

Cover Sheet

Council of Governors Meeting: Monday 2 October 2023

COG2023.23

Title: Assurance Briefing following the verdict in the trial of Lucy Letby

Status: For Information
History: OUH Trust Board 13 September

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Confidential: No
Key Purpose: Assurance, Performance

Assurance Briefing following the verdict in the trial of Lucy Letby

1. Purpose

- 1.1. In response to [correspondence](#) received from NHS England (18 August 2023) about the Lucy Letby case, this paper was submitted to OUH Trust Board on 13 September to provide assurance on the policies and processes at OUH that enable staff to raise concerns without fear of detriment.
- 1.2. The paper outlines:
 - the progress in a positive safety culture at OUH and the implementation of the Patient Safety Incident Response Framework (PSIRF).
 - the Trust's approach to the Fit and Proper Person Test (FPPT) Framework published by NHS England on 2 August 2023 in response to the recommendations made by Tom Kark KC in his 2019 Review of the FPPT.

2. Background

- 2.1. In August 2023, the jury in the trial of Lucy Letby, a neonatal nurse at the Countess of Chester Hospital, returned a guilty verdict and a sentence of life imprisonment for murder and attempted murder was handed down by the presiding Judge.
- 2.2. In a statement responding to the verdict, the parliamentary and health service ombudsman said that 'nobody listened' to the clinicians at the trust who had tried to raise concerns. A full public inquiry into the circumstances of the Lucy Letby case has been ordered by the government, which will include the handling of concerns and governance.
- 2.3. On 18 August 2023, the NHS England Executive Team wrote to all Integrated Care Boards and NHS Trusts regarding the outcome of the trial and reiterating the necessity of good governance along with assurance of proper implementation and oversight.
- 2.4. The letter reiterated commitment to prevent 'something like this happening again' and outlined the steps that had already been taken to strengthen patient safety and monitoring, namely the national rollout of medical examiners and the forthcoming implementation of the new Patient Safety Incident Response Framework.
- 2.5. The letter also recognised that NHS Boards must ensure proper implementation and oversight, specifically ensuring the following:

- All staff have easy access to information on how to Speak Up
- Relevant departments, such as Human Resources, and Freedom to Speak Up Guardians are aware of the national Speaking Up Support Scheme and actively refer individuals to it
- Approaches or mechanisms are put in place to support those members of staff where there may be specific barriers to speaking up. These include cultural barriers, those in lower paid roles who may be less confident to do so, and also those who work unsociable hours and may not always be aware of or have access to the policy or process supporting speaking up
- Methods for communicating with staff to build healthy and supportive cultures where everyone feels safe to speak up should also be put in place
- Boards should seek assurance that staff can speak up with confidence and that whistleblowers are treated well
- Boards are regularly reporting, reviewing and acting upon available data

2.6. The letter also referenced the expectation that by January 2024 all organisations providing NHS services should have adopted the updated, strengthened Freedom to Speak Up policy, and reiterated the obligations of all NHS organisations under the Fit and Proper Person requirements.

3. Freedom to Speak Up (FtSU) at OUH

Easy access to FtSU for all staff

- 3.1. The OUH has recently appointed a new Freedom to Speak Up Lead Guardian and has several Freedom to Speak Up Champions who are based across the four OUH Sites.
- 3.2. Details on how to access the Guardian and Champions, together with information on the Freedom to Speak Up aims, processes and policy, are available through a link on the home page of the staff intranet. The OUH website also has a dedicated Freedom to Speak Up page.
- 3.3. There are also regular promotional events to raise the profile of Freedom to Speak Up, for example, the recent joint event with South Central Ambulance Service (SCAS) 'Speakupulence' team, and the rolling programme of FtSU Virtual Listening Events.

OUH FtSU Policy

- 3.4. The current version of the OUH FtSU Policy was approved in November 2022 for a 3-year period. This policy has incorporated the provisions of the national FtSU policy and thus meets the aforementioned adoption date of January 2024.

Regular Board Review

- 3.5. An OUH Freedom to Speak Up [review](#) took place in 2021 (for which the Trust was highly commended at the HSJ Awards 2022) and a [report](#) detailing the key findings was submitted in November 2021 to the Trust Board, which confirmed its support for the implementation of all recommendations.
- 3.6. The Trust Board receives an Annual FtSU report, presented by the FtSU Lead Guardian, and a six-monthly update. The latest six-monthly [update](#) detailing activity in the period April to September 2022 was presented at the Trust Board in May 2023.

National Guardian for Freedom to Speak up including the National Speak Up Support Scheme

- 3.7. The OUH FtSU Lead Guardian and team undertake training provided the [National Guardian's Office – Freedom to Speak Up](#) and adhere to guidance issued by the National Guardians Office.
- 3.8. The OUH FtSU Lead Guardian and team publicise the [NHS England » Speaking Up support scheme](#) and will support any member of staff who wishes to explore whether they are eligible for the structured support offered by the scheme for those who have experienced a significant adverse impact (in their professional or personal life) following a formal speaking up process.

