

# NHS England

## NHS Improvement



### Internal Freedom to Speak Up (FTSU) Policy

#### Speak up – we will listen

Speaking up about any concern you have at work is important. In fact, it's vital because it will help us to keep improving our services for patients and the working environment for our staff.

You may feel worried about raising a concern, and we understand this. But please don't be put off. Our Board, Executive Directors and Very Senior Managers are committed to an open and honest culture. We will listen to what you say, investigate where necessary, and you will always have access to the support you need.

We have developed this Policy in partnership with our Trade Union colleagues, who are committed to working with us to develop an open and honest culture.

#### This policy

This policy is based on the national 'raising concerns (whistleblowing) policy for the NHS' (produced by NHS Improvement and NHS England) that was a recommendation of the review by Sir Robert Francis into whistleblowing in the NHS, aimed at improving the experience of whistleblowing in the NHS.

This is not the only policy which you can use to raise issues. There is a suite of Health and Safety and Employee Relations Policies which may be more relevant and includes:

- Respect at Work Policy;
- [Health and Safety at Work Policy](#);
- Grievance Policy and Procedure.

If you are unsure which Policy to use, you may like to discuss your concern with your line manager, FTSU Guardian, an HR colleague or your Trade Union representative, who will be able to advise you. There is an external policy for concerns relating to organisations that NHS England and NHS Improvement oversee.

#### What can I speak up about?

You can speak up about **anything** you think is harming the work we do. Just a few examples of this might include (but are by no means restricted to):

- action we are taking that may be causing unsafe patient care
- unsafe working conditions
- unethical behaviour
- inadequate local induction or training for staff
- procurement concerns
- recruitment malpractice
- a bullying culture
- financial concerns (you are likely to be supported to take any financial concerns to the Counter Fraud Team).

**If in doubt, please raise it**

- Don't wait for proof. We would like you to raise the matter as soon as possible. It doesn't matter if you turn out to be mistaken as long as you are genuinely concerned.
- If your concern is a personal complaint about your employment that only affects you and/or your immediate colleagues rather than a concern about something that affects others, then you may wish to raise a grievance using our grievance policy, bearing in mind that it is possible to raise a collective grievance.

**Feel safe to speak up**

- If you speak up under this policy, you will not be at risk of losing your job or suffering any form of reprisal because of raising a genuine concern. 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 against the perpetrator in accordance with our Disciplinary Policy.
- Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.
- If you feel you have been subject to repercussions either because you have raised a concern or because you are thought to have raised a concern (even though you have not), please contact the FTSU Guardians or any other persons set out below.

**Confidentiality**

- We hope you will feel comfortable speaking up openly, but we also appreciate that you may want to speak up 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, all reasonable steps to keep your identity confidential will be taken, if that is what you want, unless required to disclose it by law (for example, by the Police). You can choose to speak up 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.

**Who can speak up?**

Anyone who works (or has worked) in NHS England and NHS Improvement, including agency and temporary workers, people on work experience, students and volunteers, can speak up.

## Who should I speak up to?

In many circumstances the easiest way to get your concern resolved will be to raise it with your line manager (for example, orally in a 1-2-1).

If this does not resolve matters, you can contact one of the following people:

- your local [Freedom to Speak Up Guardian\(s\)](#) – you can find a list here - [\(email address/portals to be confirmed\)](#) – this is an important role to act as an independent and impartial source of advice to staff, with access to anyone in the organisation, including the regional and national executive FTSU Leads.

If you remain concerned after this, you can contact:

- your regional executive FTSU lead [\(links to Intranet with list\)](#)
- our (internal) national executive FTSU lead, the National Medical Director ([england.medicaldirector2@nhs.net](mailto:england.medicaldirector2@nhs.net))
- our nominated FTSU non-executive director, [\(link to intranet here\)](#).

Our Guardians have been trained in receiving concerns and will give you information about where you can go for more support.

Where you don't think it is appropriate to speak up to your line manager, you can use any of the options set out above in the first instance.

If for any reason you do not feel comfortable speaking up internally, you can raise concerns formally with external bodies, listed on page 7.

