

Freedom to Speak Up (Raising Concerns) Policy

Inmind Reference:	CLN18
Category:	Clinical Policies
Version Number:	1.14
Reviewed on:	February 2018
Next review date:	February 2020
Lead Officer:	Director of Nursing
Equality Impact Assessment completed:	Yes

Applicable Legislation/Regulations:
The Employment Rights Act 1996; The Human Rights Act 1998 The Public Interest Disclosure Act 1998; Enterprise and Regulatory Reform Act 2013 The Care Act 2014
Codes of Practice:
Raising and Escalating Concerns – Guidance for Nurses and Midwives “Freedom to speak up: raising concerns (whistleblowing) policy for the NHS” (April 2016)
Purpose:
To support all employees to have the confidence and the knowledge to raise any matters of concern relating to the services provided by Inmind Healthcare Group at an early stage and in the right way. <i>Please note that the majority of this policy is taken directly from the national NHS Policy of the same name.</i>

Version Control Table		
Date Ratified	Version Number	Status
	1.13	Closed
23/01/19	1.14	Live

Date	Key Revision
11/02/18	New policy to reflect the NHS “Freedom to Speak Up” initiative
23/01/19	Changed Lead Officer

Please check to ensure this is the most current electronic copy of this document as it is updated and published in electronic format only (hard copies may become out of date).

Equality Impact Assessment for this policy

Protected Characteristic (domain)	Area of conflict	Resolution
Age	Nil	N/A
Disability	Nil	N/A
Gender Reassignment	Nil	N/A
Pregnancy & Maternity	Nil	N/A
Race	Nil	N/A
Religion or Belief	Nil	N/A
Sex	Nil	N/A
Sexual Orientation	Nil	N/A
Marriage and Civil Partnership	Nil	N/A

All relevant persons are required to comply with this policy and must demonstrate sensitivity and competence in relation to diversity in race, faith, age, gender, disability and sexual orientation. If you feel you are disadvantaged by this policy, please contact the Registered Manager and the service will actively respond to the enquiry.

1.0 The Policy

1.1 Speak up – we will listen

- a) Speaking up about any concern you have at work is important. In fact, it's vital because it will help us to keep improving the service we provide to those in our care and the working environment for the staff team.
- b) 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 investigate what you say, and you will always have access to the support you need.
- c) Inmind Healthcare Group encourages an open attitude to constructive criticism of standards of service or care. Ideas for improvement are always welcome and should be raised as a matter of course with colleagues or other staff. If you feel you do not have the opportunity to do this, then please tell your Registered Manager or, if this is not appropriate, contact another member of the Executive team.

1.2 What concerns can I raise?

- a) You can raise a concern about risk, malpractice or wrongdoing you think is harming the service we deliver, for example:
 - Unsafe patient care
 - Unsafe working conditions
 - Inadequate induction or training for staff
 - Lack of, or poor, response to a reported service user safety issue
 - Suspicions of fraud
- b) Remember that if you are a healthcare professional, you may have a professional duty to report a concern. **If in doubt, please raise it.**
- c) You are encouraged to raise any concerns at an early stage - before problems have a chance to become serious. 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 if you are genuinely troubled.
- d) This policy and procedure is for concerns where the interests of others or of the organisation itself are at risk. If something is troubling an employee which they think that Inmind should know about or investigate, this procedure must be used.
- e) If, however, you have a concern about your own personal position, the Grievance Policy should be used.

1.3 Feel safe to raise your concern

- a) 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.
- b) When raising concerns, you are expected to act in accordance with The Public Interest Disclosure Act 1998. As set out within this Act, you should, if possible, firstly use internal procedures rather than going directly to wider disclosure.
- c) If you have done something wrong and raise it under this policy, you will not necessarily have immunity for their wrongdoing and action may be taken under the Disciplinary Policy. However, Inmind will take into consideration, where appropriate, your admission and transparency.

1.4 Confidentiality

- a) 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 to, you do not want anyone else to know your identity. Therefore, we will keep your identity confidential (shared only with appropriate members of the senior team), if that is what you want, unless required to disclose it by law (for example, by the police).
- b) 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. Therefore, we do encourage all employees to provide their name at the time of raising their concern.

