

REPORT TO THE TRUST BOARD – PUBLIC
28 November 2019

Title	Freedom to Speak Up Annual Report 2018- 2019
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Purpose of the Report:

To brief the Trust Board on the annual Freedom to Speak Up activity to ensure it is meeting its objective both locally and nationally.

Summary of Key Issues:

The Freedom to Speak Up Review undertaken by Sir Robert Francis and published in February 2015 sets out that all NHS Trusts are required to have a Freedom to Speak Up Guardian (FTSUG) in post. The Trust appointed a FTSUG in October 2017 and has implemented the 'standard integrated policy', which had been adopted in line with recommendations of the review by Sir Robert Francis into whistleblowing in the NHS.

The Trust sends quarterly data to the National Guardian Office. The data is categorised into 3 categories: Elements of patient safety/quality of care, Elements of behaviour including Bullying and Harassment and Number of detriment as result of speaking up. Freedom to Speak Up received a total of 138 concerns in 2018/19. 57 out of these cases were related to behaviours including bullying and harassment whilst 42 related to patient safety and quality and 42 cases were related to processes. 6 staff reported experiencing a detriment as a result of speaking up.

The corporate service and allied health professional groups make up a large proportion of concerns received. This is followed by nurses and healthcare assistance whilst lowest reporting group were from doctors and pharmacists.

There are improved links between with senior managers, network leads, unions, people and culture to support an organisational culture where staff speaks up about concerns is the usual way the Trust operates. The guardian has strengthened existing external Guardians from other Trust and is currently the co-chair of the FTSU London Regional Network.

The Trust scored 80%, (national average is 79%) in the recent Freedom to speak up index. The results are taken from an annual NHS staff survey which contains several questions that serve as helpful indicators of the speaking up culture. The Trust is using its Freedom to Speak up Index score to see how it can continue to make improvement and engage with its workforce to develop a positive speaking up culture.

The Freedom to speak up team is excited about the appointment of two service users in the team. The service users were appointed from People Participation and their role will support to reinforce the importance of speaking up from a patient safety perspective.

Strategic priorities this paper supports (Please check box including briefstatement)

Improved patient experience	<input checked="" type="checkbox"/>	Improved staff satisfaction positively correlates with improved service user satisfaction.
Improved health of the communities we serve	<input checked="" type="checkbox"/>	Ensuring the Trust is well led and meets CQC regulation.
Improved staff experience	<input checked="" type="checkbox"/>	The ability to raise concerns is key to a culture of trust and safety. There is potential to improve staff satisfaction through openness and transparency about how concerns are raised and dealt with.
Improved value for money	<input checked="" type="checkbox"/>	Effective speak up processes reduce financial risk and exposure to the Trust through employee relations' cases, legal fees and redundancies.

Committees / Meetings where this item has been considered

Date	Committee / Meeting
	State whether the report has been considered / approved by other committees or meeting groups including recommendations / points of exception

Implications

Equality Analysis	
Risk and Assurance	There are a number of potential risks associated with Freedom to Speak Up cases, including reputational damage, financial risk and adverse impact on morale. These risks are being managed by corporate and directorate management teams and oversight of the Executive team.
Service User/ Carer/Staff	The role promotes the importance of staff speaking up to providing high quality, cost effective, compassionate services and to continually improving in partnership with people who use our services, their carer, families, friends and communities.
Financial	There are financial implications associated with Freedom to Speak Up, potential redundancies and tribunal claims resulting from organisational change and Freedom To Speak Up
Quality	Themes arising from Freedom to speak up can act as a driver for quality improvement work.

Glossary

Abbreviation	In full
FTSU	Freedom To Speak Up
FTSUG	Freedom To Speak Up Guardian
NGO	National Guardian Office
CQC	Care Quality Commission

Supporting Documents and Research material

a.

