

Report to:	Public Board of Directors	Agenda item:	19
Date of Meeting:	6 September 2023		

Title of Report:	Freedom to Speak Up Update 2022
Status:	For Discussion and Noting
Board Sponsor:	Alfredo Thompson, Director for People and Culture
Author:	Helen Back, Associate Director Learning and Culture Parmi Perera, Freedom to Speak Up Guardian
Appendices	App 1: PRN00719_Letter re Verdict in the trial of Lucy Letby_180823

1.	Executive Summary of the Report
<p>This report provides an update on the progress that the Trust continues to make, this progress includes engaging with the External Guardian's Service to conduct a formal review of our current service alongside formalising the Associate Guardian role, to ensure there is no break in service in period of leave.</p> <p>One of the actions already identified internally – but is an approach used by the external Guardian's Office - is the creation of an Organisational SLA, which provides a very clear framework or escalation and response times where a guardian does not feel they are getting the engagement needed from the organisation.</p> <p>These steps, with others, will support our new FTSU guardian, associate guardian and champions continue to drive the service forward in the best way possible.</p> <p>The FTSU team, have responded to all recent CQC requests, whilst working with the National Guardian's Office to ensure compliance with the need to maintain anonymity for those who have spoken to the FTSU team.</p> <p>A number of listening events have taken place over the June and July 2023, to support the identification of actions that could support improvements in specific clinical areas. These have raised concerns around confidentiality, a specific action is being addressed around re-education of confidentiality for those in leadership positions. The FTSU team will continue to embed this message</p> <p>This report explores the most recent data around concerns that have been raised and also the feedback around staff not feeling safe to raise issues and steps that have been taken to increase visibility of the service.</p> <p>Finally, this report looks at the progress made against the FTSU vision and strategy highlighted in the annual Report.</p>	

2.	Recommendations (Note, Approve, Discuss)
<p>Strategic Workforce Group/the board is asked to:</p> <ul style="list-style-type: none"> Discuss and note the Freedom to Speak Up update 	

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- Note the links to ED&I – the 2023 NHS Equality, diversity and inclusion improvement plan references FTSU – stating Boards should ensure concerns raised about race/religious discrimination are dealt with in a proactive, preventative, thorough and timely manner, including encouraging diversity in Freedom to Speak Up Guardians.
- Contribute to the debate around the creation of a speaking up culture within the Trust especially in light of the Lucy Letby case
- Note that the Trust has commissioned an external review of the FTSUG service and speak up culture

3. Legal / Regulatory Implications

The Trust is required to meet the following legal/regulatory requirements in relation to raising concerns:

- NHS contract (2016/17) requirement to nominate a Freedom to Speak Up Guardian.
- National NHS Freedom to Speak Up raising concerns (whistleblowing) policy (2016)
- NHS Constitution: The Francis Report emphasises the role of the NHS Constitution in helping to create a more open and transparent reporting culture in the NHS which focuses on driving up the quality and safety of patient care.
- Public Interest Disclosure Act 1998: The Act covers all workers including temporary agency staff, individuals on training courses and self-employed staff who are working for and supervised by the NHS.
- Enterprise and Regulatory Reform Act 2013: The Act introduces a number of key changes to the Public Interest Disclosure Act targeted at strengthening protections for whistleblowers.
- The Bribery Act 2010: This guidance is targeted at helping employers ensure that their local policies and procedures are in line with the legislation and, most importantly, are tied into whistleblowing arrangements.
- Health Service Circular 1999/198 "The Public Interest Disclosure Act 1998: Whistleblowing in the NHS": The Health Service circular requires every NHS trust to have robust policies and procedures in place which enable staff to raise concerns in compliance with the Public Interest Disclosure Act and remains in force.
- PAS 1998 Whistleblowing Arrangements Code of Practice

On 18th August 2023, the Trust received the letter entitled "Verdict in the trial of Lucy Letby" from NHS England. The Board has been asked to ensure it has proper governance and oversight on the following:

NHS England Requirement	Trust Process	Governance	Frequency
All staff have easy access to information on how to speak up	<ul style="list-style-type: none"> • Freedom to speak up eLearning subject is 'Essential' training for all new starters. The current compliance rate is 76.23% and on target to deliver 	Reviewed at People Committee	Monthly as part of Stat and Mand training