Healthy and Supportive Cultures

- 3.9. 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.
- 3.10. Delivery of a listening, speaking up culture is also an express objective of the Trust's [People Plan](#), with an explicit priority in Year 2 of the plan to support an inclusive culture.

4. Fit and Proper Persons

- 4.1. NHS England has developed a Fit and Proper Person Test (FPPT) [Framework](#) published in August 2023 in response to recommendations

made by Tom Kark KC in his 2019 review of the FPPT (the Kark Review). This takes into account the requirements of the Care Quality Commission (CQC) in relation to directors being fit and proper for their roles.

- 4.2. The framework will introduce a means of retaining information relating to the requirements of the FPPT for individual directors, a set of standard competencies for all board directors, a standardise mechanism for completing references with additional content whenever a director leaves an NHS board, and extension of the applicability to some other organisations, including NHS England and the CQC.
- 4.3. The Framework will be effective from 30 September 2023. An OUH implementation plan as well as an updated FPPT Trust policy has been submitted to the Trust scheduled for 13 September 2023.
- 4.4. In May 2023, the Trust Board received a [report](#) detailing annual compliance for the period September 2022 – September 2023. Full compliance for all members was noted.

5. Patient Safety Incident Response Framework (PSIRF)

- 5.1. The [National Patient Safety Strategy, safer culture, safer systems, and safer patients](#) was launched in July 2019 by NHS England and NHS Improvement. Part of this Patient Safety Strategy was the national development of PSIRF; this was delayed during the pandemic and published in August 2022.
- 5.2. The four key aims of PSIRF are:
 - Compassionate engagement and involvement of those affected by patient safety incidents
 - Application of a range of system-based approaches to learning from patient safety incidents
 - Considered and proportionate responses to patient safety incidents
 - Supportive oversight focused on strengthening response system functioning and improvement.
- 5.3. PSIRF is a contractual requirement under the NHS Standard Contract and will be launched at OUH in October 2023. A report detailing the OUH PSIRF policy and plan has been submitted to the Trust Board meeting on 13 September 2023.

Safety Culture

- 5.4. Over the last 3 years the Trust's safety culture has been transformed through the introduction of several workstreams. These have included several safety meetings and assurance forums. The aim of learning and improving and not blaming or shaming highlighted at the beginning of each meeting and is upheld by the meeting chairs. The staff survey results over

the same time period have shown an improvement in safety culture. In recognition of the work that the Trust has done on Quality Improvement, it was awarded the [HSJ Patient Safety Award 2022](#).

- 5.5. The following meetings have been put in place to develop patient safety across the Trust:
- **Patient Safety Response (PSR)** is chaired by a senior Trust clinician or manager and identifies any support required for staff involved in the event, and immediate safety concerns. Support to staff is provided through visits from executive and Divisional colleagues.
 - **Serious Incident Requiring Investigation SIRI Forum** is a meeting held weekly to review incidents that have occurred that may require an investigation under the Serious Incident Framework. The multidisciplinary members of the meeting discuss the incidents and agree the level of impact to the patient, and what kind of investigation should be undertaken.
 - **Serious incident group (SIG)** meets weekly to hear the initial findings from incident reports and provide an opportunity for additional aspects to be considered and potential actions to be decided.
 - **Triangulation of patient safety information** occurs monthly with the patient safety team (PST), Legal team, safeguarding team, assurance team, safeguarding and complaints department to triangulate patient safety information and capture any incidents that have come through Patient Advice and Liaison Service (PALS) and the Legal team that may have not been reported through the Patient Safety Team.
 - **Patient Safety and Effectiveness Committee (PSEC)** receives reports from these groups describing the issues and risks that have been identified or discussed during the above meetings.

Medical Examiners

- 5.6. The purpose of the Medical Examiner (ME) system is to provide greater safeguards for the public by ensuring proper scrutiny of all non-Coronial deaths, ensure appropriate direction of deaths to a Coroner, provide a better service for the bereaved, provide an opportunity for them to raise any concerns to a doctor not involved in the care of the deceased, improve the quality of death certification, and improve the quality of mortality data.
- 5.7. The Medical Examiners (ME) at OUH have been scrutinising deaths (acute) since June 2020. The ME team has recently expanded in order to extend the service to scrutinise deaths within the local hospices and in the community setting during 2023-24. The Trust Board receives quarterly ME updates as part of the regular Learning from Deaths report.

6. Conclusion

- 6.1. The correspondence from NHS England was reviewed and this paper provided assurance to the Trust Board that there are policies and processes in place at OUH that enable staff to raise concerns without detriment, and which have Board oversight through regular reporting both specifically, and through People Plan updates.
- 6.2. This paper provided other supporting assurance relating to governance, patient safety - confirming the implementation of the PSIRF, and the updated Fit and Proper Persons Framework.

7. Recommendations

- 7.1. The Council of Governors is asked to :
 - Note the content of this paper which was submitted to the OUH Trust Board in September 2023 and which provided assurance regarding the OUH Freedom to Speak Up processes, the underpinning plans (OUH Strategy and OUH People Plan) to create an open, just and inclusive culture and plans to ensure implementation of the revised Fit and Proper Persons Test.