

# **RAISING A CONCERN IN THE PUBLIC INTEREST (WHISTLEBLOWING)**

## **HSC FRAMEWORK & MODEL POLICY**

## CONTENTS

GLOSSARY OF TERMS.....	3
At a glance – A guide to Raising Concerns in the Public Interest (also known as Whistleblowing).....	4
INTRODUCTION.....	6
DEFINING RAISING CONCERNS in the public interest.....	6
WHY DOES raising concerns in the public interest MATTER?.....	7
SCOPE.....	8
AIMS.....	10
KEY PRINCIPLES & VALUES .....	11
Legal Framework.....	12
HANDLING CONCERNS.....	12
IMPLEMENTING LOCAL POLICY.....	13
BRIEFING & TRAINING .....	14
AUDIT, REVIEW & REFRESH.....	15
REPORTING & MONITORING.....	16
Appendix A: MODEL POLICY ON RAISING CONCERNS IN THE PUBLIC INTEREST .....	18
APPENDIX A Roles and Responsibilities.....	28
APPENDIX B EXAMPLE PROCEDURE FOR RAISING A CONCERN .....	30
APPENDIX C - ADVICE FOR MANAGERS RESPONDING TO A CONCERN .....	35
Appendix D Raising Concerns in the Public Interest & Whistleblowing Process.....	37

## GLOSSARY OF TERMS

- Health and Social Care shared values – the shared values of Working Together, Excellence, Openness & Honesty and Compassion as agreed and used across the HSC Trusts.
- Whistleblowing – a term which is often used to describe raising concerns in the public interest – this term can and often is used interchangeably with the formal phrase of raising concerns in the public interest. Throughout this document the phrase raising concerns in the public interest is used however you will note that in some other referenced material whistleblowing is used.
- Raising concerns in the public interest – this term is preferred to the term Whistleblowing as it is the term referred to in the legislation. In reality both terms are used interchangeably.
- Raising Concern Advocates – persons within the Trusts who are trained to provide a range of services with respect to raising concerns in the public interest.
- All Staff and others – as this policy applies to a broad range of staff, agency workers, contractors etc. and also applies to volunteers and members of the public, the phrase ‘staff and others’ is used to describe the range of people who can utilise this policy. There are some legal provisions that will not apply to volunteers or members of the public and this is covered in the section on Legal Framework
- Non-Executive Director (NED) – member of the Trust Boards.
- Board – all Trusts have a Board who are constituted to perform roles on behalf of the Department of Health
- Northern Ireland Audit Office (NIAO) – the audit office for NI public sector organisations.
- Fraud Response Plan – a specific plan for dealing with allegations or actual fraud in public sector organisations.
- Public Interest – means it must affect others, i.e. the general public, however does not necessarily mean that a large number of people need to be affected or interested.
- PROTECT – an independent charity (Protect) who can be contacted for advice

## AT A GLANCE – A GUIDE TO RAISING CONCERNS IN THE PUBLIC INTEREST (ALSO KNOWN AS WHISTLEBLOWING)

- Whistleblowing may be called speaking up or raising a concern. It is all about ensuring that if someone sees something wrong in the workplace, they are able to raise this within the organisation, or to a regulator, or more widely if appropriate. Whistleblowing ultimately protects customers, staff, beneficiaries and the organisation itself by identifying harm before it's too late. Raising concerns in the public interest and whistleblowing are the same thing. Whistleblowing is the more recognisable term for raising concerns in the public interest.
- You don't have to be an employee for your concern to be considered by the Trust. You can raise a concern in the public interest if you are an agency worker, contractor, bank worker, volunteer and even a member of the public. If you are not sure if your concern should be raised under this policy you can ask one of the Trust's raising concerns advocates for advice or you can contact Protect - <https://protect-advice.org.uk/> or visit the Northern Ireland Audit Office website resources. The important thing is that if you have a concern, you should feel you can raise it. Protect, a raising concerns advocate or a Trade Union rep can help you decide how to take it forward.
- Whilst the Trust would hope that you can raise your concern directly with the Trust, if you feel you can't raise your concern with the Trust there are other options available to you. You can raise your concern through a range of other organisations depending on the nature of your concern without losing your rights under whistleblowing legislation. These other organisations are listed in the legislation (<https://www.legislation.gov.uk/nisr/2014/48/schedule/made>) and are known as prescribed persons. The Trust would prefer you to raise your concerns with any of these external organisations listed in the legislation, rather than not raise them at all.
- There are some instances when you may consider taking your concern to the media. Whilst the Trust would hope that this policy reassures you that your concern will be taken seriously and addressed, if your complaint has not been addressed appropriately in your view and you decide to go to the media it's very important that you do not include personal information about patients.
- If you choose to bypass the routes available for you to make a disclosure (directly to the Trust or via outside organisations referred to in the legislation) and instead approach the media with your concerns, it is likely you will lose your right to protection under Whistleblowing legislation. The exception to this is a case where the wrongdoing is exceptionally serious and where you reasonably believe that the Trust will subject you to 'detriment' or conceal/destroy evidence if you were to raise your concerns via the routes available to you.

## Version 0.9

- If your complaint is personal to you then it's unlikely that it would be considered under this policy (refer to Paragraph 20 on use of Grievance Procedure). Concerns raised under this policy should be in the 'public interest'. This means that they are e.g. concerning an unlawful act, health & safety issues, abuse of children or vulnerable adults in care, damage to the environment, failing to safeguard personal and/or sensitive information, abuse of position or any deliberate concealment of information tending to show any of these things.
- The focus on public interest means that you don't have to evidence of the wrongdoing just that you have an honest belief that it is happening/taking place. It won't matter if you made a mistake.
- If you raise a concern in the public interest then you are have rights in law that you cannot be treated badly (detriment) or victimised because you made a raised a concern. This is what the legislation says...."A worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the worker has made a protected disclosure.....A worker may present a complaint to an industrial tribunal that he has been subjected to a detriment." (NIAO guide page 57). This is the case where you are a worker – this means that if you are a member of the public this legislation isn't relevant.
- You might be worried that you will be mistreated in some way for having raised your concern. That is totally understandable. Often individuals reflect that they wish they had raised issues but were too afraid of being seen as causing trouble. The legislation that underpins this policy provides for legal protection for you if you raise a concern in the public interest. This means that if you are treated less favourably or victimised then you can take a case to an Industrial Tribunal.
- It is important to be mindful of the need to avoid a breach of privacy and confidentiality regarding personal information when making a disclosure. Details of the condition or treatment of any patient or client should not be given without their explicit consent or consent from their legal/personal representative. The same principle applies to an individual's personnel records. The requirement to comply with General Data Protection Regulations (GDPR) must be considered and complied with at all times.

