

Freedom to Speak Up Annual Report 2018/19

Trust Board	Item: 15
Date: 25 th September 2019	Enclosure: K
Purpose of the Report: To present the annual report to the Trust Board on Freedom to Speak Up.	
For: Information <input type="checkbox"/> Assurance <input checked="" type="checkbox"/> Discussion and input <input type="checkbox"/> Decision/approval <input type="checkbox"/>	
Sponsor (Executive Lead):	Susan Simpson, Director of Corporate Governance
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Link to Relevant Corporate Objective:	
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Recommendations: The Board is asked to: <ul style="list-style-type: none"> a) note the content of this annual report; b) take account of the guidance issued for Boards in July 2019; and c) to approve the Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy for a further three years. 	

Freedom to Speak Up

Introduction

1. The Trust is committed to providing the highest level of quality of service to patients and experience for staff, and to achieving the highest standards of conduct, openness and accountability. Part of this commitment involves encouraging staff or others with serious concerns regarding any aspect of work, the conduct of others or the running of the Trust to report such concerns in confidence and with confidence. To support this commitment, a Freedom To Speak Up Guardian was appointed in May 2017.
2. The Freedom To Speak Up Guardian (FTSUG) role is not a replacement for traditional avenues already in existence for staff to raise concerns; it is an additional resource for staff to access should they feel that their concerns have not been dealt with appropriately, or indeed if their concern is of a more serious nature. The role also offers the opportunity for staff to raise issues in confidence and, if necessary, anonymously. Staff are supported to, where possible, raise their concerns openly so as to enable a more transparent way of dealing with concerns raised, but also to challenge any workplace stigma attached to 'Whistleblowing' or raising concerns.
3. This report provides the Board with an overview of the FTSUG's work for 2018/19 and plans for 2019/20. It also provides an overview of the latest national guidance and makes recommendations to the Board regarding renewal of the Trust's Freedom to Speak Up (Whistleblowing) policy.

Implementation of the FTSUG role

4. The FTSUG is employed on a two day per week basis, of which half is remote access through email and confidential answerphone messaging. When in the Trust the FTSUG is based in the Outpatients Department.
5. Communication about the initial implementation of the FTSUG role was cascaded through Team Brief and the Senior Leaders Forum in the latter half of 2017. Since then the FTSUG has continued to raise awareness through attendance at team meetings and word of mouth. A Raising Concerns module has been included in the e-learning induction training. The Freedom to Speak Up policy, which includes contact details for the FTSUG, is available on the intranet. A recent request also to include contact details on the external-facing website will be carried forward as the new website is brought online.
6. The FTSUG reports to the Director of Corporate Governance and regular contact is made to understand the latest position on themes arising from staff contact and any areas for concern. The FTSUG and Director of Corporate Governance have also met with the Chief Executive quarterly and on a number of occasions with the Non-Executive Director lead for whistleblowing.
7. The FTSUG role is part of a suite of support mechanisms for staff, which include access to Occupational Health, the Health and Wellbeing team and HR business partners. A number of Dignity at Work Champions have been identified and posters displayed regarding their availability to support staff. There is further work to be done to embed this initiative and to extend the champions network across the Trust.

Concerns raised - data, themes and equality considerations

8. Quarterly data returns are made to the Office of the National Guardian and the information from all trusts making submissions is published on the National Guardian's website: <https://www.cqc.org.uk/national-guardians-office/content/speaking-data>. The Quarterly data for Kingston Hospital is reported to the Trust Board in the Chief Executive's report following each quarterly return submission.
9. Overleaf is a table showing case numbers for 2018/19. These represent the number of cases raised which were appropriate in terms of the policy, or required further input, and does not include staff contacts for signposting or general enquiries. The number of recorded cases peaked in Q4, primarily due to staff who sought to raise their concerns following the external review in Theatres.

