Speaking Up in the NHS
Building an effective whistleblowing culture in Trusts
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Improving patient safety and preventing avoidable harm must be the priority for every healthcare organisation. Today’s NHS recognises that key to achieving this is the creation of an open culture where staff and patients can speak up freely and, where necessary, have access to robust, independent whistleblowing systems. Creating such an environment means poor practice and unsafe behaviour are more likely to be identified sooner and dealt with before serious harm is done.

Regulators are increasingly looking for clear evidence that the senior management of every Trust has taken steps to create a ‘speak up’ culture and has whistleblowing systems in place which follow best practice, drawing on experience from within and outside the NHS.

Patients, too, want to be assured that they and their families – as well as staff – can speak up about concerns they may have.

Our work over more than a decade, assessing more than 100 whistleblowing mechanisms in 60 countries, has taught us that an effective whistleblowing mechanism is just part of the jigsaw. Other elements need to be in place if a Trust’s leadership is to be assured that they have maximised the opportunities for staff to alert them to poor or dangerous practice.

The first step is to create an ‘open-door’ culture in which staff feel able to raise concerns directly with their managers, and know they will not suffer adverse consequences for doing so. This requires clear communication from the top of the Trust and leadership by example, demonstrating that where individuals have raised legitimate concerns these are acted on and the individual raising them is commended, not punished.

A key risk for whistleblowing systems is that they become swamped with individual grievances – about pay, appraisal or performance. This discredits the system in the eyes of those who are supposed to administer it and too often means genuine issues are ignored in the mass of personal complaints.

The best solution to this is to have a separate, credible, grievance procedure for handling individual complaints. This leaves the whistleblowing mechanism clear to handle issues of general concern.

The whistleblowing system itself must be carefully designed. To have credibility it needs to be as independent as possible from mainstream management, and consideration should be given to using an external provider to run the phone line, email address and website which will be required. Another issue is whether the mechanism will accept anonymous cases: clearly, doing so increases the chance of both legitimate complaints and vindictive claims being used to settle individual grudges.

Integrated well and communicated effectively, these three elements combine to create a powerful ‘speak up’ culture in which staff and patients speak up about their concerns early and see the issues they have raised examined fairly and, where appropriate, acted on.

Three Elements of an Effective Speak Up Culture

- An open-door culture so staff, patients and their carers feel they can raise concerns freely
- A credible grievance procedure for individual complaints
- A trusted whistleblowing mechanism for raising general concerns
To build an effective speak up culture, each Trust is well advised to begin with a comprehensive, objective assessment of where it stands now, looking at policies and procedures; the attitudes and behaviour of senior staff; and - perhaps most important - the views of front-line staff on current whistleblowing and grievance procedures, and whether they feel able to speak up.

GoodCorporation has developed a Whistleblowing Framework (see next page), against which an organisation’s current situation can be assessed. It draws on our own work undertaking more than 100 reviews of whistleblowing mechanisms around the world, and also on work done by Public Concern At Work’s Whistleblowing Commission, which published a draft Code of Conduct in 2013.

We use the Standard as a basis for assessing where a Trust stands today and what improvements need to take place. Such an assessment combines face-to-face interviews with senior staff - the CEO, HR Director, Medical Director, Director of Nursing and others as appropriate - with a review of current policies. It also involves structured interviews and focus groups with more junior staff to understand whether and why they feel able to ‘speak up’. The assessment is then used to create a clear action plan. The whole process is set out below.

The programme provides a clear baseline assessment of where a Trust currently stands in terms of a genuine ‘speak up’ culture, and a deliverable plan for improving the situation to comply with best practice.
The GoodCorporation NHS Trust

GoodCorporation has developed this evaluation Framework to help NHS Trusts ensure staff, patients and their families are able to raise concerns about the organisation's activities without fear. The core whistleblowing contents of this Framework are based on the proposed Code of Practice from Public Concern at Work’s Whistleblowing Commission Report (November 2013).

Leadership

*The Trust promotes an open-door culture where issues and concerns are discussed openly and without fear of recrimination or detriment.*

1. The top management of the Trust demonstrates a clear commitment to an open-door culture where staff, patients and their families can raise concerns without fear.

2. Overall responsibility for the open-door culture of the Trust rests clearly with the senior management team.

3. There are effective employee communication processes in place.

4. There are effective employee consultation processes in place.

5. Employees, patients and their families, and other stakeholders are encouraged to raise any concerns openly with the Trust’s management.

