

Speaking Up Policy (Raising Concerns/Whistleblowing)

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Contribution List

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Values are essential to West Hertfordshire NHS Trust as they describe the way we work and our vision to deliver **“the very best care for every patient, every day”**. Our values are at the heart of what we do and ensure we provide consistency across the Trust and within all our services. All staff must adhere to the Trust values, whatever their role or duty and incorporate the values in all the work they do for WHHT.

Our values are **Commitment, Care and Quality**.

Quality

- Working together to provide the best possible service we can for our patients and their families
- Striving to deliver best practice and best possible outcomes for all
- Seeking to improve what we do as an organisation and completing all activities to agreed standards
- Expecting ourselves and each other to produce high quality work based on evidence of what works
- Acting in a professional manner at all times
- Being part of a team that takes pride in their work and their environment

Care

- Making sure that we consider the impact of our decisions on the care of **all** patients
- Treating everyone with kindness, compassion, courtesy and respect
- Listening, and communicating in a way that is clear, straightforward, effective and inclusive
- Recognising vulnerability and showing empathy
- Supporting and working with others to provide joined-up, compassionate care
- Caring for each other, looking after our own wellbeing and that of our colleagues

Commitment

- Doing things that are going to make a positive difference
- Being dedicated, motivated and optimistic and looking to the future
- Not being afraid to do things differently or to challenge
- Doing the right thing at the right time in the right place
- Being flexible when needed, going the extra mile and delivering on our promises
- Taking responsibility for personal development and performance

It is every employee’s responsibility to work in a way that is consistent with these values in delivering every element of their role, taking us forward in delivering our mission. Trust policies need to adhere and embed our values. Also see Trust Behaviour Standards on the Intranet for further information.

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1. INTRODUCTION

Speak up – we will listen

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

You may feel worried about raising a concern, and we understand this. But please do not 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.

This policy provides a formal process and guidance for staff and volunteers who have genuine concerns about what is happening at work, or where concerns already raised have not been dealt with appropriately. The Trust places a high importance on safeguarding its patients, staff and the public and we need the combined efforts of all staff to do this effectively.

This policy incorporates the Trust's whistleblowing and raising concerns procedure. Whistleblowing is a term often used where a person involved with the organisation raises a concern about the conduct of others in the organisation or the way in which the organisation is run. It is linked to the Public Interest Disclosures Act in 1998 (often called the "whistleblowing law") which provides protection for whistleblowers who report concerns about wrongdoing in the workplace.

2. OBJECTIVES

In line with Trust values of Commitment, Care and Quality, this procedure is intended to provide a mechanism through which anyone engaged within the Trust can speak up about patient safety issues or malpractice safely with the assurance and confidence that their concern will be looked into thoroughly and appropriate steps taken. The policy also demonstrates our assurance to protect staff who raise concerns under this policy and that they will not be at risk of losing their job or suffering victimisation or detriment in anyway. It also attempts to define the type of concerns which fall under this policy and the breadth of scope that this policy applies to, though this is not an exhaustive list.

The Trust believes that every employee has a duty to raise concerns at the earliest reasonable opportunity about the provision of care or any other malpractice (such as a risk to patient safety, fraud or breaches of patient confidentiality) where care and/or behaviour/conduct is believed to be inadequate or unacceptable in order for lessons to be learnt and improve patient care. In addition our staff have duties imposed upon them to raise such concerns by their respective professional regulatory bodies, such as the GMC, NMC, etc.

Anybody making a qualifying disclosure under this policy will be protected from detriment for having made the disclosure. It is safe for all those engaged with the Trust to raise concerns appropriately. Victimisation of anyone who has made a qualified disclosure will be unacceptable and treated accordingly. This assurance will not be extended to employees where it is later established that there was a malicious intent.

3. SCOPE

This policy applies to all those involved with the Trust, including permanent employees, those working through NHSP or an agency, volunteers, students, those on honorary / fixed term contracts, providers, suppliers.

