

Freedom to Speak Up Guardian – Annual Report July 2017

Aim

This report provides a summary on the cases referred to the Freedom to Speak Up Guardian, Local Anti-Fraud Specialist, Staff side or HR in relation to matters that are under the auspices of Raising Concerns (Whistleblowing) within 2016/2017 and to provide assurance these are being managed appropriately and in accordance with the Trust's Raising Concerns Policy.

The report provides an update from the Trusts Freedom to Speak Up Guardian in relation to any national or local developments relating to Raising Concerns or Whistleblowing.

Background

NHS Improvement on 1 April 2016 published a standard integrated *Freedom to speak up: raising concerns (whistleblowing) policy* for NHS organisations in England to adopt as a minimum standard to help normalise the raising of public interest concerns.

The Public Interest Disclosure Act 1998 (PIDA) is known in the UK as the 'whistleblowing' law. The Act protects employees under the law by providing that employers should not victimise any employee who raises a concern internally or to a prescribed regulator.

Raising Concerns within WWL

The Trust has consistently complied with the PIDA requirements, formerly via the Trust's 'Open Door' Policy, which commenced the promotion of a culture allowing staff to raise serious concerns and receiving a positive, proactive response with no risk or fear victimisation.

In accordance with the Trust's values, culture and staff engagement ethic the Trust's Raising Concerns Policy reflects the requirements of the NHSI standard policy and embraces the requirements of PIDA but is not limited to this, encouraging staff to participate within a culture where raising concerns is natural and takes place as part of everyday practice.

Freedom to Speak Up Guardian Role

From April 2017 all NHS Trusts are required to have a Freedom to Speak Up (FTSU) Guardian in post. Trusts have taken very different approaches. Some Trusts have allocated the role to an existing staff member (grade of staff and professional group varies), some have allocated the role to a Non-Executive Director, some have appointed FTSU Guardians as part time posts (2-3 days a week) and some have contracted services from outside of the organisation.

An active National Guardian's Office has been established and the first National Conference for Guardians was held in March 2017. A North West FTSU Guardian network has been established. All Guardians have been required to attend a one day training session on the purpose and expectations of the role which includes '*working with the Chief Executive and the Board to create an open culture which is based on listening and learning and not blaming*'. It is recommended that the FTSU Guardian has designated and protected time to undertake the role and there is an expectation that the Guardian proactively meets staff, walks the wards and attends meetings such as team meetings.

The approach the Trust has taken is outlined in the Raising Concerns Policy:

- If staff are not able to raise concerns directly with their line manager the FTSU Guardian can provide an independent route for staff to raise concerns.
- With staff agreement the Guardian may advise, report or escalate concerns on the staff members behalf;

- The Guardian can act as an advocate for staff and protect their identity if they wish to remain anonymous. This may include obtaining information or acting as a 'go between' within any investigation following raising a concern;
- The Guardian can assist to agree support, ongoing communications and feedback on the progress of any investigation;
- The Guardian is responsible for ensuring concerns raised with them are treated seriously and dealt with in a sensitive, positive manner and as a matter of urgency.

The National Guardian's Office has introduced standardised quarterly reporting and data collection. Guidance has also been issued in relation to how the Freedom to Speak Up Guardian role and raising concerns will be inspected by the Care Quality Commission.

Input from the FTSU Guardian when a concern is raised varies, depending on what the concern is and whether the person raising the concern contacts the FTSU Guardian directly.

2017 FTSU Guardian Update –

Raising concerns activity and involvement from the FTSU Guardian has been limited during 2016/17. The Guardians involvement in concerns has varied e.g. acting as case manager (for the clinical practice concern raised below) and referring an anonymous letter received on to appropriate investigators.

It should be noted that the Trust's Freedom to Speak Up Guardian does not have dedicated or protected time to undertake the role and therefore could not be as 'active' as Guardians whose 'day job' is to undertake the role. The Trust maintains that concerns raised by staff should not all go to the Guardian. The Trust encourages staff to approach their line managers in the first instance and other routes, such as HR which are also outlined in the Raising Concerns Policy.

The FTSU Guardian has received the national training and is actively involved in the North West network. Contact has been established with FTSU Guardian colleagues at Bolton NHS Foundation Trust and Bridgewater Community Healthcare NHS Foundation Trust who have similar 'day jobs'.

Information about the Guardian role and who to contact has been recently circulated in Team Brief, News Brief and the weekly CEO update. This may lead to more involvement from the FTSU Guardian in supporting staff to raise their concerns.

