

To The Board

For meeting on: 24 May 2018

Agenda item: 7

Report by: Ruth May, Executive Director of Nursing
NHS Improvement's Freedom to Speak Up Guardians

Report on: Freedom to Speak Up at NHS Improvement 2017/18

Summary

1. This paper is the annual report by the NHS Improvement Freedom to Speak Up (FTSU) Guardians (FTSU Guardians / Guardians) to the NHS Improvement board. It provides feedback on the Guardians' first year of work, asks for support and guidance on their future role and aims, and makes some recommendations for the board.

Background and introduction

2. The FTSU Guardian role is one of the recommendations from Sir Robert Francis' FTSU review in February 2015 into whistleblowing in the NHS, which identified very poor experiences for NHS staff who raised concerns. All trusts are required to appoint Guardians to support their staff raising concerns at work.
3. To 'walk the talk' NHS Improvement has appointed five FTSU Guardians to support our staff to raise concerns at work. This role¹ is undertaken by staff in addition to their normal roles – though protected time is made available. The FTSU Guardians began their role in April 2017. Currently 3 of our Guardians are London-based and 2 are based in the regional offices (Midland & East and the North). Initially, we were unsure how many concerns would be raised and whether any would be significant.

Freedom to Speak Up at NHS Improvement

4. The Guardians want to ensure that NHS Improvement staff feel encouraged, supported and valued when and for raising concerns about something that is

¹ During 2017/18 two of the guardians were on secondment at different times

happening in the workplace, and feel they can do so safely, without fear of repercussion. More broadly, the Guardians want to contribute to NHS Improvement becoming a more open and transparent place to work, where all staff feel included.

5. Our ambition is that relationships across the organisation will strengthen as a result of FTSU, and to provide the support for concerns to be resolved earlier by line managers. We believe this will increase staff satisfaction and help NHS Improvement to be more efficient and effective in supporting the NHS and the patients it serves.

Role of the NHS Improvement FTSU Guardians

6. The main responsibilities of the FTSU Guardians are to:
 - a. support our staff to raise concerns at work;
 - b. promote awareness of FTSU to staff in NHS Improvement;
 - c. listen and keep a record of concerns raised (confidential if desired);
 - d. where appropriate, ensure NHS Improvement arranges an appropriate investigation;
 - e. stay in contact with the individual during the process and ensure they are kept updated, and are supported;
 - f. report regularly to the board and provide challenge where they believe NHS Improvement is falling short; and
 - g. escalate concerns to our executive lead, Ruth May, and our nominated Non-Executive Director, Sarah Harkness, as may be appropriate.

What have we achieved so far

7. During the first year of operating the NHSI FTSU Guardians have:
 - a. supported four investigations (some of which were associated with multiple concerns), one of which was a significant external investigation;
 - b. met with staff who wanted to discuss or formally raise concerns;
 - c. promoted the FTSU Guardian offer, including:
 - i. FTSU section on the intranet and articles in Inside Improvement
 - ii. held 'open door' sessions in some regional offices for staff to raise; queries and explain our role; and
 - iii. visits to team meetings and away days, visits to other groups in NHS Improvement, including Trade Unions and our LGBT group.
 - d. attended the National Guardian's training course and attended meetings organised by the National Guardian;
 - e. further developed and expanded the FTSU Guardian policies and process maps, in particular in response to learnings from the first investigations. Formed as a team (from a standing start in April 2017) – this includes our Enquiries, Complaints & Whistleblowing team and the Board level support we receive from Ruth May and Sarah Harkness.

Summary of concerns that were raised during the year

8. Overall we recorded 12 concerns, and some of these were raised by more than one individual.
9. Of the 12 concerns raised two were attributable, one anonymous and the rest confidential.