## INTRODUCTION

1. Health and social care services exist to promote the health, wellbeing and dignity of patients and service users and the people who deliver these services want to do the best for those they serve.
2. Encouraging staff to raise concerns in the public interest (or “whistleblowing”) openly as part of normal day-to-day practice is an important part of improving the quality of services and patient safety. Many issues are raised by staff and addressed immediately by line managers – this is very much encouraged. When concerns are raised and dealt with appropriately at an early stage learning can take place and corrective action can be put in place to ensure safe, high quality and compassionate care.
3. The importance of raising concerns at work in the public interest is recognised by employers, workers, trade unions and the general public. Working in partnership with Trade Unions/employee representatives and staff associations is an important part of ensuring fairness and promoting awareness of the policies, procedures and support mechanisms which a good employer will have in place<sup>1</sup>.

## DEFINING RAISING CONCERNS IN THE PUBLIC INTEREST

4. Raising a concern/s is defined as “raising a concern in the public interest is the action of telling someone in authority either internally or externally about wrongdoing, risk or malpractice”<sup>2</sup>. The wrongdoing is often related to financial mismanagement, such as misrepresenting earnings and false accounting, but can also have more immediate consequences such as those highlighted in the Mid Staffordshire Report (2013)<sup>3</sup>.

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<sup>1</sup> Raising Concerns at Work: Whistleblowing Guidance for Workers and Employers in Health & Social Care (NHS, 2014)

<sup>2</sup> NIAO Raising Concerns – A good practice guide for the NIreland public sector (June 2020)

<sup>3</sup> Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry (2013)

## Version 0.9

5. Staff can report things that are not right, are illegal or if anyone is neglecting their duties. This might include, for example, concerns around:
  - patient safety;
  - health and safety at work;
  - environmental damage; or
  - a criminal offence (e.g. fraud).
  
6. Raising concerns in the public interest can also be broadly defined as simply 'raising a concern'<sup>5</sup> in the public interest. People outside the organisation, including stakeholders, suppliers and service users, can also raise concerns through the HSC Complaints Procedure. However, raising a concern in the public interest is different from making a complaint or raising a grievance (as is outlined below at section 20). Persons raising concerns in the public interest can often act out of a feeling of fairness or ethics rather than a personal complaint. As Protect states, it is important to note that:

*"....the person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistleblower rarely has a personal interest in the outcome of any investigation into their concern – they are simply trying to alert others. For this reason, the whistleblower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it".<sup>4</sup>*

## WHY DOES RAISING CONCERNS IN THE PUBLIC INTEREST MATTER?

7. Staff and others are the eyes and ears of the organisation and those who are prepared to speak up about malpractice, risk, abuse or wrongdoing should be recognised as one of the most important sources of information for identifying and addressing concerns raised in the public interest<sup>5</sup>.

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<sup>4</sup> [Where's whistleblowing now? 10 years of legal protection for whistleblowers, PCaW, March 2010](#)

<sup>5</sup> Whistleblowing in the Public Sector: A good practice guide for workers and employers, published jointly in November 2014 by Audit Scotland, the National Audit Office, the Northern Ireland Audit Office and the Wales Audit Office, with the support of Public Concern at Work

## Version 0.9

8. It is important for individuals to feel safe and listened to when raising concerns. An open approach to raising concerns in the public interest promotes the Health and Social Care shared values and encourages employees and others to treat patients and service users with dignity, respect and compassion.
9. From the employer's point of view, there are good business reasons for listening to those who raise concerns, as it gives an opportunity to stop poor practice at an early stage before it becomes normalised and serious incidents take place.
10. The freedom to raise concerns without fear means that anyone who wishes to or is considering raising a concern has the confidence to go ahead and "do the right thing". It is part of encouraging staff to reflect on practice as a way of learning<sup>1</sup>.

## SCOPE

11. This Framework and Model Policy was developed in response to the recommendations arising from the Regulation and Quality Improvement Authority's (RQIA) Review of the Operation of Health and Social Care Whistleblowing Arrangements<sup>6</sup>. The Model Policy, to be adopted by all HSC organisations in Northern Ireland, is set out at **Appendix A**. HSC organisations may tailor the Model Policy to take account of their individual organisation's policies and procedures.
12. This Framework and Model Policy applies to **all staff** (employees, students, those on placements, volunteers, workers and others<sup>7</sup>) involved in the work of an HSC organisation.
13. The table below which is taken from the NIAO guidance explains how various complaints may be best taken forward by the organisation:

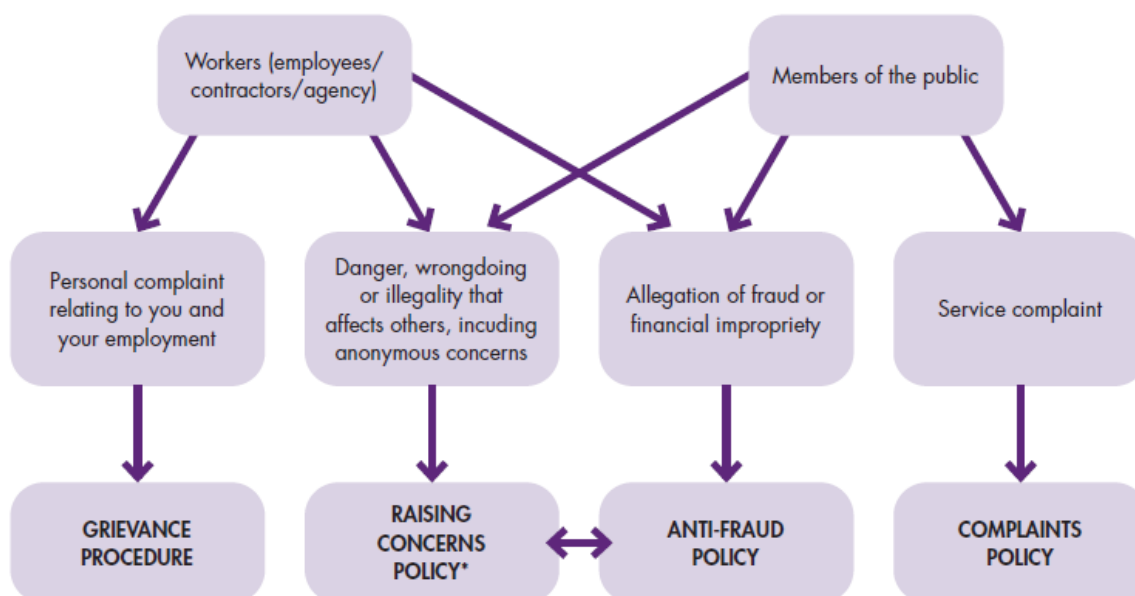
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<sup>6</sup> [Review of the Operation of Health and Social Care Whistleblowing Arrangements \(RQIA, 2016\)](#)

<sup>7</sup> Definitions set out in Articles 3 (3) and 67K of the [Employment Rights \(Northern Ireland\) Order 1996](#)



Figure 1 summarises the types of issues that may be raised and the relevant policies which should apply:



14. The framework may not apply in every instance to patients and clients or members of the public who wish to complain or raise concerns about treatment and care provided by the HSC organisation or about issues relating to the provision of health and social care unless the concerns are in the public interest. Concerns relating to matters of care which are personal to an individual or a relative may be more appropriately dealt with under the organisation’s **HSC Complaints Procedure**.

15. This Framework and Model Policy is for staff and others to raise issues where the interests of others or the organisation are at risk. If a member of staff is aggrieved about their personal position they must follow the local grievance procedure or policy for making a complaint about Bullying and/or Harassment.

14. All cases of suspected, attempted or actual fraud raised under this policy will be handled promptly in line with the organisation’s Anti-Fraud Policy and/or **Fraud Response Plan**.

## AIMS

16. The aim of this Framework and Model Policy is to ensure that under the terms of the Public Interest Disclosure (Northern Ireland) Order 1998 (as amended) a member of staff is able to raise concerns when they believe that a person's health may be endangered or have concerns about failure, malpractice, misconduct or illegal practice without fear of detriment or victimisation.
17. If a member of staff has honest and reasonable suspicions about issues of malpractice/wrongdoing in the public interest and raises these concerns through the channels outlined in the model policy, they will be protected from any disciplinary action and victimisation/less favourable treatment, (e.g. dismissal or any action short of dismissal such as being demoted or overlooked for promotion) simply because they have raised a concern under this policy.
18. This Framework and Model Policy aims to improve accountability and good governance within the organisation by assuring the workforce that it is safe to raise their concerns.
19. The benefits of encouraging staff and others to report concerns in the public interest include<sup>1</sup>:
  - Protection and enhancement of patient safety and wellbeing;
  - identifying wrongdoing as early as possible;
  - exposing weak or flawed processes and procedures which make the organisation vulnerable to loss, criticism or legal action;
  - ensuring critical information gets to the right people who can deal with the concerns;
  - avoiding financial loss and inefficiency;
  - maintaining a positive corporate reputation;
  - reducing the risks to the environment or the health and safety of employees or the wider community;
  - improving accountability; and

## Version 0.9

- deterring staff from engaging in improper conduct.

## KEY PRINCIPLES & VALUES

### **Distinction between grievance & raising concerns in the public interest**

20. Raising concerns in the public interest concerns generally relate to a risk, malpractice or wrongdoing that affects others, and may be something which adversely affects patients, the public, other staff or the organisation itself. A grievance differs from a raising a concern in the public interest as it is a personal complaint regarding an individual's own employment situation. A whistleblowing concern is where an individual raises information as a witness whereas a grievance is where the individual is a complainant. Grievances are addressed using the HSC Grievance Policy. On occasion a personal concern may also have wider implications in terms of others / the public and can therefore have both a grievance element and a Raising Concerns element.

### **Raising a concern openly, confidentially, or anonymously**

21. In many cases, the best way to raise a concern in the public interest is to do so openly. Openness makes it easier for the organisation to assess the issue, work out how to investigate the matter and obtain further relevant information.

22. A worker raises a concern confidentially if they give their name on the condition that it is not revealed without their consent. If an organisation is asked not to disclose an individual's identity, it will not do so without the individual's consent unless required by law (for example, by the police). A worker raises a concern anonymously if they do not give their name at all. If this happens, it is best for the organisation to assess the anonymous information as best it can, to establish whether there is substance to the concern and whether it can be addressed. Clearly if no-one knows who provided the information, it is not possible to reassure or protect them and may hamper any investigation that may be required and to provide an outcome.

### **Claims found to have been made not in the public interest**

23. There may be occasions when a concern is found to have not been made in the public interest. In such a case, and as set out in the model policy at Appendix A, the organisation cannot give the assurances and safeguards included in the policy. Such situations should be handled carefully. The starting point for any organisation is to look at the concern and examine whether there is any substance to it. Every concern should be treated as having been made genuinely and with a reasonable belief, unless it is subsequently found not to be. However, if it is found that the individual raised a concern that they know is untrue, disciplinary proceedings may be commenced against that individual.