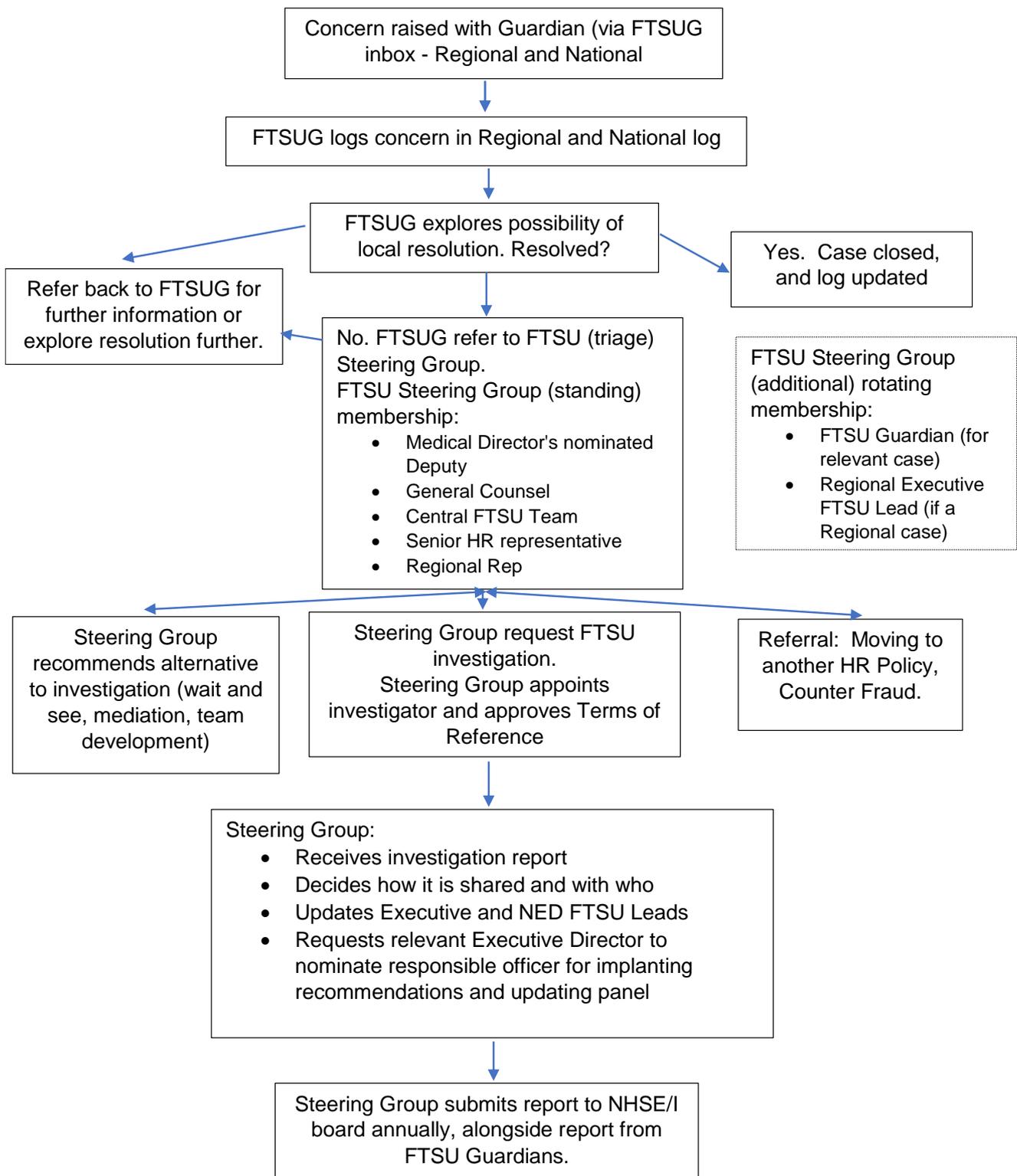
## Advice and support

Details on the local support available to you can be found [here](#). However, you can also contact the [National Whistleblowing Helpline for Health and Social Care](#) or your trade union representative.

## How should I speak up?

You can speak up to 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.