1.0 Background / Introduction

- 1.1 The National Guardian's Office and the role of the FTSUG were created in response to recommendations made in Sir Robert Francis' report "The Freedom to Speak Up" (2015). These recommendations were made as Sir Robert found that NHS culture did not always encourage or support workers to speak up, and that patients and workers suffered as a result. The NHS Contract for 2016/17 required every NHS Trust to have a Local FTSUG as of 1st October 2016. Guidance for the appointment was published in March 2016. The Trust appointed a FTSUG in October 2017 and has implemented the 'standard integrated policy' which had been adopted in line with recommendations of the review by Sir Robert Francis into whistleblowing in the NHS.

2.0 Freedom to Speak Up Accountability Arrangements and Support Structure

- 2.1 The Chief Executive is accountable for ensuring that FTSU arrangements meet the needs of the staff in the Trust. The Chief Nurse is the Executive Lead for FTSU who provides leadership and oversees the supportive arrangements for speaking up within the Trust. The independent Non Executive Director (NED) acts as an independent advisor and is available to the Guardian and the Chief Executive to seek second opinions and support in progressing complex matters.

3.0 Freedom To Speak Up reporting

- 3.1 FTSU reports to the Trust Board bimonthly in the People and Culture team report. A report from the FTSU presented to the Quality Committee Part 1 by the FTSUG on a six monthly basis updating the Committee of Freedom to Speak Up activities. FTSU provides data to the committees Quality Assurance dashboard on a monthly basis reporting number of total issues raised and the number of quality and patient safety issues raised with FTSU.
- 3.2 FTSUG attends the Remuneration Committee (REMCO) and Joint Staff Committee meeting. Attendance ensures that decisions are based on clear and transparent criteria and to give independent advice in regards to decisions which may affect patient safety and staff wellbeing. FTSU attends the CEO discussion group which gives opportunity to hear and share ideas with senior managers.

4.0 Policy Framework

- 4.1 The Trust's Whistleblowing Policy was rewritten in line with the new national policy and renamed as the Freedom to Speak Up Policy (Whistleblowing Policy). The new policy was published June 2019 on the Trust intranet.

5.0 Freedom to Speak Up cases for 2018/19

Table 1. Freedom to speak up cases by directorate

Directorate	Quarter/ Date			
	Q3 Oct-Dec 2018	Q4 Jan-Mar 2019	Q1 Apr-Jun 2019	Q2 July- Sept 2019
Bedford	1	4	4	0
Bedfordshire- Community Health Service	2	1	0	0
Luton	3	2	1	1
Corporate	7	6	12	9
Tower Hamlets- Community Health Service	4	0	1	6
Tower Hamlets	2	1	1	4
Specialist Services and CHN Children's Services	2	4	2	1
Newham	1	1	0	0
Newham- Community Health Service	0	2	4	3
City and Hackney	11	8	5	7
Forensic Services	1	7	0	3
Service Unknown	1	0	0	2
Quarterly Total	35	36	31	36
Annual Total	138			

5.1 During this reporting period, Freedom to Speak Up received a total of 138 concerns compared 217 reported in 2017/18. Last year there were a significant high numbers of concerns that came from the Trust's Community Health Service who were undergoing several service transformation which contributed to the high reporting figures in 2017/2018. This increase is not unusual when organisations are undergoing changes in services. Learning from these cases has helped the Trust look at its processes and review how staff are supported and information is communicated during times of change.

