

Northumberland, Tyne and Wear NHS Foundation Trust

Board of Directors Meeting

Meeting Date: 25 May 2016

Title and Author of Paper: Whistleblowing/Raising Concerns Update - Lynne Shaw, Deputy Director of Workforce and OD

Executive Lead: Lisa Crichton-Jones

Paper for Debate, Decision or Information: Information

Key Points to Note:

Since the last Trust Board Update in October 2015 the following points should be noted:

- Trust Freedom to Speak Up Guardian commenced in December 2015.
- Network of Champions have been appointed.
- National Freedom to Speak Up Guardian Post is currently being advertised.
- National Freedom to Speak Up Office is being set up.
- National Whistleblowing/Raising Concerns Policy has been published.

The report also summarises the Whistleblowing/Raising Concerns cases received centrally between October 2015 and March 2016.

Risks Highlighted to Board : N/A

Does this affect any Board Assurance Framework/Corporate Risks?
No

Equal Opportunities, Legal and Other Implications:

Various Employment Legislation

Outcome Required: N/A

Link to Policies and Strategies:

Workforce Strategy

Whistleblowing/Raising Concerns Update

Board of Directors Meeting

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Purpose

The purpose of this paper is to provide the Trust Board of Directors with a brief update on the Trust's Freedom to Speak Up Action Plan which is appended to this document for information.

The paper also provides a summary of the whistleblowing/concerns cases raised over the period October 2015 – March 2016.

Background

Following the publication of the independent report by Sir Robert Francis into concerns about the reporting culture within the NHS the Trust developed an action plan based on the 20 Principles set out in the report. This has been updated on a regular basis and discussed at Corporate Decisions Team and more latterly at the Trustwide Workforce Group.

Key Updates Since Previous Paper to Trust Board

- Freedom to Speak Up Guardian Role

Neil Cockling, Chaplaincy Team Lead was appointed as the Trust's Freedom to Speak Up Guardian one day a week from December 2015 and reports into the Chief Executive for this role which is overseen by a non-executive director. Neil is currently preparing to publish a summary of cases raised with him during his first six months in post.

- Network of Freedom to Speak Up Champions

Neil has recruited a network of approximately 25 "champions" across the Trust to support him in this important work. Network meetings are in place alongside training for staff undertaking this role. Training will be delivered by Capsticks.

- Raising Concerns Training

Raising Concerns training is ongoing for all members of staff and the Freedom to Speak Up Guardian is participating in this training. To date six sessions have been held and more are being planned.

- National Freedom to Speak Up Guardian

Recruitment of this post is currently underway with the role currently being advertised in the Guardian and Sunday Times. It is anticipated that the interviews will be held in June. This post will help promote and reinforce best practice in supporting staff to speak up safely through the network of local Freedom to Speak Up Guardians.

- The National Guardian's Office

The National Guardian's Office will comprise a small set-up team, prioritising the delivery of a programme of engagement and training events for leads responsible for appointing Freedom to Speak Up Guardians and for staff already in this role. In time it is also expected that the office will undertake more individual support for Freedom to Speak Up Guardians as well as the review of handling cases.

- National Whistleblowing Policy for the NHS

Freedom to speak up: raising concerns (whistleblowing) policy for the NHS was published in April 2016 following a period of consultation. The content of this national policy is being reviewed alongside the Trust's current policy to ensure a level of consistency, whilst recognising the need for flexibility locally in terms of process. An initial review of the local policy suggests that it meets the requirements of the national policy and it is envisaged that additional information will be provided in a local Practice Guidance Note.

Whistleblowing/Raising Concerns Cases

This section of the report aims to give an overview of cases reported centrally to the Workforce team as requested by the Trust's Raising Concerns Policy. It should be acknowledged that additional concerns are raised and dealt with at an informal, local

level by operational managers. In addition, the Trust Freedom to Speak Up Guardian is dealing with five cases – one of which has now concluded.

Not all matters raised become subject to formal investigation under Raising Concerns or grievance policies, an approach which was welcomed by Sir Robert Francis in his Freedom to Speak up Review.

