

Agenda Item No:

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Report to:	Humber and North Yorkshire Integrated Care Board
Date of Meeting:	14 August 2024
Subject:	Freedom to Speak Up in the ICB
Director Sponsor:	Dr Nigel Wells (Executive Director of Clinical and Care Professionals)
Author:	Abigail Combes, Deputy Director of Legal and Regulatory

STATUS OF THE REPORT:

Approve Discuss Assurance Information A Regulatory Requirement

SUMMARY OF REPORT:

The ICB Board requires an update in respect of the FTSU arrangements for the ICB and progress since the last meeting.

Dr Nigel Wells is the ICB Freedom to Speak Up Guardian for the ICB and Mark Chamberlain is the Non-Executive Lead for Freedom to Speak Up.

The Freedom to Speak Up Guardian is required to be trained and registered with the National Freedom to Speak Up Guardian Office by no later than November 2024. This should be done within a month of appointment as the Freedom to Speak Up Guardian however due to an administrative issue this was delayed for NHS Humber and North Yorkshire ICB. The training has now been booked in and correspondence has been exchanged with the National Office explaining the issues.

There have been a number of FTSU concerns raised with the ICB primarily related to provider organisations where there has been a relationship breakdown or a fear that reporting directly to the organisation may reflect on the individual relationships. The ICB Freedom to Speak Up Guardian is keen to maintain a level of independence from partner organisation Guardian's in order to ensure that there is an option for staff to report to the ICB where they have concerns that cannot easily be raised within their own organisation. Likewise, the ICB would expect that ICB staff could raise concerns about the ICB either with NHS England or with system partners and expect this to be treated with independent scrutiny.

There has been one concern relating directly to issues within the ICB however upon triage this was determined to be more appropriately managed through the HR route and this remains ongoing at the time of reporting.

The ICB continues to plan for developing relationships across organisations through networks of Freedom to Speak Up champions and links to the Medical Examiner services.

The ICB has noted that the current FTSU network does not necessarily reflect the diversity of the system workforce or the population and seeks to improve this through engagement with staff and networks.

The ICB is currently navigating the Freedom to Speak Up role within primary care and understanding the possible options for delivery of a Freedom to Speak Up service within that sector and the resource required.

Members are asked to:

- i) Receive the details regarding Whistleblowing/Freedom to Speak Up arrangements which have been received by the ICB since November 2023 and assurance that they have been managed or are being managed with appropriate process.

ICB STRATEGIC OBJECTIVE

Leading for Excellence	<input checked="" type="checkbox"/>
Leading for Prevention	<input type="checkbox"/>
Leading for Sustainability	<input type="checkbox"/>
Voice at the Heart	<input type="checkbox"/>

IMPLICATIONS

Finance	There are no financial implications arising directly from this report.
Quality	There are clear links between closed cultures and patient harm. Where open cultures are supported there is often more learning and candour from events leading to better outcomes for patients.
HR	There are clear links between Freedom to Speak Up and HR processes with a risk that there is a disproportionate focus on utilising pure HR processes when concerns are raised.
Legal / Regulatory	There are specific legal and regulatory provisions relating to Freedom to Speak Up and particularly around the nature of 'Protected Disclosures'
Data Protection / IG	There are specific legal and regulatory provisions particularly around Data Protection and Information Governance linked with Freedom to Speak Up and other areas highlighted in this report
Health inequality / equality	There are clear links between Freedom to Speak up and ensuring equitable approach for all those who wish to raise concerns.
Conflict of Interest Aspects	There have been no conflicts of interest identified specifically for this report.
Sustainability	There are no sustainability implications arising directly from this report.

ASSESSED RISK:

MONITORING AND ASSURANCE:

Regular updates on Freedom to Speak Up will be presented to the Board. There is ongoing monitoring and assurance of other actions through Clinical and Professional Executive Committee and the Quality Committee.