1.5 Who should I raise my concern with?

- a) In many circumstances, the easiest way to get your concern resolved will be to raise it formally or informally with your Registered 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:
- b) If you wish to raise your concern outside of your own service, our Freedom to Speak Up Guardian is: **Lisa Clayton, Director of Nursing**
- c) The Freedom to Speak Up Guardian is a new 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.
- d) If you remain concerned after this, you can contact the Group Operations Director or a member of the Executive Team

- e) Should you wish to use it, the company has put in place an arrangement with an external independent organisation called **Speak Up**. Their phone number is **0800 097 0026** and Access Code is **46640**. They will offer you advice and will deal with your call completely confidentially. They will not pass your details on unless you authorise them to.
- f) The individuals referred to as points of contact within this policy have received training in receiving concerns and will give you information about where you can go for more support.
- g) If for any reason you do not feel comfortable raising your concern internally, you can raise concerns with external bodies listed in Appendix 3.

1.6 **Advice and support**

- a) In addition to the support referred to above, you can also contact the Whistleblowing Helpline (<http://wbhelpline.org.uk/>) for the NHS and social care, your professional body or your trade union representative.

1.7 **How should I raise my concern?**

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

1.8 **What will we do?**

- a) 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 Appendix 2).
- b) We are committed to listening to our staff, learning lessons and improving care. On receipt the concern you will receive an acknowledgement within three working days. A record should be kept detailing 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.

c) **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 service user 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 re-occurring.

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

1.9 **Communicating with you**

- a) We will always treat you with respect 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 investigation outcome report with you (while respecting the confidentiality of others).

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

- a) The focus of the investigation will be on improving the service we provide for those in our care. 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.
- b) It is the responsibility of Registered Managers to share lessons learnt from any concerns raised with their team members through team meetings, supervision and any other appropriate forums.
- c) All managers will treat concerns seriously and in accordance with Inmind policy. Inmind will not tolerate any attempt to cover up issues raised in accordance with this policy.

1.11 **Executive Team oversight**

- a) The Executive Team 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. The Executive Team supports staff raising concerns and wants you to feel free to speak up.
- b) All employees have a duty to care to raise immediately any concerns relating to any safeguarding issues, breaches of Health and Safety or incidents of poor practice. Inmind does not tolerate poor or unsafe practice in any area, and if any employee fails to raise appropriate concerns should they suspect bad practice is occurring, the individual may be viewed as condoning the practice or participating in it, and thus appropriate further action may be taken against the employee in accordance with Inmind policy.

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

- a) For a list of external bodies with whom you can raise your concerns externally please see Appendix 3.

1.13 **Making a “protected disclosure”**

- a) 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’ like the list in Appendix 3, 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.

Public Concern at Work (PCAW)

Tel: 020 7404 6609

Email: helpline@pcaw.co.uk

www.pcaw.co.uk

2.0 **The Procedure**

2.1 **First Stage**

- a) If you have a concern, Inmind Healthcare Group would first encourage you to raise it within your team or with your Registered Manager so it can be resolved locally.
- b) Once you have raised your concern, your Registered Manager will assess what action to take. This will normally involve a fact-finding investigation.
- c) The Registered Manager will write to you to confirm:
- A summary of your concern
 - How the concern is being addressed
 - Who will be handling the matter
 - How you can contact them
 - Whether further assistance is needed from you
 - Who you can contact if you require support during the process
- d) The investigatory lead will take statements from all people involved as witnesses, including you, and gather any documentary evidence.
- e) If the concern is such that it requires referral to an external agency, then the Registered Manager will do so as appropriate.
- f) If the concern raised becomes the subject of a police or other agency investigation, Inmind’s investigation may be temporarily halted.
- g) Once the investigation has been concluded, the investigatory team will complete a report detailing their findings.
- h) If this report concludes that your concerns are well-founded, the appropriate action will be taken. This action may involve changes to procedures, management systems or potentially disciplinary action to be considered against an employee.