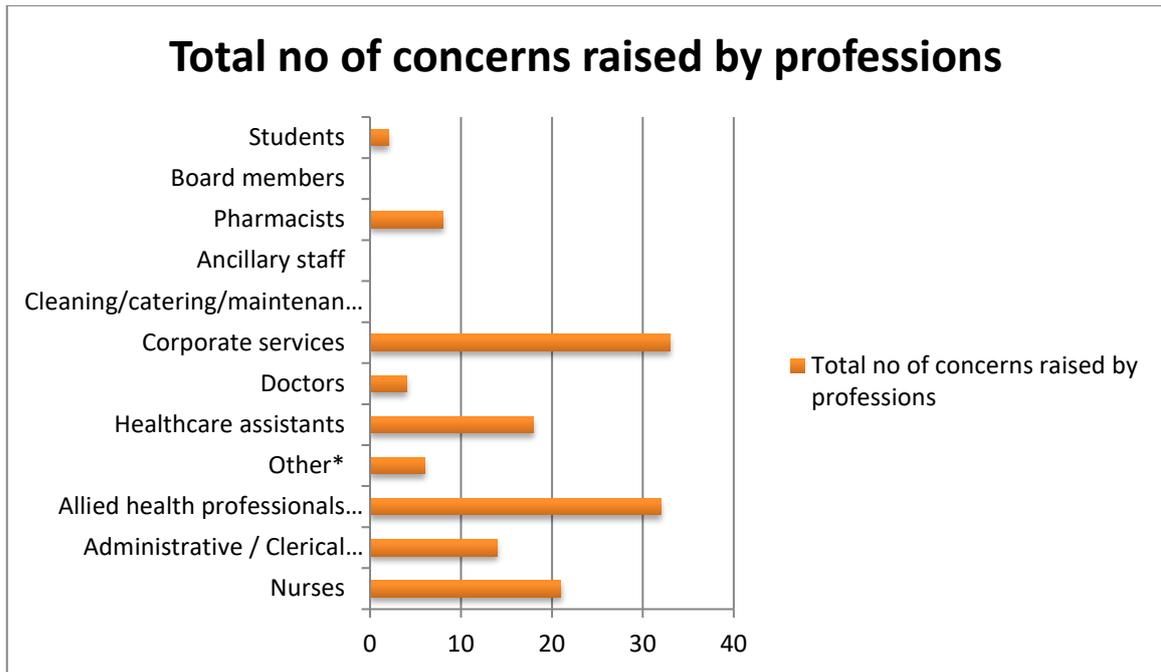
6.0 Who is speaking up?

Table 2. Most cases were received from corporate staff and allied health professionals:

Profession	Q3 Oct-Dec 2018	Q4 Jan-Mar 2019	Q1 Apr-Jun 2019	Q2 Jul- Sept 2019	Total by profession
Nurses	7	7	3	4	21
Administrative / Clerical workers	6	3	3	2	14
Allied health professionals (other than pharmacists)	8	4	6	14	32
Other*	2	1	1	2	6
Healthcare assistants	2	8	5	3	18
Doctors	1	1	0	2	4
Corporate services	7	7	11	8	33
Cleaning/catering/maintenance	0	0	0	0	0
Pharmacists	1	5	1	1	8
Board members	0	0	0	0	0
Students	1	0	1	0	2

*includes union reps and anonymous reports

Chart 1.



6.1 The FTSU team have received concerns from a broad section of the Trust and across all professions. Reporting from corporate services and allied health professional groups make up a large proportion of complaints received. This is followed by nurses and healthcare assistance. The lowest reporting group were from doctors and pharmacist.