2018/19	Cases raised	Cases raised anonymously	Cases raised with an element of patient safety/quality	Cases raised with an element of bullying and harassment	Cases where staff indicated they suffered detriment as a result
Q1	8	0	3	5	0
Q2	3	1	1	3	1
Q3	0	0	0	0	0
Q4	12	0	7	9	1
Total	23	<i>Totals not applied across all categories as some cases are recorded in more than one column</i>			

10. The number of staff accessing FTSUG support at the Trust increased in 2018/19 compared with the previous year (total 5 in 2017/18). Data submitted to the National Guardian by other similar sized acute trusts (up to 5,000 staff) in Q3 of 2018/19 (latest published data) shows an average number for the Quarter of 10 cases, in a range from 0 to 54. Three trusts besides Kingston Hospital recorded no cases in that Quarter. However, it is difficult to make direct comparisons as there is no standard for recording types of cases raised.
11. One of the most prominent themes within the data collected is the number of cases with an element of bullying and harassment involved. Again, the table above does not show the cases brought to the FTSUG that were not formalised in some way.
12. There is still, amongst some staff groups, the fear that should they raise a concern, they will suffer both professionally and personally. This does not extend across the Trust as a whole, however remains a key factor for staff not raising concerns formally. A key factor when supporting staff has been to ensure that they have adequate access to Occupational Health support and also other resources, such as counselling, as and when appropriate or necessary.
13. Contact made with the FTSUG is predominantly from AHP and nursing staff. Very few doctors have asked for support, however junior doctors do have other avenues for support from the Guardian of Safe Working and Medical Education Supervisors and this may be a factor in the proportion coming forward.
14. Currently the number of black and minority ethnic (BAME) staff accessing the FTSUG role is very low. The FTSUG is currently in discussions with the BAME network lead to see how best to communicate with this staff group, so as to ensure they are supported fully to raise concerns and are aware of how to access support with this. This will be further supported when the champion network is developed, as we will ensure an appropriate representative is appointed.

Successes and challenges

15. The FTSUG has played a significant part in supporting staff to 'Speak Up' in Theatres. The Trust's response to the investigation report has shown staff how seriously the Trust takes matters which are raised via this route, and although some of the work is ongoing, there have been clear positives so far. This has been reflected in more staff feeling able to seek advice through the FTSUG or raise concerns through this route.
16. Throughout the year a number of training sessions were undertaken aimed at educating staff on the importance of a healthy speaking up culture, and that each member of staff has a responsibility to take part. Often the training sessions originated from a number of concerns being raised in a single team, although this was not always the reason. The response to these training sessions has been largely positive, and has enabled the FTSUG to tackle some misconceptions or questions about the role as they arise.
17. Externally, the FTSUG and the Trust have benefited from engaging with the London Regional Network of Guardians and sharing learning. Furthermore, the FTSUG has been asked to deliver a talk at the next Healthwatch Kingston Open Event in October 2019, which will be an opportunity to demonstrate the Trust's commitment to encouraging staff to raise concerns and communicate more widely on the issues.

18. The principal challenge for the FTSUG to date has been time. Balancing training requirements, reporting and staff contact time can be a significant challenge within the time allocated to being on site. This has resulted in some delays in face to face meetings with staff and has also impacted on the ability to roll out the Dignity at Work/FTSU Champion concept.

Ongoing Work

19. Plans to form the Champions network will be progressed. This will provide greater capacity to support staff raising concerns and also the opportunity to provide access to support 24/7. There has been some interest in these roles, and focus group drop in sessions will be held for any interested staff so as to fully explain what is required.
20. A NHS report was published in July 2019, '**Being fair - Supporting a just and learning culture for staff and patients following incidents in the NHS.** <https://resolution.nhs.uk/resources/being-fair-report/> The FTSUG and the Head of Patient Safety, Governance & Risk are beginning a piece of work to transfer the learning from this report into improving the 'Speak Up' culture at Kingston Hospital.

