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# Report to the Meeting of the

**BOD 113/2019**

(Agenda item: 17)

# Oxford Health NHS Foundation Trust

# Board of Directors

**04/12/2019**

**Freedom to Speak Up Report**

**For: Information**

This report is for information regarding the activities of the Freedom to Speak up Guardian (FTSUG). The Board is asked to note the report.

**Executive Summary**

Background is given to the creation and development of a Freedom to speak up Guardian for the Trust and the National picture relating to Raising concerns.

The report describes the activity of the present Guardian between November 2018 and November 2019. Themes of concerns, the number of staff raising concerns are noted with the directorates and staff groups described.

Reference is made to the National Guardians Office Guidance to Trust Boards and the provision of a self -assessment tool which the Board has reviewed and continues to develop.

The role the Guardian has played in developing the culture of openness and safety is described. National and Regional involvement, support and the creation of inter-Trust networking is noted.

The content of raised concerns is described and demonstrates that incivility, lack of respect and bullying behavior are the most often raised concerns this is supported by the staff survey results.

There were no serious patient safety concerns raised. Patient safety concerns related to the level of complexity of cases and workload of the staff which is seen to result in less than best care for patients and ‘burn out’ for staff.

The need for cultural change is reiterated and the role of the Guardian in this change is explained.

The Board is asked to note the work undertaken across the year by the FTSUG and to seek any assurances necessary arising from the report.

**Governance Route/Approval Process** This is an annual report which has not gone to other committees previously will be presented to the Well Led Sub-Committee Audit committee and shared with Staff Partnership, Negotiation and Consultative Committee (SPNCC)

**Statutory or Regulatory responsibilities**

In 2016-17 it became a contractual requirement for all NHS provider trusts to have a Freedom to Speak Up Guardian. Trusts are also expected to adopt a model NHS whistleblowing/raising concerns policy. OHFT has adopted the model Raising Concerns Policy

The Care Quality Commission assesses a Trust’s speaking up culture during inspections under the key line of enquiry (KLOE) 3 as part of the well-led question. No comments

**Recommendations**

1. The Board is asked to note the work done across the year by the FTSUG and to seek any necessary assurances arising from the report.
2. The Board is asked to note that the present structure of the Freedom to Speak Up Guardian role will be reviewed this year with particular reference to the work of the Fair treatment at work facilitators and the allocated hours for the role.

**Author and Title: Caroline Griffiths. Freedom to Speak Up Guardian**

**Lead Executive Director: Mike Mc Enaney**

1. There are no issues that need to be referred to the Trust Solicitors
2. ***Strategic Objectives***– to which this report relates

1) Driving Quality Improvement

Patients will be safe from Harms

5) Developing Leadership, People and Culture

Developing an open culture which welcomes the raising of concerns and where staff feel safe to do so.

**MAIN BODY OF THE REPORT**

**FREEDOM to SPEAK UP Annual Report to Trust Board of Directors 2018**

This is an annual report to the Trust Board on Freedom to Speak Up in the Trust for the 12 months up until the end of November 2019. The Freedom to Speak Up Guardian is a relatively new role across the NHS and was a recommendation of the Freedom to Speak Up Review by Sir Robert Francis that was published in 2015. This Trust was an early adopter of this initiative and the Freedom to Speak Up Guardian came into post in April 2016. The original post holder left the post in February 2018 and the present post holder was appointed in June 2018. In the interim the Head of Spiritual and Pastoral care deputised. The role of the Freedom to Speak Up Guardian is to provide independent and confidential support to staff that want to raise concerns and promote a culture in which feel staff safe to raise those concerns. The post is funded for fifteen hours per week.

Between November 2018 and November 2019 43 members of staff raised concerns. The number of concerns raised has varied over the 4 quarters . Most concerns were resolved locally: 5 continue to be in process. In addition, other activities have been undertaken to raise awareness of Freedom to Speak Up and to encourage cultural change in the Trust. The Guardian has also contributed to the national and regional developments in this area. The survey feedback by staff that contacted the Guardian was positive.