## THE FREEDOM TO SPEAK UP (FTSU) PROCESS



## The FTSU Process

- The worker speaks up to the FTSU guardian.
- The concern is logged on the regional or national log.
- The FTSU Guardian explores the possibility of local resolution.
- If there is resolution the case is closed and the log updated.
- If there is no local resolution the case is referred to the FTSU Steering Group (FTSUSG) for triage.
- There are three possibilities following referral to the FTSUSG. Either:
  - the FTSUSG refer the case back for further information or exploration of local resolution;
  - the FTSUSG requests an investigation; or
  - in some instances, the FTSUSG may recommend an alternative to investigation, for example mediation or team development. In some instances, the FTSUSG may refer the case to another HR policy, or for example, to counter fraud.
- If an investigation is requested, the FTSUSG will appoint an investigator and approve the terms of reference.
- Following investigation, the FTSUSG will:
  - receive the investigation report;
  - decide how and with whom it is shared;
  - update the executive, non-executive and, where relevant regional FTSU leads;
  - request the relevant director to nominate a responsible officer to implement recommendations and update the FTSUSG.

The FTSUSG will submit a report to the NHS England and NHS Improvement Boards annually, together with a report from FTSU Guardians.

### 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 accordance with them (see Appendix A).

We are committed to listening to our staff, learning lessons and improving the work we do and how we do it, which ultimately will be to the benefit of patients. On receipt the concern will be recorded in a central record and you will receive an acknowledgement within two working days from one of our FTSU Guardians. This record, held by our Guardians, 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. The Guardian will explore with you how your concern might be resolved and will work with you on the actions to achieve this. However, if this is not appropriate, or such attempts have been unsuccessful, the FTSU Guardian will refer the case to a (confidential) FTSUSG.

Where a concern is raised in a directorate or region, the relevant corporate or regional executive director will be informed of the concern or question unless there is reason not to do so.

## **FTSU Steering Group (FTSUSG)**

The role of our FTSUSG at this stage is to decide what action is necessary to resolve the concerns. The Steering Group may:

- request further information from the FTSU Guardian;
- ask the FTSU Guardian to make further attempts at resolution;
- Refer the case to an alternative process (eg, HR, safeguarding, counter-fraud etc), requesting notification of the outcome of that process;
- Commission mediation; and/or
- Commission an investigation and draft the Terms of Reference.

The role of the Group is to bring their FTSU and HR expertise to ensure a prompt multi-disciplinary decision-making point on behalf of our FTSU national executive lead. The FTSUSG membership will be strictly limited to maintain confidentiality and its standing members are:

- appointed deputy for our (internal) FTSU national executive lead;
- senior member of the central FTSU team;
- senior HR representative;
- General Counsel; and
- regional lead where relevant.

In addition, the relevant FTSU Guardian will be invited to attend the FTSUSG regarding cases that it refers. Where a case relates to a region, the regional FTSU Lead will be invited to attend the advisory group and contribute to the decision-making. The FTSUSG will be convened fortnightly and stood down if there is nothing to discuss.

It is important to stress that the name of the individual who spoke up need not be disclosed to the Group by the FTSU Guardian – it is the concerns raised that the FTSUSG will be focusing on.

The FTSUSG will keep the national executive lead updated monthly, but the involvement of the Group may be bypassed in exceptional circumstances. For example, if the concerns relate to the regional executive FTSU lead, the actions outlined for that individual will pass to the national executive lead. If the concerns relate to the national executive lead, the matter will be put to the Chief Executive and/or the nominated non-executive director. If the concern relates to the Chief Executive, the Chair will be engaged and agree with the non-executive lead the most appropriate actions.

## **Investigation**

Where you have been unable to resolve the matter with your line manager, we will investigate where we consider it proportionate to do so – 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). The investigation will be objective and evidence-based and will produce a report that focuses on learning lessons to prevent problems recurring.

The relevant executive director will be informed of the concern and the decision to investigate. The allocated investigator will contact the person raising the concern within three working days of being allocated the case, unless they have requested complete confidentiality (and the local guardian is unable to share their name with the investigator).

Any employment issues identified during the investigation will be kept separate and any relevant employment policies and processes followed. Findings will not be used as a basis for any disciplinary action. However, information gathered could prompt a further, HR investigation, if considered appropriate by the relevant executive director.

Every effort will be made to conclude investigations as quickly as possible, however, should the investigation last for a protracted period of time, we commit to updating you at least monthly, even if little progress has been made

### **Communicating with you**

We will treat you with respect at all times and will thank you for speaking up. 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 at least monthly, even if there is nothing new to discuss. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others). We will always ensure that the organisation learns from cases and makes improvements where we can. The investigator will submit their report to the FTSU Steering Group. The Steering Group will decide whether to accept the report and notify: the relevant executive director for the issue/area of concern; and the executive and non-executive FTSU leads (national and/or regional) as may be necessary (unless the concerns relate to any of these individuals).