	85% by next summer		
Relevant departments, such as HR, and FTSUG are aware of the national Speaking Up Support Scheme and actively refer individuals to the scheme	<ul style="list-style-type: none"> Actively promoted through the HRBPs and FTUSG network 	People Committee	Quarterly Reports
Approaches to mechanisms are put in place to support those members of staff who may have cultural barriers to speaking up or who are in lower paid roles and may be less confident to do so, and those who work unsocial hours and may not always be aware of have access to the policy or processes supporting speaking up. Methods for communicating with staff to build healthy and supporting cultures where everyone feels safe to speak up should also be put in place.	<ul style="list-style-type: none"> Executive and NEDs "Go See" programme – Day and Night visits FTSUG service is comprised of 14 multi-cultural; profession & grades FTSUG service operates 24/7 Monthly Virtual All Staff Briefs Weekly Q&A sessions – anonymous feedback possible Monthly meeting between FTSUG, Chief Executive and Director for People & Culture 	People Committee; Executive Team meetings	Consistent feedback
Board seek assurance that staff can speak up with confidence and that whistle-blowers are treated well	<ul style="list-style-type: none"> Freedom to Speak Up Guardian reports Senior Independent Director in place Independent review of our FTSUG currently being undertaken by 'The Guardian Service' 	People Committee and Board reports	Quarterly Reports
Boards are regularly reporting, reviewing and acting upon available data	<ul style="list-style-type: none"> Freedom to Speak Up Guardian Reports Regular monthly meetings between FTSUG, Chief Executive and Director for People and Culture 	People Committee	Monthly Meetings Quarterly Reports

4.	Risk (Threats or opportunities, link to a risk on the Risk Register, Board Assurance Framework etc)
The implementation of effective practices ensuring that staff are able to raise concerns and are protected when they do will ensure that the Trust guards against	

legal claims against it. Failure to develop and implement the requirements of the legal and regulatory framework requirements may lead to reputational and finance losses.

Development and maintenance of the Freedom to Speak Up agenda is one of the key control measures for the management of BAF 2 (shortages in the supply of registered healthcare professionals).

5.	Resources Implications (Financial / staffing)

6.	Equality and Diversity
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The Raising Concerns Policy complies with the Public Sector Equality Duty

2023 NHS Equality, diversity and inclusion improvement plan references FTSU – stating

Boards should ensure concerns raised about race/religious discrimination are dealt with in a proactive, preventative, thorough and timely manner, including encouraging diversity in Freedom to Speak Up Guardians.

7.	References to previous reports
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November 2021 report to Board of Directors – Freedom To Speak Up - Update

8.	CQC Domains
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Safe: Effective: Caring: Responsive: Well-led

9.	Freedom of Information
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Public

1. Purpose

The purpose of this report is to update Strategic Workforce/Trust Board on Freedom to Speak up (FTSU) activities at Royal United Hospitals Bath NHS Foundation Trust (RUH) over the last quarter (Quarter 1 01st April 2023-30th of June 2023), providing information on the nature of the concerns raised including relevant internal data.

2. Background

The National Guardian's Office and the role of the Freedom to Speak Up Guardian were created in response to recommendations made in Sir Robert Francis' report 'The Freedom To Speak Up' (2015 www.freedomtospeakup.org.uk/the-report/). These recommendations in response to Sir Robert's finding that the culture in the NHS did not always encourage or support workers to raise concerns that they might have about quality and safety of care provided, potentially resulting in poor experiences and outcomes for patients and colleagues.

Concerns can be raised about anything that gets in the way of providing good care. When things go wrong, it is important to ensure that lessons are learnt and improvements made. Where there is the potential for something to go wrong, it is important that staff feel able to speak up so that potential harm is avoided. Even when things are going well, but could be even better, staff should feel confident to make suggestions and that these would be taken on board. Speaking up is about all of these things.

Similar to staff being encouraged to speak up and raise concerns, leaders and managers are also encouraged to actively listen to these concerns and action/escalate matters respectively.

The National Guardian's Office (NGO) is an independent, non-statutory body with the remit to lead culture change in the NHS so that speaking up becomes business as usual. The office is not a regulator, but is sponsored by the CQC and NHSI/E. Freedom to Speak Up and Raising Concerns supports our Trust's vision:

- **For the people we work with**, creating the conditions to perform to our best – living by our values, investing in our teams and supporting diversity.