### LEGAL FRAMEWORK

24. The Department for the Economy has produced a Guide to Public Interest Disclosure Legislation [public-interest-disclosure-guidance.pdf](#) which provides a comprehensive guide to the relevant legislation.

### HANDLING CONCERNS

25. To enable the effective operation of the raising concerns in the public interest policy, it is important to ensure that the policy empowers all staff and others, not just health and medical professionals, to raise a concern, and identifies who they can contact.
26. Legal protection is very important if staff are to be encouraged to raise a concern in the public interest about risk, wrongdoing or malpractice. It is vital that employers develop an open culture that recognises the potential for staff to make a valuable contribution to the running of public services, and to the protection of the public interest.

## Version 0.9

27. Managers must lead by example, by being clear to staff as to what sort of behaviour is unacceptable, and by role modelling the appropriate behaviours themselves. They should encourage staff to ask them what is appropriate if they are unsure before - not after - the event. If wrongdoing or a potential risk to patient safety is found, it should be taken seriously and dealt with immediately.

## IMPLEMENTING LOCAL POLICY

28. It is important that all HSC organisations are committed to the principles set out in their raising concerns policies and encourage staff and others to speak up about malpractice, risk, abuse or wrongdoing within their organisation. To achieve this, it is necessary to ensure buy-in and leadership from management, and Trade Union engagement.

29. Within each organisation, an appropriate senior manager should be appointed to take responsibility for ensuring implementation of the raising concerns in the public interest policy. HSC organisations should also consider appointing an appropriate number of advisors/advocates to signpost and provide support to those wishing to raise a concern in the public interest. In addition, it is essential that the Board as a whole maintain oversight of the raising concerns policy and each organisation should appoint a Non-Executive Director (NED) to have specific responsibility for oversight of the culture of raising concerns within their organisation.

30. As an employer, HSC organisations must take all concerns raised seriously. However, it may not be necessary to carry out a formal investigation in each case. Employers should consider a range of possibilities proportionate to the risk and complexity of the issues raised which should include:

- explaining the context of an issue to the person raising a concern may be enough to alleviate their concerns
- minor concerns might be dealt with straightaway by line management by for example taking appropriate remedial action

## Version 0.9

- a review by internal audit as part of planned audit work might be sufficient to address the issue e.g. through a change to the control environment
- there may be a role for external audit in addressing the concerns raised and either providing assurance or recommending changes to working practices
- there may be a clear need for a formal investigation to establish the facts and in some cases make recommendations.

31. Having considered the options it is important that employers clearly document the rationale for the way forward. The HSC organisation's local policy should make it clear whose responsibility it is to decide on the approach to be adopted.

32. If necessary, the HSC organisation can also seek advice and guidance from the relevant prescribed person such as a regulator.

33. When an organisation is updating or changing their policy it is important to ensure all staff are aware of any changes or updates, and this can be achieved in a number of ways: through hard copy correspondence with staff, communication by email and/or via organisation's intranet sites, through team briefings and inductions, or the message appearing on payslips. It is also important to ensure that the policies are accessible.

## BRIEFING & TRAINING

34. Many public interest concerns will be raised openly with line managers as part of normal day-to-day practice and this is strongly encouraged. Good raising concerns arrangements should do nothing to undermine this. It is important that this is made clear to both staff and managers.

35. All managers and raising concerns advocates' contacts should be briefed on:

- the value and importance of an open, accountable, just and learning workplace;

## Version 0.9

- how to handle concerns fairly, professionally and responsively;
- how to protect staff who raise a concern in the public interest and where staff can get help or refer a concern;
- how to manage expectations of confidentiality;
- the importance of an alternative to line management if the usual channels of communication are unavailable; and
- how to brief their staff on arrangements for raising concerns in the public interest.

36. Raising Concerns Advocates and Senior Managers who are given a specific role in the raising concerns arrangements should receive training in the operation of their policy for raising concerns.

## AUDIT, REVIEW & REFRESH

37. A well-run organisation must review its raising concerns arrangements a minimum of every three years through formal governance arrangements to ensure they work effectively and that staff have confidence in them. The following points can assure the organisation that the arrangements meet best practice. Monitoring the arrangements in line with this checklist will also help the organisation demonstrate to regulators that their arrangements are working:

- arrange regular feedback sessions to evaluate progress and collect data on the nature and number of concerns raised in the public interest;
- check the procedures used are adequate to track the actions taken in relation to concerns raised and to ensure appropriate follow-up action has been taken to investigate and, if necessary, resolve problems indicated by raising concerns in the public interest. Is there evidence of constructive and timely feedback?
- have there been any difficulties with confidentiality?
- have any events come to the organisation's attention that might indicate that a staff member has not been fairly treated as a result of raising a concern in the public interest?

## Version 0.9

- look at significant adverse incidents/incident management systems or regulatory intervention - could the issues have been picked up or resolved earlier? If so, why weren't they?
- compare and correlate data with information from other risk management systems;
- find out what is happening on the ground - organisations will include a question about awareness and trust in arrangements for raising concerns in the public interest in future HSC staff surveys;
- organisations should seek the views of trade unions/professional organisations, as employees might have commented on the raising concerns in the public interest arrangements or sought their assistance on raising or pursuing a raising concerns in the public interest concern;
- organisations could also consider other sources of information, including information from exit interviews, claims brought under the Order or other legal claims;
- key findings from a review or surveys should be communicated to staff. This will demonstrate that the organisation listens and is willing to learn and act on how its own arrangements are working in practice;
- refresh raising concerns in the public interest arrangements regularly. Regular communication to staff about revised arrangements is also recommended;
- although volunteers are not covered by the Order, the application of this Framework and Model Policy should be considered in the handling of their concerns (however, there are some elements of the policy which will not apply to volunteers such as the legal right to take a case to an Industrial Tribunal); and
- think about reporting good news - success stories encourage and reassure everybody.

