



# National Guardian

Freedom to Speak Up

## A case review of speaking up culture and arrangements

by the National Guardian's Office

October 2021

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## **National Guardian's Office**

The [National Guardian's Office](#) (NGO) provides support and challenge to the healthcare system in England on speaking up.

The NGO leads, develops and supports Freedom to Speak Up Guardians, who support workers to speak up and work within their organisation to tackle barriers to speaking up.

## **Speaking up and why it matters**

Speaking up may take many forms, including a discussion with a line manager, an idea for improvement submitted as part of a suggestion scheme, raising an issue with a Freedom to Speak Up Guardian, or bringing a matter to the attention of a regulator.

If we think something might go wrong, it is important that we feel able to speak up so potential harm may be prevented. When things are good but could be better, we should feel able to say something and expect our suggestion is listened to and used as an opportunity for improvement. Speaking up is about all these things.

## **Case reviews**

The National Guardian's Office carries out [reviews](#) where it has information suggesting speaking up has not been handled following good practice.

Reviews seek to identify learning, recognise innovation and support improvement.

# Case review at Blackpool Teaching Hospitals NHS Foundation Trust

The trust is situated on the west coast of Lancashire and operates within a regional health economy catchment area that spans Lancashire and South Cumbria, supporting a population of 1.6 million. The trust has a workforce, by headcount, of over 10,000. Further information about the trust can be found on its [website](#).

The NGO received information indicating that a speaking up case may have not been handled following good practice. The information also suggested black and minority ethnic workers had potentially worse experiences when speaking up compared to their white colleagues.

We reviewed this and other information about the trust's speaking up culture and arrangements and undertook a review of the trust's support for its workers to speak up.

Following its inspection in June 2019, the [Care Quality Commission](#) (CQC) gave the trust an overall rating of 'requires improvement'.<sup>1</sup> In response to whether the service was 'well-led', the CQC rated the trust overall as 'inadequate'. The [inspection](#) found:

- a 'top-down' and 'directive' culture that was not always 'fair', 'open' or 'transparent'
- a culture that was not always supportive of challenge or candour
- limited engagement with staff
- staff did not always feel respected, valued or appreciated
- staff said that they would not speak up. Those who had spoken up reported not being taken seriously, supported or treated with respect
- some groups of workers, including black and ethnic minority workers, felt ignored and disenfranchised.

NHS England and Improvement (NHS E/I) designated the trust as requiring significant support to address a range of quality issues, including workforce, governance, culture and safety. An improvement board was set up to facilitate changes in the trust, in partnership with local commissioners, NHS E/I, the CQC and others.

Following the inspection in June 2019, the trust leadership underwent changes to support the trust's improvement.

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<sup>1</sup> The CQC asks whether the services it inspects are they safe, effective caring, responsive and well-led. In response, services receive a rating: outstanding, good, requires improvement or inadequate.

## How the review was undertaken

The review was undertaken during the COVID-19 pandemic when there was significant pressure on the trust and its workforce.

The review was carried out virtually to minimise additional pressure and allow the participation of those involved. Focus groups and interviews were held with trust workers and senior leaders through October to December 2020.<sup>2</sup>

Eight focus groups were held, including specific sessions for black and minority ethnic workers. The focus groups sought to create a space where workers felt able to speak up freely. Attendance at the focus groups was impacted, among other things, by the COVID-19 pandemic. Those who had booked to attend sessions were not always able to do so. However, workers were also able to approach the NGO directly to share their thoughts and experiences.

We reviewed specific experiences of speaking up in the trust. We heard from over 70 workers through these focus groups and interviews.<sup>3</sup>

We reviewed documents relating to the trust's speaking up culture and arrangements, including policies and procedures, reports and action plans. We also reviewed relevant data from the NHS Staff Survey and other metrics.

We liaised with the Care Quality Commission, and NHS England and Improvement.

## About this report

Our findings are split into three areas: Speaking Up Culture, Freedom to Speak Up Guardian and Leadership.

We also refer in the report to specific experiences of speaking up in the trust. To capture any potential learning and minimise the risk of identifying individuals, we refer to anonymised segments from these experiences under relevant themes.

Our recommendations can be found throughout the report and the full list is also provided at the end (Annex 1).

## Acknowledgements

We want to thank trust workers – those who contributed to our review and those who did not – for everything they have done and continue to do for patients.

We want to thank leaders at the trust and other organisations for making this review possible, particularly during the pandemic.

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<sup>2</sup> These were held virtually for the health and safety of workers and to comply with the pandemic-related restrictions.

<sup>3</sup> The NGO does not disclose identifiable information shared by trust workers during its review with others within the trust or in other organisations without the consent of those relevant workers. In some circumstances - for instance, if there is an immediate risk of harm to an individual – we may need to take further action. In such cases, we will take any necessary action while, as much as possible, protecting confidentiality. In all cases where confidentiality may be affected, this is discussed with the individual.

# Key findings

## Speak Up Culture

- The Freedom to Speak Up Index score had improved every year since 2016 and was above average compared to similar trusts and the national average.
- Work was underway to improve the speaking up culture and workers spoke of signs of improvement.

However:

- Most workers we spoke to described long-standing issues with the speaking up culture.
- Speaking up had not always been responded to in accordance with good practice.
- Speaking up training had variable reach and uptake and was not always in line with good practice.
- Some groups of workers faced barriers to speaking up not necessarily experienced by other workers.

## Freedom to Speak Up Guardian

- Steps had been taken to bring the arrangements for the Freedom to Speak Up Guardian role in line with National Guardian's Office (NGO) guidance, including the provision of ring-fenced time for the Freedom to Speak Up Guardian.
- The Freedom to Speak Up Guardian was an important additional route for workers to speak up. Most of those who had spoken up to Freedom to Speak Up Guardian and had provided feedback said they would speak up again.

However:

- Understanding of and support for the Freedom to Speak Up Guardian role was not always consistent.
- There was ineffective continuity planning for the Freedom to Speak Up Guardian role.
- The Freedom to Speak Up Champions/Ambassadors network was not functioning effectively.

## Leadership

- The leadership team had changed in a drive to support and improve the trust. Leaders expressed a strong and shared desire to improve the speaking up culture.

- Trust leaders demonstrated awareness of concerns workers raised about the speaking up culture, as well as many of the specific issues that workers raised during our review.
- The speaking up policy was mostly in line with the national minimum standards.

However:

- The speaking up strategy required updating, including a comprehensive speaking up communications strategy.
- The positioning of the Freedom to Speak Up executive lead role was perceived by some workers as a conflict of interest.
- Workers who had spoken to national bodies had variable and sometimes less than good experiences.

## Speak Up Culture

The speaking up culture varied across the trust.

Most workers we spoke with described challenges with the speaking up culture. Many explained that these were longstanding issues going back several years.

Workers also referred to improvements.

### Speak up process

In this section, we have grouped the feedback from workers along the lines of the Freedom to Speak Up process described in the [Freedom to Speak Up Review](#) (2015), which considered the speaking up culture in the NHS in England.

In text boxes, we have included anonymised summaries of the speaking up experiences of some of those who contributed to the review.

#### 1. Identifying that something might be wrong

##### Engagement

Changes were announced to clinical practice in a meeting attended by a worker. The worker said this was the first time they had heard about these changes.

The worker was concerned about the potential impact of the changes on patient care. They said that when they voiced their concerns they were met with hostility, and their concerns were dismissed.

An investigation by the trust found that the changes did not pose a risk to patient safety. However, the investigation found that the communication and handling of the changes could have been managed better.

A trust leader said there were policies and processes regarding changes to services, including appropriate involvement of team members.

At the National Guardian's Office, we know that changes to services, how these are handled and how they are communicated to workers is a common subject of speaking up.

##### Recommendation

**Within three months, the trust should:**

- Continue to demonstrate that it values the views of its workers, including consulting staff about changes to their services as appropriate, in line with its policies and procedures and good practice.



## 2. Speaking up ('raising a concern')

### Visibility and accessibility

Workers said that those in leadership roles, including trust leaders, were not always visible and accessible.

Some spoke about workload and other pressures, particularly on middle-managers, and the impact this had on their visibility and accessibility.

Workers based in the trust's community sites said they faced challenges in this regard as well, as they were 'out of sight'.