**Background to Freedom to Speak Up**

Sir Robert Francis, in his Report of the Mid-Staffordshire NHS Foundation Trust Public Inquiry (2013), described the experiences of nurses and doctors who raised whistleblowing concerns about the poor care of some patients at Stafford Hospital. As a result, he was asked to conduct a further review into whistleblowing in the NHS. *‘Freedom to Speak Up – an independent review into creating an open and honest reporting culture in the NHS’* was published in 2015. The report identified a need for culture change, improved handling of cases, measures to support good practice, particular measures for vulnerable groups, and extending the legal protection. Sir Robert Francis identified 20 principles that addressed these themes. In particular, he recommended that all trusts should have a Freedom to Speak Up Guardian to ‘act in a genuinely independent capacity’ and support staff to raise concerns.

In 2016-17 it became a contractual requirement for all NHS provider trusts to have a Freedom to Speak Up Guardian. By the end of the financial year, all trusts in England had made appointments although not all Guardians were in post. Trusts were also expected to adopt a model NHS whistleblowing/raising concerns policy.

**The Role of the Freedom to Speak Up Guardian**

The Freedom to Speak Up Guardian is not part of the management structure of the Trust and is able to act independently in response to the concerns being raised with her. The Guardian reports directly to the Chief Executive, and this gives him access to the executive directors of the Trust. There are two key elements to the role:

* To give independent, safe and confidential advice and support to members of staff who wish to raise concerns that have an impact on patient safety and experience. This is not just for permanent staff members but is also available for temporary or agency staff, trainees or students, volunteers and trust governors. Support from the Guardian is not available to carers and patients as they can raise concerns through the complaints and PALS service.
* To promote a culture where members of staff feel safe to raise concerns and do not fear adverse repercussions as consequence

**Freedom to Speak Up activities in the Trust**

*Raising concerns*

**Supporting staff raising concerns**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| ***QUARTER*** | ***Number of staff contacts*** | ***TYPE*** | ***OF*** | ***ACTION*** |  | ***Number still open and comments*** |
| ***Clarifying concern*** | ***No action*** | ***Discussion and advice only*** | ***Further action required*** |  |
| November-Jan  2018-19 | 5 | 1 | 3 |  | 2 | 1  This concern continues to be addressed |
| *Feb-April 2019* | 6 | 1 | 1 | 1 | 3 | 1 |
| *May-July 2019* | 22 ( 11 regarding single concern) | 2 | 0 | 1 | 19 including 11 as part of group | 3  Whole team raised a concern re medical cover |
| Aug-Oct 2019 | 9 | 0 | 0 | 2 | 7 | 5  In September no concerns were raised |
|  |  |  |  |  |  |  |
| *Total* | 42 | 4 | 4 | 4 | 31 including11 as part of group | 6  This number is made up of 2 long running concerns which are being addressed plus 4 most recently raised concerns |

A cross-section of the Trust’s workers contacted the Guardian. These have included: non -registered staff ( such as health care assistants)non-clinical staff (such as administrators and drivers ,Housekeeping/portering staff,) Trainees and staff employed flexibly via Staffing Solutions. Registered staff have included nurses ( community psychiatric nurses and district nurses), Social workers, Physiotherapists, Health visitors, psychologists., pharmacists and Occupational Therapists . Often staff have been in leadership and management roles and these have included operational managers, heads of service, Educational environment leads, ward and team managers and service managers. One case which involved a volunteer has involved co working with PALS and the National Guardians office and although not an active case in terms of the OHFT Guardian is ongoing with the Trust.

The Guardian is still waiting to clarify the concerns of 4 staff who recently contacted her. One case is ongoing from the previous Guardian. Where there was no further action that was because the person who contacted did not want any further contact at this time, could not be contacted or had inappropriately contacted the Guardian. The majority of staff contacted the Guardian by e-mail or telephone, but a number were direct contacts as a result of awareness raising activities, drop ins .

All staff were offered a face-to-face meeting to discuss and clarify their concerns and agree what steps should be taken. When this was not possible, telephone or e-mail was used. In some cases, the Guardian agreed the next steps that the staff member concerned could take and had no further direct involvement. In others, the Guardian took the steps on behalf of the staff member: this was particularly so where the staff member did not want to be identified.

Services where there have been concerns raised about include:

1. *Oxfordshire &BSW Mental Health:* Adult Mental Health Teams, CAHMS Eating disorder
2. *Specialised Services :* Learning Disabilities, Pharmacy
3. *Community:* Out of Hours service, Single Point of access, community Therapy Service, Children’s services, District Nursing
4. *Corporate Services:* Administration
5. *Buckinghamshire Mental Health:* Assessment team

It is not always possible to identify the services that staff came from in reports as that could have result in the individual being identified.