The Trust Vision for Freedom to Speak Up is:

To promote and maintain an open and transparent culture across the Trust, ensuring that all members of staff feel safe and confident to speak up about issues that concern them.

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The FTSU Guardian is also responsible for submitting quarterly date to NGO as follows:

Q1 (2023/24): Opens Monday 10th July 2023 and closes on Monday 7th August 2023

Q2 (2023/24): Opens Monday 9th October 2023 and closes on Monday 6th November 2023

Q3 (2023/24): Opens Monday 8th January 2024 and closes on Monday 5th February 2024

Q4 (2023/24): Opens Monday 8th April 2024 and closes on Tuesday 7th May 2024

Guardians will be able to add or amend data from 2022/23 during the reconciliation period, which will run alongside the Q4 window.

A Freedom to Speak Up Guardian has been in place at the RUH since October 2016. The service has been supported by two Associate guardians in an interim period before Parmi Perera, the new FTSU guardian came into post in June 2023.

The FTSU Service currently has previously trained 13 FTSU Champions. However, since taking over the FTSU Guardian role in June 2023, there are plans to refresh training and introduce a formal agreement for champions to ensure they continue to work in accordance to NGO Guidelines.

3. Update on FTSU

3.1 FTSU Champions

Having discussed the roles, responsibilities and remits of FTSU Champions with NGO, FTSU Guardian at Trust has been advised to await further guideline updates by NGO. FTSU Guardian is currently updating the champion list with a structured plan to ensure FTSU Champions are working within their remits. FTSU Champions will also be asked to complete annual refresher training with FTSU Guardian and NGO.

3.2 FTSU Data

Overall FTSU continues to be a busy service with staff accessing the service from a range of job roles, bands and areas in the organisation. This data will be summarised below.

Confidence in raising concerns has marginally declined at the improving in the organisation. Our 2022 Staff Survey data shows whilst we remain above average – we have seen a drop in confidence in both raising concerns and confidence in organisation taking action. This matches the national picture, where the highest performing organisations have also seen a decline from 2021.

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4. Embedding FTSU into the culture of the RUH

Continued work is being taken forward to promote and maintain an open and transparent culture across the Trust, ensuring that all members of staff feel safe and confident to speak up about issues that concern them. Parmi Perera and Catherine Gideon (Associate Guardian) have increased visibility – ensuring presence in clinical areas – both during the working day, at night, and some cover at weekends. It is worth noting, the current establishment does not support 24/7 cover – but the team have worked flexibly to ensure visibility of the service for all staff and the aim is to continue to do so.

FTSU have worked with the Senior nursing team, to ensure communications have reached all areas about the new FTSU guardian team and how they can support. The team are mindful they do not seek to have all concerns come to them, so are working with managers to create an open culture where speaking up is encouraged.

The RUH has commissioned an independent provider, The Guardians' Service, to conduct a review of the service to ensure we are applying best practice, and strive to create a culture where staff feel safe to raise concerns.

Work is underway to include Freedom to Speak up into the ward accreditation programme at bronze, silver and gold level.

FTSU training is available to new starters, inductions and project search workers in different formats to ensure training is accessible to all staff, including those who do not have access to computers/ e learning. There is a FTSU e-training for senior leaders, 'Follow Up', which FTSU is hoping to introduce in the year.

FTSU is present on the Patient steering group to support triangulation Patient safety concerns. FTSU Guardian is awaiting meeting with Interim Quality Programme Director to discuss methods of triangulating concerns from various sources as a mean of being vigilant to trending themes.

FTSU also meets with senior leaders to feedback on occurring themes, review trends on 'Open cases' and/or any high risk cases, cases escalated to directorate and also to discuss support going forward.

Regular updates of themes and trends are given to all divisions at board, this will continue as part of a quarterly rolling programme.