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

The focus of the investigation will be on improving the service we provide. Where it identifies improvements that can be made, the relevant executive director for the area of concern will track them to ensure necessary changes are made and are working effectively. The executive director will also ensure lessons are shared with teams across the organisation, more widely, as appropriate. Where appropriate we will share organisational learning through staff newsletters and local staff fora.

### **Board oversight**

The NHS England and NHS Improvement Boards will be given summary information on an annual basis about issues that our workers have spoken up about through this policy and what we are doing to address any problems. We will include similar high-level information in our annual report. The Boards support staff raising concerns and want you to feel free to speak up.

### **Review**

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

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

In many circumstances the easiest way to get your concern resolved will be to raise it internally. Alternatively, you can speak up outside the organisation with for example:

- the Department of Health and Social Care;
- an MP;
- a legal adviser; or
- you can find a full list of prescribed bodies [here](#).

## **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), which are laid down by the Public Interest Disclosure Act. 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, [Protect](#) or a legal representative.

## Appendix A: Roles and Responsibilities

As part of this policy the following groups have a responsibility to participate in the process.

**Employees** are responsible for:

- Speaking up as early as possible and in line with this policy if they have a concern.

**Managers** are responsible for:

- Encouraging a climate of openness in which workers are comfortable to speak up in the knowledge that this will be handled promptly and in an appropriate manner.
- Listening to concerns, taking them seriously, ensuring they are escalated appropriately and dealt with thoroughly, fairly and promptly.
- Maintaining confidentiality and providing support to workers raising concerns.
- Ensuring staff are aware of this policy and including information on Freedom to Speak up in local induction materials.
- Encouraging staff to speak to them in confidence and maintaining confidentiality and provide support to staff speaking up. Communicate regularly with those speaking up.
- Addressing minor concerns quickly and report major concerns to appropriate senior management promptly for action.
- Communicate regularly with the person speaking up and advising them of progress.
- Seek advice where appropriate, escalating issues and engaging the support of a Freedom to Speak up Guardian where required.

**FTSU Guardians** are responsible for:

- Supporting staff to raise their concerns.
- Acting as independent and impartial source of advice to staff through listening to issues raised, and agreeing with the colleague speaking up, what might be the appropriate action to take.
- Liaising with relevant management colleagues to discuss the concern and what appropriate action managerial colleagues will take.
- Providing feedback to the person who has spoken up to tell them what action is being taken, and what the result of any investigation is.
- Recording and reporting speaking up issues to the regional/national board.
- Challenging our board or senior leadership teams about whether speaking up is resulting in learning and improvement.
- Liaising with the National Guardian's Office, taking advice and guidance on best practice.

**Human Resources** teams are responsible for:

- Providing advice and support to managers and individuals in the application of the policy and putting in place support plans for workers using the policy.

- Liaising with FTSU Guardians to help ensure FTSU investigations progress and do not overlap with other HR matters.

**Trade Unions** are responsible for:

- engaging in the development, review and monitoring of this policy; assisting members with enquiries.
- Supporting members through the process as required.

**National executive lead** is responsible for:

- Acting in a genuinely independent capacity to ensure workers feel confident in speaking up, safe in the knowledge they will be addressed confidentially, promptly and in line with best practice.
- Receiving and acting on concerns that have been raised, deciding whether to investigate, commissioning appropriate investigations with support from HR and Legal.
- Tracking any improvements identified as an outcome of an investigation onto concerns raised and ensuring necessary changes are made and are working effectively.
- Overseeing the creation of the FTSU vision and strategy.
- Operationalising the learning from speaking up issues.
- Ensuring instances where individuals may have suffered detriment for speaking up are promptly and fairly investigated and acted on providing the board with a variety of assurances about the effectiveness of the trust's strategy, policy and process.