The Raising Concerns policy will continue to be agile and be modified when required and in accordance with:

- Staff feedback
- HR and staff side feedback
- Freedom to Speak up guardian feedback
- National NHS staff survey results
- Staff Engagement Pulse Check reports
- NHS Employers guidance
- National legislation and best practice

2016/2017 Annual update

Reported concerns –

The recorded cases within 2016/17 totals 28. These matters are considered as formally raised issues. Within the stages of the Raising Concerns procedure there is the opportunity for individuals to raise matters informally initially. This informal process has been promoted with the Trust's open culture however in terms of capturing data we currently are unable to report the

number of concerns that are raised and resolved informally, at source, via line management or another route such as Staff side, HR or the FTSU Guardian.

Formal Concerns -

28 matters have been recorded formally under the auspices of raising concerns during 2016/17. Of these cases 24 were referred by the Local Anti-Fraud Specialist.

Out of these 24 it has been reported via the Local Anti-Fraud Specialist:-

13 individuals allegedly *working whilst reporting as absent due to ill health*

5 individuals allegedly making *false representations*

2 allegation of *theft*

1 allegation against employees inclusive of various concerns with *HR and fraudulent elements*

2 allegation of *abuse of power* by an individual

1 allegation of *salary overpayment*

From these allegations:-

9 concerns were determined as having *no evidence* to support action.

2 individuals had disciplinary processes invoked and received *formal sanctions*

2 matters have been *resolved informally*

2 matters are *on-going with the Local Anti-Fraud Specialist*

1 matter resulted in *money retrieved* with no action as the individual had left the Trust

3 matters were resolved as the *employees resigned* ahead of any evidence identified or action required

5 matters closed without further action required

The Local Anti-Fraud Specialist has recovered £1717.77 in redress monies for 2016/17. The Local Anti-Fraud Specialist provides an annual report on matters to the Audit Committee; a bi-monthly update report to Audit Committee and updates to the Director of Finance. Included within the updates and reports are outcomes from investigations; ongoing investigations; breaches of the Trust's Standing Financial Instructions; and financial redress from matters.

There are 4 remaining matters which are patient care or HR related and have no link to possible fraud activities, plus one cited above with both fraud and HR elements, of these:-

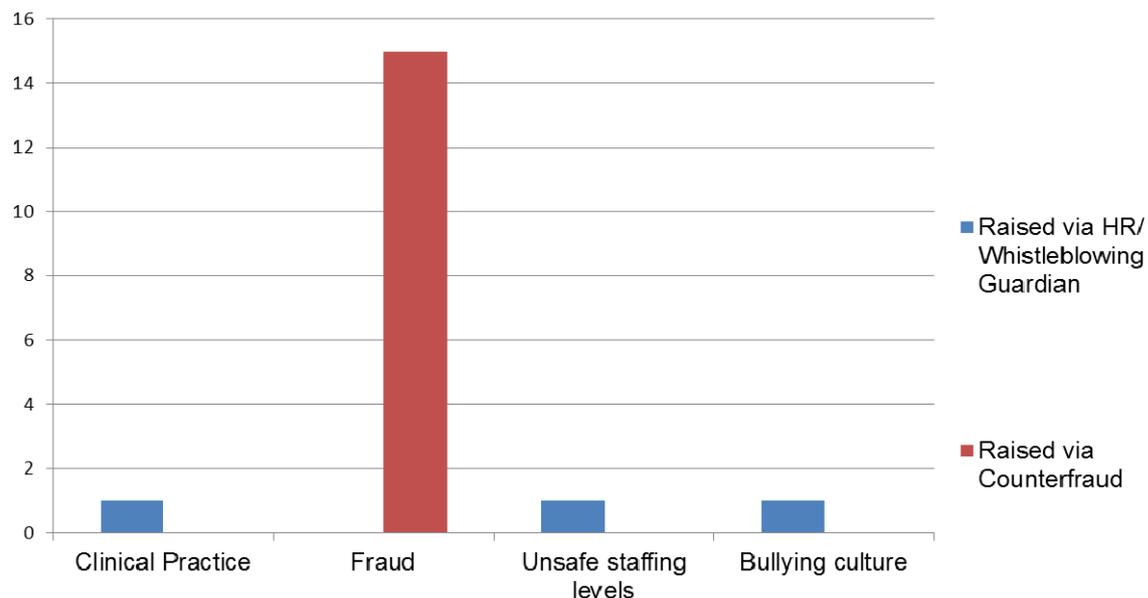
- Clinical Practice – a concern was raised via RCN from an employee in relation to patients being subject to poor practice. Whilst this concern was later retracted an investigation was initiated in order to provide assurance there was no concern and no patients were at risk. No risk to patient care was concluded although some procedures had already been modified. No evidence identified to pursue action against any individual so matter closed. Employee communicated to in this regard.
- Unsafe staffing levels – concern was raised anonymously. A fact finding review proceeded by nursing management, support via HR, in relation to the area concerned and the outcome fed into the Director of Nursing. Support was provided to staff members within the team by the engagement team as part of some on-going work. A feedback mechanism is currently being defined. Staff that subsequently identified concerns within questionnaires, disclosing their names, were invited for a 121 meeting with nurse management. No other further issues were identified but staff commented that the balance of staff improved post the CQC inspection visit. Listening events have additionally taken place with DDoP. No further issues highlighted so considered resolved.
- Combination of a number of concerns inclusive of timesheet fraud, selling of counterfeit goods during working time, bullying, acceptance of drugs for private business while at work – concern raised anonymously. An investigation via the Anti-Fraud Specialist took place but concluded no evidence. The remaining HR issues were subject to an initial fact finding

process but no clear evidence was found to support allegations. Informal discussions were conducted with relevant employees so matter considered as resolved.

