

Meeting Title	Board of Directors		
Date	08.11.18	Agenda item	Bo.11.18.30

FREEDOM TO SPEAK UP QUARTER 1 REPORT 2018/19

Presented by	Karen Dawber Chief Nurse		
Author	Sue Franklin Associate Chief Nurse for Quality Improvement		
Lead Director	Karen Dawber Chief Nurse		
Purpose of the paper	This paper provides assurance to the Board of Directors in relation to the conduct and outcome management of the Freedom to Speak Up arrangements in the Trust		
Key control	This paper is a key control for the strategic objectives to provide outstanding care for patients and to be in the top 20% of NHS Employers		
Action required	To note		
Previously discussed at/ informed by			
Previously approved at:	Committee/Group	Date	
	Executive Management Team	21.08.18	
	Quality Committee	29.08.18	
Key Options, Issues and Risks			
This paper provides an update for the Board of Directors on Freedom to Speak Up (FTSU) at Bradford Teaching Hospitals NHS Trust ('The Trust').			
Analysis			
The paper describes the number of FTSU concerns that have been raised during Q1 2018/19. In addition the report provides a description of the new requirement, from May 2018, for the Board to self-assess against the national FTSU standards and an analysis of the of the outcome of a recent case review at Derbyshire Community Health Service Trust compared to the FTSU standards and processes at the Trust. This analysis demonstrated that that the Trust meets all the relevant recommendations or has plans in place to do so in the near future.			
Recommendation			
<ul style="list-style-type: none">For the Board to note the contents of the report and the concerns raised at BTHFT in Q1 via Freedom to Speak Up.For the Board to complete NHSI's recommendations of the National Guardian's office requirements to self-assess against the national FTSU standards.To note the on-going work of the FTSU group.			

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Risk assessment						
Strategic Objective	Appetite (G)					
	Avoid	Minimal	Cautious	Open	Seek	Mature
To provide outstanding care for patients		g				
To deliver our financial plan and key performance targets			g			
To be in the top 20% of NHS employers			g			
To be a continually learning organisation				g		
To collaborate effectively with local and regional partners					g	
The level of risk against each objective should be indicated. Where more than one option is available the level of risk of each option against each element should be indicated by numbering each option and showing numbers in the boxes.	Low		Moderate	High	Significant	
	Risk (*)					
Explanation of variance from Board of Directors Agreed General risk appetite (G)						

Risk Implications (see section 4 for details)	Yes	No
Corporate Risk register and/or Board Assurance Framework Amendments		✓
Quality implications	✓	
Resource implications		✓
Legal/regulatory implications	✓	
Diversity and Inclusion implications		✓

Regulation, Legislation and Compliance relevance
NHS Improvement: (Risk assessment framework, quality governance framework, code of governance , annual reporting manual)
Care Quality Commission Domain: (Safe, caring, effective, responsive, well led drop down)
Care Quality Commission Fundamental Standard:
Other (please state):

Relevance to other Board of Director's Committee:					
Workforce	Quality	Finance & Performance	Partnerships	Major Projects	Other (please state)
	✓				

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1 PURPOSE/ AIM

- 1.1 This paper provides assurance to the Board of Directors in relation to the conduct and outcome management of the Freedom to Speak Up arrangements in the Trust by:
- Providing an update, using the National Guardian's Office template, on Freedom to Speak Up (FTSU) and the progress in Q1 2018/19.
 - reporting on the number of concerns that have been raised via FTSU in Q1 2018/19.
 - including relevant updates from the National Guardian's Office (NGO) that have been received in Q1, any learning from case reviews, guidance and best practice.
 - including guidance from NHS Improvement and the NGO for boards on FTSU. NHS Improvement and the NGO have published a guide setting out expectations of boards in relation to FTSU to help boards create a culture that is responsive to feedback and focused on learning and continual improvement. The self-review tool will enable boards to carry out in-depth reviews of leadership and governance arrangements in relation to FTSU and identify areas to develop and improve (Appendix 1).

2 BACKGROUND/CONTEXT

- 2.0 One of the recommendations from Sir Robert Francis' *Freedom to Speak Up* review of the NHS, published in April 2015, was that each NHS Trust should appoint a Freedom to Speak up Guardian. The review sets out 20 principles and actions to ensure that NHS workers can speak up freely at work, without fear of detriment, to create a safer and more effective service for everyone.
- 2.1 Effective speaking up arrangements help to protect patients and improve the experience of NHS workers. Having a healthy speaking up culture is an indicator of a well-led Trust.
- 2.2 The FTSU Guardian has a key role in helping to raise the profile of raising concerns in their organisation and provide confidential advice and support to staff in relation to concerns they have about patients' safety and/or the way that the concern has been handled. The Trust's Freedom to Speak up Guardian is Karen Dawber, Chief Nurse, there is an identified Non-Executive Director lead and there are a number of Associate Guardians who have completed the national FTSU training.
- 2.3 Freedom to Speak Up sits within the Trust's *Policy of raising Concerns at Work (Whistleblowing)*.
- 2.4 The Care Quality Commission (CQC) assesses a Trust's speaking up culture during inspections under key line of enquiry (KLOE) 3 as part of the well-led question.
- 2.5 Since April 2017, the FTSU focus group has met monthly. This meeting is to update the FTSU group on any new updates from the National Guardian's office and also to discuss and monitor any ongoing FTSU concerns and issues.
- 2.6 When a concern is raised, a brief meeting is called of the FTSU group members available. Any conflicts of interest are asked e.g. direct line management and if there

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is, those guardians are not privy to the information. The group immediately discuss and allocate a FTSU guardian to oversee the concern and make contact with the person who has raised the concern, (unless it has been raised anonymously).

