Summary of key FTSU recommendations and actions for employers

The Freedom to Speak Up (FTSU) report recognises that much progress has been made in the NHS since the public inquiry into the failings Mid Staffordshire, and that there is clear evidence that concerns are raised on a daily basis, are listened to, and are addressed and resolved. Steps have been undertaken in a large number of trusts across the country to improve the way in which management responds to concerns. However, the report also provides some pretty hard hitting evidence where this has not been the case. The treatment of staff who raise concerns remains to be an area of concern requiring urgent action system-wide, to ensure that staff feel safe when they raise a concern.

In this document, we have provided a summary of the key actions recommended for employers to consider when reviewing their local policies and procedures.

The executive summary and full report can be found on the Freedom To Speak Up Review website.

Culture

In particular, the report emphasises a need for a culture of safety and learning in which all staff feel safe to raise a concern and for these conversations to take place as part of everyday practice, without fear of blame or reprisal. Sir Robert identified that there remains a disparity between policies and standardisation of procedures and the level of support given to staff.

Out of all the evidence gathered in regard to experiences of staff who had reported concerns, the issue of bullying featured highly. He has identified the need for a system-wide approach when assessing this issue along with honest and direct feedback to staff about the impact of actions and behaviour.

The report recognises some of the excellent leadership in some trusts, which should be harnessed and adopted across organisations. To further improve culture, employers are encouraged to celebrate the benefits for patients and the public when concerns are raised.

Finally, the review heard many examples of reflective practice and how these are invaluable. Despite pressures on the system, Sir Robert stresses the importance of staff having time to explore issues, analyse systems and share good practice.

**Action for employers:** evidence gathered from other sectors where safety is an issue, reflects that a good safety culture needs time and effort to embed – this is most successful in organisations where responsibility and accountability for local policy and procedures for raising concerns sit with the executive team, as opposed to human resources.

Having a champion, or guardian who has lead responsibility for dealing with concerns raised, will be key to ensuring policies and practices are robust and staff are appropriately supported, listened to, and issues are resolved quickly and professionally. This does not necessarily entail a member of the board having this responsibility but can be a nominated manager who has authority and autonomy to report directly to the chief executive on the issue of concerns.
The reports also recommends that organisational boards and senior teams adopt and promote a zero tolerance approach to bullying, and for regulators to consider this as a factor when assessing whether an organisation is well-led.

**Action for system regulators:** to support this principle, NHS England, Monitor and the NHS Trust Development Authority (TDA) have been asked to produce a standard policy and procedure which will form the basis of any changes required by employers.

**Handling cases**

The report provides clear evidence that in many of the cases presented, much of the pain and expense could have been more easily avoided if concerns had been handled effectively early on. It is important that organisations investigate concerns raised to identify the facts, and appropriate feedback is given to the individual(s) raising the concern. This is critical in building staff confidence in local systems and in encouraging others to speak up.

**Actions for employers:** all organisations should have measures in place which help facilitate informal and formal resolution of concerns raised. Encouraging staff to raise concerns early on, as part of everyday practice will help with some of this e.g. inviting open conversation about what went well and what didn't go so well as part of any staff briefings, 1:1’s, team meeting etc. will be key to fostering an open and transparent approach to dealing with some of the issues raised.

The report recommends that chief executives, or other designated officer in organisations, should be involved and have responsibility for regularly reviewing all concerns that have been formally recorded, to ensure local procedures are effective, and to identify areas for improvement.

**Measures to support good practice**

While creating the right culture and enabling effective reporting and handling of concerns is essential, the report highlights some major gaps in training for all staff so that they understand the importance of raising concerns and how to raise a concern, and for managers so that they are appropriately equipped and supported to deal with concerns raised with them efficiently and effectively.

In all cases where staff had reported that their experience had been a positive one, they stated that they had received good support from their manager both before and after they had raised concerns with them. The report also highlights the need for organisational and personal accountability when raising and handling concerns, especially in relation to the prevention of bullying or other repercussions that the individual raising the concern may be vulnerable to.

As already alluded to above, the report highlights the benefits of having a champion in the organisation who staff can go to when they have a concern, and who has lead responsibility for ensuring concerns are dealt with appropriately and staff are supported.

Having open and transparent in the way organisations conduct their responsibilities in relation to dealing with concerns, sends an important message to staff and provides opportunity to share learning to improve the quality of services and patient safety.

**Action for employers:** giving staff access to mediation, mentoring, advice and counselling can vastly improve the managers ability to nip any issues in the bud, and ensure that the individual raising a concern can return to their original position, or be supported to find alternative employment in the NHS, where it is mutually agreed with the individual that this is the most appropriate thing to do. A
contentious parting of the ways can quite easily result in individuals being disadvantaged when applying for a new role without the full facts being known - which is unfair to the individual, and a waste of valuable skills and resources to the NHS. The correct handling of concerns can vastly reduce time, resources and expense where issues are left unresolved and need to go through an employment tribunal.

**Action for system and professional regulators:** To support poor handling of cases, the report recommends the appointment of an Independent National Officer (INO) by the Care Quality Commission (CQC), Monitor, the NHS TDA and NHS England who will have lead responsibility system-wide to look into cases, advise NHS organisations on appropriate action where they have failed to follow good practice, or advise the relevant system regulator to enforce direct action on that organisation, as appropriate, and act as a national support for Freedom to Speak Up guardians.

The report also identifies a bigger role for system regulators and the need for improved co-ordination in relation to their approach to whistleblowing. In particular, around how they capture information about how organisations handle concerns and in taking the appropriate regulatory action.

In addition the report identifies a greater role for professional regulatory bodies in relation to how they record, investigate and handle fitness to practise concerns raised with them.

**Measures for vulnerable groups**

The review found that certain groups of staff where particularly vulnerable when raising concerns because of the nature of their term of employment which means that they are less likely to be a fully integrated member of a team, and they may miss out on the same level of induction, training, and communications that permanent members of staff may have around raising concerns.

**Actions for employers:** the report specifically makes reference to locums, agency and bank workers being more vulnerable but it is essential that employers consider how they engage, communicate and support all workers in their organisation on issues relating to raising concerns. This includes students, volunteers and permanent staff who are required to provide services within the community and within primary care.

Boards should also be aware of any black and minority ethnic (BME) issues and consider whether they need to take action over and above what is recommended in the Freedom to Speak Up report. While the evidence gathered as part of the review reflected that the experience of BME groups was broadly the same as other staff, it did highlight that a large number of minority groups felt more vulnerable and excluded, with difficulties quite often being exacerbated by cultural misunderstanding.

**Action for system regulators:** the report also makes recommendation for NHS England to work closely with all commissioned primary care services to clarify policies and procedures for staff in line with the principles of the Freedom to Speak Up report, with emphasis on making sure that all staff understand how to raise a concern, who they should raise a concern with, and where they can seek additional advice and support.

**Extending the legal protection**

The report highlights that while fostering the right kind of culture in the NHS to enable staff to raise concerns has to be the key priority, legal protections for whistleblowers (in the NHS, and across all other sectors) is not considered to be adequate and should be reviewed.
**Actions across Government:** the report makes recommendation for an across-Government review of current legislation to extend protections individuals who raise concerns against discrimination in the workplace either under the Employment Rights Act 196, or under the Equality Act 2010. It also makes recommendation to further extend the list of prescribed bodies/persons under the Public Interest Disclosure Act (PIDA) to include NHS England, Clinical Commissioning Groups (CCGs) and Local Education and Training Boards (LETBs).

*NHS Employers*

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