- i) Following the completion of the report, you will receive a response, to be confirmed in writing by your Registered Manager, giving you as much feedback as possible.
- j) Inmind will not be able to inform you of the precise actions taken if any form of disciplinary action is involved, as this would breach confidentiality.
- k) If disciplinary action is considered against an employee, the normal procedure will be followed in accordance with the Company's Disciplinary Policy.
- l) Your Registered Manager will aim to provide you with a final written response within a reasonable time period from when the concern was raised. However, this could be a relatively long period if there is a safeguarding or police investigation or if the circumstances are complicated.
- m) Your Registered Manager will keep you informed as to the progress of any investigation in writing. However, you should be aware that you may not receive full information on the precise actions being taken where this would infringe a duty of confidence owed by the Company to someone else, or which may interfere with any legal action it may wish to take.
- n) In circumstances where an allegation is unfounded, the Registered Manager must notify the subject of the allegation of this in writing within a reasonable timeframe, as described in point (l) above.

2.2 **Second Stage**

- a) If you feel unable to raise your concern with your Registered Manager, you should raise it instead with Inmind's Freedom to Speak Up Guardian.
- b) This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:
 - Treat your concern confidentially unless otherwise agreed
 - Ensure you receive timely support to progress your concern
 - Escalate to the Board any indications that you are being subjected to detriment for raising your concern
 - Agree the investigatory process, timescales and feedback arrangements for your concern
 - Ensure you have access to personal support since raising your concern may be stressful
- c) If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.
- d) On receiving a concern, the Freedom to Speak Up Guardian will assess what action is required, and in most instances instruct an appropriate investigatory team to address the concerns raised.
- e) The investigatory team will investigate the matter as detailed in points 2.1 (c) to (n) above.

2.3 **Third Stage**

- a) If you have raised your concern with your Registered Manager and/or the Freedom to Speak up Guardian but feel that it has not been properly addressed, you should raise your concern directly with the Group Operations Director.
- b) If you wish for your identity to be kept confidential, you should say so at this stage.
- c) On receiving a concern, the Group Operations Director will assess what action is required, and in most instances instruct an appropriate investigatory team to address the concerns raised.
- d) The investigatory team will investigate the matter as detailed in points 2.1 (c) to (n) of this procedure.

2.4 **If you are dissatisfied**

- a) If you are unhappy with the Company's response internally at either stage 1, 2 or 3, you can raise your concerns formally with an appropriate external body (see Appendix 3).
- b) Again, we would encourage anyone considering this action to take independent advice before doing so.

2.5 **Seeking Independent Advice**

- a) If you are unsure about whether to use this procedure, the Company would advise that you seek independent advice before taking any action.
- b) It is advised that you should only consider this route if you have exhausted all the above procedures and you feel inadequate action has been taken to address your concern.
- c) Raising your concerns externally (for example to the media or an MP) without clear evidence of first raising your concern internally or with a regulatory organisation, would only be considered appropriate and provide you with protection under the terms of *The Public Interest Disclosure Act* in the most extreme circumstances.

2.7 **On-going training and support for staff**

- a) Registered Managers should ensure that their staff team receive regular training and guidance on how to raise concerns. A useful guide for staff can be found at:

<https://hee.nhs.uk/our-work/hospitals-primary-community-care/learning-be-safer/raising-responding-concerns>

Appendix 1



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

Appendix 2

Care Quality Commission

Tel: 03000 616161

www.cqc.org.uk

Department of Health (England)

Tel: 020 7210 4850

www.dh.gov.uk

Nursing and Midwifery Council (NMC)

Advice Centre Confidential Service Tel: 020 7333 9333 (08:00-18:00 Monday – Friday)

Email: advice@nmc-uk.org

www.nmc-uk.org

General Medical Council

Tel: 0161 923 6602

www.gmc-uk.org

Health and Care Professions Council (HCPC)

Fitness to Practise Department

The Health and Care Professions Council

Park House

184 Kennington Park Road

London

SE11 4BU

A full list of other regulators is available at:

www.nmc-uk.org/general-public/other-healthcare-regulators