The trust had been particularly affected by the pandemic, putting significant pressures on leaders. Trust leaders said that this invariably impacted on their visibility across the trust.

The trust leadership team had run events ('Big Conversations') to reach out and listen to workers, including two events aimed at colleagues from black and minority ethnic backgrounds.

Other methods of communication were being used to reach workers during the pandemic, but many noted this was not the same as meeting people in person.

Trust leaders referred to joint roles with organisations in the local integrated care system that were supported by 'deputies' in each organisation, and how these arrangements allowed for cover and continuity.

### Recommendation

#### Within three months, the trust should:

- Continue to take appropriate steps to promote a culture of visible and accessible leadership.

### Behaviours

Workers spoke about the existence of poor behaviours in the trust, including examples of aggressive communication, and how these had not always been appropriately addressed. This was perceived as having a detrimental impact on the speaking up culture.

Trust leaders acknowledge that poor behaviour had historically not always been addressed appropriately. They referred to ongoing work to promote compassionate leadership and staff retention.

The trust was developing its capacity and promotion of mediation, including in speaking up cases. Trust leaders hoped that mediation would facilitate swifter and more amicable resolution of issues going forward.

## Recommendation

### Within six months, the trust should:

- Continue with and review the effectiveness of its programme of work to challenge unwanted and/or unprofessional behaviours.
- Continue to promote and facilitate the use of mediation where appropriate.

### Action in response to speaking up

Many of those we spoke with were of the view that speaking up did not always result in appropriate action being taken. This led to thinking there was no point in speaking up. This was the feedback we heard most often from workers concerned about the speaking up culture.

Trust leaders said that the trust's governance arrangements had not historically supported the development of an effective speaking up culture. They said that suggestions for improvement often stalled, leading to apathy.

"I wanted to speak up about certain things, but I was not confident ... these would be properly escalated, whether I will be victimised."

Trust worker

The trust was taking steps to improve the effectiveness of its governance arrangements.

A worker spoke up on multiple occasions about a range of issues, including to senior leaders. However, they believed they were not listened to, and they were not aware of any action that may have been taken.

The worker did not always receive a response in line with the trust's policies and processes and good practice when they spoke up.

## Recommendation

### Within three months, the trust should:

- Take appropriate steps so that issues about which workers speak up are responded to in accordance with trust policies and procedures and good practice.

## Recommendation

### Within six months, the trust should:

- Continue to improve effectiveness of its governance arrangements, including the communication of information from and to 'board to ward'.

### Being thanked for speaking up

Workers said that they were not always thanked when they spoke up.

At the National Guardian's Office, we often refer to speaking up as a 'gift'. Speaking up provides invaluable information for leaders to enable them to provide high quality and safe services, and to continuously improve. Workers should be thanked for

speaking up, and this should not be a tick box exercise. This is part and parcel of an environment that cherishes workers' views, ultimately for the benefit of patients.

A worker said they were not thanked when they spoke up. An exception to this was when they spoke up to the trust's previous Freedom to Speak Up Guardian.

The trust's speaking up policy at the time these events did not comment on whether workers should be thanked for speaking up. However, the trust's speaking up policy at the time of our review said that those speaking up would be treated with *"respect at all times and will thank you for raising your concerns."*

## **Recommendation**

### **Within three months, the trust should:**

- Take appropriate steps to ensure workers who speak up are meaningfully thanked for doing so, in accordance with trust policies and procedures and good practice.

## **Groups facing barriers to speaking up**

There was a perception among some workers that groups of workers faced barriers to speaking up. This is discussed later in the report.

## **3. Examining the facts**

Where cases are handled well, the likelihood of a good outcome for everyone is higher.

### **Processes**

Workers described human resources policies and processes as sometimes being 'slow', 'bureaucratic' and 'adversarial', and that this had an unhelpful effect on the trust's speaking up culture.

Some workers said that outcomes when workers speak up depended on whether 'your face fits'.

Many said they lacked confidence that they would be treated fairly if they were involved in a human resources process.

A worker was called to a meeting where they were told that concerns had been raised about them. However, they claimed that no further information was provided about the alleged concerns, and requests for further details were rejected.

The worker said the way the meeting was arranged and conducted – and the lack of information about the alleged concerns – caused them a lot of anxiety and stress. They said there was a lack of consideration of the potential impact on them being told this information in this way.

The worker also said the lack of information about the alleged concerns meant it was not possible for them to reflect on and take any interim remedial steps to address any issues.

An investigation found that the way the matter had been raised with the worker was not appropriate or in line with trust policies.

It is important to take appropriate action when someone speaks up. However, it is important to think of not only the person speaking up but the impact of any action on other potential parties, including those who may be the subject of allegations.

### **Recommendation**

#### **Within three months, the trust should:**

- Take appropriate steps to ensure its policies and procedures are fair and supportive of all workers in the speaking up process, including those who are the subject of matters that are raised.

A worker alleged bias in communication between colleagues in the trust's human resources team.

The worker spoke up about this to senior leaders. However, the worker did not receive a response.

### **Recommendation**

#### **Within six months, the trust should:**

- Continue to take appropriate steps to ensure human resources policies and processes have the confidence of its workforce, including effective training for workers in human resources.

### **Communication**

Clarity and effective communication with a person speaking up is crucial. There should be effective communication to manage expectations.

A worker said they experienced bullying and harassment and that there was a bullying culture. They spoke up about these issues, including with senior leaders.

The worker was told a review would be commissioned that would look into these issues. However, they were later informed that the review would not be looking into their individual experience of bullying. The worker said they were asked to pursue personal grievances through other channels.

An investigation by the trust found this caused delays in the worker being able to progress with their speaking up concerns.

A worker raised a grievance. They said they were informed that a review of concerns about their practice would be paused pending the handling of this grievance. This was to avoid any suggestion of retaliatory action being taken against the worker.

The worker said they subsequently discovered that the review into their professional practice had taken place, contrary to what they had been told.

A senior leader explained there had not been a commitment to pause the review of concerns about the worker's practice.

The trust's speaking up policy at the time of our review contained the following:

*"If you make a disclosure under this policy during the course of disciplinary proceedings against you, we will normally continue with the disciplinary proceedings whilst investigating your disclosures concurrently."*

This stance remained in the trust's updated policy at the time of our review.

It is important that consideration is given to situations where an individual says that such proceedings are attempts to subject them to a detriment for speaking up such as occurred in this case. We discuss the trust's speaking up policy in detail later on in the report.

## **Recommendation**

### **Within three months, the trust should:**

- Take appropriate steps to promote effective communication with those speaking up in order to effectively manage expectations.

## **Confidentiality**

A worker may speak up openly, confidentially or anonymously.

Speaking up confidentially is when the worker speaking up reveals their identity to someone on the condition that it will not be disclosed further without their consent (unless legally required to do so).

Some workers we spoke with expressed concern about whether their confidentiality would be respected if they spoke up.

A worker alleged that their identity was disclosed to the person about whom they had spoken up, breaching their confidentiality.

The event occurred several years ago.

The trust's speaking up policy at the time of the events included assurances about confidentiality. However, the policy suggested that the person speaking up would need to be explicit about wanting their identity to be kept confidential.

The trust's updated policy at the time of our review used the terms 'confidentiality' and 'anonymity' interchangeably and, similar to the earlier version of the policy, it was not clear whether confidentiality was assumed or had to be explicitly requested by the person speaking up. (We discuss the trust's speaking up policy in detail later in the report.)

A trust leader said confidentiality was taken seriously and referred to action taken regarding alleged breaches.

### **Recommendation**

#### **Within three months, the trust should:**

- Take appropriate steps to assure themselves that speaking up practices ensure that the confidentiality of workers who speak up is appropriately supported – including looking into cases where a breach of confidentiality is reported.

### **Terms of reference**

A worker alleged that they were not given an opportunity to input into the terms of reference to investigate the matter they had raised.

This was in breach of the trust's investigations policy according to a review carried out by the trust.

### **Recommendation**

#### **Within three months, the trust should:**

- Take appropriate steps to ensure that workers who speak up can have input into the terms of reference for any subsequent investigations, in accordance with trust policies and procedures and good practice.

### **Impartiality**

The independence of investigations was a reoccurring theme in feedback we received during our review.