Table 1 - Summary of concerns raised and related actions and outcome				
Directorate	Concern	Action taken	Number of concerns	Learning identified
<i>Improvement</i>	<i>Use of resources</i>	<i>Investigation ongoing</i>	<i>1</i>	<i>Ongoing</i>
<i>North</i>	<i>Disability related adjustments</i>	<i>Adjustments made</i>	<i>1</i>	<i>Situation dealt with by FTSUG once identified – no further interactions – successful outcome</i>
<i>Regulation</i>	<i>Procurement Staff Conduct</i>	<i>Investigation / Mediation</i>	<i>1</i>	<i>Improve communication and behaviours</i>
<i>Regulation</i>	<i>Staff Conduct NHSI Operating model</i>	<i>Investigation ongoing</i>	<i>1</i>	<i>Ongoing</i>
<i>Resources / Strategy</i>	<i>Staff/leadership conduct including unfair treatment, bullying, discrimination Use of resources Conduct and outcome of FTSU investigation</i>	<i>External Investigation Informal conversation with Senior Executives Create process guides for FTSU investigations</i>	<i>8</i>	<i>Clarification of FTSUG processes Work within team to improve: -Open and inclusive leadership -Collaborative working -Clear and consistent means of making and communicating decisions -Having transparent and consistent</i>

What we have learned and how we can improve

10. Key learnings and areas for improvement from our first year were:
 - a. we have not been able to reach as many NHS Improvement staff as we would have liked with our programme of roadshows;
 - b. there are eight directorates where no concerns have been raised;
 - c. improving the robustness of our processes for Guardians capturing,

- d. recording and responding to concerns ;
 - d. we would have liked to share more of the outcomes of investigations and any committed actions with the wider NHS Improvement staff; and
 - e. we would like to undertake a follow up (around 6 months) on any committed actions as a result of concerns raised to evidence and provide assurance to staff and the board that actions had been taken and resolved and if not to re-flag the concern.
11. The large proportion of concerns raised either confidentially or anonymously may indicate that some NHS Improvement staff (at least in some directorates) may not feel safe to raise concerns. This is a matter the Guardians will review further during their work programme in 2018/19.
12. See Annex 1 for related action points for the Guardians.

What our Guardians plan to do next year

13. Building on our initial experience with the FTSU process, the FTSU Guardians' priorities for next year are (see also Annex 1):
- a. to systematically promote the FTSU Guardian offer across NHS Improvement;
 - b. to specifically promote the FTSU Guardian offer in teams where HR, staff survey and other data indicates possible "hot spots" for concerns;
 - c. further improve and clarify the FTSU processes;
 - d. undertake a short staff survey to understand what works and does not work around the FTSU role/support; and
 - e. to follow up whether committed actions were implemented.

Decision required

14. The Board is asked to note the above plan for next year (see also Annex 1).
15. NHS Improvement recently published a guide for boards on FTSU and a self-review tool (see Annex 2) and NHS Improvement's Board should complete this. However, given the closer working programme between NHS Improvement and NHS England we propose that, at an appropriate juncture, such a review is undertaken jointly (or in co-ordination) with NHS England. The Board will be kept informed.
16. In addition, the board is asked to agree the following for 2018/19:
- a. All executive directors to commit to personally support the promotion of the FTSU Guardian process in their respective directorates; and
 - b. Subject to the outcome of the self-review, consider whether further work may be required to review the reasons behind any apparent reluctance for staff to raise concerns openly, and develop an associated action plan.

Annex 1 – Actions for Guardians

Table 1 below identifies the areas where we are planning to undertake work during 2018/19.

Table 1 Actions for FTSU Guardians for 2018/19

Goal	Actions to be taken	Deadline
Have NHSI FTSU Guardians in all regions Have NHSI FTSU Guardians from a wider range of minority groups (e.g. BME)	Raise the profile of the FTSU role and encourage people to apply	31/3/19
Continue to promote the Guardian offer – specifically promote the FTSU Guardian offer in teams where HR, staff survey and other data indicates possible “hot spots” for concerns.	Arranging a programme to visit all regional offices To Contac all teams to arrange to attend team and departmental meetings during the next 12 months	31/3/19
Improving the robustness of our procedures for recording and managing queries	FTSU guardians to meet regularly to review current procedures and opportunities for improvement	31/12/18
Regular feedback to the organisation on the FTSU programme	Report to the board every 6 months as recommended by the National Guardian	30/9/18
Survey the organisation on how the FTSU offering can be improved	Build this into either the NHSI staff survey or undertake a separate survey - use the findings to target our offering	31/12/18

How to use this tool

Effective speaking up arrangements help to protect patients and improve the experience of NHS workers. Having a healthy speaking up culture is evidence of a well-led trust.

