that a child or adult with care and support needs has been subject to abuse or neglect, there is a duty to report this immediately. Guidance on how to do this is available in the CCG Safeguarding Children and Adults Policy (2018) or you contact the safeguarding team directly on (01282) 644987 or penninelancs.safeguardingteam@nhs.net

5 Feel safe to raise your concern

- 5.1 If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as an organisation and, if upheld following investigation, could result in disciplinary action.
- 5.2 Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

6 Confidentiality

- 6.1 We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. This means that while you are willing for your identity to be known to the person you report your

concern to, you do not want anyone else to know your identity. Therefore, we will keep your identity confidential, if that is what you want, unless required to disclose it by law (for example, by the police or under safeguarding processes). You can choose to raise your concern anonymously, without giving anyone your name, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

7 Who can raise concerns?

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

8 Who should I raise my concern with?

- 8.1 In many circumstances the easiest way to get your concern resolved will be to raise it formally or informally with your line manager. But where you don't think it is appropriate to do this, you can use any of the options set out below in the first instance.
- 8.2 If raising it with your line manager does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:

Freedom to Speak Up Guardian:

Michelle Pilling | Lay Advisor Quality and Patient Involvement & Deputy Chair

Telephone: 01282 644687

Email: michelle.pilling@nhs.net

- This is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff at any stage of raising a concern, with access to anyone in the organisation, including the chief officer, or if necessary, outside the organisation.
- Freedom to Speak Up Guardians have a key role in helping to raise the profile of raising concerns in their organisation and provide confidential advice and support to staff in relation to concerns they have about patient safety and/or the way their concern has been handled. They don't have a remit to assist staff employed outside their organisation.
- Guardians don't get involved in investigations or complaints, but help to facilitate the process where needed, ensuring organisational policies in relation to raising concerns are followed correctly.

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

Our Executive Directors with the responsibility for whistleblowing:

Kathryn Lord, Interim Director of Quality & Chief Nurse

Telephone: 01282 644744

Email: kathryn.lord@nhs.net

Kirsty Hollis, Chief Finance Officer

Telephone: 01282 644684

Email: kirsty.hollis@nhs.net

Or our lay advisor with responsibility for whistleblowing:

Dave Swift, Lay Advisor

Telephone: 01282 644687

Email: dave.swift@nhs.net

Alternatively, if the concern indicates abuse or neglect of a child or an adult with care and support needs:

Peter Chapman / Deborah Ross / Susan Clarke - Heads of Safeguarding

Telephone: (01282) 644990

Email: penninelancs.safeguardingteam@nhs.net

8.4 All these people will be well versed in receiving concerns and will be able to give you information about where you can go for more support. If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with the following external contacts or bodies, listed on page 8.

8.5 The Head of Corporate Business will provide support to any investigations and ensure that the local processes outlined in this policy are adhered to.

9 Advice and support

9.1 In addition to the local support available to you, you can also contact:

- the [Whistleblowing Helpline](#) for the NHS and social care
- your professional organisation (such as the General Medical Council) or the Nursing Midwifery Council or trade union.

10 How should I raise my concern?

- 10.1 You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).
- 10.2 Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concern.

11 What will we do?

- 11.1 We are committed to the principles of the Freedom to Speak Up review and its vision for raising concerns, and will respond in line with them (see Annex C).
- 11.2 We are committed to listening to our staff, learning lessons and improving patient care. On receipt the concern will be recorded and you will receive an acknowledgement within two working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback.

Investigation

- 11.3 Where you have been unable to resolve the matter quickly (usually within a few days) with your line manager, we will carry out a proportionate investigation – using someone suitably independent (usually from a different part of the organisation) - and we will reach a conclusion within a reasonable timescale (which we will notify you of). Wherever possible we will carry out a single investigation (so, for example, where a concern is raised about a patient safety incident, we will usually undertake a single investigation that looks at your concern and the wider circumstances of the incident). The investigation will be objective and evidence-based, and will produce a report that focuses on identifying and rectifying any issues, and learning lessons to prevent problems recurring.
- 11.4 We may decide that your concern would be better looked at under another process; for example, our process for dealing with bullying and harassment. If so, we will discuss that with you.