ENGAGEMENT:

The ICB have completed the policy through the use of a working group and are now in the process of establishing a cross organisation working group for the establishment of Freedom to Speak Up champions from a diverse set of backgrounds.

Part of this work will also be understanding how to ensure that information and intelligence received from concerns and complaints raised to the ICB feeds into the Freedom to Speak Up arrangements and informs the Board on any quality and safety concerns.

REPORT EXEMPT FROM PUBLIC DISCLOSURE

No Yes

If yes, please detail the specific grounds for exemption.

ICB RESPONSE TO THE LETTER FROM NHS ENGLAND TO THE NHS FOLLOWING VERDICT IN THE TRIAL OF LUCY LETBY

1. INTRODUCTION

In November 2023 the Board received a paper to update on the Freedom to Speak Up arrangements for the ICB and progress with the ICB Policy. This paper seeks to update the Board on the current position including the number of open cases currently.

2. BACKGROUND

Freedom to Speak Up

When the ICB was established on 1 July 2022 there was a requirement for the ICB to appoint a Freedom to Speak Up Guardian and implement a policy and process for managing concerns which were raised. NHS Humber and North Yorkshire ICB adopted a Freedom to Speak Up Policy on 1 July 2022 board meeting and since that time have had established arrangements in place for the raising of concerns. It would appear that the Freedom to Speak Up Guardian training requirement had been missed due to an administrative oversight and for that reason the Freedom to Speak Up Guardian had not been registered with the National Office. This has now been rectified and the training is being booked.

The role of the ICB in the wider system Freedom to Speak Up arrangements is primarily ensuring that there are appropriate arrangements in place within those organisations and to support in cases where there are significant concerns about the care and support of patients to assure ourselves of the quality of the services our providers deliver. The Nursing and Quality directorate sought assurance from provider organisations on behalf of the Freedom to Speak Up Guardian that there were arrangements in place, and it is apparent that there are Freedom to Speak Up Guardian's appropriately appointed within organisations. There is further work to do in establishing a network of Guardian's to support each other with matters which are raised.

In November 2023 the Board were advised that there is likely to be a significant role in primary care Freedom to Speak Up and whilst formal guidance has not been provided by NHSE at the time of writing the ICB is already involved in a number of Freedom to Speak Up matters related to primary care. These have primarily come about since March 2024. The ICB is currently exploring the existing Freedom to Speak Up arrangements within primary care although this is a lengthy piece of work with some utilising the LMC, some utilising PCN arrangements and others not having any specific arrangement at all at this time. Some ICBs are utilising private organisations to provide Freedom to Speak Up services for primary care however this risks losing some vital intelligence which is available to the ICB through this route and until it is clear the size of the problem within our ICB footprint it would be difficult to justify financially.

The Freedom to Speak Up Guardian intends to be supported by some appropriately trained Deputies in due course to support with the volume of activity which should offer some resilience for this however the ICB may need to consider investigative skill and/or cost in the near future should their be matters from primary care which require full and detailed investigation. It is unlikely that primary care would be in a position to share the cost of this in the way that some acute providers for example may do.

3. ASSESSMENT

Current Position

Since the last report to Board there have been 6 further concerns raised. One of those is from ICB staff regarding issues within the ICB. The remainder are from provider organisations including primary care.

Of the 7 that were reported in November 2023 one remains open as a Freedom to Speak Up Concern, one has been moved into standard Quality processes and the others have been closed with the consent of the complainant.

In each of these cases there has been a triage of the concern and all are at the information gathering stage of investigation.

Policy Changes

The ICB has adopted the Freedom to Speak Up Policy in line with the proposed changes in the last report to Board and this now appears publicly on the ICB website.

4. RECOMMENDATIONS

4.1. Members are asked to:

- ii) Receive the details regarding Whistleblowing/Freedom to Speak Up arrangements which have been received by the ICB since November 2023 and assurance that they have been managed or are being managed with appropriate process.