A worker spoke up about what they perceived to be the lack of independence and impartiality of those involved in handling their speaking up case.

We found examples to demonstrate that the trust was aware of the risks that investigations would be perceived as not being independent and steps they had taken to address this.

It is important that investigations are not only conducted appropriately but that workers are provided with the reassurance they need to avoid perceptions of a lack of independence and impartiality.

### **Recommendation**

#### **Within three months, the trust should:**

- Take appropriate steps to ensure its response to workers speaking up, including the investigations of those issues and the implementation of learning resulting from them, is undertaken by suitably independent and trained investigators.

## Timeliness

The timeliness of investigations was a theme in feedback from workers during the review.

It took several months for a grievance raised by a worker to be investigated and the outcome shared with them.

A senior leader said that the timeliness of the handling of this case was affected by a range of factors, including the complexity of some of the investigations.

A worker raised a matter to which, as per policy, they should have received a response within 14 days. However, it took three months for a substantive response to be shared.

As mentioned earlier, the trust was developing its capacity and promotion of mediation, including in speaking up cases, to facilitate swifter and more amicable resolution of issues.

## Recommendation

**Within three months, the trust should:**

- Take appropriate steps to ensure matters arising from cases of speaking up are investigated within reasonable timescales and without undue delay.

The handling of investigations arising from speaking up cases has been a reoccurring theme in case reviews.

In a case review report published in June 2018, we noted a lack of guidance on the handling of investigations. We recommended guidance be commissioned by the Department for Health and Social Care:

*"Within 12 months, the Department for Health and Social Care should commission NHS Employers to develop and communicate guidance to NHS trusts and foundation trusts that will help ensure HR policies and processes do not present real or perceived barriers to speaking up. This should focus on how trusts can ensure that investigations into speaking up matters are undertaken by suitably independent persons and are completed within reasonable timescales, to enable workers who speak up to have trust and confidence in the process.*

*Guidance should also be provided on how to support individuals who are speaking up about a grievance to prevent undue burdens being placed on those individuals and to ensure that they receive the support they need at what is likely to be a difficult and stressful time."*

In advance of the publication of this report, DHSC referred us to a range of activities that have taken place across the system, which collectively support this recommendation:

- *In November 2019, NHS Improvement requested that NHS trusts review their processes and procedures. Alongside this request, NHS Improvement included guidance to reinforce the need for greater consistency and an inclusive, compassionate and person-centred approach, whatever the circumstances, and to ensure that those involved in investigations should be fully trained and competent to carry out the role they have been assigned.*
- *NHS Employers published a Professionalism and Cultural Transformation toolkit to educate and empower staff to improve professionalism in their organisation. NHS England and NHS Employers have published good practice examples to implement a just and learning culture, which aims to remove barriers, encourage speaking up and learning from experiences to improve future practices and culture.*
- *In December 2020, NHS England and Improvement wrote to NHS trusts about the importance of raising concerns at the earliest opportunity. They shared a collaboratively developed disciplinary policy focussed on promoting dignity and respect.*

DHSC also highlighted that ‘looking after our people’ and ‘fostering a culture of inclusion and belonging’ were central themes in the People Plan 2020/21 and continued to be central to ongoing work across the healthcare system.

We will work in partnership with others in the system to support the consistent embedding of good practice in this area across the healthcare system.

#### **4. Outcomes and feedback**

##### **Feedback**

Feedback is an important part of the speaking up process. Workers who speak up should receive feedback on the outcome of the matters they have raised.

Many workers contributing to the review said that they often did not receive feedback when they spoke up. This supported the perception that action had perhaps not been taken in response to them speaking up.

A worker said they did not always receive feedback after speaking up.

There was not always a discussion about whether and how they might want to receive feedback.



## Recommendations

### Within three months, the trust should:

- Take appropriate steps to ensure that workers who speak up receive meaningful and timely feedback in accordance with trust policies and procedures and good practice.

### Disadvantageous and/or demeaning treatment for speaking up

Many workers expressed concern about the potential negative consequences for their job satisfaction and security if they were to speak up.

This worry was also expressed in the focus groups we had arranged. Some workers requested one-on-one calls to share their thoughts and experiences because they were afraid to speak up in the group sessions.

“Like writing a P45 coming here [to a focus group arranged as part of the review by the NGO]”

Trust worker

A worker said a derogatory remark had been made against them when they spoke up. They also alleged that they were told that they could be performance managed and that statements could be obtained against them.

The worker said they were later informed that concerns had been raised about them, though they were made aware of these concerns at least two months after they had first been raised. The worker claimed that the handling of the concerns about them was also retaliation.

The worker spoke up to say they believed they were suffering detriment. They said that the alleged detriment was negatively impacting them, including on their wellbeing.

An investigation was carried out. It found that detriment for speaking up had not occurred. However, the investigation found that potentially unprofessional or unwanted behaviours, along with the potential failure to follow the correct processes when responding to concerns about the worker’s professional practice, meant that the situation could have been interpreted in the way it was by the worker.

## Recommendation

### Within three months, the trust should:

- Communicate that detriment for speaking up will not be tolerated, act to prevent detriment occurring, and put in place procedures that would enable cases of detriment to be looked into effectively when they are reported.

## 5. Reflecting and moving forward

### Reflective practice

Workers referred to a culture of blame that had existed in the trust. This discouraged a culture of transparency and learning. This was echoed in feedback from senior leaders as well.

“As in other trusts, we had a blame culture for so long... I see improvements; I don't know if others are seeing it yet.”

Trust worker

A 'just culture' approach to incidents was being embedded in the trust. This approach sought to shine light on systemic issues and learning, rather than blaming individuals.

### Support

A worker said there was a lack of support for them during their speaking up experience. They said there was a lack of information about potential sources of support they could use during this time.

The worker also said the handling of their speaking up cases negatively impacted their wellbeing. They alleged there was a lack of consideration in the handling of their case. This included, for instance, receiving communication regarding their case at the end of the week when they could not contact their union representative or others for support.

The worker said they self-referred to the trust's occupational health service for support, including counselling support and that they received support from the Freedom to Speak Up Guardian.

### Recommendation

**Within three months, the trust should:**

- Take appropriate steps so that those who speak up have access to appropriate support and are made aware of and appropriately supported to access this support in a timely way.

### Other indicators of speaking up culture

The [Freedom to Speak Up \(FTSU\) Index](#)<sup>4</sup> is an indicator of speaking up culture and can be used, alongside other metrics, to understand and improve the speaking up culture in an organisation.

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<sup>4</sup> The Freedom to Speak Up (FTSU) Index brings together questions from the NHS Staff Survey that relate to whether staff feel knowledgeable, secure and encouraged to speak up and whether they would be treated fairly after an incident.

The trust's score had improved year on year (see table 1, below). The trust's score was above average compared to similar trusts and the national average.

Table 1. FTSU Index results

	2016	2017	2018	2019	2020
<b>Blackpool Teaching Hospitals NHS Foundation Trust</b>	76.4%	78.1%	79.1%	79.2%	79.7%
		↑	↑	↑	↑
<b>Combined Acute and Community Trusts</b>	76.4%	76.5%	78.1%	78.5%	79.0%
		↑	↑	↑	↑
<b>National average for all trusts</b>	76.7%	76.8%	78.1%	78.7%	79.2%
		↑	↑	↑	↑

The NHS Staff Survey (2020) also asked respondents whether they feel safe to speak up about anything that concerns them in their organisation. Just over two thirds of respondents at the trust (66.8%) agreed with this statement. This was better than the national average (65.5%).

In the most recent national NHS staff survey (2020), the trust saw improvements in staff perceptions in multiple areas. The trust scored above average compared to similar trusts in five of the ten themes captured by the survey, including staff engagement, morale, equity diversity, and inclusion.

The leadership team had changed considerably in a drive to support and improve the challenged trust.

We asked leaders at the trust about the speaking up culture and discussed some of the feedback shared with us through the review.

Trust leaders said there were historic cultural issues that they were working to address.

The leadership team expressed a strong and shared desire to improve the speaking up culture. They explained that the organisation was on an improvement journey and referred to initiatives to improve the speaking up culture. Many commented that it takes years to change organisational culture and that they were in the early stages of their journey, and that there was much more to do to make speaking up business

"To me, it is unacceptable – even a single person in the trust – to feel that they will be discriminated against or there will be detriment, or they don't feel that they can speak up because of something that has happened."