If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the CCG's Serious Incident Policy.

The investigation will be objective and evidence based, and will produce a report that focuses on identifying any issues, and learning lessons to prevent problems recurring. We may decide that your concern would be better looked at under another process: for example, our process for dealing with bullying or harassment. If so we will discuss this with you.

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

11.6 **Communicating with you**

We will treat you with respect at all times and will thank you for raising your concerns. We will discuss your concerns with you to ensure we understand exactly what you are worried about. We will tell you how long we expect the investigation to take and keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others).

11.7 **How will we learn from your concern?**

The focus of the investigation will be on improving the service we provide for patients. Where it identifies improvements that can be made, we will track them to ensure necessary changes are made, and are working effectively. Lessons will be shared with teams across the organisation, or more widely, as appropriate.

11.8 **Oversight**

The Governing Body will be given high level information about all concerns raised by our staff through this policy and what we are doing to address any problems. We will include similar high level information in our annual report.

11.9 **Review**

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

12 **Raising your concern with an outside body**

12.1 Alternatively, you can raise your concern outside the organisation with:

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

- [Health Education England](#) for education and training in the NHS
- [NHS Counter Fraud Authority](#) for concerns about fraud and corruption.

13 Making a ‘protected disclosure’

13.1 There are very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise a concern (to be able to claim the protection that accompanies it). There is also a defined list of ‘[prescribed persons](#)’, similar to the list of outside bodies on page 8, who you can make a protected disclosure to. To help you consider whether you might meet these criteria, please seek independent advice from the [Whistleblowing Helpline](#) for the NHS and social care, [Public Concern at Work](#) or a legal representative.

14 National Guardian Freedom to Speak Up

14.1 The new National Guardian can independently review how staff have been treated having raised concerns where NHS trusts and foundation trusts may have failed to follow good practice, working with some of the bodies listed above to take action where needed. More details can be found on [The National Guardian's Office](#)

Consider linking this policy to other policies:

Anti-Fraud, Bribery and Corruption Policy
Code of Conduct / Standards of Behaviour Policy
Disciplinary Policy
ELCCG_SG05 V5 Safeguarding Children and Adults Policy

Annex A

Management Guidance

1.0 Victimisation of a Whistleblower (All managers to note)

Where an employee is victimised after having made a genuinely held disclosure under the Public Interest Disclosure Act, upon which the CCG's Raising a Concern Policy is based, then the victimised employee can bring a claim at an Employment Tribunal against the CCG. Quite apart from the moral and legal obligations, this sanction will provide a strong incentive for us to protect our staff from victimisation when disclosing their concerns in 'Raising a Concern' cases.

2.0 Informal Procedure

- 2.1 If an employee has a genuinely held concern that they feel should be addressed, they should feel able to raise it first with their manager. The manager should reassure the employee at this point that they will not be at risk of losing their job or suffer from reprisals as a result of raising a genuine concern. If, due to the circumstances of the concern, the employee considers this to be ill-advised, the employee should seek advice from one of the CCG's Designated Officers as referred in Section 8 of this policy.

Where the issues cannot be resolved informally and the individual employee feels that their concerns have not been addressed then they should raise their concerns formally in accordance with this policy.

When approached about a Raising a Concern, a manager to whom the report is made, should make every effort to resolve the matter informally, seeking, as necessary, advice from the Designated Officers listed in the Raising Concerns Policy.

In cases of suspected fraud and corruption, the individual raising the concern should be advised to contact the CCG's Anti Fraud Specialist Dave Alford on (07554) 227477 or david.alford@miaa.nhs.uk or d.alford@nhs.net

Alternatively the the NHS CFA reporting line, powered by Crimestoppers can be used on 0800 028 4060.