## REPORTING & MONITORING

38. Concerns raised in the public interest by staff and others are an important source of information for HSC organisations. It is important that they capture key aspects so that the value of their raising concerns in the public interest arrangements can be determined and lessons learned where appropriate.



## Version 0.9

39. In addition to individual case files, HSC organisations should maintain a central register of all formal concerns raised in the public interest, in a readily accessible format. Any system for recording concerns should be proportionate, secure and accessible by the minimum necessary number of staff.
  
40. An analysis of concerns raised should be reported regularly to senior management and the HSC organisation's Audit Committee. These will help inform those charged with governance that arrangements in place for staff to raise concerns in the public interest are operating satisfactorily or will highlight improvements that may be required. HSC organisations should consider reporting on the effectiveness of their raising concerns arrangements in their annual report.

## APPENDIX A: MODEL POLICY ON RAISING CONCERNS IN THE PUBLIC INTEREST

### 1. Introduction

All of us at one time or another may have concerns about what is happening at work. The *[name of HSC organisation]* wants you to feel able to raise your concerns in the public interest with your managers at any time. It expects its managers to listen to those concerns, take them seriously and take action to resolve the concern, either through providing information which gives assurance or taking action to resolve the concern. However, when a concern raised in the public interest appears to be potentially serious because it is about a possible danger, professional misconduct or financial malpractice, illegality or wrong doing that might affect patients, colleagues, or *[name of HSC organisation]* itself, it can be difficult to know what to do.

The *[name of HSC organisation]* recognises that many issues are raised by staff and addressed immediately by line managers – this is very much encouraged. This policy and procedure is aimed at those issues and concerns raised in the public interest which are **remain unresolved, require help to get resolved or are about serious underlying concerns.**

Raising concerns in the public interest refers to staff reporting suspected wrongdoing at work, for example, concerns about patient safety, health and safety at work, environmental damage or a criminal offence, such as, fraud.

You may be worried about raising such issues in the public interest and may think it best to keep it to yourself, perhaps feeling it is none of your business or that it is only a suspicion. You may also feel that raising the matter would be disloyal to colleagues, to managers or to the organisation. It may also be the case that you have said something but found that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next. Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

## Version 0.9

Rather than wait for proof, raise the matter when it is still a concern. If something is troubling you which you think we should know about or look into, please let us know. The *[name of HSC organisation]* has implemented these raising concerns arrangements for you to raise any concern in the public interest where the interests of others or the organisation itself are affected or are at risk.

### 2. Aims and Objectives

*[Name of HSC organisation]* is committed to running the organisation in the best way possible. The aim of this policy is to promote a culture of openness, transparency and learning in line with the HSC shared values which at the same time:

- reassures you that it is safe and acceptable to speak up;
- upholds patient confidentiality;
- contributes towards improving services provided by the *[name of HSC organisation]*;
- assists in the prevention of fraud and mismanagement;
- demonstrates to all staff and the public that the *[name of HSC organisation]* is ensuring its affairs are carried out ethically, honestly and to high standards;
- provides an effective and confidential process by which you can raise concerns in the public interest so that patients, clients and the public can be safeguarded.

The *[Name of HSC organisation]* roles and responsibilities in the implementation of this policy are set out at **Appendix A**.

### 3. Scope

The *[name of HSC organisation]* recognises that existing policies and procedures (Disciplinary, Grievance, Conflict, Bullying and Harassment, the Complaints Procedure and the Accident/Incident Reporting Procedure) may not always be appropriate for concerns raised in the public interest.

This policy provides a procedure for raising concerns in the public interest where the interests of others or of the organisation itself are at risk.

## Version 0.9

### It applies to the following groups:

- staff of the [*name of HSC organisation*], including permanent, temporary and bank staff;
- staff in training/placements working within the [*name of HSC organisation*];
- independent contractors engaged to provide services;
- volunteers;
- agency staff;
- Members of the public.

### Examples may include:

- malpractice or ill treatment of a patient or client by a member of staff;
- where a potential criminal offence has been committed, is being committed or is likely to be committed;
- suspected theft or fraud;
- breach of Standing Financial Instructions;
- disregard for legislation, particularly in relation to Health and Safety at Work;
- the environment has been, or is likely to be, damaged;
- Failing to declare a conflict of interest;
- a miscarriage of justice has occurred, is occurring, or is likely to occur;
- showing undue favour over a contractual matter or to a job applicant;
- research misconduct; or
- information on any of the above has been, is being, or is likely to be concealed.

### ***This list is not intended to be exhaustive or restrictive***

If you feel that something is of concern, and that it is something which you think is in the public interest that [*name of HSC organisation*] should know about or look into, you should use this procedure. If, however, you wish to make a complaint about your employment or how you personally have been treated, you should follow the [*name of the HSC organisation's*] local grievance procedure or Conflict, Bullying and Harassment policy for making a complaint about Bullying and/or Harassment. This policy complements professional and ethical rules, guidelines and codes of conduct.

## Version 0.9

It is not intended to replace professional codes and mechanisms which allow questions about professional competence to be raised. (However such issues can be raised under this process if no other more appropriate avenue is apparent).

### 4. Suspected Fraud

If your concern is about possible fraud or bribery [*name of HSC organisation*] has a number of avenues available to report your concern. These are included in more detail in the [*name of HSC organisation's*] Fraud Policy, Fraud Response Plan and Anti-Bribery Policy and are summarised below.

Suspensions of fraud or bribery should initially be raised with the appropriate line manager but where you do not feel this is not appropriate the following officers may be contacted:

- Senior Manager
- Head of Department
- Director of Finance
- Fraud Liaison Officer (FLO)

Employees can also contact the regional HSC fraud reporting hotline on **0800 096 33 96** or report their suspicions online to [www.repporthealthfraud.hscni.net](http://www.repporthealthfraud.hscni.net) These avenues are managed by BSO Counter fraud and Probity Services (CFPS) on behalf of the HSC and reports can be made on a confidential basis.