Trust leader

as usual. Trust leaders referred to ongoing work to encourage dispersed leadership, accountability and ownership.

Trust leaders referred to the trust's high vacancy and sickness levels and how this had a negative impact on staff morale and, quite possibly, on the speaking up culture as well.<sup>5</sup>

Most trust leaders with whom we spoke demonstrated awareness of concerns workers raised with us about the speaking up culture, as well as many of the specific issues that workers raised during our review. Trust leaders explained the channels through which these issues were being escalated and the steps taken to look into these matters.

However, we observed certain behaviours, including defensiveness, among some leaders in the trust. There seemed to be a readiness to dismiss concerns raised by some workers who were viewed as serial complainants, though this was expressed by a minority of the leaders we spoke to. These behaviours indicated that the mindset that recognises the importance of speaking up and appreciates feedback as an opportunity for improvement – rather than an issue that generates a defensive reaction – was not fully embedded across the trust.

“The only way to learn and improve the organisation is if people speak up”.

Trust leader

The information we reviewed suggested that the trust's speaking up culture was seeing improvements. This was echoed in feedback from some of the workers contributing to our review. However, the work to bring about improvements in this area was not always progressing at pace, including action on the effective use of the Freedom to Speak Up Champions and the development of the trust's Freedom to Speak Up strategy, both of which are discussed later. This was impacted by the COVID-19 pandemic.

### Groups facing barriers to speaking up

The [Freedom to Speak Up Review](#) (2015), which considered the speaking up culture in the NHS in England, identified groups that faced particular barriers to speaking up. This included black and minority ethnic workers, trainees, locums and agency workers. Any worker group could potentially face barriers to speaking up.<sup>6</sup>

### Black and minority ethnic workers

Eleven per cent (11.2%) of the trust's workforce were from a black and minority ethnic background.

The trust's FTSU Index (2021) results showed black and minority ethnic workers at the trust had less confidence in the trust's speaking up culture.<sup>7</sup> The results echoed feedback we received from black and minority ethnic workers who contributed to our

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<sup>5</sup> The trust's sickness level at the time of the review was consistent with the benchmark average for the region.

<sup>6</sup> Following the Freedom to Speak Up Guardian Survey 2019, we recommended that leaders, working with their Freedom to Speak Up Guardian(s), should identify potential groups that face barriers to speaking up and take action to address those barriers.

<sup>7</sup> 2021 FTSU index scores are based on the 2020 NHS Staff Survey.

review. Many believed that there was greater reluctance to speak up among black and minority workers and those that spoke up felt that they were more likely to experience unfavourable outcomes compared to their white colleagues.

A common theme we heard was that black and minority workers felt that they had less favourable access to training and promotion opportunities and were more likely to be involved in human resource processes. Workers explained that these factors made speaking up more of a risk for them. We also heard from workers on work permits who kept their 'heads down' to avoid potentially risking their right to stay in the country.

Workers also spoke up to us about the lack of representation on the trust board as a reason for decisions that, in their views, did not always consider the needs of black and minority ethnic workers.

A range of indicators showed that black and minority ethnic workers at the trust generally had less favourable perceptions and outcomes. However, information we reviewed showed improvements.

NHS organisations are required to demonstrate how they are addressing equality issues in staffing through the Workforce Race Equality Standard (WRES). The trust saw improvements in the WRES indicators drawn from the national NHS Staff Survey. Across all four of these indicators, there were marked improvements in the perceptions of black and minority ethnic staff who took part in the most recent survey (2020).

The trust's training records showed an improvement in the relative likelihood of black and minority ethnic staff accessing non-mandatory training in 2020/21.

### Other groups facing barriers

Other groups that regularly came up in feedback as facing potential barriers to speaking up were:

- Workers with disabilities and long-term health conditions
- Lesbian, gay, bisexual and transgender workers
- Workers on lower pay bands.

“Look at the senior managers to see a reason for why the decisions are made that disproportionately affect us over other groups... No representation [among executive directors].”

Workers shared examples of speaking up about equality, diversity and inclusion issues, and how these were not always handled well.

Trust worker

Some workers said they had witnessed sexist, racist and homophobic remarks being made in the workplace and that more effective training was needed to change behaviours.

Steps had been taken to facilitate speaking up for groups that may face barriers. For example, the trust had a network of Freedom to Speak Up Champions from a range

of professional and other backgrounds.<sup>8</sup> The Freedom to Speak Up Champion role had been advertised through trust-wide communications and presentations at meetings of the trust's equality and diversity network to attract a cross-section of people. Further information about the trust's Freedom to Speak Up Champion network can be found later in this report.

## Recommendations

### Within three months, the trust should:

- Work with their Freedom to Speak Up Guardian to identify potential groups that face particular barriers to speaking up, and work towards addressing those barriers.

### Within six months, the trust should:

- Update and implement the trust's equality, diversity and inclusion strategy considering the findings of this review.

## Speaking up training

Workers need to know how to speak up and how to respond well to others speaking up.

The National Guardian's Office has issued guidance on speaking up training for workers. In addition, in partnership with Health Education England, it has launched two of three Freedom to Speak Up training modules ('Speak Up, Listen Up, Follow Up') for healthcare workers. The three modules seek to clearly and consistently explain what speaking up is and its importance in creating an environment in which people are supported to deliver their best.

The trust had speaking up training for workers at the time of our review. However, this training did not reach all workers - specifically, existing managers, and this appeared to be reflected in cases that had been raised with the Freedom to Speak Up Guardian. We also found that understanding of speaking up and the remit of the Freedom to Speak Up Guardian was lacking among some senior leaders, discussed later in this report.

We reviewed slides used during inductions to raise awareness about Freedom to Speak Up and found that some of the messages were not in line with NGO guidelines.

The development of the trust's own speaking up training had been put on hold in anticipation of the Freedom to Speak Up training to be launched by the NGO.

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<sup>8</sup> Some organisations have Freedom to Speak Up Champions or Ambassadors who work alongside Freedom to Speak Up Guardians to complement their work. These internal Freedom to Speak Up networks seek to raise awareness and promote the value of speaking up, listening up and following up. Many Freedom to Speak Up Guardians rely on these networks to address challenges posed by organisation size, geography and the nature of their work and help them support workers, especially those who may face barriers to speaking up.

## **Recommendation**

**Within six months, the trust should:**

- Provide and monitor the uptake of effective speaking up training for all workers, ensuring this meets the expectations set out in guidelines from the National Guardian's Office.

## Freedom to Speak Up Guardian

Among other things, Freedom to Speak Up Guardians:

- support workers to speak up
- work in partnership with others in their organisation to tackle barriers to speaking up.

The National Guardian's Office published the Freedom to Speak Up Guardian [Job Description](#).

The implementation of the role varies among organisations. For example, some organisations have one Freedom to Speak Up Guardian, while others have multiple Freedom to Speak Up Guardians.

The trust had a Freedom to Speak Up Guardian.

Steps had been taken by the trust to bring the arrangements for the Freedom to Speak Up Guardian role in line with National Guardian's Office (NGO) guidance, including the:

- appointment of the Freedom to Speak Up Guardian through open and fair process
- provision of ring-fenced time for the Freedom to Speak Up Guardian.

### Interim and planned arrangements

A trust leader explained they were setting up a joint Freedom to Speak Up Guardian arrangement with another organisation in the local care system. Once in place, the arrangement would mean that there would be:

- a deputy Freedom to Speak Up Guardian dedicated to each organisation, and
- a lead Freedom to Speak Up Guardian that would work across both organisations.

The deputy Freedom to Speak Up Guardians dedicated to each organisation would focus on the reactive side of the role (i.e. receiving cases), freeing up the lead Freedom to Speak Up Guardian working across both organisations to focus their efforts on the proactive part of the Freedom to Speak Up Guardian role.

They explained the arrangement would, among other things, strengthen the resilience of the Freedom to Speak Up Guardian support available to workers. Also, whereas previously there was a single Freedom to Speak Up Guardian, the planned arrangements meant workers would have options when speaking up to a Freedom to Speak Up Guardian.