4. DEFINITIONS

<p>Whistleblowing</p>	<p>The disclosure of serious risks, criminal activity or any form of malpractice in the workplace e.g.</p> <ul style="list-style-type: none"> • Ill treatment of a patient or employee • Avoidable harm to patients, staff or members of the public, this may include emotional and physical harm or neglect • A healthcare professional being instructed to perform an activity which they do not feel safe doing or that they are unqualified/trained to perform • Displaying a disregard for policy or legislation • Safeguarding concerns about adults or children regarding an employee • Suspected fraud / corruption/bribery offences
<p>Public Interest Disclosure Act 1998</p>	<p>Legal protection is provided for staff who legitimately raise concerns known as “qualifying disclosures”. To be a qualifying disclosure it needs to be made in the public interest and there should be a reasonable belief that one or more of the following has been, is being or is likely to be committed:</p> <ul style="list-style-type: none"> • a criminal offence • a miscarriage of justice • an act creating a health and safety risk • an act causing damage to the environment • a breach of a legal obligation • concealment of the above

5. RESPONSIBILITIES

5.1 Designated Directors

- Ensure that contact details are widely known in order that staff feel able to speak to them, raise any issues and whistleblowing concerns
- Ensure the issue is clearly understood, taking care to keep the information and arrangements confidential
- Regularly monitor and report to the Trust Executive Board matters and any risks arising under the scope of this policy

5.2 Freedom to Speak Up Guardian

- Work with the CEO and Board to help create an open culture which is based on listening and learning, not blaming
- Be entirely independent of the executive team, so able challenge senior members of staff, reporting to the Board or externally as required

- Be visible to 'front line staff', providing expertise in developing a safe culture which supports and encourages staff to speak up using local procedures and if necessary advising them how to raise concerns, including externally
- Act in an independent and impartial capacity, listening to staff and supporting them to raise concerns they may have by using the available structures and policies, both within the Trust and outside
- Independently review any complaints from employees about the way they have been treated as a result of raising a concern and report back to the individual and, with their agreement, to their manager, the CEO and Director of HR
- Ensure employees who speak up are treated fairly through the investigation, inquiry and or review and that there is effective and open communication during this time and post review as a result of speaking up
- Hold the Director of HR and the Chief Nurse to account on timely resolution of the issues raised
- Assure the board that issues raised are being dealt with in a timely and appropriate way and that learning is acted on by the organisation
- Review each case for learning and actions
- Provide assurance to the Board on process, learning and outcomes

5.3 Line Manager Responsibilities

- Ensure staff and students understand how to raise a concern and who they can talk to in the organisation
- Take all concerns seriously, consider fully and sympathetically, recognising that raising concerns can be a difficult experience
- If a student raises a concern then please follow process outlined in Appendix 1 which highlights the need to inform HEI and Trust Education team
- Investigate concerns that are brought to their attention
- Provide advice, support and feedback to the individual/s who have raised concerns
- Liaise with senior managers and directors to escalate matters that require further investigation
- Create an open and safe atmosphere where staff feel their views, regarding the effective and safe delivery and service to our service users, will be welcomed and not seen as an opportunity to learn and consider how services can be improved. Equally, there is a need to share good news stories and celebrate successes

5.4 Employee/Student Responsibilities

- Raise concerns in line with Trust policy and Trust values
- Provide information if they have it to evidence concerns
- Act honestly at all times

5.5 Human Resources Responsibilities

- Provide advice, guidance and support to staff and managers regarding the use of the policy
- Ensure up to date information and resources are available on the Employee Relations Toolkit Intranet site
- Log and report cases on the confidential ER Tracker system as FTSU cases including a log of all confidential case notes

- Send a summary of main findings, actions with dates and recommendations to the FTSU Guardian of all cases
- Report FTSU cases to Workforce Committee including a brief summary of findings, actions and recommendations
- Communication and promotion of the FTSU service
- Write reports for the National Guardian Office as required
- Once an incident has been investigated a letter will be sent to the individual thanking them for raising their concern and a summary of action taken.
- For issues raised by students, a copy of the outcome letter will be sent to the HEI