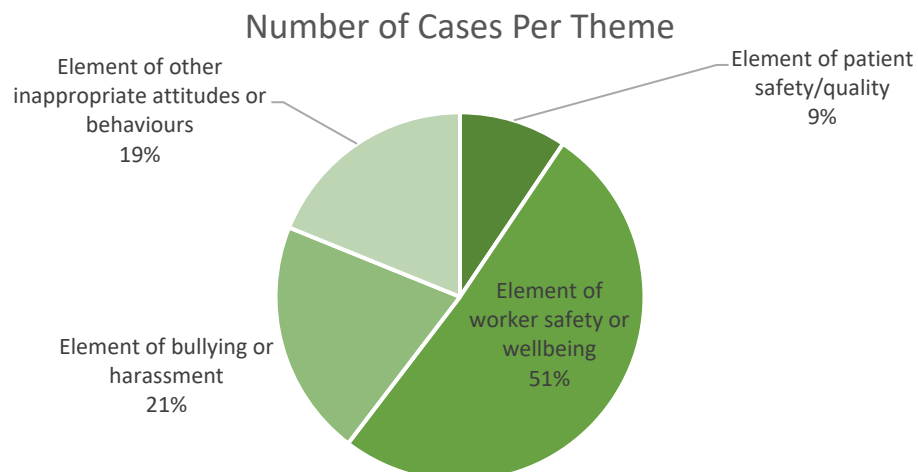
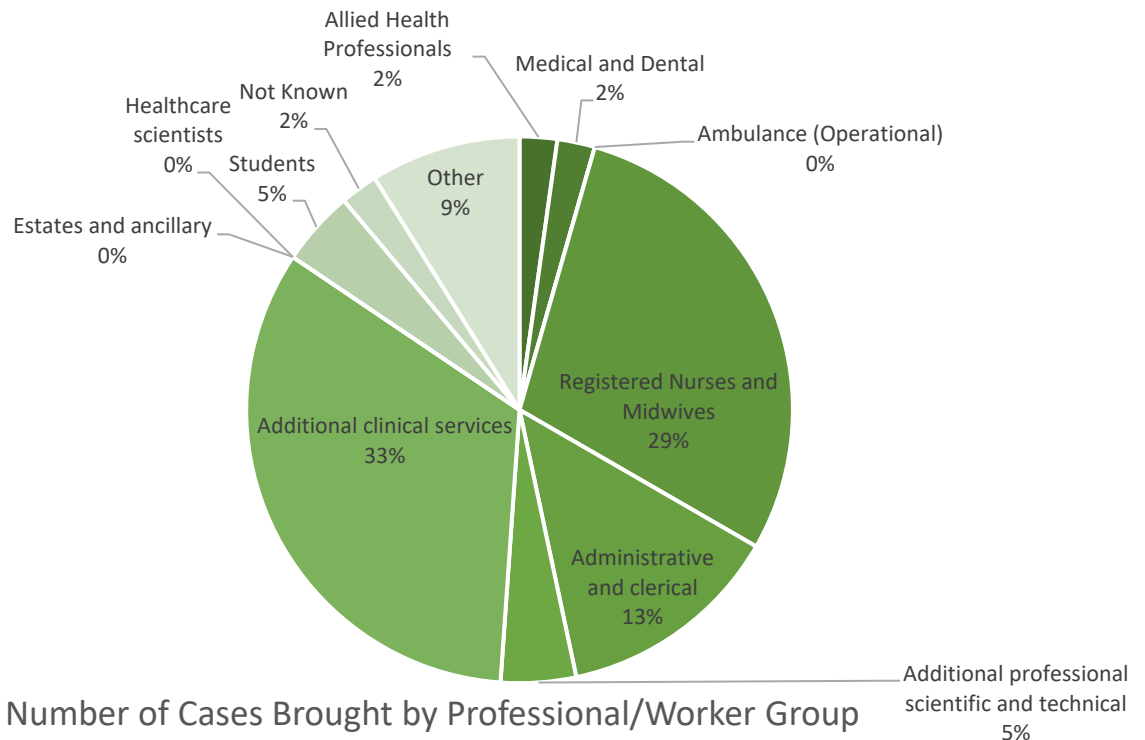
FTSU information is sited within the Trust's leadership programmes.

October 2023 is the 'FTSU Speaking Up' month and there is hope of raising awareness especially for night and weekend staff.