Guidance for Trust Boards

21. NHS Improvement and the National Guardian's Office issued a Freedom to Speak Up self-review tool for NHS trusts and foundation trusts. The Board Development Day in May 2019 included discussion of the output of this self-review. The Board's overall conclusions from this exercise were that there is evidence that staff know how to raise concerns, and do so, and that compassionate leadership is a strong component of a culture that supports raising concerns. There are close links with the Workforce Strategy and continued management development work.
22. The National FTSU Guardian wrote to Chief Executives of NHS trusts and foundation trusts in July 2019 highlighting the potentially traumatising caseloads of FTSUGs and asking CEOs to meet with their FTSUGs to check that they have sufficient time and support to carry out their roles. This meeting took place on 4th September 2019.
23. Guidance for Boards https://www.cqc.org.uk/sites/default/files/FTSU_guidance_0.pdf was issued by NHS England/Improvement and the National Guardian in July 2019 to accompany the self-review tool, which has been revised since its initial launch in May 2018. The guidance emphasises the importance of Executive and Non-Executive Directors modelling behaviour that will demonstrate the Board's commitment to creating a culture where workers feel safe to speak up, and sets out expectations of the unitary Board and individuals. The content of the guidance will be built into the Board's forward plans for meetings and development sessions.

Policy Review - Freedom to Speak Up: Raising Concerns (Whistleblowing) Policy

24. The format and wording of the policy approved by the Board in September 2016 was taken directly from the national policy for the NHS. The intention at that time was to review the policy once the FTSUG role had embedded.
25. The FTSUG has reviewed the policy and procedure, having tested its operation in practice, and recommends that the Board reconfirm the policy for a further three years with only minimal updating required at this time e.g. updating post titles.

Conclusions

26. The Board is asked to note the content of this annual report, to take account of the guidance issued for Boards in July 2019 and to approve the Raising Concerns at Work (Whistleblowing) Policy and Procedure for a further three years.



Kingston Hospital
NHS Foundation Trust



NHS Improvement
NHS England

Freedom to speak up: raising concerns (whistleblowing) policy for the NHS



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Policy Author	Susan Simpson, Director of Corporate Affairs
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Equality Impact Assessment Date	National consultation by NHS Improvement, 2016
Date Approved	Audit Committee, 8 September 2016
Date Ratified	
Ratifying Body	Trust Board
Last Review Date	September 2019
Next Review Date	September 2022

1. **Speak up – we will listen**

1.1. 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.

1.2. 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 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.

2. **This policy**

This 'standard integrated policy' was one of a number of recommendations of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS. 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.

Our local process has been integrated into the policy.

3. What concerns can I raise?

You can raise a concern about **risk, malpractice or wrongdoing** you think is harming the service we deliver. 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 can also be reported to our local counter-fraud specialist, Jessica Hargreaves, contactable either on her mobile, 07468 740813 or via email: Jessica.hargreaves@kpmg.co.uk)
- a bullying culture (across a team or organisation rather than individual instances of bullying).

For further examples, please see the [Health Education England video](#).

Remember that if you are a healthcare professional you may have a professional duty to report a concern. **If in doubt, please raise it.**

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.

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 (see policies on the intranet).

4. Feel safe to raise your concern

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.

Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.

5. Confidentiality

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). 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.

6. Who can raise concerns?

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.

7. Who should I raise my concern with?

In many circumstances the easiest way to get your concern resolved will be to raise it informally with your line manager (or matron, lead clinician or tutor). 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.

If raising it with your line manager (or matron, lead clinician or tutor) does not resolve matters, or you do not feel able to raise it with them, you can contact one of the following people:

- our Freedom to Speak Up Guardian on 020 8934 2723 or via the raising concerns email address, khft.raisingconcerns@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 executive, or if necessary, outside the organisation.
- a member of the Human Resources team
- the Associate Director responsible for your Division
- the Director of Nursing & Quality

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

- our non-executive directors with responsibility for whistleblowing via email: khft.raisingconcerns@nhs.net. Emails to this address are copied to the Director of Corporate Governance who will ensure that an appropriate investigation takes place.

All these people 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, listed on page 7.

8. Advice and support

Details on the local support available to you can be found [here](#). However, you can also contact the [Whistleblowing Helpline](#) for the NHS and social care, your professional body or trade union representative.

9. How should I raise my concern?

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

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

10. What will we do?

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 B).

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

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 properly 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 that looks at your concern and the wider circumstances of the Incident¹). 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. If so, we will discuss that with you.

¹ If your concern suggests a Serious Incident has occurred, an investigation will be carried out in accordance with the [Serious Incident Framework](#).