6. CONCERNS THAT SHOULD BE RAISED UNDER OTHER POLICIES

Whistleblowing concerns are different from grievances. Grievances relate to an employee's own employment and have no additional public interest, and in these instances, the employee should refer to the Grievance Policy. Similarly, employees who believe they are being bullied or harassed must refer to the Bullying and Harassment Policy and seek appropriate support. All HR policies are available on the Employee Relations section of the intranet at: http://wghintra01/human_resources/policies_and_procedures.asp

7. PRINCIPLES

NHS employees have a contractual right and duty to raise genuine concerns with their employer. In addition employees have a duty to raise concerns by their respective professional regulatory bodies, such as the GMC, NMC, HCPC, etc.

It is not necessary for employees to have proof of the act - a reasonable belief is sufficient. Providing employees have acted honestly, it does not matter if they are mistaken or there if there is an innocent explanation.

Employees have no responsibility for investigating the matter. It is the Trust's responsibility to ensure that an investigation takes place. The focus of the investigation will be on improving the service provided to patients. Where it is identified that improvements can be made, the Trust 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.

If an employee is not sure whether or not to raise a concern, they should seek advice from a manager, the Employee Relations team, a staff side representative, Freedom to Speak Up Guardian.

In all cases, employees are encouraged to raise the concerns within the Trust rather than overlooking a problem or 'blowing the whistle' outside.

The board, Chief Executive and the trade unions are committed to this policy. If an employee raises a genuine concern under this policy they will not be at risk of losing their job or suffer any detriment.

The Trust will not tolerate the harassment or victimisation of anyone raising a concern and this could result in disciplinary action. Similarly an instruction to cover up wrongdoing is itself a disciplinary offence.

The Trust will consider it a serious disciplinary matter if an employee was found to **knowingly** make a **false** allegation under this policy.

8. CONFIDENTIALITY AND ANONYMITY

With all of the above assurances, it is hoped that employees will raise their concerns openly. However, there may be circumstances when employees may request that their identity is not disclosed. In this case, the Trust will not disclose their identity without their consent unless required by law. If there are difficulties investigating the concern without sharing the identity of the whistleblower, the Trust will discuss this with the individual how best to proceed.

Employees may choose to raise a concern anonymously without giving anyone their name. This will make it more difficult to investigate thoroughly and give appropriate feedback on the outcome.

Anybody participating in an investigation/review will be expected to maintain confidentiality regarding any investigation. In extreme circumstances e.g. ongoing fraud, the Trust reserves the right not to inform the employee(s) being investigated until absolutely necessary.

9. HOW TO RAISE A CONCERN

Employees can raise their concerns either in person, by phone or in writing (including email), explaining as fully as they can the information and circumstances that gave rise to the concern. There are a number of options available to employees as set out below:

Option A - Speaking to the person directly

Employees should only use this option if they feel safe to do so and/or if the act has caused a risk of malpractice occurring rather than actually occurred yet. There is no requirement to have used this route first before choosing another route. However, this route could be useful where an employee thinks something is not right and feel able to speak to the person directly who may then be able to clear the concerns directly. It could also be that they were unsure of the implications of their actions and appreciate your input. Employees should not use this option if their concern relates to financial malpractice or fraud.

Option B - Speak to your line manager or a more senior manager or a professional lead

Any concerns can be raised by employees with their line manager verbally or in writing. If employees have a reasonable belief that their line manager is involved, or for any reason they do not wish to approach their line manager, then they should raise it with a more senior manager or professional lead directly.

The manager / senior manager or professional lead will make enquiries and will feedback to the employee on the relevant action/s taken. This could be, for example, that there was an innocent explanation and therefore no action to be taken, a different policy is more applicable or that a formal investigation is required under a more appropriate policy e.g. disciplinary policy.

