

NHS England and NHS Improvement Board meetings held in common

Paper Title:	NHS England and NHS Improvement Internal Freedom to Speak Up Policy
Agenda item:	6.2 (Public session)
Report by:	Tom Grimes, Head of Advocacy and Learning (FTSU), and Kate Milton, Experience of Care Lead: Staff Experience and FTSU
Paper type:	For decision

Summary/recommendation:

As part of the Joint Working Programme, NHS England and NHS Improvement has developed an Internal Freedom to Speak Up Policy to support the organisation to continue to develop an open and transparent culture. The Boards are asked to approve this policy for adoption.

Background

As part of the NHS England and NHS Improvement Joint Working Programme, significant work has been done to develop a single internal Freedom to Speak Up (FTSU) Policy and Process for our joint organisation, involving our FTSU guardians from both parts of the joint organisation, Legal, HR and our Trade Union partners, who are keen to support the organisation to develop the open and transparent culture where it feels safe to speak up.

Context

1. In February 2015 Sir Robert Francis QC published his review of whistleblowing in the NHS – Freedom to Speak Up. His recommendations resulted in a number of steps to improve the experience of whistleblowing in the NHS, including: the establishment of the National Guardian's Office (NGO) and the publication of a national whistleblowing policy for the NHS, published by NHS Improvement and NHS England in 2016.
2. The NGO's website explains that: *'Workers can speak up about anything that gets in the way of high-quality effective care, or that affects their working life. There may be many channels for speaking up in your organisation about anything that gets in the way of delivering safe and high-quality care or affects your experience in the workplace. It is something that should happen as 'business as usual'. Speaking up may take many forms including a quick discussion with a line manager, a suggestion for improvement submitted as part of a staff suggestion scheme, raising an issue with a Freedom to Speak Up Guardian, or bringing a matter to the attention of a regulator. Some people may interpret all or some of these actions as 'whistleblowing', others may only associate 'whistleblowing' with something that is 'formal', or a matter that is*

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*escalated outside an organisation, or to describe something that may qualify for 'protection' under the Public Interest Disclosure Act. **Speaking up is about all of these things.***

3. NHS England and NHS Improvement had separate policies and processes for FTSU, and different FTSU Guardian arrangements, reflecting the different size and shape of those organisations.

Issues

Strategic alignment

4. *FTSU is strongly linked to the workforce aspirations of the Long-Term Plan, and to the Interim People Plan. Effective Speaking Up Processes across the NHS, including NHS England and NHS Improvement will support culture change and lead to improved patient experience and outcomes. Internally we are working with the Joint Working Programme Team, and specifically the lead for the culture change programme, to ensure FTSU is included in the culture change work.*

Current position

5. In August 2019 Prof Stephen Powis, the National Medical Director, became the Executive Lead for internal FTSU across the aligned organisation (NB Prerana Issar is the Executive Director responsible for external FTSU¹), with Andrew Morris as the Non-Executive Director Lead. Since then we have been working with FTSU guardians from both parts of the joint organisation and our Trade Union partners to develop a robust policy for the new organisation which reflects the national minimum standard. This policy has been subject to scrutiny at the Joint Policy Sub-Group and has been approved by the Joint Partnership Forum Executive Group. The Policy is attached as Appendix A.
6. The key elements to highlight are:
 - a. FTSU Guardians will support our workers to resolve their concerns locally wherever possible.
 - b. Where local resolution does not seem possible, the FTSU Guardians will refer cases to our internal FTSU Steering Group.
 - c. The Steering Group will consist of:
 - i. Professor Stephen Powis's nominated deputy
 - ii. Head of Advocacy & Learning (FTSU)
 - iii. General Counsel
 - iv. a senior HR person, and
 - v. where a concern relates to regional matters, the relevant regional executive FTSU Lead will join the Steering Group to ensure regional input.

¹ NHS England's external FTSU work centred on [Primary Care](#) and NHS Improvement's on [Secondary Care](#). We are supporting the NGO to develop FTSU across the NHS and will seek to align the internal and external FTSU processes as much as possible.

- d. The role of the Steering Group will be to:
- i. triage the case to determine the most appropriate course of action;
 - ii. where appropriate, commission an investigation, appoint an investigator and approve the terms of reference;
 - iii. in some instances, the Steering Group may recommend an alternative to investigation, for example mediation or team development. In some instances, the Steering Group may refer the case to another HR policy/process, or for example, to counter fraud.
 - iv. receive the investigation report;
 - v. decide how and with whom it is shared;
 - vi. update the Executive, Non-Executive and, where relevant, Regional FTSU leads;
 - vii. request the relevant Director to nominate a responsible officer to implement recommendations and update the Steering Group.
- e. The above can be bypassed in exceptional circumstances so that workers can speak up directly to Prof Powis or Sir Andrew Morris.

Next steps

7. Having a policy and process for handling FTSU matters is only the first step in ensuring all our staff feel safe to speak up; understand how to do so; know what to expect when they do; and can see our organisation has acted on their concern. Once the policy is approved, we will focus on the following:
 - a. Reviewing our FTSU Guardian arrangements to ensure there is appropriate levels of support for staff to speak up in all regions and directorates. This may require the recruitment of more Guardians and/or FTSU Champions; renewed training; and ensuring all Guardians have protected time to perform the role.
 - b. Communications and engagement across the organisation about FTSU, to include sharing summary information on the improvements made to how we work as a result of FTSU concerns.
 - c. In the medium term we want to move towards a process and executive oversight at regional level where internal speak up matters relate to regional issues.
8. It should be noted that the Policy contains lines highlighted in yellow. This will contain links to the necessary infrastructure which will be established shortly.
9. A single policy will help to ensure a consistent experience of speaking up, which reflects the new structure of our joint organisation.

Summary and key points

10. The Internal FTSU Policy closely aligns with the National FTSU Policy recommended for adoption across the NHS.
11. NHS England and NHS Improvement has aligned its policies and procedures as part of the Joint Working Programme.

12. Extensive stakeholder consultation has taken place in developing the policy and the policy has been amended following feedback and input from colleagues and partners.
13. Work is currently taking place to ensure the correct infrastructure is in place across the organisation to ensure that the policy is effective.