**Actions Taken by Guardian in relation to concerns raised.**

* Advice given about how to respond to bullying and harassment
* Confirmation of actions being taken in AMHTs concern
* Recommendations to attend Occupational Health for stress
* Recommendations to request Union advice and support
* Recommendation to ensure exit interview is carried out and information shared
* Advice sought from National Guardians office re cases
* Disciplinary panel outcomes reviewed
* Escalation to service heads to complete requested actions
* Reviews of similar cases published by National Guardians office
* Facilitated conversations between concern raiser and service leads
* Co-management of case with Guardian from another Trust

The majority of issues raised with the Guardian were not formally investigated and therefore the categorisation of the issues of concern was based on the account given by the staff member and was not formally substantiated. The National Guardians Office (NGO) has suggested a number of categories for the types of issues (such as patient safety/quality, behaviour /relationship, senior leadership) but they have not been defined and have limited value at this stage. At the request of the NGO, the Trust’s previous Guardian drafted some definitions for the categories and suggested revisions to the categories suggested. The types of issues raised in the Trust with the Guardian can be described as:

1. *Patient safety:* There have been no issues of abuse similar to those seen at Stafford Hospital raised with the Guardian. There have been patient safety issues however related to the level of demand and the expectation of quick throughput of cases and speedy discharge. One concern was raised regarding patient safety relating to disregard of care plans.
2. *Demand and patient complexity:* Teams described increasing numbers of referrals of more complex patients and having to care for them without an increase in resources: they often had significant numbers of vacancies some covered by agency or bank staff. Often staff worked extra hours to try to meet this demand and would go home worrying about patients that they felt were at risk. This caused them stress and had an impact on their family lives. They were concerned that they could not provide care at the standard that they would like to and some felt that they were compromising their professional standards. These concerns were reported previously to the Clinical Advisory Board and Directorate Management Teams
3. *Bullying and harassment:* Whilst bullying may not be endemic in the Trust, it has been reported to the Guardian by staff from across the organisation from senior managers/leaders to frontline staff. Staff described distressing situations where they had been victimised by their managers. These included being shouted at, ignored, not given training opportunities, having reasonable requests refused, being treated differently than colleagues and being spoken to or about in derogatory ways. Bullying took place in 1:1 situations and in more open settings. In a number of cases, several staff from a team contacted the Guardian and in two situations investigations were initiated. Often staff felt very anxious about formalising bullying allegations as they were worried that the situation would be made worse for them. Generally, staff described being bullied by more senior staff or colleagues. Some managers were generally poorly supported in addressing these issues by their line managers or felt that as new managers they had to demonstrate their control of a team and therefore were reluctant to ask for support.
4. *Favouritism and partiality:* A number of concerns brought to the Guardian included elements of favouritism and the alternate to that- negative discrimination. Described as ‘ one rule for the favoured another for the rest’. This experience was variously ascribed to a manager who had friends or relations in the team or who were part of what would be seen as a clique. In the latter case whole groups of staff were described as exclusive and unwelcoming .
5. *Management style and communication:* Staff described some managers as insensitive or lacking in management and leadership knowledge and skills. Others felt that there was a lack of communication when staffing or service changes were being made. Communication formed the basis of concerns raised regarding email style and tone.Unclear requests from managers for staff members to change their ‘tone’ left staff confused about how to communicate clearly.
6. *Nonspecific concerns:* Where a concern was not the remit of the Guardian advice is offered to staff with signposting to an appropriate source of support.

The discussions with the Guardian would often lead to the individual developing strategies to address their concerns with their managers or making changes to their own practice. Their concerns about being identified or possible repercussions meant that for some the Guardian was only able to feedback or address their concerns in a general way (for example, discussing management style with the Directorate Management Teams). Changes that were made following involvement with the Guardian included:

* Improved communication and clarity of decision making in a service re-design
* The importance of confidentiality relating to staff who are also carers being emphasised in Information Governance training
* Clarification of requests made to staff
* Mediation with resolution between staff members
* Empowerment of staff to challenge unfair criticism and evidence their case
* Review of culture in ward teams
* Increased awareness of the importance of civility in communication

*Changing the culture*

Freedom to Speak Up Guardian is a part of the whole Trusts drive to create an organisation which is transparent and where bullying behaviour is not tolerated. The activities of the Guardian are supported and complemented by the Well being agenda/strategy, Diversity Networks, Spiritual and Pastoral strategy among others.