The [*name of HSC organisation's*] Fraud Response Plan will be instigated immediately on receipt of any reports of a suspicion of fraud or bribery.

The prevention, detection and reporting of fraud and bribery and other forms of corruption are the responsibility of all those working for the [*name of HSC organisation's*] or under its control. The [*name of HSC organisation*] expects all staff and third parties to perform their duties impartially, honestly, and with the highest integrity.

## **5 [Name of HSC organisation] commitment to you**

### **5.1 Your safety**

The [name of HSC organisation], Board, the Chief Executive, managers and the trade unions/professional organisations are committed to this policy. If you raise a concern in the public interest under this policy, you will not be at risk of losing your job or suffering any detriment (such as a reprisal or victimisation). The [name of HSC organisation] will not tolerate the harassment or victimisation of anyone who raises a concern in the public interest.

The [name of HSC organisation] expects you to raise concerns about malpractices. If any action is taken that deters anyone from raising a concern in the public interest or victimises them, this will be viewed as a disciplinary matter.

Provided you raise a concern in the public interest and with a reasonable belief in its truth, it does not matter if turns out that you are mistaken or if there is an innocent explanation for your concerns, you will be protected under the law. If staff raise a matter they know to be untrue, protection under the law cannot be guaranteed and the [name of HSC organisation] reserves the right to take disciplinary action if appropriate.

### **5.2 Confidentiality**

With these assurances, the [name of HSC organisation] hopes that you will raise concerns openly in the public interest. However, we recognise that there may be circumstances when you would prefer to speak to someone in confidence first. If this is the case, you should say so at the outset to a member of staff in [name of Directorate and contact details].

Where possible, the [name of HSC organisation] is committed to maintaining confidentiality for everyone involved in a concern. This includes the person raising the concern and the person(s) whom the concern is about. As far as possible, confidentiality will be maintained throughout the process and after the issue has been resolved.

## Version 0.9

If you ask for your identity not to be disclosed, we will not do so without your consent unless required by law. You should however understand that there may be times when we will be unable to resolve a concern without revealing your identity, for example, where your personal evidence is essential. In such cases, we will discuss with you whether and how the matter can best proceed.

### **5.3 Anonymity**

Remember that if you do not disclose your identity, it will be much more difficult for us to look into the matter. It will also not be possible to protect your position or give you feedback. Further, without additional evidence, it may be difficult to investigate such complaints properly in order to establish the facts. So, while we will consider anonymous reports in a similar manner as those which are not anonymised, these arrangements are not best suited to deal with concerns raised anonymously.

## **6. Raising a concern**

If you are unsure about raising a concern in the public interest, you can get independent advice at any stage from your trade union/professional organisation, or from one of the organisations listed in Section 7. You should also remember that you do not need to have firm evidence before raising a concern in the public interest, only a reasonable belief that an act of wrongdoing has occurred or that there has been a deliberate attempt to cover up a wrongdoing. However, you should explain as fully as possible the information or circumstances that gave rise to the concern. If you remain unsure about raising a concern in the public interest you can get independent advice from Protect (see contact details under Independent Advice).

### **6.1 Who should I raise a concern with?**

In many circumstances the easiest way to get your concern resolved will be to raise it with your line manager (or lead clinician or tutor). Where you do not think it is appropriate or it has failed to resolve the matters satisfactorily you can contact one of the following people:

## Version 0.9

- the raising concerns advocate [insert details]
- the HR or Governance Team (whichever is appropriate) [insert details]
- A more Senior Manager

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

- the [name] Director with responsibility for raising concerns in the public interest [insert details] or

All these people have been trained in receiving and identifying how best to respond to concerns in the public interest and will 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 external bodies (see paragraph 7 below).

If exceptionally, the concern is about the Chief Executive, then it should be made (in the first instance) to the Chair, who will decide on how the concern raised should progress.

### **6.2 Independent advice**

If you are unsure whether to use this policy, or if you require confidential advice at any stage, you may contact your trade union/professional organisation.

Advice is also available through the independent charity (Protect) on 020 3117 2520.  
[www.protect-advice.org.uk](http://www.protect-advice.org.uk)

### **6.3 How should I raise my concern?**

You can raise your concerns in the public interest with any of the people listed above, in person, by phone or in writing (including email).



## Version 0.9

Whichever route you choose, please be ready to explain as fully as you can the information and circumstances that gave rise to your concerns.

### 7. Raising a concern externally

The [*name of HSC organisation*] hopes this policy reassures you of its commitment to have concerns raised in the public interest under the policy taken seriously and where appropriate and/or necessary fully investigated, and to protect an individual who raises such concerns in the public interest.

Whilst there may be occasions where individuals will wish to report their concerns to external agencies or the PSNI, the [*name of HSC organisation*] would hope that the robust implementation of this policy will reassure staff that they can raise such concerns internally in the first instance.

However, the [*name of HSC organisation*] recognises that there may be circumstances where you can raise a concern in the public interest with an outside body as specified in following schedule to The Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014 at <http://www.legislation.gov.uk/nisr/2014/48/contents/made> for a full list of contacts.

Disclosure to these organisations/persons will be protected provided you honestly and reasonably believe the information and associated allegations are substantially true.

We would wish you to raise a matter with the external agencies listed above than not at all. Protect (or your union) will be able to advise you on such an option and on the circumstances in which you may be able to contact an outside body safely.

### 8. The media

You may consider going to the media in respect of your concerns if you feel the [*name of HSC organisation*] has not properly addressed them. You should carefully consider any information you choose to put into the public domain to ensure that

## Version 0.9

patient/client confidentiality is maintained at all times. The [*name of HSC organisation*] reserves the right to take disciplinary action if patient/client confidentiality is breached.

Communications with the media are coordinated by the [insert name of Department] on behalf of the [*name of HSC organisation*]. Staff approached by the media should direct the media to this department in the first instance.

## 9. Conclusion

While we cannot always guarantee that we will respond to all matters in the way that you might wish, we will strive to handle the matter fairly, impartially and thoroughly. By using these raising concerns in the public interest arrangements you will help us to achieve this.