Concerns Raised

As previously reported, the Trust has had for a number of years a clear, defined process for recording cases that fall under the scope of a policy such as whistleblowing (raising concerns), disciplinary or grievance. However, there are a number of concerns raised that do not meet the Disclosure Act's definition of whistleblowing. For these cases the workforce directorate has developed a separate recording category called "raising concerns" for reporting purposes.

This report serves to provide information on all concerns raised between October 2015 and March 2016. The concerns have emerged from many different routes. It is anticipated that a greater number of concerns will have been raised over the same period of time but have not been of a significant nature and therefore dealt with locally at ward/department level. This is to be encouraged but also balanced against a wider desire to understand better any themes or trends.

Between the period October 2015 and March 2016 five issues have been raised which have been categorised either as "whistleblowing" or "concerns". Three of these have been completed and two are still being investigated. Further work is currently being undertaken to further analyse the cases and a more detailed analysis will be included in future reports.

Summary of Concerns Raised 1 October 2015 – 31 March 2016

Area/Directorate	Date Raised By Whom	Concern Raised	Status	Outcome	Key People Involved
Access and Treatment Community Care Group	October 2015 Anonymous	Concern. Call handler in initial response team raised anonymous concerns about the manner of the team manager.	Concluded April 2016	Team Stress Risk Assessment carried out. Action plan to address the issues raised in place.	Tony Quinn, Directorate Manager
Specialist Care Group	February 2016 Anonymous	Concern. Bullying and Harassment	Ongoing	To be confirmed.	Paul Elliott, Clinical Nurse Manager
Older People's Functional / LD Inpatient Care Group	December 2015 Anonymous	Whistleblowing. Inappropriate behaviour towards a patient	Concluded March 2016	Informal resolution. No further action.	A Bunting, Lead Nurse Robin Green, Directorate Manager Vida Morris, Group Nurse Director

Trustwide	March 2016 Admin Lead	Whistleblowing. Feels money is being wasted under the new arrangements for admin staff. This has financial and workforce implications	Concluded May 2016. Awaiting final report	To be confirmed.	FTSU Guardian Executive Directors of Finance, Nursing and Operations and Workforce and OD Capsticks HR Advisory Service
Access and Treatment Community Care Group	March 2016 Consultant	Whistleblowing. Bed Management decision made by Consultant Psychiatrist overturned by Bed Manager	Ongoing	To be confirmed.	Executive Director of Nursing and Operations Executive Medical Director

Freedom to Speak Up Actions

Recommendation: 1		All organisations which provide NHS healthcare and regulators should implement the Principles and Actions set out in this report in line with the good practice described in this report.			
Recommendation: 2		The Secretary of State for Health should review at least annually the progress made in the implementation of these Principles and Actions and the performance of the NHS in handling concerns and the treatment of those who raise them, and report to Parliament.			
Principles and Actions					
Culture					
Principle	Principles	Actions	Trust Position	Action / Lead	Where
Principle 1	Culture of safety: Every organisation involved in providing NHS healthcare, should actively foster a culture of safety and learning, in which all staff feel safe to raise concerns.	1.1: Boards should ensure that progress in creating and maintaining a safe learning culture is measured, monitored and published on a regular basis.	Emerging work in relation to the Cultural Barometer.	Exec Director of Nursing and Operations . A 12 month cultural development plan (pilot project) is being developed to commence in June/July.	Quality Improvement Group of CDT
Principle 2	Culture of raising concerns: Raising concerns should be part of the normal routine business of any well led NHS organisation.	2.1: Every NHS organisation should have an integrated policy and a common procedure for employees to formally report incidents or raise concerns. In formulating that policy and procedure organisations should have regard to the descriptions of good practice in this report	Whistleblowing policy reviewed and was replaced with an updated policy in February 2016 – raising concerns <ul style="list-style-type: none"> Values Based recruitment embedded for Nursing and Admin All training has been reviewed in light of the Francis recommendations. FTSU Guardian was involved in the review. Values Training / Workshops held (approximately 90% of staff attended). 	Whistleblowing Policy to be reviewed (to include identification of vulnerable groups)/ Equality and Diversity Advisor / October 2015 Completed Consider the roll out of VBR for other staff groups / Clinical Leads / end 2016 Group Nurse Director. Review Training (specifically bespoke training re raising concerns for managers and staff) / Head of Training / August 2015 Completed Record of concerns raised and actions taken to be published in Quality Accounts and be reviewed on a quarterly basis / Director of Performance and Assurance/ April 2016 Completed	Workforce, Training and Development Sub-Committee