If an employee has a concern in relation to abuse, neglect or ill treatment of an adult or child by a member of staff, it must be reported to the Safeguarding team:

Named Nurse for safeguarding adults – 07979 454 891

Named Nurse for safeguarding children – 07747 792 742

Students can raise a concern with their mentor or person in charge of their ward or department or with a member of the Trust Education team or their HEI.

Option C - Speak to designated Directors

If an employee feels unable to raise the matter through route A or route B or if after exhausting either route, they feel the concern has not been dealt with or is still occurring; they can raise the matter with the designated directors as below:

For patient or client care/delivery of service: Chief Nurse on ext 8230

For all other concerns: Director of Human Resources & OD on ext 8275

The designated Directors have been given specific responsibility for dealing with whistleblowing concerns. They will nominate a contact who will assess and consider what action may be appropriate. There may be an informal review, an internal enquiry or a more formal investigation.

The Trust recognises that it is difficult to set target timeframes for investigating concerns raised under this policy as the timeframes for investigation will differ depending on the nature of concern raised. Where it is deemed appropriate that the concerns will be investigated under a different Trust policy or procedure, the relevant timeframes of the associated policy will apply.

Following the review, the designated Director will feedback to the employee on any relevant action to be taken. This could be for example, that there was an innocent explanation and therefore no action to be taken, or a different policy e.g. bullying and harassment or other relevant procedure is more applicable or that a formal investigation is required under the disciplinary policy etc.

Whenever possible, feedback on the outcome of any investigation/enquiry will be given to the employee raising the concern. However precise actions taken may not always be disclosed where this would infringe a duty of confidence owed to another person.

Option D - Contact the Chief Executive

If route B and route C have been followed and the employee still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, they should contact the Chief Executive in writing giving as much detail as possible. The Chief Executive, can be contacted by writing to Chief Executive, Trust Offices, Willow House, Watford General Hospital, 60 Vicarage Road, Watford, Herts, WD18 0HB (Please mark the letter **Private and Confidential**).

In this case the Chief Executive will assess whether route C was followed and refer to the designated directors in the case that it was not. If it was, they may nominate another contact to undergo the process and investigate independently.

Option E - Contact the Freedom To Speak Up Guardian / Non Executive Director

If route B, C and D have been followed and the employee still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above; they should contact the Freedom to Speak Up Guardian via email at ginny.edwards1@nhs.net or wherts-tr.speakup@nhs.net

The FTSU Guardian will act as an independent voice and board level champion for those who raise concerns and assess whether route C was followed. The NED will refer to the designated directors in the case if it was not referred to them initially.

Option F- Contact the Chair

If route B, C D and E have been followed and the employee still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, they should contact the Chair of the Trust in writing giving as much detail as possible about their concern. Employees can contact the Chair by writing to Chairman's office, Willow House, Watford General Hospital, 60 Vicarage Road, Watford, Herts, WD18 0HB (Please mark the letter **Private and Confidential**).

In this case the Chair will assess whether route C was followed and refer to the designated directors in the case that it was not. If it was, they may nominate another contact to undergo the process and investigate independently.

10. INDEPENDENT ADVICE

The following teams / bodies can offer independent advice if employees are unsure about whether to use this policy or if they want confidential advice at any stage of the process.