Please note, this document has been developed to meet best practice and comply with the Public Interest Disclosure (NI) Order 1998 (as amended) (the Order) which provides employment protection for raising concerns in the public interest.

The Order gives significant statutory protection to staff who disclose information reasonably in the public interest. To be protected under the law an employee must act with an honest and reasonable belief that the matters specified in the concern raised occurred, is occurring or is likely to occur. Disclosures may be made to certain prescribed persons or bodies external to the [*name of HSC organisation*] listed in the Order.

## 10. Appendices

Appendix A – Roles and Responsibilities

Appendix B – Procedure

Appendix C – Advice for Managers

## 11. Equality, Human Rights & DDA

## Version 0.9

[The *[name of HSC organisation to confirm]* This policy has been drawn up and reviewed in the light of Section 75 of the Northern Ireland Act (1998) which requires the *[name of HSC organisation]* to have due regard to the need to promote equality of opportunity. It has been screened to identify any adverse impact on the 9 equality categories.

The policy has been **screened out** without mitigation or an alternative policy proposed to be adopted.]

### **12. Personal & Public Involvement (PPI)/Consultation Process**

*[name of HSC organisation to confirm]*

### **13. Alternative Formats**

This document can be made available on request on disc, larger font, Braille, audio-cassette and in other minority languages to meet the needs of those who are not fluent in English.

### **14. Sources of advice in relation to this document**

The Policy Author, responsible Assistant Director or Director as detailed on the policy title page should be contacted with regard to any queries on the content of this policy.

### **15. Policy Sign Off**

**Lead Policy Author**  
**Director of HR**

Date  
Date

## APPENDIX A ROLES AND RESPONSIBILITIES

### **The role of the [Insert name of Trust] Board (including the designated Non-Executive director (NED))**

- To have responsibility for oversight of the culture of raising concerns within their organisation in accordance with the HSC Board Member Handbook (sections 4.12) <sup>8</sup>.

### **The [name of HSC organisation]**

- To listen to our staff, learn lessons and strive to improve patient care;
- To ensure that this policy enables concerns raised in the public interest to be dealt with effectively
- To promote a culture of openness and honesty and ensure that issues are dealt with responsibly and taken seriously
- To ensure that employees who raise concerns in the public interest are not penalised for doing so unless other circumstances come to light which require this, e.g. where a member of staff knowingly raises an issue regarding another member of staff which they know to be untrue.
- To share learning, as appropriate, via our shared learning procedures

### **The Responsible/designated Senior Manager/s**

- To take responsibility for ensuring the implementation of the raising concerns in the public interest arrangements.

### **Managers**

- To take any concerns raised with them in the public interest seriously and consider them fully and fairly and respond appropriately taking any necessary and appropriate action
- To recognise that raising a concern in the public interest can be a difficult experience for some staff and to treat the matter in a sensitive manner if required
- To seek advice from other professionals within the [*name of HSC organisation*] where appropriate
- To invoke the formal procedure and ensure [*name of Directorate*] is informed, if the issue is appropriate

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<sup>8</sup> <https://www.health-ni.gov.uk/publications/hsc-board-member-handbook>

## Version 0.9

- To ensure feedback/ learning at individual, team and organisational level on concerns raised in the public interest and how they were resolved

### **Raising concerns advocate**

- To ensure that any safety issue about which a concern has been raised is dealt in accordance with the procedures and promptly and escalated appropriately through all management levels
- To intervene and if appropriate escalate, if there are any indications that the person who raised a concern in the public interest is suffering any recriminations
- To work with managers and HR to address the culture in an organisation and tackle any obstacles to raising concerns in the public interest

### **All Members of Staff**

- To recognise that it is your duty to draw to the [*name of HSC organisation*] attention any matter of concern in the public interest
- To adhere to the procedures set out in this policy
- Where possible, to maintain the duty of confidentiality to patients and the [*name of HSC organisation*] and consequently, where any disclosure of confidential information is to be justified, you should first, where appropriate, seek specialist advice for example from a representative of a regulating organisation such as the Nursing & Midwifery Council or the General Medical / Dental Council.

### **Role of Trade Unions and other Organisations**

All staff have the right to consult and seek guidance and support from their Professional Organisations, Trade Union or from statutory bodies such as the Nursing & Midwifery Council, the General Medical Council, Health Professional Council and the Social Care Council for Northern Ireland.

## APPENDIX B EXAMPLE PROCEDURE FOR RAISING A CONCERN

*Note that if a concern raised in the public interest is adjudged to be serious in nature the receiving manager should escalate that concern to a senior manager for investigation. This essentially allows for a manager to escalate a concern to the formal stage where it will be formally recorded on the Trust register.*

### **Informal - Manager**

If you have an honest and reasonable belief that a concern which is in the public interest about malpractice, risk, abuse or wrongdoing has occurred, is occurring, or is likely to occur, then the matter should be raised informally in the first instance with your Line Manager (lead clinician or tutor). This may be done verbally or in writing.

You are entitled to support from a trade union/ fellow worker or companion to assist you in raising your concern in the public interest.

### **Informal – Alternative to Manager**

If you feel unable to raise the matter with your Line Manager (lead clinician or tutor), for whatever reason, please raise the matter with our raising concerns advocate or a more senior manager from the organisation.

[Insert name of raising concerns advocate/s]

[contact details]

This person has been given special responsibility and training in dealing with concerns raised in the public interest. They will:

- (where possible) treat your concern confidentially unless otherwise agreed;
- ensure you receive timely advice on how best to progress your concerns;
- escalate to the appropriate authority any indications that you are being subjected to detriment for raising your concern in the public interest;
- remind the organisation of the need to give you timely feedback on how your concern is being dealt with;

## Version 0.9

- ensure you have access to personal support through for example your employee assistance programme (e.g. Inspire etc.) since raising your concern in the public interest may be stressful.

