

## NHS England and NHS Improvement Board meetings held in common

**Paper Title:** NHS England and NHS Improvement Internal Freedom to Speak Up update

**Agenda item:** 5 (Public session)

**Report by:** Professor Stephen Powis, National Medical Director and Ann Radmore, Regional Director for East of England, outgoing and incoming Executive Lead for internal FTSU respectively

**Paper type:** For discussion

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### Organisation Objective:

|                             |                                     |                |                          |
|-----------------------------|-------------------------------------|----------------|--------------------------|
| NHS Mandate from Government | <input type="checkbox"/>            | Statutory item | <input type="checkbox"/> |
| NHS Long Term Plan          | <input type="checkbox"/>            | Governance     | <input type="checkbox"/> |
| NHS People Plan             | <input checked="" type="checkbox"/> |                |                          |

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### Executive summary:

This report provides an update on FTSU at NHSE/I; summary information on 2020/21 and Quarter 1 of 2021/22; and reflections from our FTSU Guardians. It highlights the connections with the wider culture and learning work underway within the organisation. It includes recommendations from our Guardians on what they feel needs to happen to continue to embed the FTSU Guardian function and develop a healthy culture, and speaking up, within our organisation, and our plans for 2021/22.

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### Action required:

Note the information provided in the report and discuss the recommendations from our FTSU Guardians, and the organisation's response.

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### Background

1. In January 2020 the Board approved our internal Freedom to Speak Up (FTSU) Policy and process which involved the creation of a FTSU Steering Group. Next steps were to review our FTSU Guardian arrangements and to work on a communication and engagement strategy. The board also asked that our Guardians be given ring-fenced time, in line with guidance from the National Guardian's Office, and should reflect the diversity of our workforce.

### Considerations

2. Substantial developments have been made in the last 18 months in relation to Freedom to Speak up. Having established the FTSU Steering Group in February 2020, a review was carried out of our FTSU arrangements and we also sought to learn from an NHS trust and a national body with strong FTSU arrangements. In August 2020 the Executive Group agreed to provide extra resource to support our Guardians that has resulted in:

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- the number of Guardians increasing from 17 to 42 (all with one day per week ring-fenced time);
  - the Guardian group receiving more support in terms of: administration, stakeholder engagement, training and development and peer support;
  - extensive communications and engagement activity since October 2020 ('speak up' month);
  - the Guardian group more accurately reflecting the diversity of the workforce;
  - the introduction of a case management system to keep case work secure and confidential and to improve our ability to produce reports;
  - an increase in speaking up to the Guardians.
3. There was a gradual increase in the number of speaking up cases throughout 2020/21 as we increased our communications activity on FTSU.

| FTSU cases received by Guardians in 2020/21 |           |           |           |
|---|-----------|-----------|-----------|
| Quarter 1                                   | Quarter 2 | Quarter 3 | Quarter 4 |
| 10  | 12        | 16        | 18        |
| FTSU cases received by Guardians in 2021/22 |           |           |           |
| 17  |           |           |           |

The two strongest themes of the concerns raised in 20/21 related to:

- recruitment practices (particularly fairness of process and inclusiveness) and
- conduct of senior leaders.

### **Summary of learning from FTSU in 20/21**

4. Learning themes, from the 32 cases that were concluded in-year, :
- Recruitment practices: significant changes have been made in response to feedback from FTSU and other channels, including:
    - introducing an Expressions of Interest system that allows for more efficient internal recruitment and ensures these are accessible to everyone in the organisation;
    - Improving the job advert pages online.
  - Leadership and management behaviours: This is vital in developing the culture within the organisation and sustaining openness.
  - Improving awareness and management of conflicts of interest and use of consultants: additional training is being introduced in some areas, along with internal audit activity, to identify any further improvements.
  - Financial governance arrangements clarified at regional level.
  - Importance of FTSU being factored into HR advice to managers about case handling: to ensure all aspects of concerns raised are addressed, including allegations of detriment as a result of speaking up.
  - The importance of apologising where things have gone wrong.
5. *Examples of learning:*
- In one case a review, commissioned by the FTSU Steering Group in 2020 highlighted necessary improvements to how we work:

- i. early termination of any fixed term post should be agreed by HR and at least two individuals: a line manager and a senior leader
  - ii. ensuring awareness and understanding of FTSU across all HR Business Partners, and underlining the importance of considering all the issues being raised to ensure a comprehensive response
  - iii. the importance of working relationships between FTSU Guardians and HR Business Partners.
- In another case, concerns were raised about a proposed recruitment process that the individual felt was unfair, and behaviour by a colleague. With support from the Guardian, the individual raised their concerns and the recruitment panel was reconfigured to align with guidelines putting the team in the best place to recruit the best candidate. The line manager met with the perpetrator of the alleged behaviour to explain how their actions and emails could be viewed. The individual who spoke up felt pleased they had proactively made a positive change in the team by speaking up.

#### **FTSU Guardians' perspective on learning from 20/21**

- It is felt that we are now better able to properly address learning from the FTSU experience, as we are putting the processes and procedures in place and have more resources to begin tackling the lessons to be learnt.
- We need management and senior leader support to ensure that a true speaking-up culture is embedded within the organisation and that lessons are learnt from each case, so that our response is not just tokenistic.
- Improved engagement between Guardians and HR and OD Business partners will mean that they can work in partnership to solve any issues that arise. It is hoped that this will be a major area of progress in future.

#### **Plans to improve the way we capture learning from cases in 21/22**

- Create a short report that helps managers reflect on the learning from a case and how they assure themselves that the learning prompts sustainable improvement.
- Ask the person that has spoken up to give their view on whether they can see improvement.
- Add this information to case management systems so that we can collate information on learning themes and track which changes lead to sustained improvement.
- We are seeking permission from the person that spoke up and the manager involved to tell their stories about the learning from their case.

### **Connection to wider cultural development**

6. Consideration of the work on developing the culture is key to the development of FTSU within the organisation. The Staff Survey of November 2020, received 68% response rate and the results showed significant improvements, highlighting the positive impact of our continued people interventions and leadership efforts over the course of COVID-19. The results, while positive, still leave room for improvement, particularly around Equality, Diversity and

Inclusion (EDI), Bullying and Harassment, Immediate Managers and Health & Wellbeing.

7. Engagement on the results demonstrated the same underlying root causes:
  - Individuals needing clear objectives; to feel valued by their manager with support and regular feedback and line managers acting on feedback given.
  - Individuals are not used to feedback, or handling the difficulty of receiving and delivering it.
  - Support prioritising, as well as further clarity on roles and responsibilities and clear success measures.
  - Improving the approach to equality, diversity and inclusion.
8. To resolve these issues the executive has adopted two key interventions:
  - i. Introduce a performance enablement approach that will provide individuals and line managers with the opportunity to work together to develop work plans – these plans should set clear goals and priorities and demonstrably deliver specific outcomes for the organisation. This builds on existing objective setting, quarterly reviews and appraisal processes.
  - ii. Embed a consistent culture of learning and continuous improvement across the organisation.
9. This work is supported and enabled by the continued embedding of the 7 Ways, developed with staff during 2020:
  - i. We speak up especially when we see injustice and unfairness.
  - ii. We celebrate the unique backgrounds and talents each colleague brings.
  - iii. We care about ourselves and others and show this in our actions.
  - iv. We learn from our experiences to improve what we do and how we do it.
  - v. We actively seek out others to collaborate in delivering our goals.
  - vi. We encourage people to make decisions.
  - vii. We work in smart ways valuing everyone's time

This approach will continue to require a focus on engagement and experience that is already underway across the organisation. Significant strides have been made in this area through regular all staff briefings, leadership communications and engagement activities. These are being used to embed our ways of delivery across NHSEI as we return to more in-person and hybrid working. This focus will be sustained as staff shift to post-Covid blended working patterns and the ICS change programme is implemented and see a specific focus in October on speaking up and race equality.