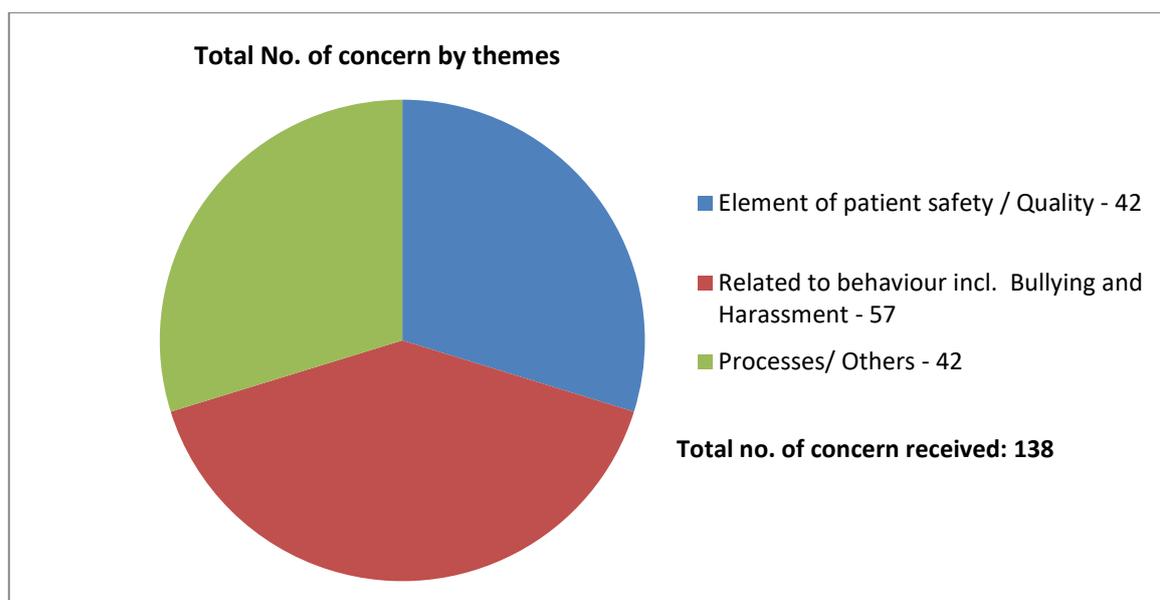
7.0 Freedom to Speak Up cases and themes

Table 3 shows the broad themes of concerns raised to Freedom to speak up during the reporting period and are categorised as per guidance from the National Guardian Office Oct 2018- Sept 2019:

Table 3. Freedom to Speak Up cases and themes

Type of concern	Q3 Oct- Dec 2018	Q4 Jan-Mar 2019	Q1 Apr-Jun 2019	Q2 Jul - Sept 2019
Element of patient safety / Quality	14	10	8	10
Related to behaviour incl. Bullying and Harassment	8	15	14	20
Processes/ Others	13	11	9	9
Total number of concern raised	35	36	31	36
Number of concern raised anonymously	3	2	2	0
Suffering detriment as a result of speaking up?	2	3	1	0

Chart 2.



Of the 138 complaints received during 2018/19, the top themes were:

1. **Related Behaviours:** Bullying & Harassment / Attitude of staff/ Management processes
2. **Patient safety / Quality:** staffing level/ Violence and aggression at work/ Medicine error/ Near Miss/ Access to services/ Patient complaint
3. **Process/ Others:** Culture/ Interview process/ HR Processes / Organisational systems / Environmental/ Other service providers/ Fraud /Queries

7.1 The cases are grouped by theme and similar to last reporting year. Behaviours which include breakdown in working relationships, attitude of staff and alleged bullying and harassment are causes for about 45% of cases raised to FTSU.

7.2 Concern related to patient safety and quality makes up 27% of concerns. This often relates to staffing levels, near misses, access to services, clinical decisions regarding patients care and treatment. These types of concerns are escalated to service directors or brought to the attention of the appropriate executive director for support.

7.3 The National Guardian Office doesn't include a 'process' category' in their reporting but this category forms about 27% of concerns from staff.

The nature of these concerns usually related to a HR process, themes relating to lack of fairness in recruitment practices, staff seeking advice and support on matters relating to sickness management, annual leave, flexible working and performance management.

7.4 The Trust's reporting of related behaviour and patient safety is reflective of the national data which reports that 45% of cases reported nationally included an element of bullying / harassment whilst 32% included an element of patient safety / quality (2017/18 data headlines, National Guardian Office).

Table 4. During this reporting year, FTSU have listened to the experiences of staff who have spoken up and there are four major areas which there is a theme of concerns that is recurrent:

Recurrent theme	Staff experience	Where this has worked well
Post support for staff after work related incident e.g. violence or aggression from patient, work accident or injury	Staff experience that sometimes the support is not adequate or present post serious incident at work. <i>“no one person has even followed up to see if I was okay after the incident and I have been quite emotional about the situation since... I would also like to follow this up with legal advice as I was in a life threatening situation and no one cared”– affected staff</i>	Individual cases escalated to the service director and the borough lead nurse who have then looked into the case and taken appropriate action to ensure those individual are supported. <i>“It’s important we ensure there is equal consideration of staff experiences in dealing with and managing incidents; offering debrief reflection and opportunities for processing the event and learning to take place”. -Senior manager</i>
Safety concern raised by staff	Differences of opinion between the staff delivering the care who may raise the initial concern and the senior manager who has to look into the concern raised.	Concern has been escalated for the service director. Concern also discussed with the appropriate executive and/ or non-executive to ensure adequate action and support is offered.
Work life balance: cases of flexible working refusal	Staff often feel that applications are refused for similar or standardise reason: <i>“ will impact the service provision”</i> <i>“the changing need of the service”</i> <i>“there’s already xxx people working flexible hours in the team”</i> <i>“there may be a specific meeting, training or incident that is essential for you to attend to that occurs on the hours you are not working...”</i>	The decision appealed and the service director has been able to relook at decision made from an independent perspective. <i>“I do however, recognise that you have young children to consider and are anxious about caring arrangements. Taking this into consideration and, having considered your case and all the documents submitted on the day, I am recommending that a further meeting is held between you and the management team to come to a compromise as to flexibility in hours where you will be...” – Service director</i>
Appropriateness of some the Trust use of policies and procedures	Staff feeling that policies are not always followed or consistent in its approach. <i>“sometimes managers weaponise policies in how it is used” – affected staff</i>	Concern escalated to the appropriate executive and/ or HR Director to review the appropriateness of some of the local responses in policies and procedures. Staff side (union) have also been able to support staff with ensuring there is consistency and right processes are followed.

The recurring themes above are areas where concerns coming to FTSU are heavily concentrated. Observation from the FTSUG is that the response from the Trust is not always consistent to ensure staff feel there is fairness and consistency in how concerns are managed.

This area will form a key priority for the Trust to reduce variation in its response and ensure concern relating to the treatment of patients and/or staff are consistent and fair.

8.0 Comparison with neighbouring Trusts

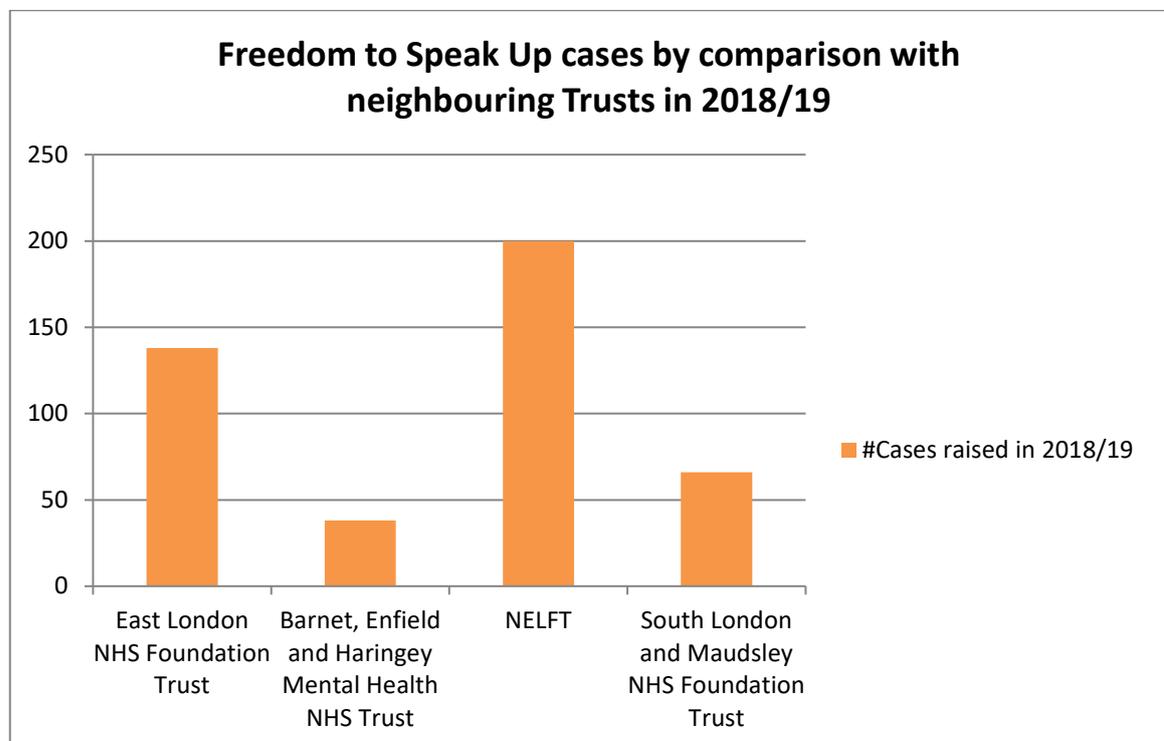
8.1 The Trust has compared its annual data to three other neighbouring Trusts of similar service, structure and populations within the London region for data benchmarking and comparative purposes. The following Trusts kindly shared their Freedom to speak up data with ELFT for the reporting period 2018/19.