3.0 Formal Procedure

- 3.1 When a concern is raised through this policy, the Designated Officer should be immediately notified of the concern raised. Where another employee is notified of the concern, they should liaise with the appropriate Designated Officer to consider the nature and implications of the concern. The employee should be reassured at this point that they will not be at risk of losing their job or suffer from reprisals as a result of raising a genuine concern.
- 3.2 Anonymous allegations should always be considered, but supporting evidence is essential to back the allegation.

3.3 The individual raising the concern should be asked for the following information:

- What has happened?
- When did it occur?
- Where did it occur?
- Who was involved?
- Has it happened before?
- Are there any other witnesses?
- Is there any supporting information?
- How did they become aware of the situation?
- Do they have any personal interest in the matter?
- Has the matter been raised with anyone else? If so, who?
- Confirmation that they are prepared to make a written statement?

3.4 Once this information relating to the concern has been obtained, the Designated Officer will decide whether the concern is a matter to be dealt with through this policy or it would be more appropriately dealt with via another policy, e.g. Disciplinary policy. This may be discussed with the individual who raised the concern. However, sufficient information must have been considered before a decision is taken.

3.5 If the concern is to be investigated through the Raising a Concern Policy, and there are no other factors to consider, then a formal interview should be arranged with the individual raising the concern. This should be held within 5 days of receipt of the concern wherever possible. The employee should be informed of this and advised that they may be accompanied by a colleague or union representative (not acting in a legal capacity) if they wish, to support them. They should also be advised that another member of the CCG will need to be present during the interview in order to take comprehensive notes and that they will be given a copy of these notes. The individual raising the concern should be assured at this point that the interview will be held in the **strictest confidence**.

3.6 The individual should feel comfortable in raising their concern openly. It is also important to note that the individual does not have to provide you with proof of their concern so long they are being honest with their disclosure. If the member of staff reporting their concern asks for their identity to be concealed they must be advised that the CCG will not disclose without first informing them of doing so or in the case of a criminal investigation, it may be necessary to do so. They should be informed that if the situation arises where the CCG is not able to resolve the concern without revealing their identity (for instance if their evidence is needed in court) that this will be discussed with them at that point to determine their desire for anonymity.

3.7 The interview notes of the meeting with the member of staff raising the concern should include the following information:

- Who was present at the interview, names and job titles;
- Full details of all issues discussed at the interview. (Where allegations concern patients they should be anonymised in the notes, using patient id or initials and DOB if available);
- Summary and next steps;
- Recommendations.

A copy of the notes will be sent to the individual raising the concern as soon as possible after the interview, asking them to check the notes for accuracy. The Designated Officer and the individual raising the concern should both sign the finalised notes and should each retain a copy.

Interviews must only be electronically recorded (e.g. by tape or digitally) with the explicit consent of the member of staff reporting the concern and the manager acting on behalf of the CCG. A comment about the electronic recording should be made at the beginning of the recorded interview.

Under no circumstances should the interview be electronically recorded covertly by either party as this may be deemed a breach of the Data Protection Act and/or Human Rights Act. If this method of recording the interview is agreed by both parties, a copy of the recording should be provided to both parties as soon as practicable after the interview.

3.8 From this interview the individual raising the concern should complete a signed and dated statement prepared by you of the findings in the interview.

3.9 The production or any agreed interview notes **should not delay** the need to commence preliminary investigations. All notes should be kept and not destroyed.

3.10 The Designated Officer will be responsible for investigating the allegation and may seek advice or specialist knowledge (in confidence) as necessary. Individuals providing this specialist knowledge can be asked to attend any meeting if the Designated Officer considers it necessary. Investigations should commence within 5 days of the formal interview wherever possible.

3.11 Where concerns have been raised directly with the Managing Director, he/she shall liaise with the Designated Officer who will investigate the concern raised on their behalf.

3.12 An investigation file should be set up to include all documentation relating to the case. This file should contain the following:

- A master copy of the notes from the interview.
- Copies of all correspondence relating to the concerns, from the initial letter raising the concern to correspondence exchanged with the employee.

- Details of any verbal communications to be kept in a daily log, particularly in relation to notifying the employee of all steps to be taken, any delays and the reasons why.
- An index of any evidence presented by the employee, referenced appropriately with individual references for each separate piece of evidence.
- All evidence presented (original if possible, where not possible copies).