Principle 3	Culture free from bullying: Freedom to speak up about concerns depends on staff being able to work in a culture which is free from bullying and other oppressive behaviours.	3.1: Bullying of staff should consistently be considered, and be shown to be, unacceptable. All NHS organisations should be proactive in detecting and changing behaviours which amount, collectively or individually, to bullying or any form of deterrent against reporting incidents and raising concerns; and should have regard to the descriptions of good practice in this report.	<ul style="list-style-type: none"> • Dignity at work Policy in place. Policy extended until May 2016 and is currently being reviewed. • Monitored through Capsticks HR Advisory Service Reports • Monthly review meetings • Included in training. • Values Training / Workshops held (approximately 90% of staff attended). 	Policy to be reviewed / Workforce / October 2015 Completed Publish specific stories / scenarios if appropriate / Communications September 2015 Cases reviewed on a case by case basis for appropriateness.	Workforce Training and Development Sub-Committee Team Prevent Contract Review Meetings
		3.2: Any evidence that bullying has been condoned or covered up should be taken into consideration when assessing whether someone is a fit and proper person to hold a post at director level in an NHS organisation.	The Trust adheres to the principles of the Fit and Proper Person Test for Non-Executives, Executive Directors and other functional specialists		Trust Board
Principle 4	Culture of visible leadership: All employers of NHS staff should demonstrate, through visible leadership at all levels in the organisation that they welcome and encourage the raising of concerns by staff.	4.1: Employers should ensure and be able to demonstrate that staff have open access to senior leaders in order to raise concerns, informally and formally.	<ul style="list-style-type: none"> • There is a range of informal practices in place: <ul style="list-style-type: none"> • Staff engagement • Clinical visits • Observational shifts • Conversations • Speak Easy • Freedom to Speak Up Guardian appointed in December 2015. Currently recruiting Champions to support this role. 	Freedom to speak Guardians appointed / Exec Director of Workforce and OD/ August 2015 Completed Consider messages from leaders / managers about how they welcome the raising of concerns and how patient care is enhanced when concerns are raised / Communications / September 2015 Completed	Corporate Decisions Team

Principle 5	Culture of valuing staff: Employers should show that they value staff who raise concerns, and celebrate the benefits for patients and the public from the improvements made in response to the issues identified.	5.1: Boards should consider and implement ways in which the raising of concerns can be publicly celebrated	Learning is shared as appropriate when lessons are learned.	To consider ways that this can be done in a public way whilst protecting the confidentiality of staff / Executive Directors / Reviewed on a case by case basis	Executive Directors
Principle 6	Culture of reflective practice: There should be opportunities for all staff to engage in regular reflection of concerns in their work.	6.1: All NHS organisations should provide the resources, support and facilities to enable staff to engage in reflective practice with their colleagues and their teams.	<ul style="list-style-type: none"> • Clinical /management supervision in place • Team Development Sessions held • Staff Engagement • Speak Easy • “Conversations” • Values Training / Workshops held (approximately 90% of staff attended).Schwartz Rounds commenced. 	Commence Schwartz rounds / Deputy Medical Director / September 2015 Completed A regular item in 1:1's / all line managers / September 2015 Completed	Corporate Decisions Team Quality Improvement Group Group Business Meeting
Better Handling					
Principle 7	Raising and reporting concerns: All NHS organisations should have structures to facilitate both informal and formal raising and resolution of concerns.	7.1: Staff should be encouraged to raise concerns informally and work together with colleagues to find solutions.	<ul style="list-style-type: none"> • There is a range of informal practices in place: <ul style="list-style-type: none"> • Staff engagement • Clinical visits • Observational shifts • Conversations • Speak Easy • Freedom to Speak Up Guardian appointed in December 2015. 	Freedom to speak Up Guardians appointed / Exec Director of Workforce and OD/ August 2015 Completed	Corporate Decisions Team