Table 5. Cases comparison with neighbouring Trusts

Trust Name	Type of Trust	Size of Trust	#Cases raised Oct'18-Sept '19
East London NHS Foundation Trust	Combined Mental Health/ Learning Disability/ Community	Medium (up to 5,000-10,000) staff	138
*Barnet, Enfield and Haringey Mental Health NHS Trust	Combined Mental Health/ Learning Disability/ Community	Small (up to 5,000 staff)	38
*NELFT	Combined Mental Health/ Learning Disability/ Community	Medium (up to 5,000-10,000) staff	200
*South London and Maudsley NHS Foundation Trust	Mental Health	Small (up to 5,000 staff)	66

* Please note that each Trust is different with differing WTE hours dedicated to its FTSU role, access to different number of ambassadors to support the FTSUG along with different service structures and provision compared to ELFT.

Chart 3.



- 8.2 According to the National Guardian's Office data collection collections from Guardians in NHS and Foundation Trust from the Speaking up data report 2017/18, the average number of cases per trust is largest amongst combined acute and community trusts (an average of 43 cases per trust reported over the year). The national average for 2018/2019 data is yet to be published.
- 8.3 In the introduction to the report 'Speaking up in the NHS in England' Dr Henrietta Hughes, National Guardian for the NHS cautions "The absolute number of cases is not necessarily reflective of the speaking up culture in an organisation. There are many existing routes for workers to raise concerns, through incident reporting mechanisms, via their line manager or educational supervisor, or directly to an executive or non-executive director amongst others. However, there may be occasions where none of these routes are suitable or there are concerns about whether confidentiality will be maintained. Freedom to Speak Up Guardians are not a substitute for these other routes but work proactively to support a positive speaking up culture throughout an organisation". "As a system still in its infancy there is much to be learned about what data to collect. The raw numbers do not do justice to the seriousness of cases that are being raised" National Guardian Office, September 2018.

9.0 Service user involvement

- 9.1 The Freedom to speak up team has recruited two service users from People Participation team. The FTSU team has one service users based in London, another one based in Bedfordshire, both service users works with the FTSU team once a week.

This addition is to provide support in Trust inductions, promoting the FTSU role and bringing insight of the importance of speaking up from a patient safety perspective. This role commenced August 2019.

- 9.2 One of our service users from the team said this of their experience:

"My name is Ola Ogunyomi and I am the freedom to speak up people participation support for London and I am very much enjoying my position. My decision to be part of the freedom to speak up team is partly to do with my passion for involvement and engagement. I wanted to join the freedom to speak up team and be involved in the changes that can come out of speaking up. Speaking up saves lives. In any case where a vulnerable individual or group cannot speak up for themselves, the bravery of one person speaking up on their behalf can make the difference that would benefit that individual or group, ultimately keeping the safety of the people involved in the service and the trust as a whole.