The NGO recognises that the balance of a Freedom to Speak Up Guardian's role needs to reflect the needs of the workforce. Every Freedom to Speak Up Guardian is trained and expected to meet the full requirements set out in the universal [Job](#)



**Description.** This ensures that there is consistency of support for any worker who approaches a Freedom to Speak Up Guardian.

## **Recommendations**

### **Within three months, the trust should:**

- Provide assurance that all three FTSU guardians that support workers at the trust are able to meet the requirements of the universal job description.
- Revert to using the term 'Freedom to Speak Up Guardian for all three guardians. It may, locally, consider how it communicates the primary functions of the individuals in each of the roles though, at all times, the individuals should be able to fulfil the requirements of the universal job description.

At the time of our review, the trust's Freedom to Speak Up Guardian stepped down. From here on, we refer to them as the trust's previous Freedom to Speak Up Guardian.

On an interim basis, arrangements were made to ensure that the Freedom to Speak Up Guardian role continued to be filled for workers to access support (from here on called the 'interim Freedom to Speak Up Guardian').

Many of the workers we spoke with were not aware of the details of the interim arrangements. There were plans for further communication of the changes, but this was pending the joint Freedom to Speak Up Guardian arrangements coming into effect.

Senior leaders discussed steps being taken to support the interim arrangements, including meetings between the Freedom to Speak Up Champions and the interim Freedom to Speak Up Guardian.

There are benefits in building resilience into an organisation's Freedom to Speak Up Guardian function, and there are various ways this could be achieved. It is important that changes to arrangements are communicated effectively to ensure that workers have the awareness and confidence to approach a Freedom to Speak Up Guardian.

There was a drop in the number of cases brought to the trust's Freedom to Speak Up Guardians around the time that the trust's Freedom to Speak Up Guardian arrangements were in flux (see table 3, below). Trust leaders referred to challenges during this transitional period and efforts to ensure workers had access to a Freedom to Speak Up Guardian. They explained some cases could have been raised during this time which may not have been captured to allow the trust to report correctly.

## **Recommendation**

### **Within three months, the trust should:**

- Ensure that that changes to the Freedom to Speak Up arrangements are communicated to workers in a timely way.

## Appointment

In accordance with NGO guidance, the previous Freedom to Speak Up Guardian had been appointed through a fair and open process.

Some workers expressed concern about the appointment process for the interim arrangements that had been put in place following the departure of the previous Freedom to Speak Up Guardian.

A trust leader explained that the circumstances meant they had to act quickly to fill the vacancy to ensure continuity of the Freedom to Speak Up Guardian function. They stressed that the arrangement was temporary pending the appointment of a deputy Freedom to Speak Up Guardian.

In March 2021, the trust launched its recruitment for a deputy Freedom to Speak Up Guardian. The position holder would work within the Joint Freedom to Speak Up office – based at Blackpool Teaching Hospitals NHS Foundation Trust – to provide support across both organisations.

## Independence, impartiality and objectivity

In accordance with the Freedom to Speak Up Guardian [Job Description](#), Freedom to Speak Up Guardians are expected to ... *"Operate independently, impartially and objectively, whilst working in partnership with individuals and groups throughout their organisation, including their senior leadership team"*.

Some workers told us that they did not approach the trust's previous Freedom to Speak Up Guardian - not because of concerns about the person in that role - but due to a lack of confidence in the speaking up culture more generally. For example, workers expressed concern that their confidentiality could be breached. These concerns were particularly pronounced in comments about the interim and future Freedom to Speak Up Guardian arrangements.

Some workers felt that the Freedom to Speak Up Guardian should be appointed from within the trust. Others felt that the Freedom to Speak Up Guardian should not be a trust employee and should be 'external'. They suggested such an arrangement would provide confidence that the Freedom to Speak Up Guardian could operate without pressure from leaders within the organisation.

Trust leaders explained that the need for the Freedom to Speak Up Guardian to operate independently, impartially and objectively was well understood. Leaders explained that, whereas previously there was a single Freedom to Speak Up Guardian, the planned arrangements meant workers would have options when speaking up to a Freedom to Speak Up Guardian.

The Freedom to Speak Up Guardian does not have to sit outside an organisation to operate independently, impartially and objectively. Nonetheless, there were concerns among workers we spoke with on this issue and trust leaders should listen to and engage with workers about these concerns.

## **Recommendation**

### **Within three months, the trust should:**

- Take appropriate steps to assure themselves that their Freedom to Speak Up Guardian arrangements have the confidence of the workforce.

## **Ring-fenced time**

The National Guardian's Office recommends ring-fenced time should be allocated to those in a speaking up role.

The previous Freedom to Speak Up Guardian initially had 22 hours a week for the role. This was later increased to 30 hours a week.

The previous Freedom to Speak Up Guardian explained that as the Freedom to Speak Up Guardian role became embedded in the trust, the number and complexity of the cases raised with them increased, meaning they had less time to carry out the proactive parts of the role. They said they spoke up about this but that this had not been actioned.

A trust leader explained that the planned arrangements for the Freedom to Speak Up Guardian role would build greater capacity into the Freedom to Speak Up Guardian function.

## **Recommendation**

### **Within three months, the trust should:**

- Provide the Freedom to Speak Up Guardian(s) with ring-fenced time for the role, taking account of the time needed to carry out the role and meet the needs of workers in their organisation. Leaders should be able to demonstrate the rationale for their decisions about how much time is allocated to the role.

## **Understanding of the role**

We found misunderstandings among some leaders about the Freedom to Speak Up Guardian role, including:

- the type of cases about which workers may and may not speak up about to a Freedom to Speak Up Guardian
- the misunderstanding that the Freedom to Speak Up Guardian was to signpost individuals who had approached them to speak up
- the preconception that the Freedom to Speak Up Guardian should not proactively encourage workers to speak up.

In most cases, workers are likely to speak up within their line management chain or use other channels. However, the Freedom to Speak Up Guardian is an essential additional route for workers to speak up about any suggestions or concerns.

In line with the proactive part of their role, Freedom to Speak Up Guardians work in partnership with others in their organisation to tackle barriers to speaking up. This may include reaching out to different parts of their organisation to make themselves known, particularly if indicators suggest such work may be helpful for reassurance about the speaking up culture.

## **Recommendation**

### **Within three months, the trust should:**

- Take appropriate action to ensure the Freedom to Speak Up Guardian(s) are appropriately supported to carry out their role, in line with guidance from the National Guardian's Office and NHS England & Improvement.

Also, see recommendation above regarding the provision and monitoring of effective speaking up training for all workers.

## **Case handling**

We encountered misunderstandings about the role of the Freedom to Speak Up Guardian in relation to investigations.

According to the universal job description, Freedom to Speak Up Guardians are responsible for promoting certain outcomes, including individuals being supported when they speak up. This includes taking appropriate action when an issue is brought to the attention of a Freedom to Speak Up Guardian, with confidentiality being respected as appropriate and regular feedback on progress being given.

Matters raised with Freedom to Speak Up Guardians may require investigation and when this is the case, a fair and effective process should be used. However, Freedom to Speak Up Guardians themselves are not responsible for investigating matters brought to them.

Leaders need to ensure that Freedom to Speak Up Guardians are supported to carry out these responsibilities.

Freedom to Speak Up Guardians must not take part in investigations or make decisions on the issues connected to speaking up cases brought to them. There is a difference between being assured that investigations are happening well and taking decisions about the scope and conduct of investigations.

Freedom to Speak Up Guardians should ensure that everyone understands their role is to support rather than solve. By taking the lead from the person they are supporting, Freedom to Speak Up Guardians help maintain their impartiality and avoid creating barriers to others wanting to speak up to them.

## Recording cases and reporting data

Freedom to Speak Up Guardians are expected to record<sup>9</sup> all cases of speaking up raised with them, including the number of cases brought to them where detriment as a result of speaking up was indicated.<sup>10</sup>

In line with NGO guidance, the trust's Freedom to Speak Up Guardian submitted non-identifiable<sup>11</sup> information about the speaking up cases raised with them to the NGO.

The information submitted showed that workers were speaking up to the Freedom to Speak Up Guardian (please see tables 2 and 3, below). However, the number of cases fell in Q2 and Q3 2020/21.