6. Employee appraisals are used to reinforce the Trust’s open-door culture.

Grievance Policy

*The Trust has a policy so that employees can raise grievances where they believe that the Trust has not treated them fairly.*

7. There is a clear written policy covering the raising and handling of employee grievances.

8. The grievance policy includes a clear process to ensure that all grievances are fairly assessed and managed.

9. The grievance policy confirms that employees will not suffer detriment for having raised a legitimate grievance.

10. There is a clear whistleblowing policy covering the raising, handling and investigation of serious concerns. All such concerns are managed confidentially.

11. The whistleblowing policy is managed as independently as possible from the day-to-day running of the Trust.

12. The whistleblowing policy covers the disclosure of dangers, risks, malpractice or wrongdoing that affects others.

13. The whistleblowing policy is open to all relevant stakeholders and identifies to whom concerns should be raised and how they should be raised.

14. The whistleblowing policy sets out how and by whom concerns will be handled and investigated.

15. Investigations are carried out confidentially, impartially, thoroughly and against a defined timeframe.

16. Proper records are maintained for all cases and investigations.

17. Whistleblowers are kept informed about the investigation process as far as possible.

18. Whistleblowers are informed, where appropriate, of the outcome of the investigation.

19. The whistleblowing process keeps the whistleblower’s identity confidential if requested, unless disclosure is required by law.
20. The whistleblowing policy confirms that the whistleblower will not suffer detriment for having raised a concern, unless it is proven that the whistleblower knowingly provided false information.

21. The whistleblowing policy encourages the whistleblower to report any detriment suffered for having raised a concern.

22. The whistleblowing policy clearly indicates that any employee who subjects a whistleblower to detriment for raising a concern will be sanctioned.

23. The whistleblowing policy informs whistleblowers that they are entitled to independent advice and explains how to access it.

24. The whistleblowing policy makes clear whether anonymous reporting is allowed and how anonymous reporting will be handled.

Feedback, Monitoring and Independent Oversight

The Trust supports its open-door culture, grievance policy and whistleblowing policy with monitoring, feedback and independent oversight.

27. The Trust conducts periodic audits of the effectiveness of its approach to receiving and handling concerns, grievances and whistleblowing cases.

28. The Trust obtains feedback from employees on a periodic basis on the awareness and effectiveness of its open-door culture, grievance policy and whistleblowing policy.

29. There is independent oversight and review by the Board (or, in the case of a Foundation Trust, the Governors) of the Trust’s approach to receiving and handling concerns, grievances and whistleblowing cases.

Communication and Training

The Trust reinforces its open-door culture, grievance policy and whistleblowing policy with effective communication and training.

25. The Trust’s open-door culture, grievance policy and whistleblowing policy are clearly communicated internally, with the whistleblowing policy also communicated externally.

26. There is regular and clear training for employees on the Trust’s open-door culture, grievance policy and whistleblowing policy.

27. The Trust’s published annual report includes information about the effectiveness of the whistleblowing policy.

This Framework assesses the robustness of an organisation’s processes for enabling stakeholders to raise concerns about its activities without fear. It is not intended to serve as legal advice or as a tool for investigating specific incidents or allegations of malpractice.
NHS Leaders on the importance of Speaking Up

“Those who speak up when things go wrong in the NHS should be welcomed for the contribution they can make to patient safety.”

Sir Robert Francis QC, Chair of Independent Review of NHS Whistleblowing
“I urge all employers and staff to work together towards embedding a culture in which it is the norm to report on problems and to act on them.”

Jeremy Hunt, Secretary of State for Health

“Protecting patients from harm and ensuring dignity of care, requires an open and transparent culture at all levels of the system, but getting it right is no easy task.”

NHS Employers

“CQC takes all whistleblowing concerns seriously and we are currently looking at how we can better use whistleblowing information in our new inspections.”

David Behan, Chief Executive, Care Quality Commission

“Recent evidence from the Keogh Review and the Parliamentary & Health Service Ombudsman suggests that trusts need to improve how they use complaints as indicators of quality performance and take action based on what they learn. Additionally, following the Grant Thornton report into the Care Quality Commission’s actions in relation to Morecambe Bay NHS Foundation Trust, whistleblowing procedures have come under increasing scrutiny.”

Monitor
GoodCorporation is a leading business ethics consultancy which over the past 14 years has worked with more than 100 organisations to assess and improve their ethical behaviour, including their whistleblowing systems. We bring in-depth experience of working in a wide range of commercial and public-sector organisations including the BBC, the NHS and at the Department of Health.