5. 2023-2024 Q1 Data

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Size of organisation	Medium (between 5000-10,000 workers)
Region	South West
Number of cases brought to FTSU Guardian(s)	45



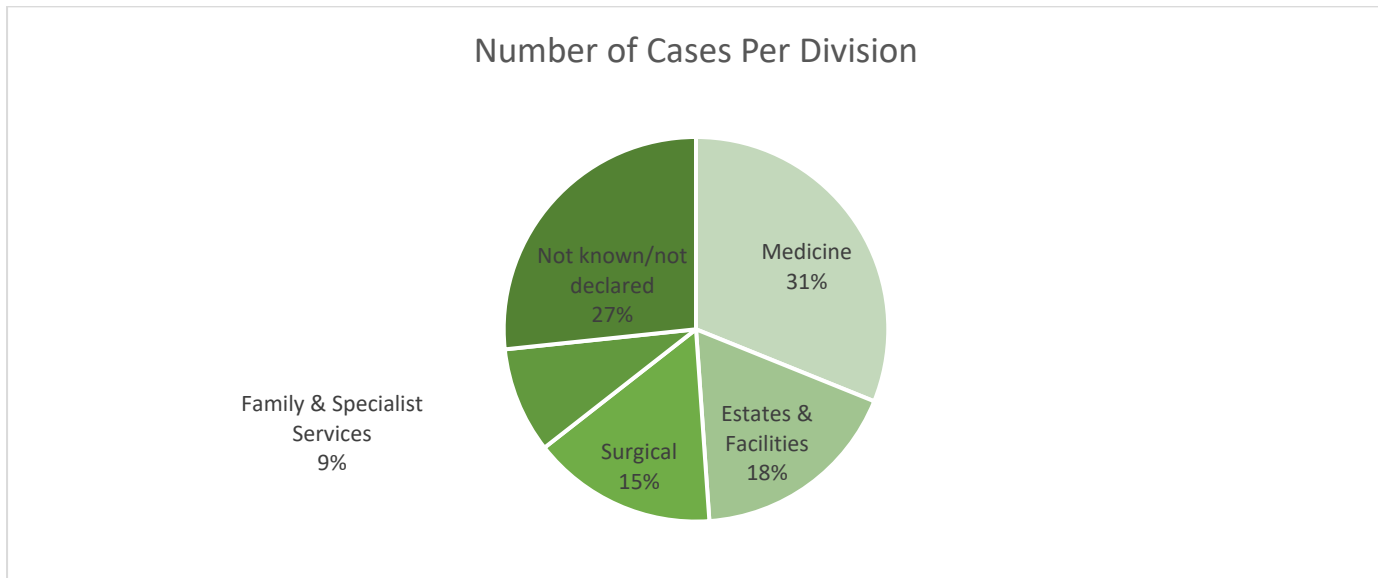
Please note: FTSU concerns are recorded per NGO Guidelines themes of Patient Safety/Well-being, Worker Safety/Well-being, Inappropriate Attitudes and Behaviours and Bullying & Harassment. However, if a case has more than 1 theme, all themes are recorded and reported accordingly.

FTSU also takes into account and reports the following:

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Number of cases raised anonymously	2
Number of cases where disadvantageous and/or demeaning treatment as a result of speaking up (often referred to as 'detriment') is indicated	1

FTSU records the following information but is not required to submit the following to NGO.



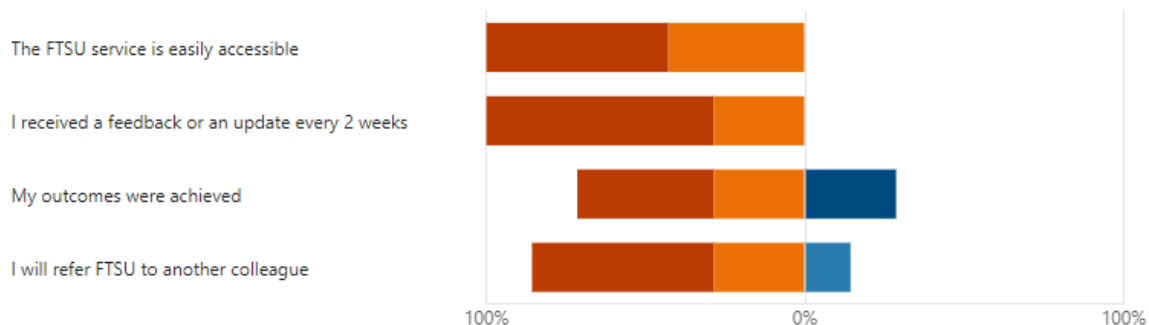
6. FTSU User Feedback

FTSU asks users to fill out a feedback form once their case has closed. The feedback summary is below: Please note the following are extracted screenshots from the feedback form. The numbering of sections do not relay to rest of report.