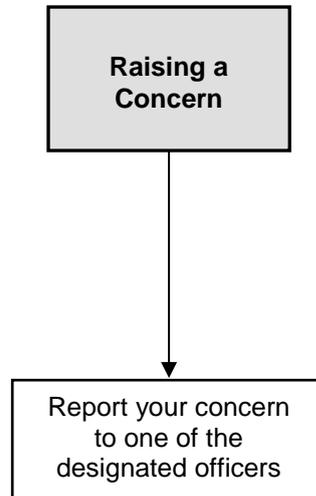
The file should be clearly marked “Confidential” and must be kept in a secure, locked cabinet.

- 3.13 The Designated Officer should seek to complete the investigation within a four weeks’ timescale. If it is likely that the investigation will exceed this timescale, this should be communicated to the individual raising the concern. However, it is recognised that in complex matters, or where potential witnesses are not freely available, that the four weeks’ timescale may be impracticable, if this is the case the investigation must be completed as soon as possible.
- 3.14 The Designated Officer is responsible for ensuring that there is adequate communication and support for the individual raising the concern and only if appropriate, for those individuals against whom the allegations have been made. It is important that the individual raising the concern is where possible, kept informed of the progress of the investigation and when it is likely to be concluded, in order to reassure them that the CCG is taking their concern seriously.
- 3.15 The investigation may require involvement of other employees who may be informed of the concern and interviewed, unless it would prevent a correct investigation from taking place. Any employee interviewed will have the right to be accompanied by a union representative or work colleague.
- 3.16 Once the investigation has been completed, a report will be produced and the Designated Officer will make the appropriate recommendations to the Managing Director or his/her deputy. This may recommend no further action, disciplinary action, a referral to one or more of the professional bodies, or civil or criminal proceedings. The individual raising the concern must be informed of the outcome, unless there are special reasons for not doing so. If there is evidence to suggest that criminal activity has occurred, is occurring or is likely to occur, the Anti-Fraud Specialist, or the NHS Local Security Management Specialist and/or the Police will be informed.
- 3.17 Where there is no case to answer, but it is clear that the individual raised a genuine concern and was not acting maliciously, the Designated Officer should ensure that the individual reporting the concern suffers no reprisals.
- 3.18 Any employee who is not satisfied that their concern is being dealt with correctly by the Designated Officer has the right to escalate their concern in confidence to the Chief Officer. A further interview will be held, following the above format, and the Chief Officer will decide if further investigation is required. The individual raising the concern will be informed of the Chief Officer’s decision within 5 days.