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

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).

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.

Board oversight

The board 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. The board supports staff raising concerns and wants you to feel free to speak up.

Review

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

11. Raising your concern with an outside body

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 Protect](#) for concerns about fraud and corruption.

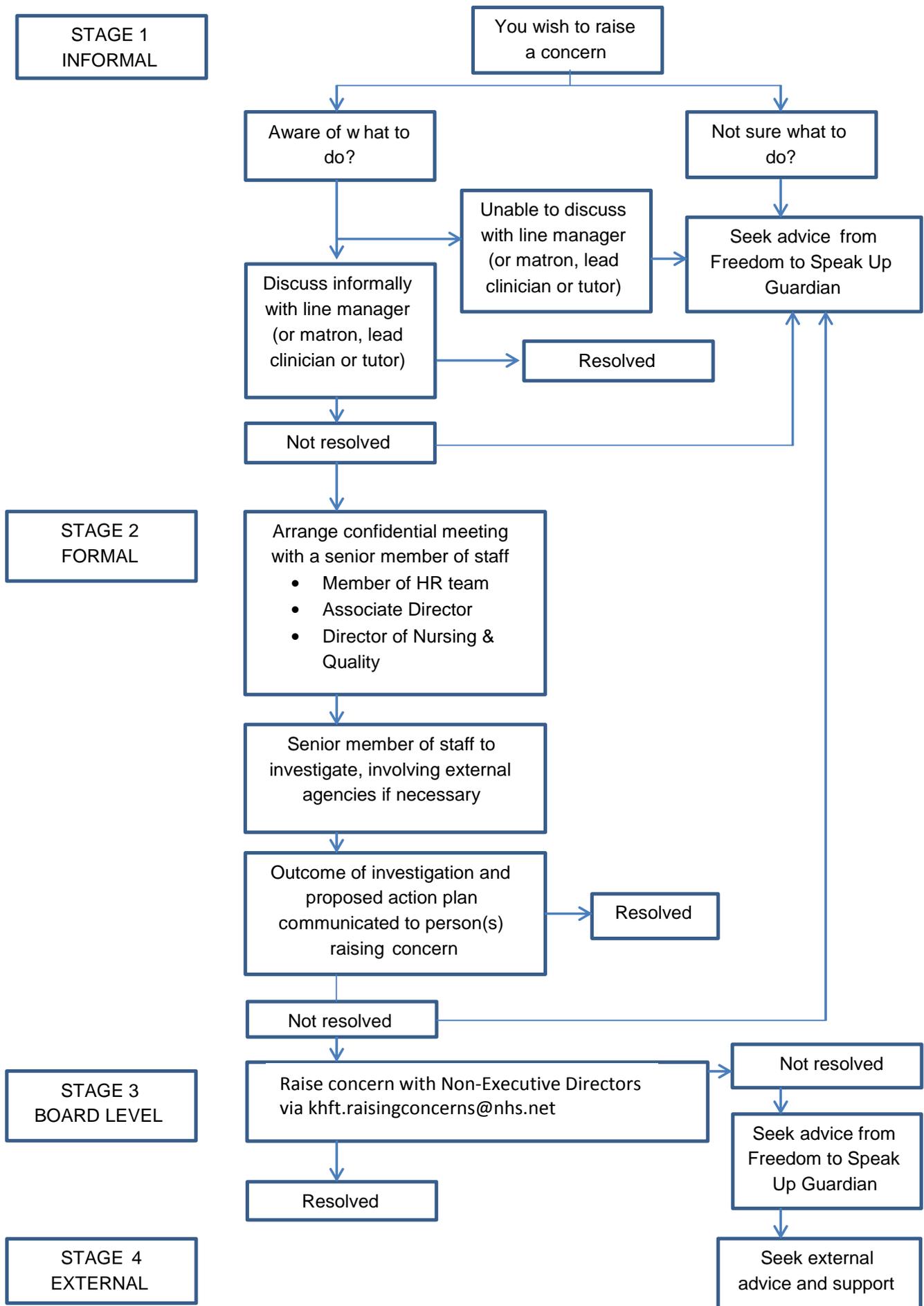
Making a ‘protected disclosure’

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 7, 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.