Table 2. FTSU Guardian Speaking Up Cases

Number of cases...	2018/19	2019/20	Change
... brought to FTSU Guardians / Champions	124	176	↑
... raised anonymously	11	10	↓
... with an element of patient safety/quality	57	87	↑
... related to behaviours, including bullying/harassment	68	71	↑
... where people indicate that they are suffering detriment as a result of speaking up	3	6	↑

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<sup>9</sup> This serves many purposes, including helping Freedom to Speak Up Guardians keep track of individual cases and promoting consistency in the handling of cases. It provides a measure of the speaking up culture and the use of the Freedom to Speak Up Guardian route in an organisation.

<sup>10</sup>Detriment can be described as any disadvantageous or demeaning treatment. It may include being ostracised, given unfavourable shifts, being overlooked for promotion and moved from a team.

<sup>11</sup> Freedom to Speak Up Guardians should always respect confidentiality. The details of individual cases should not be shared outside the bounds of the agreement between Freedom to Speak Up Guardians and the individual they support.

Table 3. FTSU Guardian Speaking Up Cases<sup>12</sup>

No. of cases...	Q1 2020/21	Q2 2020/21	Q3 2020/21
... brought to FTSU Guardians / Champions	54	15	11
... raised anonymously	54	14	0
... with an element of patient safety/quality	33	0	0
... related to behaviours, including bullying/harassment <sup>13</sup>	21	0	4
... where people indicate that they are suffering detriment as a result of speaking up	0	0	0

We found misunderstandings about the NGO's guidance on recording cases and reporting data, specifically the recording of cases where detriment as a result of speaking up was indicated.

In accordance with NGO guidance, a case being recorded as indicating detriment is based on the perceptions of the person speaking up. Occurrence of detriment does not have to be definitively proven.

### Recommendation

**Within three months, the trust should:**

- Take appropriate steps to ensure cases brought to the Freedom to Speak Up Guardian are recorded and reported in accordance with guidelines from the National Guardian's Office.

### Board reports

Working with the National Guardian's Office, NHS Improvement published guidance for NHS and foundation trust boards on Freedom to Speak Up. In line with this guidance, the trust's previous Freedom to Speak Up Guardian was presenting their reports to the trust board in person.

<sup>12</sup> The data in this report is based on interim figures for Q1 – 2 2020/21. Freedom to Speak Up Guardians will have an opportunity to reconcile their data for the year (2020/21) in April – May 2021.

<sup>13</sup> A case may include an element of patient safety/quality as well as an element of bullying and harassment.

We reviewed board reports. We found these had improved over time. However, we noted the following points for improvement, including a level of detail about cases that could pose or be seen to pose a risk of identifying individuals.

Freedom to Speak Up reports to the board play an important role in providing assurance to the board about the speaking up culture, and the trust should continue to improve the quality of its reports.

Supplementary information that accompanies NHS E/I's Guidance for Boards on Freedom to Speak Up includes suggestions for information that should be included in reports.

## **Recommendation**

### **Within six months, the trust should:**

- Continue to improve the board reports presented by the Freedom to Speak Up Guardian, ensuring this is in line with guidelines from NHS England and Improvement.

## **Succession planning**

Following the departure of the previous Freedom to Speak Up Guardian, trust leaders put in interim arrangements to ensure continuity of the Freedom to Speak Up Guardian function.

The interim Freedom to Speak Up Guardian said they were keen to review themes and trends to understand the speaking up culture in the trust and inform how they can best support workers. They explained that the board reports did not support them in developing this understanding.

New Freedom to Speak Up Guardians need to understand the emerging picture with regards to their organisation's speaking up culture.

Succession planning, including, where possible, effective handovers, can support incoming Freedom to Speak Up Guardians and minimise any disruption to an organisation's Freedom to Speak Up arrangements.

Leaders need to work with their Freedom to Speak Up Guardian(s) to support effective planning in this regard in order to provide a successor with adequate information and a plan for an effective handover.

The NGO is developing guidance to help Freedom to Speak Up Guardians consider and have discussions about supporting this process. This will be published by March 2022.

## **Recommendation**

**Within 12 months, the trust should:**

- Discuss and agree a continuity plan to support incoming Freedom to Speak Up Guardians and minimise any disruptions to the Freedom to Speak Up arrangements, ensuring this is in line with guidelines from the National Guardian's Office.

## **Freedom to Speak Up Champions/Ambassadors**

Some organisations have Freedom to Speak Up Champions or Ambassadors who work alongside Freedom to Speak Up Guardians to complement their work. These internal Freedom to Speak Up networks seek to raise awareness and promote the value of speaking up, listening up and following up. Many Freedom to Speak Up Guardians rely on these networks to address challenges posed by organisation size, geography and the nature of their work and help them support workers, especially those who may face barriers to speaking up.

At the time of our review, the trust had several Freedom to Speak Up Champions from across the trust representing a range of professional and other backgrounds.

In line with the trust's description of the Freedom to Speak Up Champion role, workers brought cases to Freedom to Speak Up Champions as they did to the Freedom to Speak Up Guardian.

There was variable engagement with and support for the Freedom to Speak Up Champions. A senior leader explained that the Freedom to Speak Up Champions did not have ring-fenced time, and this affected their ability to work effectively. The senior leader added that there had been a lack of support among the trust leadership to make the most of the trust's Freedom to Speak Up Champions.

There was a lack of awareness among the workers we spoke with about the Freedom to Speak Up Champions and their role.

In April 2021, the NGO published guidance to inform the development and support of Freedom to Speak Up Champion/Ambassador networks. The planning and implementation of refreshed arrangements, in line with this guidance, is expected within a year from the publication of this guidance.

## **Recommendation**

**Within nine months, the trust should:**

- Review the use of the Freedom to Speak Up Champion role, ensuring this is in line with guidelines from the National Guardian's Office.



## Leadership

### Senior responsibility for Freedom to Speak Up

Working with the National Guardian's Office, NHS Improvement published [guidance](#) for NHS and foundation trust boards on Freedom to Speak Up. The guide sets out expectations and details individual responsibilities, including the role of executive lead for Freedom to Speak Up.

The executive lead for Freedom to Speak Up is an important role and sits in different places in different organisations. At this trust, the role sat with the Director of Human Resources and Organisational Development. Freedom to Speak Up is further supported with a non-executive director who has responsibility to support the trust and provide an independent view of the service.

We found that the positioning of the Freedom to Speak Up executive lead role was perceived as a conflict of interest and that concerns were raised about impartiality and conflict. These matters had previously been raised to a trust leader. While it was perceived that action had not been taken, we were told that the matter had been looked into. It had been concluded that similar arrangements were in place in other trusts, and there was not an issue with the current arrangements.

There were differing views among senior leaders with whom we spoke on this matter. Some agreed that the role should not sit within human resources, referring to many of the cases brought to Freedom to Speak Up Guardians that may in some way concern human resources, including cases about bullying and harassment. They explained that this meant there was potential for an actual or perceived conflict of interest.

Others did not perceive an issue with the arrangements. A senior leader stressed that the same arrangements worked effectively in other organisations. They added that the arrangement had the benefit of facilitating partnership working with human resources.

There are organisations where the executive lead role for Freedom to Speak Up sits in human resources, though this may not always be suitable. There may be local reasons why an arrangement that functions well in one setting may not be appropriate in another. Leaders should take appropriate steps to assure themselves that those with senior responsibility for Freedom to Speak Up have the confidence of the workforce.

### Recommendation

#### Within 12 months, the trust should:

- Take appropriate steps to identify and review measures to assure themselves that those with senior responsibility for Freedom to Speak Up have the confidence of the workforce, making improvements as needed.

## Self-review toolkit

NHS E/I's guidance for NHS trust and foundation trust boards on Freedom to Speak Up is accompanied by supplementary information and a Freedom to Speak Up self-review tool. It is expected that an assessment using the self-review tool is completed yearly and shared with NHS E/I.

We reviewed the trust's self-assessment. The assessment found that many of the expectations in the guide were not being met, either partially or fully. We also noted that the assessment was not complete.

A senior leader explained that the document had been updated when there were changes to the Freedom to Speak Up arrangements. However, they explained the assessment had not been finalised or presented and signed off by the trust board.

## Recommendation

**Within six months, the trust should:**

- Complete the Freedom to Speak Up review toolkit and share this with NHS England and Improvement, in line with NHS England and Improvement guidelines.