*Raising awareness:* Freedom to Speak Up is an important part of the patient safety agenda and staff need to know that they can safely raise concerns and how to do so.

*Ensuring new staff know the Trust Values* :All new staff are given information about freedom to Speak Up as part of corporate induction. The Health Care Assistants, who complete the Care Certificate, receive training on the culture of the Trust and on attitudes and process regarding Raising Concerns.

*Information: The Staff Support Hub* There is a page on the intranet with information about the role of the Guardian, how to raise concerns and sources of support for staff. There have been announcements in the weekly communications bulletin and articles on the intranet and in the Insight magazine.

*Drop ins and presentations*: The Guardian has visited teams and wards and attended meetings to deliver short presentations to promote Freedom to Speak . Teams include- CMHTs in Oxfordshire, CAMHS community and Eating Disorder teams, Oxfordshire Community development leads, Forensic ward managers and clinical leads, District nurses.

The Guardian has presented to student nurses and paramedics as part of their introduction to the Trust before starting placements. The guardian attended Healthfest and Linking Leaders Conference, Podiatrists study and development day.

The Guardian is part of the equality network in the Trust and attends the Trust’s equality groups.

As part of **SPEAK UP MONTH** – a national campaign initiated by the National Guardians office throughout October 2019 the Guardian provided surgeries and drop in sessions which were held in, Whiteleaf, Buckinghamshire , Warneford and Littlemore cafes Oxfordshire, CAHMS teams in Malborough, Swindon, Melksham, Keynsham and Salisbury.

*Staff development:* Unregistered care staff can often find it harder to raise concerns but spend most time in direct contact with our patients. This has been recognised and the Guardian delvers a joint session on the importance of values, what happens when they are not reflected in the care that is given and how to raise concerns. Over a 200 health care assistants and support staff have now received this session.

*Influencing cultural change:* The Guardian meets with management and professional leadership groups (such as Directorate Management Teams and the Clinical Advisory Board) and the Quality and Safety Committee and these meetings will continue with the present Guardian as appropriate. Regular meetings are held with the Director of Human Resources and the Director responsible for Whistle Blowing/ Raising Concerns.

*National and Regional Developments*

The National Guardian, Dr Henrietta Hughes, came into post in October 2016 and has been developing her role and the work of the National Guardian’s Office(NGO). Training has been provided for new Guardians and guidance has been issued on recording information, case reviews and Freedom to Speak Up and CQC assessments of Trusts. There have been 3 national conferences – in October 2016, March 2017 and October 2018. From April 2017, the NGO started collecting data quarterly on the work of the Guardians which it publishes. This includes a satisfaction question that Guardians are requested to ask all staff that contact them.

There is a regional network of Freedom to Speak Up Guardians which meets quarterly in the Thames Valley and Wessex area.

The National Guardians office have updated their support for guardians to include phone in surgery, weekly bulletin updates, case studies which can be used as basis for Board seminars and regional leads.

The Board self-assessment tool kit was updated and published in July 2019

**A Self- assessment tool and Guidance for Trust Boards** was developed by the National Guardians office in 2018.The Board reviewed and began to use the self- assessment during the Board seminar in October 2018. A revised tool was provided by the National Guardians office in July 2019. The Board was offered the opportunity to complete this self-assessment tool in November 2019. The Boards decision was that a separate FTSUG policy was not required but that existing policies will require development to include reference to and description of the role of FTSUG. e.g. Whistleblowing/Raising Concerns policy.

This self-assessment requires further consideration by the Board led by the Executive lead for FTSU.

**Effectiveness of Freedom to Speak Up** The Guardian is managed by the Chief Executive and has regular discussions with the Director of Finance about the raising concerns arrangements in the Trust and current whistleblowing concerns and possible investigations.She provides an annual report to the Trust Board and will provide interim report to Well-Led Quality Sub-Committee. The same reports are presented to the staff side at the SPNCC. A recommendation from the Board self-assessment is to report to the Audit committee 6 monthly.

The national NHS staff survey asks two questions about staff raising concern in their trust. The 2018 staff survey showed very small decreases from the 2017 survey - from 76% to 75.5% - in staff feeling secure to raise concerns about unsafe clinical practice (question 18a) and from 62% to 61.5% in staff feeling confident that the Trust would address those concerns (question 18c). The decreases cannot be seen as significant or conclusions drawn from them.