- **The Employee Relations Team** can provide independent advice on which policy is most appropriate for the concern to be raised and can advise on the most appropriate way to raise the concern. Please contact the Trust's HR FTSU Lead on 01923 436414.
- **Trade Union Representatives** can provide independent and confidential advice on the matter and process and offer support as appropriate
- **Public Concern at Work (PCaW)**, is an independent whistleblowing charity, which offers advice to NHS Staff who witness wrong doing at work, who are unsure whether or how to raise concerns. Employees can call the helpline for free, confidential advice. Further information and guidance is available on 020 7404 6609 or emailing whistle@pcaw.org.uk
- **The National Whistleblowing Helpline** is a free-phone service for employees working within the NHS and social care sector. The helpline provides free, confidential advice to staff that witness wrongdoing and are unsure whether or how to raise their concern. Call 08000 724 725 or email enquiries@wbhelpline.org.uk
- **Whistleblowing Line** via the Employee Assistance Programme offer a totally safe service for staff to use and can remain anonymous if they wish. The purpose of the service is to give reassurance that it is safe to speak out, that you will know that you can remain anonymous if you wish, and that the information will find its way to the relevant senior manager. Their aim is to make this as easy, reassuring and straightforward a process as possible. To raise a concern either call 0800 197 2814, email blowingthewhistle@cic-eap.co.uk or visit the website - www.blowingthewhistle.co.uk
- **NHS Counter Fraud Line** offer advice if the concern relates to financial malpractice. Call 0800 028 40 60
- **Prescribed Persons** - The Prescribed Persons Order 2014 sets out a list of over 60 organisations and individuals that an employee may approach outside their organisation to report suspected or known wrongdoing. The organisations and individuals on the list have usually been designated as prescribed persons because they have an authoritative or oversight relationship with the sector, often as a regulatory body. An up-to-date list can be found here: (<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2>)

11. SUPPORT FOR STAFF

If an employee feels stressed or anxious as a result of raising an incidence or practice, the Trust has dedicated Occupational Health department that provide services to promote staff wellbeing and assist staff with any personal issues or problems. Occupational Health can be contacted on 01923 217304.

The Trust also offers an employee assistance programme, offered by Confidential Care. This is a free and confidential information, support and counselling service available to all Trust employees. Whether you're after practical advice or emotional support with either work or personal issues, they can offer independent, free and expert guidance. You can access the website at www.well-online.co.uk where you can find a range of information and practical help. You will need the Trust's username which is: WHHTlogin and the password is: wellbeing. Alternatively, you can call them anytime, day or night, on 0800 085 1376.

Managers also need to be mindful that pressures and change can sometimes contribute to mental health issues. Indicators of stress, depression and other mental health problems need to be recognised where possible and support offered as appropriate. (Training available on mental health first aid programme – check with Wellbeing Manager for dates).

Specific support will be available for students by the Trust Education Team and their HEI.

12 EVALUATION MEASURES – MONITORING AND AUDIT

The Employee Relations team will record all FTSU cases on the confidential tracker, along with correspondence, outcomes and risks highlighted. All FTSU cases will be monitored through the Workforce Committee and reported to the Board on a quarterly basis.

The policy will be reviewed by either the Head of Employee Relations or the Employee Relations Team Manager within three years (or earlier to reflect any legislative changes).

13 REFERENCES

NHS Employers. 2016. Freedom to Speak Up Hub [online]. [Accessed on 9th September 2016]. Available from:

<http://www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-work-and-whistleblowing/freedom-to-speak-up-guardian-hub>

NHS Improvement – Freedom to Speak up:Raising Concerns policy for the NHS April 2016

NHS Employers. 2016. Draw the Line Campaign [online]. [Accessed 1st November 2016]. Available from: <http://www.nhsemployers.org/case-studies-and-resources/2015/03/draw-the-line-managers-guide>