Whilst it would be the preference of the (insert name of organisation) for you to raise the matter openly, if you want the matter dealt with in confidence, please say so at the outset so that appropriate arrangements can be made.

### **Formal**

If these channels have been followed and you still have concerns or your concerns remain unresolved, or if you feel that the matter is so serious that you cannot discuss it with any of the above through the informal process, please contact:

[name]

[contact]

### **Screening**

The [insert name of the Trust] will undertake a screening process for any formally raised concern. This process will determine the most appropriate route/s and process/es for all or parts of your concern.

### **Prescribed Bodies (or media)**

You can raise your concerns in the public interest formally with the prescribed external bodies listed at paragraph 7 or to the media – note that you don't have to exhaust either of the above stages if you decide to go straight to the prescribed bodies or media – see also at a glance section above:

- If you choose to bypass the routes available for you to make a disclosure (directly to the Trust or via outside organisations referred to in the legislation) and instead approach the media with your concerns, it is likely you will lose your right to protection under Whistleblowing legislation. The exception to this is a case where the wrongdoing is exceptionally serious and where you reasonably believe that the Trust will subject you to 'detriment' or conceal/destroy evidence if you were to raise your concerns via the routes available to you.

### **What will we do?**

We are committed to listening to our staff, learning lessons and improving patient care. On receipt, the concern will be recorded and, where possible, you will receive an acknowledgement within three working days.

A central register 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. While your identity may be included within the allegation or report, the register will not include any information which may identify you, nor should it include any information which may identify an individual or individuals against whom an allegation is made.

### **Investigation**

Where you have been unable to resolve the matter quickly (usually within a few days) with your Line Manager, or if the matters raised are serious in nature we will carry out a proportionate investigation – using someone suitably independent and trained – 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 e.g. a Serious Adverse Incident (SAI) 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.

We may decide that your concern would be better looked at under another process: for example, our process for dealing with bullying and harassment.

We will advise you, where possible, and those identified as the subject of a concern, of the process, what will be investigated and what will not, those who will be involved, the roles they will play and the anticipated timescales.



## Version 0.9

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

Where an Agency worker raises a concern then it is the responsibility of the [name of HSC organisation] to follow the process as above.

For the purposes of recording, if the concern is already, or has previously been, the subject of an investigation under another procedure it will not be appropriate to categorise it under the [*name of HSC organisation*] Raising Concerns Policy.

### **Communicating with you**

We welcome the raising of concerns in the public interest and will treat you with respect at all times. We will discuss your concerns with you to ensure we understand exactly what you are worried about. In the event that an investigation is required, we will endeavour to provide a response within 12 weeks of the concern being received. We will provide an update on progress by week 6 and again by week 10 of the investigation. In so far as it is appropriate, we will provide feedback to the person who raised the concern.

### **How we will learn from your concerns**

The focus of the investigation will be on improving our services. Where it identifies improvements that can be made, we will track them to ensure necessary changes are made and are working effectively. The final outcome and 'lessons learned' will be documented and approved as final by the responsible Director. In addition the relevant professional Executive Director will independently assess the findings and recommendations for assurance that the matter has been robustly considered and appropriately addressed.

### **Board oversight**

The [*name of HSC organisation*] board and the Department of Health will be given high level information about all concerns raised in the public interest by our staff and others through this policy and what we are doing to address any problems. We will include similar high level information in our annual report. The board supports staff and others raising concerns and want you to feel free to speak up. The Chair has

## **Version 0.9**

nominated a non-executive director (NED) with responsibility for the oversight of the organisation's culture of raising concerns.

The [Insert name of the Trust] NED responsible for Raising Concern is [INSERT NAME].

### **Review & Reporting**

We will provide regular reports to senior management and to our HSC's Designated Committee within the Assurance Framework on our raising concerns in the public interest caseload and an annual return to the Department of Health setting out the actions and outcomes.

This policy has been reviewed against the NI Audit Office – Raising Concerns – A good practice guide for Northern Ireland Public Sector.

## APPENDIX C - ADVICE FOR MANAGERS RESPONDING TO A CONCERN

1. Managers should maintain an understanding of the process for raising a concern in the public interest;
2. Seek advice from the Trust lead on raising concerns if in doubt at any stage;
3. Thank the staff member for raising the concern, even if they may appear to be mistaken;
4. If appropriate refer the member of staff to other independent sources of advice and guidance on raising concerns in the public interest;
5. Respect and heed legitimate staff concerns about their own position or career;
6. Manage expectations and respect promises of confidentiality;
7. Discuss reasonable timeframes for feedback with the member of staff;
8. Remember there are different perspectives to every story;
9. Determine whether there are grounds for concern and investigate if necessary as soon as possible. Where appropriate alert those identified as the subject of the concern. If the concern is potentially very serious or wide-reaching, consider who should handle the investigation and know when to ask for help. If asked, managers should put their response in writing;
10. The Trust should ensure that the investigator is not connected to the concern raised and determine if there is any actual, potential or perceived conflict of interest which exists prior to disclosing full details of the concern. Should a conflict of interest arise at any time during the investigation the investigator must alert the manager as quickly as possible. (Note: Any such conflict must be considered, and acted on, by the manager);
11. Managers should bear in mind that they may have to explain how they have handled the concern;
12. Feed back to the person who raised the concern and those identified as the subject of a concern (where appropriate) any outcome and/or proposed remedial action, but be careful if this could infringe any rights or duties which may be owed to other parties;

## Version 0.9

13. Consider reporting to the board and/or an appropriate regulator (if appropriate) the outcome of any concern raised in the public interest where malpractice or a serious safety risk was identified and addressed; and
14. Record-keeping - it is prudent to keep a record of any concerns raised formally with those designated under the policy, and these records should be anonymous where necessary. Managers should record any concerns raised informally and document action taken to resolve matters.

## APPENDIX D RAISING CONCERNS IN THE PUBLIC INTEREST & WHISTLEBLOWING PROCESS