- 2.7 The FTSU group have a Human Resources (HR) link who they liaise with as/when necessary to discuss certain concerns that need HR support.
- 2.8 The National Guardian's office issues regular information and updates that are discussed at the monthly meetings to ensure that the Freedom to Speak Up focus group are using the most up to date information that the National office provide. It also directs how we listen to concerns and document those concerns.
- 2.9 There is also attendance at the FTSU regional network, Yorkshire and Humber quarterly meeting.
- 2.10 The National Guardian's office requests regular updates and currently requests quarterly reports (in a standard template) on the concerns raised from each NHS Trust. We have complied with this submission.

3 ANALYSIS

- 3.1 In Q1 2018/19 we have had **3** FTSU concerns raised, two were anonymous via the FTSU App, and one was to the speakup.guardian email in box.
- 3.2 The two concerns raised anonymously have been linked into a previous FTSU concern and have both been included in the Department's Quality summit that has recently taken place. The third concern raised was in regards to feeling that they were not being given the same opportunities as their colleagues. They are now raising this through their normal line management structure.
- 3.3 Number of FTSU concerns raised by staff group – As two of the three of the concerns were raised anonymously in this quarter there was not enough data to present in graph form. The National Guardians office was established in 2016 to support FTSU in NHS trusts. It has a list of priorities:
 - To support a strong regional network of FTSU Guardians. It highlights the NHS organisations that are successful in creating the right environment for staff to speak up safely and share their best practice across the NHS.
 - They will independently review cases where NHS organisations have failed to follow good practice and work with statutory bodies to take action when required.
 - The principles of the FTSU review will be used to assess how NHS Trusts have supported the freedom of their staff to speak up in particular cases.
- 3.4 The NGO has been working with the Care Quality Commission (CQC) to support its development of the inspection of how NHS hospitals are led to ensure that an assessment of speaking up is at the heart of the inspection. CQC inspectors' evaluation of how NHS Trusts support speaking up is an important element in their overall rating of how well led a service is.
- 3.5 The National Guardian's Office is a prescribed body under the Public Information Disclosure Act (PIDA) 1988. To be protected most disclosures must be made in good faith. Essentially this means the disclosure is made honestly so that the concern can be addressed. A disclosure made in good faith to the employer will be protected if the whistleblower has a reasonable belief the information tends to show that the malpractice has occurred, is occurring or is likely to occur. This means that where a

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worker makes a disclosure, which is a protected disclosure within the meaning of the PIDA legislation, they may be able to claim unfair dismissal at an Employment tribunal if they are victimised or dismissed for doing so.

- 3.6 In May 2018, NHSI and the NGO issued new guidance for boards on FTSU in NHS Foundation Trusts and a self-review tool for NHS Foundation Trusts, for all Boards to complete (Appendix 2).
- 3.7 In June 2017, the National Guardian's Office launched a 12 month trial of its case review process. The trial reviewed the handling of concerns and the treatment of people who have spoken up, where there is evidence that good practice has not been followed.
- 3.8 NGO Case review evaluation - While the 12 month period is now up, the evaluation of the case review pilot is not scheduled to take place until the second half of 2018. In the meantime the NGO team will continue carrying out case reviews and accepting referrals.
- 3.9 The evaluation will help them assess and refine the process, taking into account the feedback received from case referrers and others.
- 3.10 As there were only 3 cases raised in Q1, it is difficult to draw conclusions from the data. However, the promotion of FTSU within the Trust is ongoing throughout the year.
- 3.11 There is a new requirement, from May 2018, for the Board to self-assess against the national FTSU standards. There is a planned Board development session in September 2018 for this to be completed.
- 3.12 Appendix 3 includes the most recent case review completed by the National Guardian's office and a comparison has been made from the recommendations of the report.
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4	RISK ASSESSMENT
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- 4.1 The FTSU associate guardians have no protected time within their substantive roles to perform their associate guardian duties. The NGO annual report 2017 and the results of their survey said that they can see great benefits being drawn from the diverse experience and expertise of individuals who have been appointed to the role but it is important that the role is properly supported and resourced.

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4.2 This was also highlighted via an internal audit report as a potential weakness in the system. It has been agreed that the current level of concerns can be managed adequately. However, if there was to be a sudden influx of concerns we would need to address the resource requirements.

4.3 It must though be noted that the Guardian and one of the Associate Guardians have the FTSU role recognised within their roles and as part of their annual objectives.

5 RECOMMENDATIONS

5.1 To note the main themes and the important issues raised through FTSU.

5.2 To support the work of the FTSU groups to continue with the FTSU campaign including the raising awareness sessions and education for guardians.

5.3 For the Guardian (Chief Nurse) to lead on the Board self-assessment in September 2018 against the FTSU standards.

5.4 To continue with quarterly reports to the Quality Committee and update on progress against recommendations.

5.5 To note the recommendations from the case review and acknowledge the progress made with FTSU at BTHFT.

6 Appendices

FTSU self-review tool for NHS foundation Trust boards – May 2018 (Appendix 1).

Derbyshire Community Health Services NHS Foundation Trust – A case review of speaking up processes, policies and culture June 2018 (Appendix 2).

Appendix 3 is a comparison of the above case review against FTSU standards and processes at BTHFT.