



Cover Sheet

Trust Board Meeting in Public: Wednesday 10 November 2021

TB2021.87

Title: Freedom to Speak Up [FtSU] Review 2021

Status: For Discussion

History: TB2019.104 Renewal of Freedom to Speak Up – Raising Concerns (Whistleblowing) Policy and Approval of Strategy
TB2020.76 Implementation Plan Update
TB2021.31 FtSU Update (including proposal for FtSU Review)
TB2021.47 Freedom to Speak Up Annual Report 2020/21

Board Lead: Chief Assurance Officer

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Confidential: No

Key Purpose: Assurance, Performance

Executive Summary

1. In May 2021, the Board confirmed its support for a time-limited project, to focus on how the Trust might be able to further develop and strengthen the effectiveness of the Freedom to Speak Up [FtSU] service at OUH.
2. The purpose of this paper is to report on the key findings of the OUH Freedom to Speak Up [FtSU] Review 2021 and to highlight some strategic questions for consideration by the Board.
3. Emergent findings were first considered by the Trust Management Executive [TME] in September, and the Integrated Assurance Committee [IAC] (a Board Committee) then undertook a 'deep dive' in October, which is nationally designated as annual [Speak Up Month](#); the theme for this year being **#SpeakUpListenUpFollowUp**.
4. Reflecting the Board's commitment to the importance of ensuring that staff have the freedom to speak up, and given that the standard NHS contract requires all trusts and foundation trusts to employ a Lead Freedom to Speak Up Guardian, the Board wanted to give staff an opportunity to have their say on what would be most effective in enabling them to speak up if they had a concern. Research undertaken by the equalities charity **brap**¹ and Roger Kline OBE [Difference Matters: The impact of ethnicity on speaking up](#) is noted to have explored particular barriers to speaking up that have been reported by Black and minority ethnic staff across the NHS.
5. The Board also wanted to learn from good practice at other trusts, to take due account of relevant national guidance, and to consider possible digital solutions.
6. The full Report on Key Findings of the OUH FtSU Review 2021 is attached at **Appendix 1**. The key themes identified therein are representative of the range of views expressed by all those who engaged with the Review. A summary analysis of 832 responses received to the online survey is attached at **Appendix 2**.
7. The report includes recommended next steps to address the key themes identified, with proposals for action to be taken. Implementation of the actions proposed will be guided by the Board's consideration of some strategic issues, as outlined in section 5.2 of this paper.

Recommendations

8. The Trust Board is asked to:
 - Note and consider the Report on Key Findings of the OUH Freedom to Speak Up Review 2021 attached at **Appendix 1**, including the recommended next steps and proposals for action
 - Note the summary analysis of survey responses attached at **Appendix 2**
 - Consider the strategic issues outlined in section 5.2 of this paper.

Freedom to Speak Up [FtSU] Review 2021

1. Purpose

- 1.1. The purpose of this paper is to report on the key findings of the OUH Freedom to Speak Up [FtSU] Review 2021 and to highlight some strategic questions for consideration by the Board.

2. Background

- 2.1. It is very important to the Trust that staff have the freedom to speak up if they have a concern.
- 2.2. The standard NHS contract requires all trusts and foundation trusts to employ a Lead Freedom to Speak Up Guardian.
- 2.3. An assessment of the Board's commitment to create an open and honest culture, where staff feel safe to speak up, is a key line of enquiry in the Care Quality Commission's well-led domain of inspection.
- 2.4. The [National Guardian's Office \[NGO\] Guidance for Boards](#) (produced jointly with NHS Improvement) sets out how the Board is expected to demonstrate its commitment to creating an open and honest culture, where staff feel safe to speak up if they have a concern about anything that gets in the way of patient care, or anything that affects working life.
- 2.5. The [NGO Supplementary information for Boards](#) includes guidance on the individual and collective responsibilities of Board members, and sets out specifically how the Board should satisfy itself that the role of the FtSU Guardian is implemented in such a way as to meet the needs of staff.
- 2.6. The Trust's Freedom to Speak Up – Raising Concerns (Whistleblowing) Policy was last reviewed in 2019, when the Board also approved the [OUH Freedom to Speak Up Strategy 2019-22](#).
- 2.7. The Board received an update on the implementation plan in September 2020 (including report on the impact of the COVID-19 pandemic), and the FtSU Annual Report 2020/21 was submitted to the Board in July 2021.
- 2.8. The Freedom to Speak Up service at OUH was originally established with a Lead Guardian working 0.5 whole time equivalent [w.t.e.], at Agenda for Change Band 8b, supported by up to 3 FtSU Champions (unremunerated). Divisional funding provided the additional resource of 1 Local Guardian (0.5 P.A. per week of a Consultant Paediatric Endocrinologist's time).
- 2.9. After the then Lead Guardian left in May 2021, additional temporary resources have been deployed to sustain the FtSU service and support the FtSU Review.