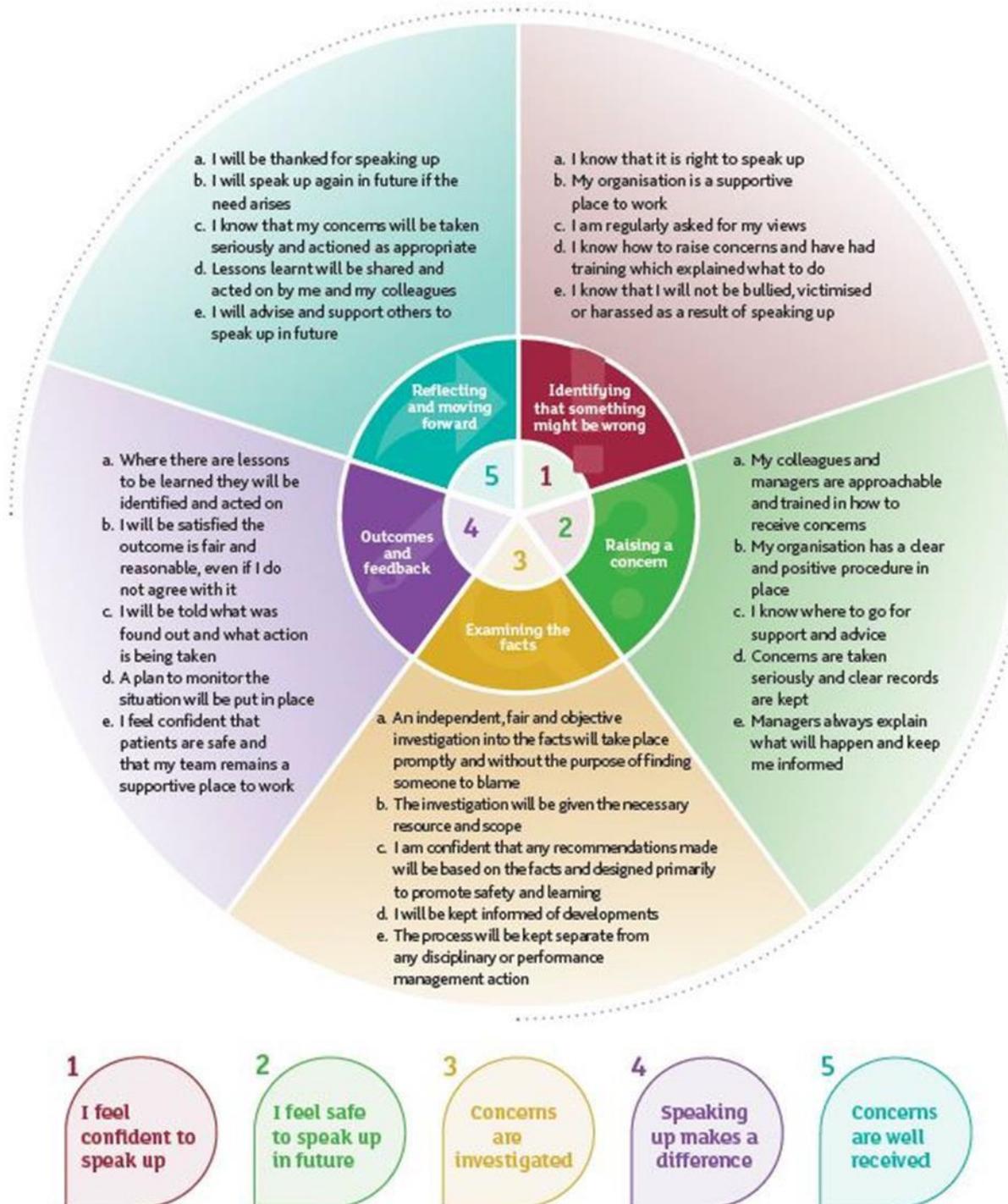
National Guardian Freedom to Speak Up

The new National Guardian (once fully operational) 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.

Annex A: Process for raising and escalating a concern



Annex B: 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*.