The great thing about the East London NHS foundation trust (ELFT) is their inclusion of service users in everything that can benefit the service provided, that is the fundamental reason why I was appointed unto this role, although it can be unclear what a service users involvement in sensitive matters involving patient care and staff concerns can be. What is reassuring is that an expert by experience such as me has a different view and perspective towards matters concerning peers. I am very lucky to work alongside a wonderful team of people. They provide support and guidance through the role and involve where possible to gain experience. I can honestly say that I benefit greatly from being a part of the freedom to speak up guardian's team"

10.0 Improving the culture of speaking at ELFT

10.1 The Trust Annual Freedom to Speak up conference took place in London in June 2019 and Bedfordshire in October 2019. Both events were well attended by Trust staff at different professional levels. This year's theme was 'Speaking Truth to Power: Speaking up, Listening up.' There were a range of presentations throughout the day looking at different perspectives around speaking up, experience of those who have spoken up, psychological safety around speaking, fraud and medicines safety and how perceptions of power enable or silence people. The conference was an opportunity for staff to reflect on challenges around speaking up, look at lessons learnt and to be aware of the support available through the Trust. The day also served as a training opportunity for staff to learn about the importance of speaking in maintaining patient safety and staff wellbeing.

There were a lot of positive feedback received and suggested areas for improvements;

"The psychological safety session was really important"

"The Trust has shown commitment to establish a culture of making the working environment safer"

"Call things out to senior colleagues rather than chat about it- speak to my line manager more"

"The session taught me how to improve the culture of my workplace"

"Challenges my thought on them and us"

"Enjoyed the lived experience from the service users"

"All the talk was very good, but I felt that some speakers downplayed the risk of raising concerns to management, especially by not recognising the more insidious repercussions which can follow."

"Being able to disagree without being disagreeable"

"Introduce more service users input"

"Story from the service user was good to hear"

10.2 In February 2019 the Quality committee Part 3 did a deep dive into the Gosport report which showed that along with a number of unsafe practices, Gosport War Memorial Hospital also had a culture which did not create the right conditions for safe care. The presentation stimulated a wider discussion of the issues it raises and considered relevant actions. Implications for the Trust were considered in regards to safety culture, Clinical practice /supervision and the role of Freedom to speak up. As a result of the discussion, the Trusts Controlled Drug Accountable Officer (CDAO) is now involved in supporting with concerns relating to medicines/controlled drugs.

10.3 The Trust has committed to developing the role of the Freedom to speak up through appointment of FTSU ambassadors who work with the FTSUG in encouraging staff to raise concerns at the earliest reasonable opportunity. There are currently four FTSU Ambassadors across the Trust, two in London and two Bedfordshire. The recent conference in London and Bedfordshire has prompted more staff to consider for the role of FTSUA. Recruiting more FTSU ambassadors remain one of the key priorities as having a diverse group of FTSU ambassadors across the Trust will help to promote and support FTSU in their local area and help to address issues at an early stage.

11.0 Speak up training session for teams

11.1 Encouragingly, the Freedom to Speak Up Guardian is receiving invitations to speak to teams at their local team meetings and away days. In some cases managers are bringing up concerns at the early stage to the attention of Freedom to Speak up and asking for support where they feel changes within the service or groups certain dynamics is impacting on the team or quality of care provided. Freedom to speak up has been able to support teams and individuals at early stages of concern to encourage open discussion with the managers and explain the different escalation process whilst highlighting the importance of raising their concern where they feel it may impact on patient safety or staff wellbeing. The feedback from these sessions have been very positive with staff and managers stating that it has helped team to rebuild trust and have discussions early.

11.2 Some of the feedbacks are as below:

'I can escalate further should I feel my immediate manager hasn't responded or responded insufficiently.'

'It has reminded me of the importance of speaking up for the team where necessary.'

'I feel more confident to say something if I am worried about patient safety.'

'I understand the process to escalate concerns better.'

'To be able to disagree without causing conflict and seeing others point of view'

'it helped me to have openness with my team'

It is hoped that sessions similar to these will continue to take place with different teams across the Trust to enable further awareness and learning throughout the organisation.