### **Overall recommendations from our FTSU Guardians**

10. Based on the data and feedback received in 20/21, the Guardians have made a series of recommendations. These are set out below together with the organisational response (in green).

- Directors ensure they normalise speaking up, making it 'business as usual' rather than something people do when things are going wrong. Agreed. This is something Guardians can reinforce when they speak to their executive directors each quarter. This is also reflected in the wider cultural work following on from the 7 ways of working and last staff survey.
- FTSU Guardians support the above initiative by establishing a relationship management process with HR and OD BPs and directors, so that we aren't just contacting them when there is a case to solve. Agreed. We are supporting the Guardians to establish this.
- We mandate regular communication and updates to FTSU case owners from directors/HR BPs for all cases (escalated to the steering group where necessary). Directorates need to keep Guardians regularly informed so we can keep those raising a concern similarly informed. When people speak up, it is vital they are kept up to date, either directly or via their FTSU Guardian. The FTSU Steering Group has a role to play here in supporting Guardians where updates are not being received.
- Directors and FTSU Guardians continue to have dialogue to ensure promotion of FTSU activity and assurance that actions are carried out as agreed. Agreed. Executive Directors are asked to meet with their Guardians quarterly to do this and data is being provided to support their conversations.
- Guardians have a quarterly slot on All Staff Briefings to promote FTSU. We are discussing with communications colleagues about how we promote FTSU throughout the year with maximum impact.
- The FTSU Steering Group is granted the organisational 'teeth' to intervene where cases warrant such intervention. The membership of the Steering Group includes appropriately senior leaders to provide influence, and the Executive Lead receives monthly updates from the Group's Chair. The Executive Lead also meets with all the Guardians bi-monthly, so they can raise issues directly. The focus should remain on director responsibility to both own and resolve the issues and ensure communication. Nonetheless, we are working to develop a stronger connection between the Guardians and the Steering Group.
- Executives to include FTSU in their directorate/regional business plans. Guardians will have the opportunity to discuss this in their quarterly meetings with executives.
- All executives to actively support FTSU month. All executives have been invited to participate in 'speak up' month.

- All executive directors to share data on detriments that have been alleged within their area and what the outcome of the investigation was.  
We can identify detriment cases through our new CRM system, and should be able to share organisational-level information. However, confidentiality may inhibit sharing of directorate-level data.
- We improve our links with staff networks and with those who run the staff survey so there is better collaboration on common themes.  
Agreed. Our work plan for 21/22 identifies the need to support the triangulation of FTSU data with corporate and HR data and to ensure it is part of the suite supporting the cultural evolution of the organisation.
- The organisation should be open and honest when things have gone wrong and commits to supporting improvement in managers' behaviour (regardless of their seniority) when it is found wanting.  
Agreed. This is reflected in the approach to performance enablement and a culture of continuous learning. For example apologising where we have identified failings in how concerns were handled. In some cases, support to improve behaviours of senior managers has been identified.
- We establish a mandatory training module for all staff so that line managers know how to react in a positive way should their direct report speak up and that direct reports know how to speak up constructively.  
The National Guardian's Office has an online training module for all staff, and a second module for line managers, both advertised on our intranet.

### Plans for 'Speak Up' month in October

11. The focus is to maximise communication in October and ensure it is led by senior leaders. Our plans for this will see:
  - the sharing of research into the lived experiences of our own staff in speaking up, or choosing not to
  - our executive directors hosting webinars for their teams aimed at supporting teams to talk about the enablers and barriers to speaking up
  - our executive directors making individual pledges to address barriers or increase enablers to speaking up
  - launching a campaign to recruit more Guardians to ensure we have appropriate representation in all regions and directorates.