1. Based on your experience, please rate

[More Details](#)

■ Strongly agree
 ■ Agree
 ■ Disagree
 ■ Strongly disagree



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7. Given your experience, would you speak up again?

[More Details](#)

● Yes	5
● No	2
● Maybe	0



ID ↑	Name	Responses
1	anonymous	I needed advice on whether to complete a datix or not for something that happened on a ward (from a bank shift) , but I think that wasn't understood, and was asked if I needed help speaking to my manager from my department (which is outpatients). I just wanted some advice, but all I was told was " I do not have the clinical knowledge to advise you regarding this."
2	anonymous	Really helpful understanding and caring
3	anonymous	as soon as the senior leaders were informed i was removed from my ward having done nothing wrong
4	anonymous	Kind and understanding. Pro-active and professional. Issue has been resolved.
5	anonymous	I first spoke to [REDACTED] who then arranged a meeting with [REDACTED] passed on my concerns to Para. You have all been incredibly supportive and helpful, and Para, I very much appreciate that you are taking this further.
6	anonymous	The support was good and I felt confident it was treated seriously.
7	anonymous	The support of speak up guardian gave me a confidence and the feeling of protection against potential retaliations form my colleagues/ managers

12. Please suggest any areas for FTSU Service improvements.

6 Responses

ID ↑	Name	Responses
1	anonymous	Being clear on what services you offer/ What you can do vs. what you can't, because if something happens in a clinical area, to be told Freedom to speak up team aren't clinical so can't advise, isn't helpful...Also i dont have more than 1 role, but in order to complete this form I still had to answer Q4?
2	anonymous	FTSU is a valuable service however senior leaders should take time to reflect and learn when procedures are not followed.
3	anonymous	Ensure intranet up to date with details of champions and guardians and their contact numbers.
4	anonymous	It's an excellent service!
5	anonymous	My concerns where raising the issue could have caused problems for others and this caused me some angst. Understanding this is about solving problems and improvement and getting this message through more widely is important.
6	anonymous	outreach to the employees perhaps by visiting the wards and having a little chat about with them / create awareness sessions

10. What are the barriers for you to speak up and how can we help you overcome them?

7 Responses

ID ↑	Name	Responses
1	anonymous	I have no barriers
2	anonymous	Confidence
3	anonymous	unfortunately FTSU are unable to help me, but i thank them for their support
4	anonymous	Initially it was hard to get hold of someone to speak to as intranet wasn't up to date with who to contact. There was no FTSU guardian in post at the time of raising my concern, although, this has now been resolved.
5	anonymous	I decided to speak up after having several meetings with my managers that didn't resolve the issues, so fortunately I knew about Speak Up due to it being included in my Induction.
6	anonymous	It was a relief and caused anxiety building up to contact, I would advise anyone don't do what I did and wait speak up with confidence if you have something troubling you and you are not confident in responses you have received from line management.
7	anonymous	When I raised my complaint, the fear of retaliation was a realistic concern. However, the guardian ensured my protection by offering me the option of anonymity and sincere support in protecting me during the complaint procedure. That in fact was backed up by the head of the hospital and therefore was empowering. The knowledge about the existence of service was also a barrier. I was aware of the Speak Up service from another NHS trust. Increasing knowledge about service will be a good idea. During one of my inductions, in another trust, I had a separate face-to-face seminar with their speak-up guardian, and although short and simple, this little session really lodged in my memory and became very empowering when things went wrong.