3. The OUH Freedom to Speak Up [FtSU] Review 2021

- 3.1. In May 2021, the Board confirmed its support for a time-limited project, to focus on how the Trust might be able to further develop and strengthen the effectiveness of the Freedom to Speak Up [FtSU] service at OUH.
- 3.2. Supported by a full internal Communications and Staff Engagement Plan, the OUH Freedom to Speak Up [FtSU] Review 2021 commenced with some initial fact-finding in June, focused on staff engagement throughout July, and undertook further information-gathering in August.
- 3.3. The remit and scope of the Review encompassed:
 - Taking due account of relevant national guidance;
 - Learning from good practice at other trusts; and
 - Giving staff an opportunity to have their say on what would be most effective in enabling them to speak up if they had a concern.
- 3.4. Terms of reference for the Review also covered consideration of the extent to which the application of digital technology could help to support FtSU.
- 3.5. With regard to what may best enable staff to speak up, the publication on 30 September 2021 of research undertaken by the equalities charity **brap** and Roger Kline OBE [Difference Matters: The impact of ethnicity on speaking up](#) is to be noted, insofar as it explores particular barriers to speaking up reported by Black and minority ethnic staff across the NHS.
- 3.6. Staff throughout OUH engaged very well with the Review, and many expressed how much they appreciated the opportunity to have their say and be heard by Board members (see pages 8-12 of the Report at **Appendix 1**). Good engagement with staff has been sustained during the nationally designated annual [Speak Up Month](#) of October, the theme for which this year has been **#SpeakUpListenUpFollowUp**.

Taking due account of relevant national guidance:

Demonstrating a commitment to creating an open and honest culture

- 3.7. NGO Guidanceⁱⁱ sets out that the Board is expected to demonstrate its commitment to creating an open and honest culture *inter alia* by:
 - investing in sustained and continuous leadership development
 - having a well-resourced FTSU Guardian and champion model
 - supporting the creation of an effective communication and engagement strategy that encourages and enables workers to speak up and promotes changes made as a result of speaking up.
- 3.8. The creation of a healthy and effective culture, within which staff feel they have freedom to speak up, depends upon all Chief Officers of the Board discharging their specified individual responsibilitiesⁱⁱⁱ, while working

together - and with Non-Executive Directors – to discharge the collective responsibility of the Board. Importantly, NGO Guidance highlights that this includes having insight into [how their power could silence truth](#).

Implementing Freedom to Speak Up to meet the needs of staff

- 3.9. The FtSU Guardian should be able to demonstrate that they have the capacity and capability to fulfil the requirements of the [National Guardian's Office FtSU Guardian job description](#), the key elements of which are to:
- Support staff in speaking up
 - Address barriers to speaking up
 - Ensure the Trust encourages a positive culture of speaking up
 - Ensure that matters raised are used as opportunities for learning and improvement.
- 3.10. When considering the amount of ringfenced time required for the role of FtSU Guardian, NGO Guidance^{iv} advises that consideration be given to:
- The needs of the job, including reactive and proactive elements, noting that these include:
 - responding to those who speak up,
 - reducing barriers to speaking up,
 - ensuring there is training on speaking up,
 - communicating the role
 - Staff numbers, geographic spread, diversity and (especially) needs of the most vulnerable
 - Expectations of the National Guardian's Office [NGO] (*inter alia* in relation to recording, analysing, reporting data)
 - Engagement with national and regional NGO networks
 - Liaison with external partners, incl. CQC, NHSI and NGO
 - The prevailing environment, *for example*. any re-structuring, regulatory intervention, a global pandemic and its aftermath.

Learning from good practice at other trusts

- 3.11. The [National Guardian's Office FtSU Index Report 2021](#) is the key metric for organisations to assess their speaking up culture, and provides the opportunity to review practice and consider case studies from the top performing, and most improved, trusts.
- 3.12. Overall, the OUH FtSU Index score has shown incremental improvement since 2018. Looking at the responses to each of the four questions in the NHS Staff Survey that contribute to the FtSU Index score, OUH

performance is at or around the national average, with room to improve to match the best performing trusts.