Some areas showed significant difference from the Trust average for instance in Adolescent Mental health and in Eating Disorder 87% of staff who answered the survey feel safe raising concerns and 80 % feel confident that the organization would address concerns. In Buckinhamshire CAMHS less than 50% felt that the organization would address concerns although felt secure to raise a concern.

In comparison with other mental health and community trusts, staff confidence and security in reporting unsafe clinical practice was 3.77 compared with 3.71 (out of a possible score of 5).

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The number of formal whistleblowing investigations started during the past 12 months was higher than the previous year . In the period 1 Nov 2018 – 31 Oct 2019 a total of 5 formal whistle blowing investigations commenced under the Trust’s policy & procedure. Of those 5 formal cases, 2 were raised through the CQC this compares to 3 formal whistleblowing investigations 2017-18 of which 1 was raised through CQC. This may reflect a rise in workers confidence to raise concerns internally but there is not evidence to be sure.

From April 2017 anonymised feedback has been requested from staff that have contacted the Guardian by asking them to complete a short survey on Survey Monkey. Generally, feedback was positive and comments included: ‘I was so relieved to talk to someone ‘and ‘I was made to feel comfortable to speak and was truly listened to and understood’ ‘ it really helped me to see my priorities’.

Comments also included along with gratitude some frustration that despite reaching the highest level and being acknowledged as a concern change had not yet happened.

Not enough surveys have been completed to show any trends.

The survey includes questions about equality which will enable a picture of the background of staff contacting the Guardian.

As the quarterly collections of data by the NGO develop, they may enable some benchmarking with similar Trust to be undertaken.

*Reflection of Guardian*

The Guardian has reflected upon the concerns raised and it is clear that patient safety is not the leading concern. Management behaviour and skills are at the route of the concerns raised with many describing basic management omissions and commissions regard such things as confidentiality of staff, favouritism in allocation of shifts and learning opportunities, lack of respect and kindness, lack of transparency of processes, lack of knowledge of processes.

Addressing the underlying issue of management culture remains a task for leaders of the Trust. How do we develop our staff to be fit for management and support them once appointed? Do we have enough training coaching,mentoring? Do we expect managers to reflect on their style and skills and allow them to acknowledge the need for development?

***Speak Up Month* Outcomes included**

* In total 217 members of staff /trainees have received presentations from FTSUG
* Informal conversations during and following drop ins have allowed sharing of the Speak UP message to 25 other staff members
* Increased involvement of Communications team who have promoted and highlighted the campaign and the FTSUG role via the Intra net Slider and posters
* More conversations with those who do not regularly use computers

The communication team and the guardian are working to reinstate older technology methods to reach these workers and this forms part of the Guardians objectives for 2019-20. The process of speaking up is working- workers are speaking up if they feel that their managers are not addressing their concerns. Concerns which are raised with the guardian are heard by the relevant senior leaders who are held to account by the guardian for agreed actions.

**The Objectives for Freedom to Speak Up Guardian 2019-20**

The following objectives which were agreed with Chief Executive for 2018-19 continue to be relevant with the exception of developing systems of monitoring which has been achieved.

Continued Objectives

* To raise awareness of the role of the Freedom to Speak Up Guardian with Trust staff. Measured using numbers contacted, numbers of concerns raised, variety of areas from which concerns arise
* To improve the confidence of managers in responding to concerns raised with them by their staff through the Freedom to Speak Up Guardian. Measured by Feedback survey comparing year on year.
* To participate in the development of the role of the Freedom to Speak Up Guardian and the Office of the National Guardian
* To Support the Trust Board in self -assessment. Measured by completion and review of assessment by Board members.

Additional objectives

* To target those staff who do not regularly use computers or see information on the Intranet. Measured using numbers contacted, numbers of concerns raised
* To include in management training specific reference to the Staff Support Hub and its importance for all staff. Partially completed.

**Recommendation**

1. The Board is asked to note the work done across the year by the FTSUG and to seek any necessary assurances arising from the report.
2. The Board is asked to note that the present structure of the Freedom to Speak Up Guardian role will be reviewed this year with particular reference to the work of the Fair treatment at work facilitators and the allocated hours for the role.

The FTSUG will work with the Chief Executive, Director of Finance ( Whistleblowing /Raising Concerns Lead) the Director of Human Resources and the Head of Inclusion to investigate the need to develop the role of the Fair Treatment at work facilitators to support the Freedom to Speak Up Guardian.

**Caroline Griffiths November 2019**