		7.2: All NHS organisations should have a clear process for recording all formal reports of incidents and concerns, and for sharing that record with the person who reported the matter, in line with the good practice in this report	Robust governance in place relating to incident reporting systems and processes. Also confirmed through external scrutiny.	Record of concerns raised and actions taken to be published in Quality Accounts and reviewed on a quarterly basis / Director of Performance and Assurance / April 2016 Completed	Group and Trustwide Quality and Performance Meetings Will also be assessed as part of CQC Inspection.
Principle 8	Investigations: When a formal concern has been raised, there should be prompt, swift, proportionate, fair and blame-free investigations to establish the facts.	8.1: All NHS organisations should devise and implement systems which enable such investigations to be undertaken, where appropriate by external investigators, and have regard to the good practice suggested in this report.	<ul style="list-style-type: none"> Timeframes outlined in policies. Disciplinary / grievance issues, complaints and incidents are quality assured in line with timeframes 	Record of progress and feedback to employee raising concern / Freedom to Speak Up Guardian or Manager dealing with issue. Completed.	Workforce, Training and Development Sub-Committee Group Business Meeting Trust wide Quality and Performance Committee
Principle 9	Mediation and dispute resolution: Consideration should be given at an early stage to the use of expert interventions to resolve conflicts, rebuild trust or support staff who have raised concerns.	9.1: All NHS organisations should have access to resources to deploy alternative dispute resolution techniques, including mediation and reconciliation to: <ul style="list-style-type: none"> address unresolved disputes between staff or between staff and management as a result of or associated with a report raising a concern repair trust and build constructive relationships 	Access to independent mediation in place. Mediation training currently being arranged for 2016.	Consider internal mediation scheme / Equality and Diversity Advisor / March 2016	Workforce, Training and Development Sub-Committee
Measures to support					

Principle 10	Training: Every member of staff should receive training in their organisation's approach to raising concerns and in receiving and acting on them.	10.1: Every NHS organisation should provide training which complies with national standards, based on a curriculum devised jointly by HEE and NHS England in consultation with stakeholders. This should be in accordance with the good practice set out in this report.	<p>Training reviewed in February 2016 with the FTSU Guardian.</p> <p>Utilised "conversations" as an internal engagement tool to highlight raising concerns and whistleblowing with all staff.</p> <p>Whistleblowing also included in:</p> <ul style="list-style-type: none"> - Trust Induction - Mgt Development Programme - Equality and Diversity Training 	<p>Review Training (specifically bespoke training re raising concerns for managers and staff)/ Head of Training / July 2015</p> <p>Completed</p>	Workforce Training and Development Sub-Committee
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Principle 11	Support: All NHS organisations should ensure that there is a range of persons to whom concerns can be reported easily and without formality. They should also provide staff who raise concerns with ready access to mentoring, advocacy, advice and counselling.	<p>11.1: The Boards of all NHS organisations should ensure that their procedures for raising concerns offer a variety of personnel, internal and external, to support staff who raise concerns including:</p> <p>a) a person (a 'Freedom to Speak Up Guardian') appointed by the organisation's chief executive to act in a genuinely independent capacity</p> <p>b) a nominated non-executive director to receive reports of concerns directly from employees (or from the Freedom to Speak Up Guardian) and to make regular reports on concerns raised by staff and the organisation's culture to the Board</p> <p>c) at least one nominated executive director to receive and handle concerns</p> <p>d) at least one nominated manager in each department to receive reports of concerns</p> <p>e) a nominated independent external organisation (such as the Whistleblowing Helpline) whom staff can approach for advice and support.</p>	Freedom to Speak Up Guardian was recruited in December 2015 Non-Executive Director appointed to oversee.	<p>Freedom to Speak Up Guardians appointed. Nominated non-executive director to be appointed.</p> <p>Executive Director of Workforce and OD / August 2015</p> <p>Promote National Helpline / Equality and Diversity Advisor / July 2015</p> <p>Record of concerns raised and actions taken to be published in Quality Accounts and reviewed on a quarterly basis / Director of Performance and Assurance / April 2016</p> <p>Completed</p>	Corporate Decisions Team
		11.2: All NHS organisations should have access to resources to deploy counselling and other means of addressing stress and reducing the risk of resulting illness after staff have raised a concern.	<ul style="list-style-type: none"> • Counselling and Occupational Health support in place. • Monthly monitoring through Contract Review Meetings 	Further promote services / Workforce / August 2015 Including promoting access to national whistle blowing helpline to all staff	Workforce Training and Development Sub-Committee