- 3.13. Good practice identified at other trusts has been summarised at pages 23-26 of the Report attached at **Appendix 1**, including practical measures taken at trusts who have been able to demonstrate significant improvement in their speaking up culture.
- 3.14. It seems clear that there is no “one-size fits all” solution to make speaking up “business as usual”; to create a **#SpeakUpListenUpFollowUp** culture.
- 3.15. Amongst other trusts reviewed, including top performing and most improved trusts, the creation of a successful Freedom to Speak Up culture would seem to be predicated on:
 - allocating sufficient ringfenced time for the role of FtSU Guardian to meet the needs of staff; and
 - developing a network of FtSU champions and/or local guardians to support the Lead Freedom to Speak Up Guardian.

Giving staff an opportunity to have their say

- 3.16. The report attached at **Appendix 1** summarises staff views on:
 - 3.16.1. What’s working well (at page 5); and
 - 3.16.2. What could be improved (at page 6).
- 3.17. The key themes that emerged from the range of views expressed by all those who engaged with the Review are expanded upon at pages 15-22 of the report at **Appendix 1**. These key themes indicate a need to address:
 - 3.17.1. Clarification of the process/processes through which concerns can be raised;
 - 3.17.2. Explanation of the role of the Freedom to Speak Up Guardian, and other members of the FtSU team;
 - 3.17.3. Understanding of the organisational context, including a clear allocation of responsibility for following up on concerns raised (depending upon the nature of the matter to which a concern relates);
 - 3.17.4. Management of realistic expectations of the FtSU process;
 - 3.17.5. Provision/facilitation of support for all staff who may be affected – whether as someone who wishes to speak up, or anyone else who may be affected by a concern having been raised; and
 - 3.17.6. Demonstration that concerns are being effectively addressed.
- 3.18. A summary attached at **Appendix 2** presents high-level analysis of the 832 responses received to the on-line survey.

4. Consideration of the key findings of the FtSU Review

- 4.1. In supporting the FtSU Review, the Board had emphasised the importance of engaging with staff, to hear their views and ideas, and the review has been conducted in line with the principle of **#SpeakUpListenUpFollowUp**.
- 4.2. Emergent findings were first considered by the Trust Management Executive [TME] in September, and the Integrated Assurance Committee [IAC] (a committee of the Board) then undertook a 'deep dive' in October.
- 4.3. TME and IAC supported the importance of the requirement for every trust to demonstrate its commitment to create an open and honest culture where staff feel safe to speak up, an assessment of which is a key line of enquiry in the Care Quality Commission's well-led domain of inspection.
- 4.4. The [OUH Strategy 2020-2025](#) enshrines the commitment to an open, inclusive and just culture in which everyone feels valued, and can be confident that their feedback, ideas and concerns will be listened to and acted upon appropriately^v.
- 4.5. Delivery of a listening, speaking up culture is an express objective of the Trust's People Plan, reflecting the priorities of the Culture & Leadership Programme.
- 4.6. Given that the OUH Strategy encourages the appropriate use of digital technology to help the Trust achieve its ambitions, the introduction of a web-based app for anonymous reporting of concerns was specifically considered as a mechanism to strengthen the accessibility of FtSU,
 - 4.1. The key findings, however, reflect the view of many staff that a web-based app for anonymous reporting could be open to misuse or abuse, and staff suggested that resources would be better directed to instilling trust and confidence that a concern would be addressed, without adverse consequences to the individual who had raised the concern.
 - 4.2. This view is reflected in the NGO's recognition that the success of national Speak Up Month is associated with an increased number of concerns raised, but a **decrease** in the proportion that are raised anonymously.
 - 4.3. Taking staff views into account, the consensus reached is that that there is more to be gained from maximising the opportunities for the Trust to follow up on and learn fully from concerns raised, than from expanding on the existing facility for anonymous reporting. On that basis, TME supported the conclusion that a web-based app will not be introduced at this time.
 - 4.4. TME and IAC supported the principle that the FtSU service should be confidential by default, and that it would remain anonymous by request (except in cases relating to fraud or safeguarding).