14 RELATED POLICIES

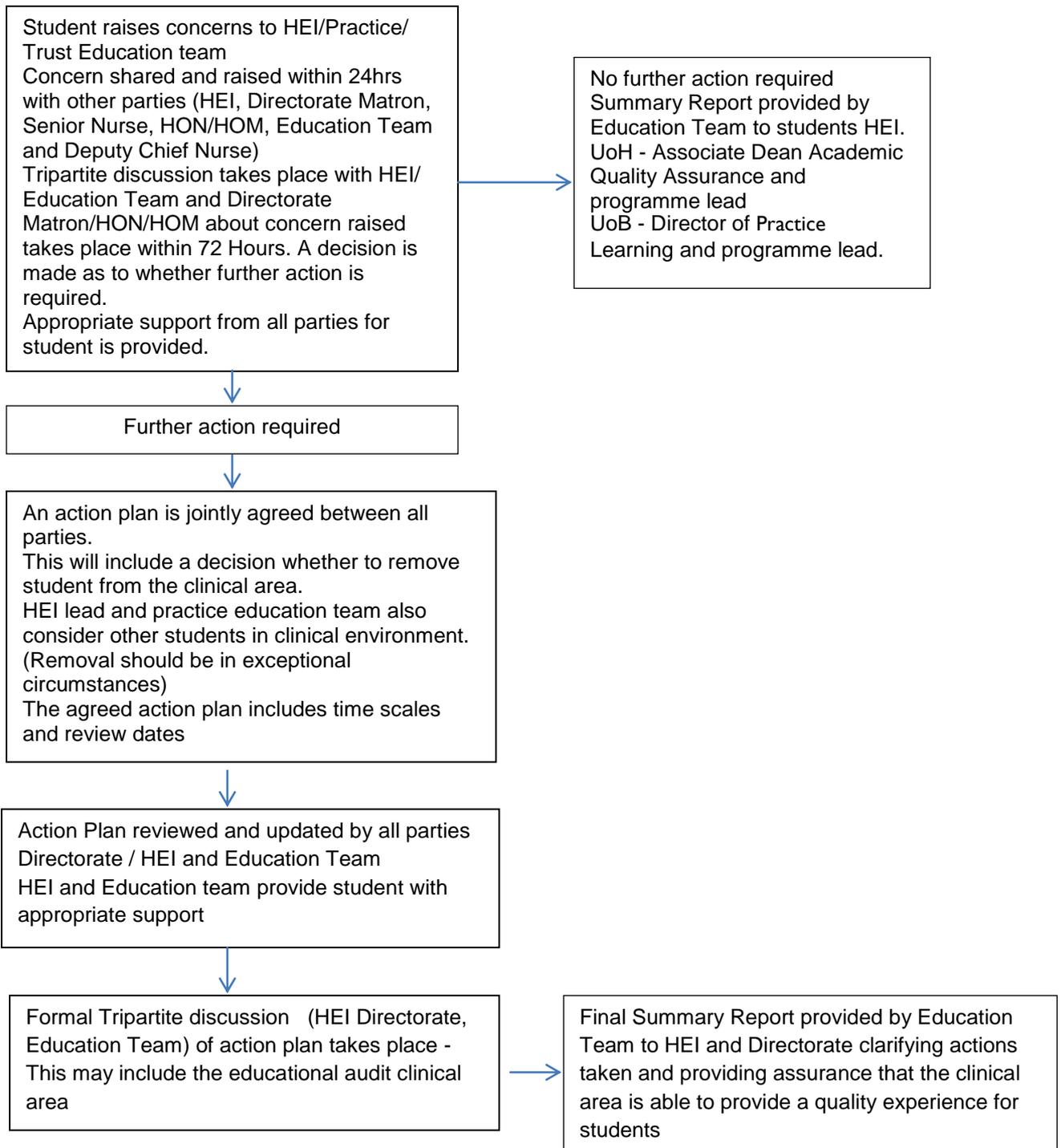
Maintaining High Professional Standards in the NHS
Grievance Policy
Disciplinary Policy

Bullying & Harassment Policy

15 EQUALITY IMPACT ASSESSMENT

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	Race	No	
	Ethnic origins (including gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
	Marriage & Civil partnership	No	
	Pregnancy & maternity	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	n/a	
4.	Is the impact of the policy/guidance likely to be negative?	n/a	
5.	If so can the impact be avoided?	n/a	
6.	What alternatives are there to achieving the policy/guidance without the impact?	n/a	
7.	Can we reduce the impact by taking different action?	n/a	

Flow Chart of Actions to be taken following a Concern raised by a student in the clinical placement area



- ❖ *Students should not be asked to write statements without contacting the Trust Education Team and HEI (who would support the student to write a contemporaneous, factual and objective account).*
- ❖ *Students should not be expected to attend meetings within the Trust unless accompanied by a member of their HEI*