## Speaking up strategy

In accordance with NHS E/I's guidance for NHS and foundation trust boards on Freedom to Speak Up, boards should have a clear vision – supported by a strategy – for the speaking up culture in their trust. The strategy should be developed and reviewed annually by the Freedom to Speak Up executive lead.

The trust shared its Freedom to Speak Up strategy, dated January 2020.

A senior leader explained that there was a lack of appropriate ownership of the strategy, which was not in accordance with NHS E/I's guidance for NHS trust and foundation trust boards. They explained that there were multiple attempts to update the strategy, though this did not happen.

## Recommendation

**Within six months, the trust should:**

- Develop and begin the implementation of a strategy to improve the speaking up culture across its workforce, in line with guidelines from NHS England and Improvement. The plan should contain measures to identify the main issues the trust should address, clear actions to address those issues and steps to measure the effectiveness of those actions.

## Speaking up communication strategy

Workers we asked knew the previous Freedom to Speak Up Guardian. Those we spoke with mentioned various ways through which the role had been advertised, including a 'road show' during Speak Up Month where the Freedom to Speak Up

Guardian and Champions, alongside trust leaders, visited different parts of the trust to raise awareness.

NHS E/I's guidance for NHS and foundation trust boards on Freedom to Speak Up states that boards should support the creation of an effective communication and engagement strategy that encourages and enables workers to speak up and promotes changes made as a result of speaking up.<sup>14</sup>

We reviewed the trust's Freedom to Speak Up communication strategy. The strategy did not include a timeline for delivery. Although it had measures for success, it did not have targets or milestones. It also did not allocate responsibility for delivery of the plan.

Like the trust's speaking up policy (discussed below), the strategy used terminology that was not in line with NGO guidance. Furthermore, the strategy was focused on the communication of the trust's Freedom to Speak Up Guardian and Champions, rather than speaking up more generally.

The plan did not contain a release date or version number.

### **Recommendation**

**Within six months, the trust should:**

- Develop and evaluate its Freedom to Speak Up communication plan in line with guidelines from NHS England and Improvement, ensuring this takes account of workers in the trust's community sites and other groups that may face barriers to speaking up.

### **Integration with the local care system**

A topic that consistently came up during our review was about the trust's integration with the local care system. Common among feedback from workers in this regard were the following perceptions:

- That trust workers did not always have the same opportunities to apply for roles
- That ways of working were being 'imposed' on the trust
- There was a 'them and us' mentality, with concern about whether workers would be treated differently if they spoke up.

Not all workers shared these views though, with some referring to developments as a 'breath of fresh air'. For example, the Big Conversations (referred to above) was a concept from another organisation and was referred to as an example of positive collaboration.

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<sup>14</sup> Supplementary information accompanying the guidance also sets out suggestions of how to evaluate the effectiveness of a communication strategy.

Trust leaders were aware of these themes and empathised with workers speaking up. Leaders explained the trust was challenged and that it required support. They added that closer working among providers was happening across the country, encouraged by the government and others in the healthcare system.

"There is commitment at board level [to improve the speaking up culture and arrangements]."

Trust leader

Another trust leader stressed that it was not the case that one trust had 'all the answers' and referred to examples of good practice flowing from the trust.

## Recommendation

### Within six months, the trust should:

- Should develop a plan to ensure that workers can speak up effectively about the impact of integration as its local integrated care system continues to develop and mature.

## Policy

A speaking up policy is an important part of an organisation's speaking up arrangements.

The trust's current speaking up policy (called 'Freedom to speak up: raising concerns (whistleblowing) policy') was issued in May 2020.

NHS Improvement expects all NHS organisations in England to adopt its [Freedom to speak up: whistleblowing policy for the NHS](#), published in April 2016, as a minimum standard.

The Advocacy and Learning (Freedom to Speak Up, FTSU) Team at NHS England and Improvement (NHS E/I) reviewed how the trust's policy aligned with the national integrated whistleblowing policy. They found the trust's policy:

- was mostly in line with the national policy
- contained useful links; and
- could benefit from a one-page flow diagram in the beginning of the policy for ease of use.

The team highlighted the following points for improvement for the consideration of trust leaders:

Section	Extract from the trust policy	Advocacy and Learning (FTSU) Team
2	<i>"This policy applies to all current and ex-employees of Blackpool Teaching Hospital NHS Foundation Trust. It also applies to contractors, volunteers or service providers."</i>	We consider the policy could be simplified in its description of those to whom it applies.

4.2	<p>“... you can contact ...</p> <ul style="list-style-type: none"> <li>• Our <b>Freedom to Speak Up Guardian</b> ...</li> <li>• our <b>Freedom to Speak Up Ambassador</b></li> <li>• our <b>Freedom to Speak up Champions</b>”</li> </ul>	<p>We consider the policy would benefit from a brief explanation of the difference between these roles.</p>
	<p>“... you can contact ... “</p>	<p>We consider the policy would benefit from the inclusion of the contact details for the following:</p> <ul style="list-style-type: none"> <li>• FTSU Guardian</li> <li>• FTSU Champions / Ambassadors</li> <li>• Executive and Non-Executive Leads for Speaking Up.</li> </ul>
	<p><i>“If your concern relates to fraud, bribery and/or corruption, then you should immediately contact the Trust’s Local Counter Fraud Specialist. In those cases the Local Counter Fraud Specialist (LCFS) will make the decision regarding contact with the Line Manager or Executive Director.”</i></p>	<p>We consider the policy would benefit from clarification. The implication is that individuals should bypass their line manager and others if they have fraud concerns and go straight to Local Counter Fraud Specialist, though this is not clear.</p>
4.2.1	<p>“... contact the Whistleblowing Helpline for the NHS and social care...”</p>	<p>The hyperlink should be updated to Speak Up Direct.</p>
4.3	<p><i>“On receipt the ... you will receive an acknowledgement within 14 working days ...”</i></p>	<p>We consider acknowledgement within 14 working days to be a long time to wait.</p> <p>The policy will benefit from review of this timeframe, considering the experience of the person speaking up and feeling confident something will happen.</p>
4.3.1	<p><i>“If you make a disclosure under this policy during the course of disciplinary proceedings against you, we will normally continue with the disciplinary proceedings whilst investigating your disclosures concurrently.”</i></p>	<p>We consider the policy may benefit from clarification.</p> <p>The policy says ‘normally’, and so there is a caveat. It is important to allow for situations where an individual(s) alleges the disciplinary action is unfavourable treatment for speaking up.</p>

The National Guardian’s Office (NGO) has developed a [policy review framework](#) to support Freedom to Speak Up Guardians and others to assess their organisation’s speaking up policy. According to the framework, an effective speaking up policy should:

- encourage speaking up
- be clear and accessible for all workers, including those who may face barriers to speak up
- be clear that workers may speak up about things that can be improved, as well as problems, risks or issues
- describe a clear process and offer alternative routes for speaking up
- explain that the confidentiality of those speaking up will be protected as far as possible and provide assurance about protection from unfavourable treatment for speaking up and commit to taking action where this happens; and
- be reviewed regularly with feedback from those who have or may wish to use the policy.

We reviewed the trust’s policy using this framework. In this assessment, the trust policy scored variably. We made the following observations:

Section	Extract from the trust policy	Intelligence and Learning Team at the National Guardian’s Office
2	<i>“... raise a concern about risk, malpractice or wrongdoing that you think is harming the service we deliver.”</i>	The best speaking up policies make it clear that workers may speak up about anything, welcome this, and encourage workers to speak up about things that could be improved, as well as problems, risks or issues. They avoid limiting beliefs that only ‘concerns’ can be raised and avoid confusing and emotive terminology like ‘whistleblowing’ which may act as a barrier to speaking up.
4.1	<i>“it does not matter if you turn out to be mistaken as long as you are genuinely troubled”.</i>	Good policies do not discourage speaking up by questioning an individual’s motivation. The matters about which they are speaking up could still be true.
4.1.1	<i>“Provided you are acting honestly, it does not matter if you are mistaken or if there is an innocent explanation for your concerns.”</i>	
4.7	<i>“Alternatively, you can raise your concern outside the organisation...”</i>	Good policies encourage speaking up to happen through the normal line management chain but are clear that there are alternatives to this at any point.