- 4.5. TME and IAC concluded that available organisational resources should be dedicated to supporting development of the role of the FtSU Guardian and team, to ensure that they can meet the needs of staff primarily through:
- 4.5.1. **guarding** the freedom of all staff to speak up, and **protecting** against any adverse consequences for those who do;
 - 4.5.2. providing **signposting** and **support**; and
 - 4.5.3. continuing to **raise awareness** of how to speak up, including through making **NGO training** available on *My Learning Hub*.

5. Strategic issues for consideration by the Board

Addressing Key Themes identified

- 5.1. The report includes recommended next steps to address the key themes identified, proposing that action should include:
- 5.1.1. Producing a guide (to be developed in liaison between all relevant parties), which the FtSU team will deploy to **signpost** staff through the processes available to address concerns raised
 - 5.1.2. Working to sustain **engagement and communications with staff**; to continue to raise awareness of Freedom to Speak Up, clarifying the role of the FtSU team, and its links with other teams
 - 5.1.3. Seeking to develop a **network of Local FtSU Guardians and FtSU Champions**; exploring the scope to develop closer links with existing networks
 - 5.1.4. Producing guidance (in liaison with relevant parties), to specify the allocation of **responsibility for taking action** to address concerns raised, depending upon the nature of the matter at issue
 - 5.1.5. Making available on *My Learning Hub* training material developed by **Health Education England, working with the NGO**:
Module 1: “Speak Up” – available for all staff
Module 2: “Listen Up” – for all leaders
 - 5.1.6. Ensuring that the **capability and capacity** of the FtSU Guardian and team are sufficient to meet the needs of staff
 - 5.1.7. Developing **anonymised case studies** for inclusion in the FtSU Annual Report (and mid-year report, where possible), to illustrate the outcome of concerns raised.
- 5.2. Implementation of the actions proposed will be guided by the Board’s consideration of some strategic issues, in particular:

- 5.2.1. The capability and capacity of the FtSU Guardian and team must be sufficient to meet the needs of staff, as reflected in the key themes identified in the FtSU Review; but

Consideration may be given to how that capability and capacity could be enhanced through capitalising on links with existing networks and mechanisms in the Trust.

- 5.2.2. Staff said that they would welcome a wide range of access points for raising concerns, including the opportunity to speak up to someone locally; and

Consideration may be given to the extent to which the FtSU operating model should be devolved, to enhance accessibility throughout the divisions and across all the main sites, balanced against the deployment of resources to maintain an effective Lead FtSU Guardian.

Other issues identified

- 5.3. The OUH Freedom to Speak Up Review 2021 has helped to identify some other issues, and further consideration will be given to:

- 5.3.1. What assurance can be provided to the Board in relation to responses provided to 'protected disclosures', as defined in the Public Interest Disclosure Act 1998^{vi}; and

- 5.3.2. What approach the IAC will advocate to obtain assurance that opportunities have been taken to learn from all concerns raised, through the triangulations of all relevant data.

6. Conclusion

- 6.1. With the support of the Board, and good engagement of staff across the Trust, the OUH Freedom to Speak Up Review 2021 has yielded some key findings which should help to inform development of the Freedom to Speak Up service at OUH, and influence future review of the Freedom to Speak Up Policy and Strategy.
- 6.2. All Chief Officers of the Board need to work together, with the support of Non-Executive Directors, to promote, create and sustain a healthy and effective culture, within which staff feel safe to speak up if they have a concern about anything that gets in the way of patient care, or anything that affects working life.
- 6.3. Recommended next steps include proposals for action, the implementation of which will be guided by the Board's consideration of some strategic issues (as outlined in section 5.2 above).

7. Recommendations

7.1. The Trust Board is asked to:

- Note and consider the Report on Key Findings of the OUH Freedom to Speak Up Review 2021 attached at **Appendix 1**, including the recommended next steps and proposals for action
- Note the summary analysis of survey responses attached at **Appendix 2**
- Comment upon the strategic considerations outlined in section 5.2 of this paper.

ⁱ [brap | equality](#) charity: transforming the way we think and do equality

ⁱⁱ at Page 6 of NGO Guidance for Boards

ⁱⁱⁱ at Pages 3-8 of NGO Supplementary Information for Boards

^{iv} at Pages 8-9 of NGO Supplementary Information for Boards

^v [OUH Strategy 2020-2025](#). #OneTeamOneOUH, Page 10

^{vi} [Public Interest Disclosure Act 1998 \(legislation.gov.uk\)](#)