12.1 National Guardians Office case review recommendations gap analysis

- 12.1 As well as introducing the Board Guidance self-assessment tool, the National Guardians office undertakes case reviews within organisations to identify areas where the handling of NHS workers' concerns do not meet the standards of accepted good practice in supporting speaking up and make recommendations to NHS organisations to take appropriate action where they have failed to follow good practice. To date the National Guardians office have published six case reviews with 95 recommendations in total.

Following the last NGO's case review in September 2019, the Trust Freedom to Speak up Guardian will be using the gap analysis of these recommendations to provide assurance to the Trust as to where the Trust stands with their arrangements and sharing what learning has been embedded.

From carrying out a recent gap analysis for the Trust in October 2019, the following areas were identified as areas where the Trust needs to strengthen:

- Insufficient provision for training for staff on speaking up
- Timescale for responding to concerns
- All those managers and leaders responsible for handling concerns provide feedback to every individual who speaks up, including any actions they intend to take in response.

These recommendations will form part of the action plan for 2019/2020 priorities.

13.0 Trust support for Freedom to Speak up Guardians regionally

- 13.1 The Trust has funded ELFT FTSUG and 7 other Guardian colleagues from other trusts in providing external support to Guardians through group supervision. The 12 month pilot has demonstrated the value of supervision and the network created in supporting and developing the Guardians and in helping them interpret the challenging role. The Trust plans to publish some of the learnings and findings to benefit Trusts and Freedom to Speak up Guardians nationally.

14.0 Freedom to speak up index report 2019

- 14.1 The National Guardian's Office has previously published survey reports that indicate that a positive speaking up culture is associated with higher performing organisations as rated by CQC.

The annual NHS staff survey contains several questions that serve as helpful indicators of the speaking up culture. Working with NHS England, the National Guardian's Office has brought four questions together into a 'Freedom to Speak Up (FTSU) index'. This is to enable trusts to see at a glance how their FTSU culture compares with others. This will promote the sharing of good practice and enable trusts that are struggling, to 'buddy up' with those that have recorded higher index scores.

Table 6. ELFT's Freedom to Speak Up indicator questions and result

Question (Indicators of speaking up culture)	2015	2016	2017	2018	National Average
17a - Organisation treats staff involved in errors fairly	-	59%	59%	61%	75%
17b - Organisation encourages reporting of errors	-	89%	88%	89%	77%
18a - Know how to report unsafe clinical practice	95%	97%	95%	95%	77%
18b - Would feel secure raising concerns about unsafe clinical practice	74%	76%	73%	72%	78%

The **Trust scored 80%** which is higher than the national average. The best scoring Trust in the same Trust category is Solent NHS Trust scoring 86% and the lowest in the same category scored 79%.

The Freedom to Speak up Index score is being used by the Trust to see how it can continue to make improvement and engage with its workforce to develop a positive speaking up culture.

15.0 Recommendations

Previous year's priorities were as followed:

1. Response to gaps identified by the self-assessment will report regularly within our governance framework- Ongoing work
2. Intelligence from the FTSUG data will shape future initiatives to address issues related to dignity and respect including bullying and harassment – Completed
3. Establish FTSU Ambassador in each directorate- Ongoing work
4. Establish collaboration of FTSUG and Peoples Participation team- Completed

2019/20 Priorities:

1. Develop core training for all workers, line & middle management and Senior Leaders – as per the National Guardian Guidelines
2. The incorporation of Freedom to Speak Up into Our People Strategy
3. Complete gaps identified by the self-assessment and report regularly within our governance framework.
4. Respond to gaps identified in the case review recommendation
5. Expanding and developing FTSU Ambassador in each directorate
6. Continue to disseminate and embed learning on all aspect of FTSU
7. Collaboration senior managers and People and Culture to improve the gaps in identified in the top five theme of concern in the reporting year
8. Using the Freedom to speak up index questions to make improvement and engage with its workforce to develop a positive speaking up culture.

16.0 Action being requested

- 16.1 The Board/Committee is asked to RECEIVE and NOTE the report for information.