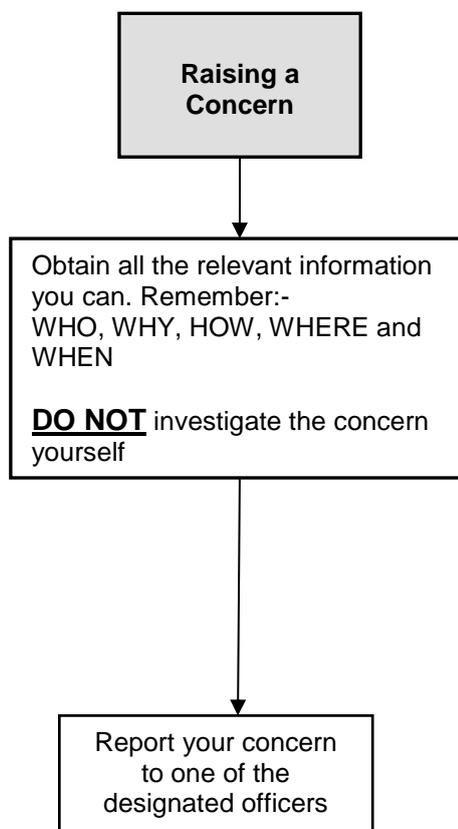
Annex B

Raising a Concern Reporting Flowcharts

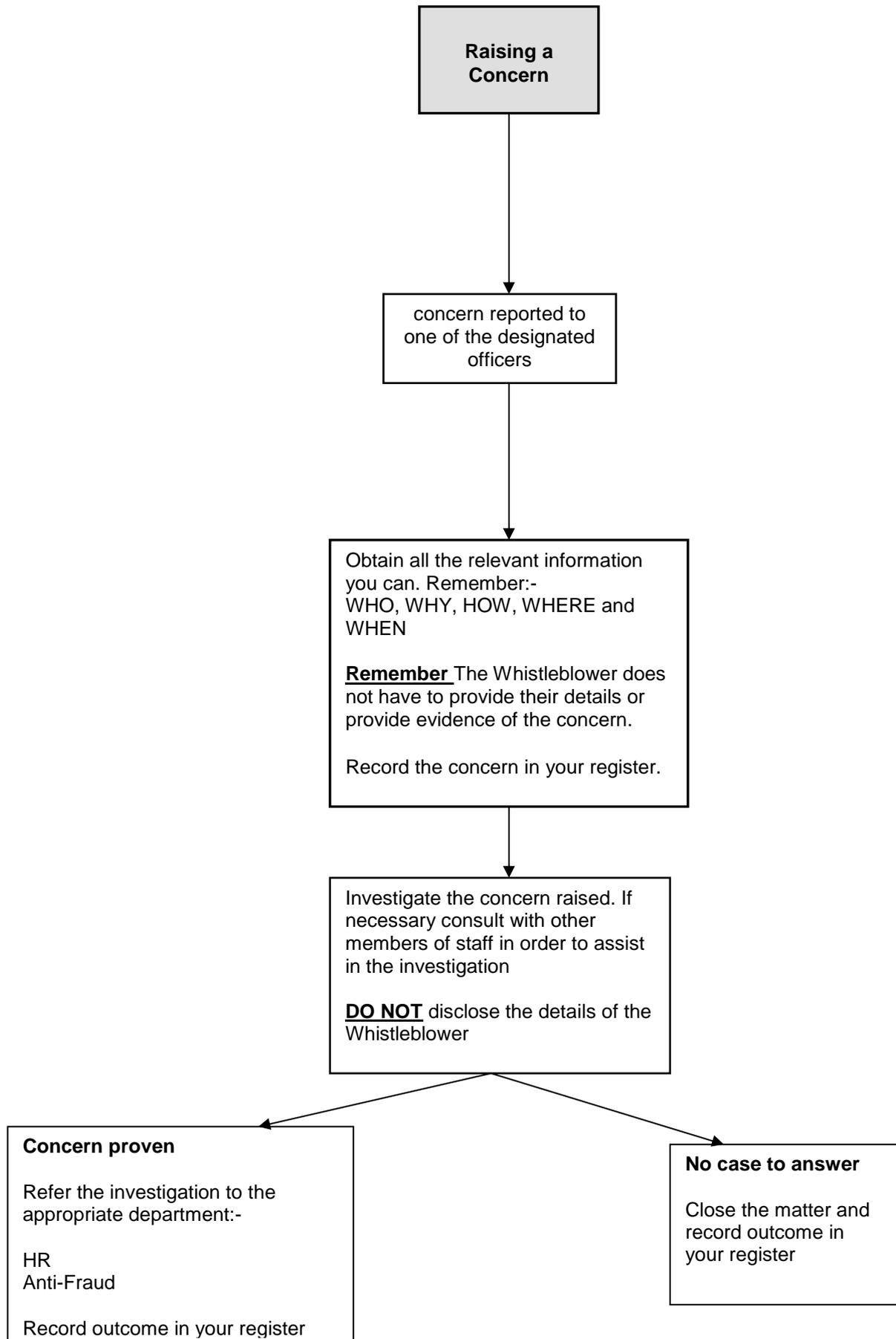
Raising a Concern



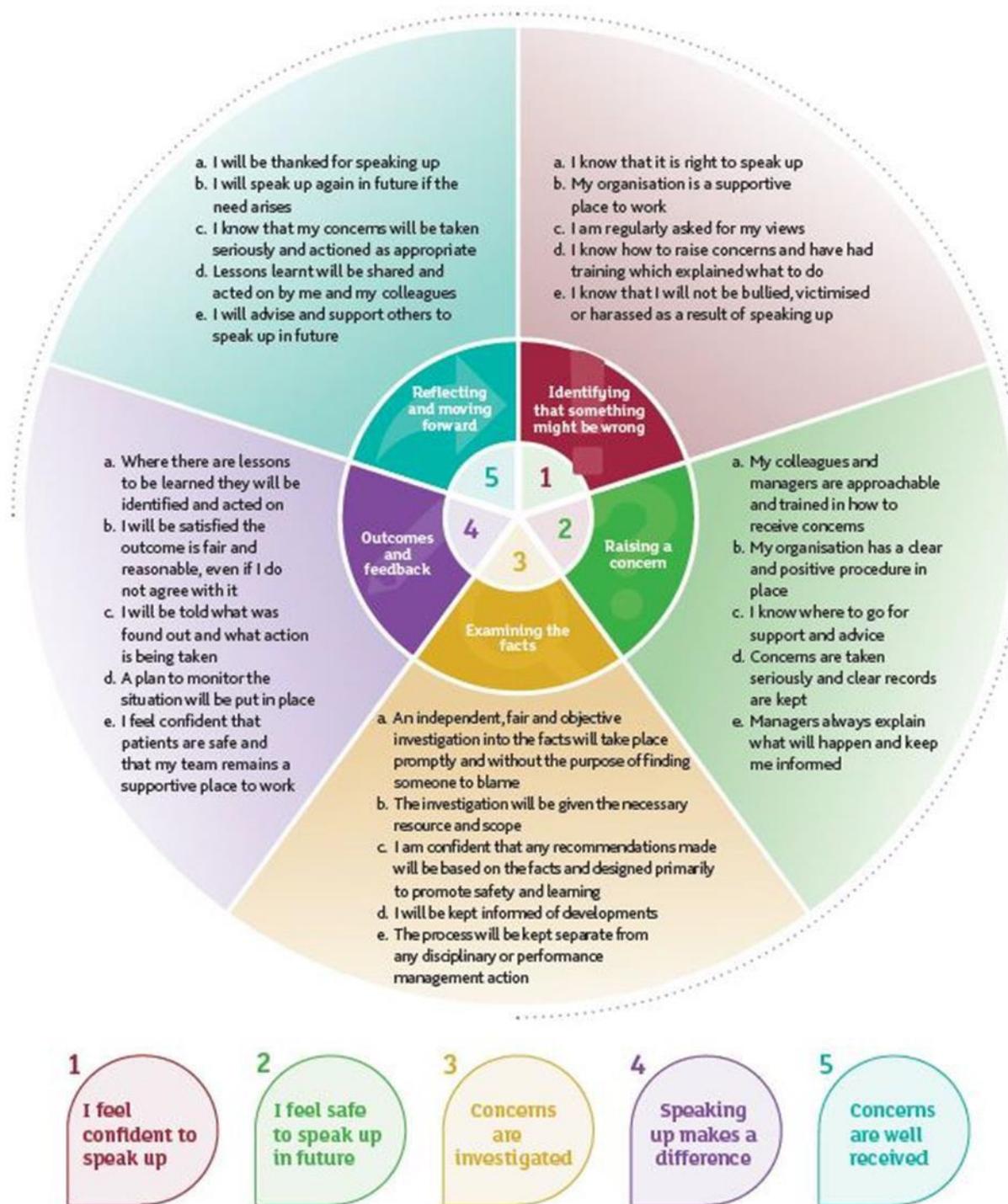
Receiving a Concern (Non Designated Officer)



Receiving a Concern (Designated Officer)



Annex C: A vision for raising concerns in the NHS



Source: Sir Robert Francis QC (2015) *Freedom to Speak Up: an independent report into creating an open and honest reporting culture in the NHS*.