4.7.1	<b><i>“Making a ‘protected disclosure’”</i></b>	<p>The best policies recognise that workers may be engaging with the policy at a difficult time when they may be stressed, upset, and uncertain of what to do. They make their key messages easy to read and understand, and ensure that the information that workers will need to help them make the right first step is presented in an easily accessible way.</p> <p>The best policies make it clear that workers may speak up about anything, welcome this, and encourage workers to speak up about things that could be improved, as well as problems, risks or issues.</p>
4.8	<b><i>“National Freedom to Speak Up Guardian”</i></b>	The description of the NGO’s case review process, taken from the national integrated speaking up policy, is not accurate.
4.6	<i>“We will review the effectiveness of this policy and local processes at least annually, with the outcome published and changes made as appropriate.”</i>	<p>Good policies are reviewed regularly and feedback from those who have used the policy, or may wish to, is considered as part of this process.</p> <p>The best policies are clear that they will actively seek feedback from workers, especially from groups who may be faced with barriers to speaking up.</p>
App. 1	<i>“If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.”</i>	The best policies are clear that confidentiality will be preserved unless disclosure of information provided in confidence is required by law.

Other observations we made about the policy:

- In line with the national speaking up policy, the trust’s policy stated (s 4.6) it will be reviewed at least annually. However, on the version control sheet attached to the policy, it stated the policy would be reviewed three years after its approval (i.e. May 2023)
- There were differing explanations (sections 2 and 4.1.3) as to who came within the remit of the policy
- The policy provided differing instructions about how concerns about fraud should be raised (sections 4.1 and 4.2)

- The terms confidentiality and anonymity were used interchangeably (section 4.3)
- References to other organisations needed to be updated (section 4.7.1).

**Recommendation(s):**

**Within 12 months, the trust should:**

- Revise the trust's speaking up policy to take account of the observations made in this report.
- Take steps to ensure all existing and new workers are aware of the contents and meaning of its revised speaking up policy.

**Freedom to Speak up: Guidance for NHS trusts (and supplementary resources, including a self-review toolkit)**

**Freedom to Speak Up: raising concerns (whistleblowing) policy for the NHS**

NHS England and Improvement are updating both the policy and guidance.

We welcome working with them as part of that to ensure they meet NGO expectations. We invite them to consider the observations in this report and take them into account when devising mechanisms to monitor the implementation of the revised guidance and policy.

**Speaking up to national bodies**

Some workers said they spoke up outside their trust. Their experience appeared to be variable, but there were examples of what appeared to be less than good practice.

Following the CQC's lead, we are developing the Speak Up Partnership Group to improve the consistency and quality of responses given to workers who speak up to national organisations.



# Recommendations

## Within three months, the trust should:

- 1.1 Continue to demonstrate that it values the views of its workers, including consulting staff about changes to their services as appropriate, in line with its policies and procedures and good practice.
- 1.2 Continue to take appropriate steps to promote a culture of visible and accessible leadership.
- 1.3 Take appropriate steps so that issues about which workers speak up are responded to in accordance with trust policies and procedures and good practice.
- 1.4 Take appropriate steps to ensure workers who speak up are meaningfully thanked for doing so, in accordance with trust policies and procedures and good practice.
- 1.5 Take appropriate steps to ensure its policies and procedures are fair and supportive of all workers in the speaking up process, including those who are the subject of matters that are raised.
- 1.6 Take appropriate steps to promote effective communication with those speaking up in order to effectively manage expectations.
- 1.7 Take appropriate steps to assure themselves that speaking up practices ensure that the confidentiality of workers who speak up is appropriately supported – including looking into cases where a breach of confidentiality is reported.
- 1.8 Take appropriate steps to ensure that workers who speak up can have input into the terms of reference for any subsequent investigations, in accordance with trust policies and procedures and good practice.
- 1.9 Take appropriate steps to ensure its response to workers speaking up, including the investigations of those issues and the implementation of learning resulting from them, is undertaken by suitably independent and trained investigators.
- 1.10 Take appropriate steps to ensure matters arising from cases of speaking up are investigated within reasonable timescales and without undue delay.
- 1.11 Take appropriate steps to ensure that workers who speak up receive meaningful and timely feedback in accordance with trust policies and procedures and good practice.

- 1.12 Communicate that detriment for speaking up will not be tolerated, act to prevent detriment occurring, and put in place procedures that would enable cases of detriment to be looked into effectively when they are reported.
- 1.13 Take appropriate steps so that those who speak up have access to appropriate support and are made aware of and appropriately supported to access this support in a timely way.
- 1.14 Work with their Freedom to Speak Up Guardian to identify potential groups that face particular barriers to speaking up, and work towards addressing those barriers.
- 1.15 Provide assurance that all three Freedom to Speak Up Guardians that support workers at the trust are able to meet the requirements of the universal job description.
- 1.16 Revert to using the term 'Freedom to Speak Up Guardian' for all three guardians. It may, locally, consider how it communicates the primary functions of the individuals in each of the roles though, at all times, the individuals should be able to fulfil the requirements of the universal job description.
- 1.17 Ensure that that changes to the Freedom to Speak Up arrangements are communicated to workers in a timely way.
- 1.18 Take appropriate steps to assure themselves that their Freedom to Speak Up Guardian arrangements have the confidence of the workforce.
- 1.19 Provide the Freedom to Speak Up Guardian(s) with ring-fenced time for the role, taking account of the time needed to carry out the role and meet the needs of workers in their organisation. Leaders should be able to demonstrate the rationale for their decisions about how much time is allocated to the role.
- 1.20 Take appropriate action to ensure the Freedom to Speak Up Guardian(s) are appropriately supported to carry out their role, in line with guidance from the National Guardian's Office and NHS England and Improvement.
- 1.21 Take appropriate steps to ensure cases brought to the Freedom to Speak Up Guardian are recorded and reported in accordance with guidelines from the National Guardian's Office.

**Within six months, the trust should:**

- 2.1 Continue with and review the effectiveness of its programme of work to challenge unwanted and/or unprofessional behaviours.
- 2.2 Continue to promote and facilitate the use of mediation where appropriate.

- 2.3 Continue to improve effectiveness of its governance arrangements, including the communication of information from and to 'board to ward'.
- 2.4 Continue to take appropriate steps to ensure human resources policies and processes have the confidence of its workforce, including effective training for workers in human resources.
- 2.5 Update and implement the trust's equality, diversity and inclusion strategy considering the findings of this review.
- 2.6 Provide and monitor the uptake of effective speaking up training for all workers, ensuring this meets the expectations set out in guidelines from the National Guardian's Office.
- 2.7 Complete the Freedom to Speak Up review toolkit and share this with NHS England and Improvement, in line with NHS England and Improvement guidelines.
- 2.8 Continue to improve the board reports presented by the Freedom to Speak Up Guardian, ensuring this is in line with guidelines from NHS England and Improvement.
- 2.9 Develop and begin the implementation of a strategy to improve the speaking up culture across its workforce, in line with guidelines from NHS England and Improvement. The plan should contain measures to identify the main issues the trust should address, clear actions to address those issues and steps to measure the effectiveness of those actions.
- 2.10 Develop and evaluate its Freedom to Speak Up communication plan in line with guidelines from NHS England and Improvement, ensuring this takes account of workers in the trust's community sites and other groups that may face barriers to speaking up.
- 2.11 Develop a plan to ensure that workers can speak up effectively about the impact of integration as its local integrated care system continues to develop and mature.

**Within nine months, the trust should:**

- 3.1 Review the use of the Freedom to Speak Up Champion role, ensuring this is in line with guidelines from the National Guardian's Office.

**Within 12 months, the trust should:**

- 4.1 Discuss and agree a continuity plan to support incoming Freedom to Speak Up Guardians and minimise any disruptions to the Freedom to

Speak Up arrangements, ensuring this is in line with guidelines from the National Guardian's Office.

- 4.2 Take appropriate steps to identify and review measures to assure themselves that those with senior responsibility for Freedom to Speak Up have the confidence of the workforce, making improvements as needed.
- 4.3 Revise the trust's speaking up policy to take account of the observations made in this report.
- 4.4 Take steps to ensure all existing and new workers are aware of the contents and meaning of its revised speaking up policy.