Principle 12	Support to find alternative employment in the NHS: Where a NHS worker who has raised a concern cannot, as a result, continue in their current employment, the NHS should fulfil its moral obligation to offer support.	12.2: All NHS organisations should actively support a scheme to help current and former NHS workers whose performance is sound to find alternative employment in the NHS	Informal arrangements in place to support staff who have raised concerns.	Review other ways to support staff who have raised concerns to find alternative employment / Deputy Director of Workforce and OD / On-going	Workforce, Training and Development Sub-Committee
Principle 13	Transparency: All NHS organisations should be transparent in the way they exercise their responsibilities in relation to the raising of concerns, including the use of settlement agreements.	13.1: All NHS organisations that are obliged to publish Quality Accounts or equivalent should include in them quantitative and qualitative data describing the number of formally reported concerns in addition to incident reports, the action taken in respect of them and feedback on the outcome.	Complaints and Patient Safety information is published in Quality Accounts.	To review scope of reports for next Quality Accounts / Executive Director of Performance and Assurance / March 2016 Completed	Corporate Decisions Team
		13.2: All NHS organisations should be required to report to the National Learning and Reporting System (NLRS), or to the Independent National Officer described in Principle 15, their relevant regulators and their commissioners any formally reported concerns/public interest disclosures or incidences of disputed outcomes to investigations. NLRS or the Independent National Officer should publish regular reports on the performance of organisations with regard to the raising of and acting on public interest concerns; draw out themes that emerge from the reports; and identify good practice.	Not currently reported.	Review current reporting / Executive Director of Nursing and Operations / September 2015	

		<p>13.3:</p> <p>a) CEOs should personally review all settlement agreements made in an employment context that contain confidentiality clauses to satisfy themselves that such clauses are genuinely in the public interest.</p> <p>b) All such settlement agreements should be available for inspection by the CQC as part of their assessment of whether an organisation is well-led.</p>	<p>Process is in place to enable CEO to review all settlement agreements.</p> <p>Settlement Agreements are centrally recorded and filed.</p>		Not currently monitored.
		<p>c) If confidentiality clauses are to be included in such settlement agreements for which Treasury approval is required, the trust should be required to demonstrate as part of the approval process that such clauses are in the public interest in that particular case.</p>	<p>Process in place and can be evidenced.</p>		Not currently monitored.
	<p>Accountability: Everyone should expect to be held accountable for adopting fair, honest and open behaviours and practices when raising or receiving and handling concerns.</p>	<p>14.1: Employers should ensure that staff who are responsible for, participate in, or permit such conduct are liable to appropriate and proportionate disciplinary processes.</p>	<p>Various workforce Policies in place (eg, dignity at work, raising concerns etc)</p> <p>Values Based recruitment Trust values embedded</p>		Workforce, Training and Development Sub-Committee

Principle 14	<p>There should be personal and organisational accountability for:</p> <ul style="list-style-type: none"> • poor practice in relation to encouraging the raising of concerns and responding to them • the victimisation of workers for making public interest disclosures • raising false concerns in bad faith or for personal benefit <p>acting with disrespect or other unreasonable behaviour when raising or responding to concerns inappropriate use of confidentiality clauses.</p>	<p>14.2: Trust Boards, CQC, Monitor and the NHS TDA should have regard to any evidence of responsibility for, participation in or permitting such conduct in any assessment of whether a person is a fit and proper person to hold an appointment as a director or equivalent in accordance with the Health and Social Care Act 2008 [Regulated Activities] Regulations 2014 regulation 5.</p>	<p>Trust adheres to the principles of the Fit and Proper Person requirement for Non-Executives, Executive Directors and other functional specialists</p>	<p>To be evidenced and monitored / Board Secretary / September 2015 Completed</p>	<p>Trust Board</p>
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