NHS Improvement and the National Guardian's Office have published a [guide](#) setting out expectations of boards in relation to Freedom to Speak Up (FTSU) to help boards create a culture that is responsive to feedback and focused on learning and continual improvement.

This self-review tool accompanying the guide 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.

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. This guide is aligned with the good practice set out in the well-led framework, which contains references to speaking up in KLOE 3 and will be shared with Inspectors as part of the CQC's assessment framework for well-led.

Completing the self-review tool and developing an improvement action plan will help trusts to evidence their commitment to embedding speaking up and help oversight bodies to evaluate how healthy a trust's speaking up culture is.

Self review indicator (Aligned to well-led KLOEs)	To what extent is this expectation being met?	What are the principal actions required for development?	How is the board assured it is meeting the expectation? Evidence
Our expectations			
Leaders are knowledgeable about FTSU			
Senior leaders are knowledgeable and up to date about FTSU and the executive and non-executive leads are aware of guidance from the National Guardian's Office.			
Senior leaders can readily articulate the trust's FTSU vision and key learning from issues that workers have spoken up about and regularly communicate the value of speaking up.			
They can provide evidence that they have a leadership strategy and development programme that emphasises the importance of learning from issues raised by people who speak up.			
Senior leaders can describe the part they played in creating and launching the trust's FTSU vision and strategy.			
Leaders have a structured approach to FTSU			
There is a clear FTSU vision, translated into a robust and realistic strategy that links speaking up with patient safety, staff experience and continuous improvement.			
There is an up-to-date speaking up policy that reflects the minimum standards set out by NHS Improvement.			
The FTSU strategy has been developed using a structured approach in collaboration with a range of stakeholders (including the FTSU Guardian) and it aligns with existing guidance from the National Guardian.			

Progress against the strategy and compliance with the policy are regularly reviewed using a range of qualitative and quantitative measures.			
Leaders actively shape the speaking up culture			
All senior leaders take an interest in the trust's speaking up culture and are proactive in developing ideas and initiatives to support speaking up.			
They can evidence that they robustly challenge themselves to improve patient safety, and develop a culture of continuous improvement, openness and honesty.			
Senior leaders are visible, approachable and use a variety of methods to seek and act on feedback from workers.			
Senior leaders prioritise speaking up and work in partnership with their FTSU Guardian.			
Senior leaders model speaking up by acknowledging mistakes and making improvements.			
The board can state with confidence that workers know how to speak up; do so with confidence and are treated fairly.			
Leaders are clear about their role and responsibilities			

The trust has a named executive and a named non-executive director responsible for speaking up and both are clear about their role and responsibility.			
They, along with the chief executive and chair, meet regularly with the FTSU Guardian and provide appropriate advice and support.			
Other senior leaders support the FTSU Guardian as required.			
Leaders are confident that wider concerns are identified and managed			
Senior leaders have ensured that the FTSU Guardian has ready access to applicable sources of data to enable them to triangulate speaking up issues to proactively identify potential concerns.			
The FTSU Guardian has ready access to senior leaders and others to enable them to escalate patient safety issues rapidly, preserving confidence as appropriate.			
Leaders receive assurance in a variety of forms			
Workers in all areas know, understand and support the FTSU vision, are aware of the policy and have confidence in the speaking up process.			
Steps are taken to identify and remove barriers to speaking up for those in more vulnerable groups, such as Black, Asian or minority ethnic (BAME), workers and			

agency workers			
Speak up issues that raise immediate patient safety concerns are quickly escalated			
Action is taken to address evidence that workers have been victimised as a result of speaking up, regardless of seniority			
Lessons learnt are shared widely both within relevant service areas and across the trust			
The handling of speaking up issues is routinely audited to ensure that the FTSU policy is being implemented			
FTSU policies and procedures are reviewed and improved using feedback from workers			
The board receives a report, at least every six months, from the FTSU Guardian.			
Leaders engage with all relevant stakeholders			
A diverse range of workers' views are sought, heard and acted upon to shape the culture of the organisation in relation to speaking up; these are reflected in the			