- Patient Care – concern raised via a clinical support service employee. Concerned that patient care was impaired based on relevant information available within their service. The information was referred to Director of Nursing for consideration of facts and potential decision to launch an investigation if appropriate. Based on fact finding and discussion with the employee no further action was required and the matter consider as resolved.
- Inappropriate behaviour – Raised by medical employee in relation to behaviour of another employee within a regular team meeting. Referred into HR processes. Matter ongoing.

From all matters, inclusive of those where no evidence is identified, scrutiny is given to the tightening or modifying of policies or procedures so that greater assurance is possible in order to reduce further concerns where relevant.

Whistleblowing No of issues raised Apr 15 - Mar 16



Matters raised in accordance with PIDA

Whilst the Trust's Raising Concerns policy embraces but is not limited to those concerns or disclosures raised in accordance with the PIDA it should be noted which matters would qualify under this Act for the purposes of reporting. Qualifying disclosures are disclosures of information where the worker reasonably believes (and it is in the public interest) that one or more of the following matters is either happening, has taken place, or is likely to happen in the future.

- A criminal offence
- The breach of a legal obligation
- A miscarriage of justice
- A danger to the health and safety of any individual

- Damage to the environment
- Deliberate attempt to conceal any of the above.

In this regard the Trust would report that within 2016/17 24 matters have been reported which could qualify under the Act.

Out of these matters 12 have to date been concluded as having no evidence to support the report, however there have been no conclusions that any reports or concerns raised have been made maliciously.

Evaluation & Development

Issues from within the 2016/17 cases have been reported to various forums within the year inclusive of Audit Committee and Workforce Committee where relevant to do so.

Developments have been made within the absence reporting procedures in order to provide clarity to employees in relation to working whilst absent due to ill health.

The majority of matters reported are anonymous with regards to the Anti-Fraud Specialist however where the reporter is known and would like an understanding of progression of the case, appropriate feedback via a relevant representative, such as the FTSU Guardian, HR or Staff side is appointed. Supportive mechanisms are also offered to staff where appropriate.

Additional information available linked to raising concerns:-

Staff Survey Report 2016

Reporting errors, incidents or near misses

- 90% of respondents felt the organisation encouraged them to report errors, incidents or near misses (91% in 2015)
- 74% of respondents felt the organisation takes action following to ensure that they do not happen again (78% in 2015)
- 54% of respondents felt they were given feedback about the changes made in response following a report of an error, incident or near miss (62% in 2015)

Raising concern of unsafe clinical practice

- 93% respondents knew how to report a concern of unsafe clinical practice (93% also in 2015)
- 71% felt secure to raise a concern about unsafe clinical practice (72% in 2015)
- 65% in 2016 felt confident the organisation would address their concern about unsafe clinical practice (66% in 2015)

Although the above results are not specifically identifiable against matters reported under the auspices of Raising Concerns, it is important to reflect on the outcome scores. Of the results above focus will be taken forward by the HR team and FTSU Guardian with the support of other stakeholders to ensure those staff who raise concerns are appropriately feedback to in order to recognise they have been heard by the Trust.

Conclusion

The Freedom to Speak Up Guardian, Human Resources team, Staff Side colleagues and Anti-Fraud Specialist continue to work in partnership to strengthen and promote the Trust's Raising Concerns Policy and procedure encouraging staff to raise matters and for this to become part of everyday practice.

The number of formal cases raised suggests that staff still feel comfortable to raise matters. Although at time evidence is not always found to progress concerns, particularly in matters referred

to the Anti-Fraud Specialist, there is no evidence to suggest there is malicious intention by individuals but rather to ensure malpractice is not occurring. We are always grateful of those staff who are willing to report a concern they are worried about.

It is important to remain focused on feedback from individuals who have raised concerns and relevant stakeholders within the process to ensure the current policy captures the spirit of the Trust's values and staff feel they can raise concerns or issues without fear of victimisation, blame or reprisal.

Freedom to Speak Up/Raising Concerns and Whistleblowing continues to be part of the National NHS Agenda and WWL continues to respond proactively.

Recommendation

The Trust Board is asked to consider its support for the approach taken by the Trust to meet the Freedom to Speak Up Guardian arrangements.