**Regional executive leads** are responsible for:

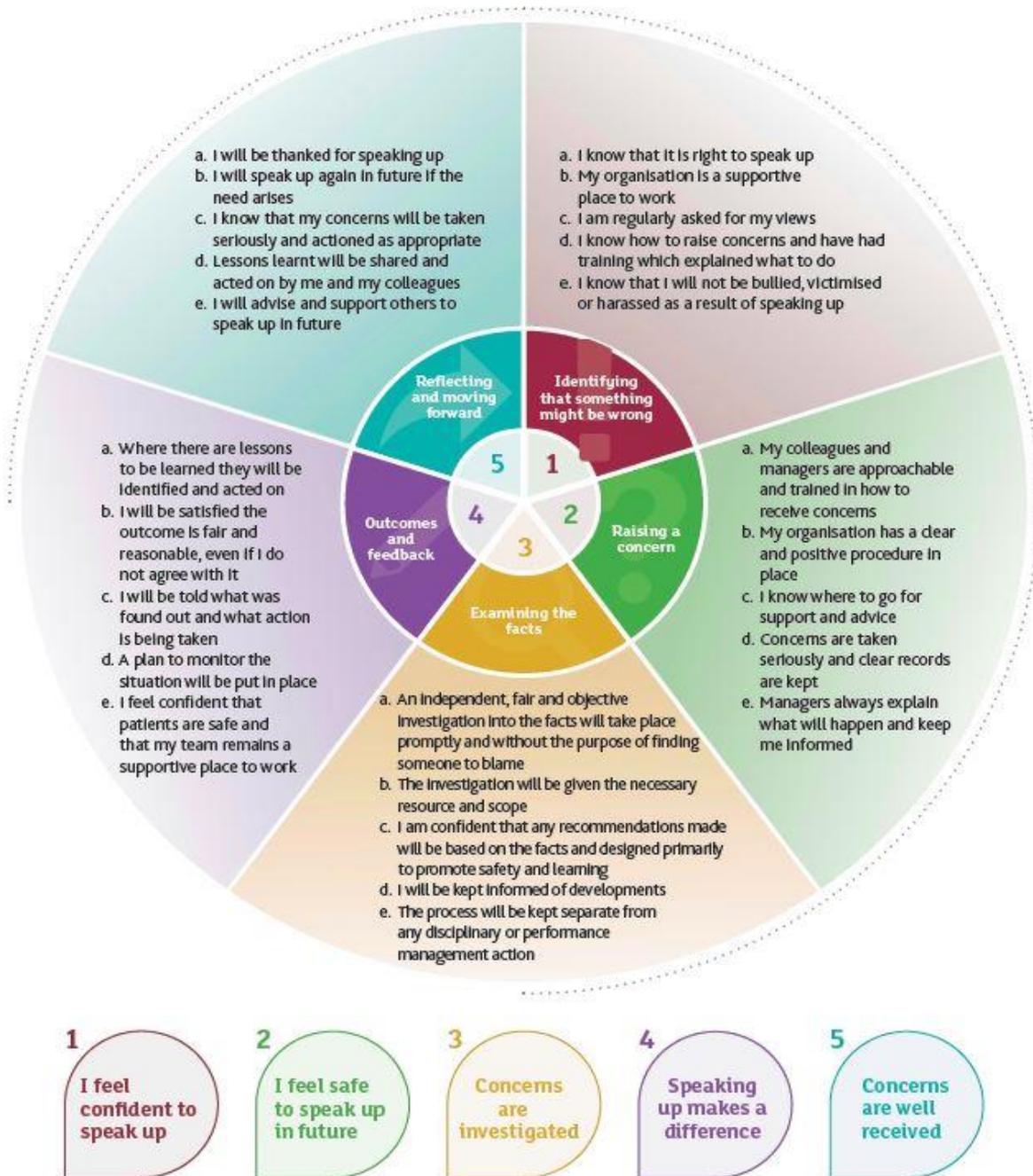
- Acting in a genuinely independent capacity to ensure workers feel confident in speaking up, safe in the knowledge they will be addressed confidentially, promptly and in line with best practice.
- Receiving and acting on concerns that have been raised, commissioning appropriate investigations with support from HR and Legal.
- Tracking any improvements identified as an outcome of an investigation onto concerns raised and ensuring necessary changes are made and are working effectively.
- Ensuring lessons learnt are shared with teams across the region or more widely as appropriate.

**Non-executive lead** is responsible for:

- Challenging the executive and the board to create a healthy and effective speaking up culture.
- Acting as an alternative source of advice and support for the FTSU Guardian.
- Overseeing speaking up matters regarding board members.

## Appendix B – Vision for raising concerns

Figure 4a - A vision for raising concerns in the NHS



## **Appendix C**

### **Regional Staff Fora Contact Details**

- 1. East of England – contact**
- 2. London – Contact**
- 3. Midlands**
- 4. North East**
- 5. North West**
- 6. South East**
- 7. South West**

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