FTSU vision and plan.			
Issues raised via speaking up are part of the performance data discussed openly with commissioners, CQC and NHS Improvement.			
Discussion of FTSU matters regularly takes place in the public section of the board meetings (while respecting the confidentiality of individuals).			
The trust's annual report contains high level, anonymised data relating to speaking up as well as information on actions the trust is taking to support a positive speaking up culture.			
Reviews and audits are shared externally to support improvement elsewhere.			
Senior leaders work openly and positively with regional FTSU Guardians and the National Guardian to continually improve the trust's speaking up culture			
Senior leaders encourage their FTSU Guardians to develop bilateral relationships with regulators, inspectors and other local FTSU Guardians			
Senior leaders request external improvement support when required.			
Leaders are focused on learning and continual improvement			

Senior leaders use speaking up as an opportunity for learning that can be embedded in future practice to deliver better quality care and improve workers' experience.			
Senior leaders and the FTSU Guardian engage with other trusts to identify best practice.			
Executive and non-executive leads, and the FTSU Guardian, review all guidance and case review reports from the National Guardian to identify improvement possibilities.			
Senior leaders regularly reflect on how they respond to feedback, learn and continually improve and encourage the same throughout the organisation.			
The executive lead responsible for FTSU reviews the FTSU strategy annually, using a range of qualitative and quantitative measures, to assess what has been achieved and what hasn't; what the barriers have been and how they can be overcome; and whether the right indicators are being used to measure success.			
The FTSU policy and process is reviewed annually to check they are fit for purpose and realistic; up to date; and takes account of feedback from workers who have used them.			
A sample of cases is quality assured to ensure: <ul style="list-style-type: none"> the investigation process is of high quality; that outcomes and recommendations are reasonable 			

<p>and that the impact of change is being measured</p> <ul style="list-style-type: none"> workers are thanked for speaking up, are kept up to date though out the investigation and are told of the outcome Investigations are independent, fair and objective; recommendations are designed to promote patient safety and learning; and change will be monitored 			
Positive outcomes from speaking up cases are promoted and as a result workers are more confident to speak up.			
Individual responsibilities			
Chief executive and chair			
The chief executive is responsible for appointing the FTSU Guardian.			
The chief executive is accountable for ensuring that FTSU arrangements meet the needs of the workers in their trust.			
The chief executive and chair are responsible for ensuring the annual report contains information about FTSU.			

The chief executive and chair are responsible for ensuring the trust is engaged with both the regional Guardian network and the National Guardian's Office.			
Both the chief executive and chair are key sources of advice and support for their FTSU Guardian and meet with them regularly.			
Executive lead for FTSU			
Ensuring they are aware of latest guidance from National Guardian's Office.			
Overseeing the creation of the FTSU vision and strategy.			
Ensuring the FTSU Guardian role has been implemented, using a fair recruitment process in accordance with the example job description and other guidance published by the National Guardian.			
Ensuring that the FTSU Guardian has a suitable amount of ring fenced time and other resources and there is cover for planned and unplanned absence.			

Ensuring that a sample of speaking up cases have been quality assured.			
Conducting an annual review of the strategy, policy and process.			
Operationalising the learning derived from speaking up issues.			
Ensuring allegations of detriment are promptly and fairly investigated and acted on.			
Providing the board with a variety of assurance about the effectiveness of the trusts strategy, policy and process.			
Non-executive lead for FTSU			
Ensuring they are aware of latest guidance from National Guardian's Office.			
Holding the chief executive, executive FTSU lead and the board to account for implementing the speaking up strategy.			
Robustly challenge the board to reflect on whether it could do more to create a culture responsive to feedback and focused on learning and continual improvement.			

Role-modelling high standards of conduct around FTSU.			
Acting as an alternative source of advice and support for the FTSU Guardian.			
Overseeing speaking up concerns regarding board members.			
Human resource and organisational development directors			
Ensuring that the FTSU Guardian has the support of HR staff and appropriate access to information to enable them to triangulate intelligence from speaking up issues with other information that may be used as measures of FTSU culture or indicators of barriers to speaking up.			
Ensuring that HR culture and practice encourage and support speaking up and that learning in relation to workers' experience is disseminated across the trust.			
Ensuring that workers have the right knowledge, skills and capability to speak up and that managers listen well and respond to issues raised effectively.			

Medical director and director of nursing			
Ensuring that the FTSU Guardian has appropriate support and advice on patient safety and safeguarding issues.			
Ensuring that effective and, as appropriate, immediate action is taken when potential patient safety issues are highlighted by speaking up.			
Ensuring learning is operationalised within the teams and departments that they oversee.			