To: • All integrated care boards and NHS trusts:

- chairs
- chief executives
- chief operating officers
- medical directors
- chief nurses
- heads of primary care
- directors of medical education

• Primary care networks:

- clinical directors

NHS England
Wellington House
133-155 Waterloo Road
London
SE1 8UG

18 August 2023

cc. • NHS England regions:

- directors
- chief nurses
- medical directors
- directors of primary care and community services
- directors of commissioning
- workforce leads
- postgraduate deans
- heads of school
- regional workforce, training and education directors / regional heads of nursing

Dear Colleagues,

Verdict in the trial of Lucy Letby

We are writing to you today following the outcome of the trial of Lucy Letby.

Lucy Letby committed appalling crimes that were a terrible betrayal of the trust placed in her, and our thoughts are with all the families affected, who have suffered pain and anguish that few of us can imagine.

Colleagues across the health service have been shocked and sickened by her actions, which are beyond belief for staff working so hard across the NHS to save lives and care for patients and their families.

On behalf of the whole NHS, we welcome the independent inquiry announced by the Department of Health and Social Care into the events at the Countess of Chester and will co-operate fully and transparently to help ensure we learn every possible lesson from this awful case.

NHS England is committed to doing everything possible to prevent anything like this happening again, and we are already taking decisive steps towards strengthening patient safety monitoring.

The national roll-out of medical examiners since 2021 has created additional safeguards by ensuring independent scrutiny of all deaths not investigated by a coroner and improving data quality, making it easier to spot potential problems.

This autumn, the new Patient Safety Incident Response Framework will be implemented across the NHS – representing a significant shift in the way we respond to patient safety incidents, with a sharper focus on data and understanding how incidents happen, engaging with families, and taking effective steps to improve and deliver safer care for patients.

We also wanted to take this opportunity to remind you of the importance of NHS leaders listening to the concerns of patients, families and staff, and following whistleblowing procedures, alongside good governance, particularly at trust level.

We want everyone working in the health service to feel safe to speak up – and confident that it will be followed by a prompt response.

Last year we rolled out a strengthened Freedom to Speak Up (FTSU) policy. All organisations providing NHS services are expected to adopt the updated national policy by January 2024 at the latest.

That alone is not enough. Good governance is essential. NHS leaders and Boards must ensure proper [implementation and oversight](#). Specifically, they must urgently ensure:

1. All staff have easy access to information on how to speak up.
2. Relevant departments, such as Human Resources, and Freedom to Speak Up Guardians are aware of the national Speaking Up Support Scheme and actively refer individuals to the scheme.
3. Approaches or mechanisms are put in place to support those members of staff who may have cultural barriers to speaking up or who are in lower paid roles and may be less confident to do so, and also those who work unsociable hours and may not always be aware of or have access to the policy or processes supporting speaking up. Methods for

communicating with staff to build healthy and supporting cultures where everyone feels safe to speak up should also be put in place.

4. Boards seek assurance that staff can speak up with confidence and whistleblowers are treated well.
5. Boards are regularly reporting, reviewing and acting upon available data.

While the CQC is primarily responsible for assuring speaking up arrangements, we have also asked integrated care boards to consider how all NHS organisations have accessible and effective speaking up arrangements.

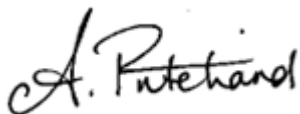
All NHS organisations are reminded of their obligations under the Fit and Proper Person requirements not to appoint any individual as a Board director unless they fully satisfy all FPP requirements – including that they have not been responsible for, been privy to, contributed to, or facilitated any serious misconduct or mismanagement (whether lawful or not). The CQC can take action against any organisation that fails to meet these obligations.

NHS England has recently strengthened the [Fit and Proper Person Framework](#) by bringing in additional background checks, including a board member reference template, which also applies to board members taking on a non-board role.

This assessment will be refreshed annually and, for the first time, recorded on Electronic Staff Record so that it is transferable to other NHS organisations as part of their recruitment processes.

Lucy Letby's appalling crimes have shocked not just the NHS, but the nation. We know that you will share our commitment to doing everything we can to prevent anything like this happening again. The actions set out in this letter, along with our full co-operation with the independent inquiry to ensure every possible lesson is learned, will help us all make the NHS a safer place.

Yours sincerely,



Amanda Pritchard
NHS Chief Executive



Sir David Sloman
Chief Operating
Officer
NHS England



Dame Ruth May
Chief Nursing Officer,
England



**Professor Sir
Stephen Powis**
National Medical
Director
NHS England