

**Freedom to Speak Up**

**Recommendations, Principles & Actions**

**Recommendations:**

- 1) All organisations which provide NHS healthcare and regulators should implement the Principles & Actions set out in the report in line with the good practice described.
- 2) The Secretary of State for Health should review at least annually the progress made in the implementation of these Principles & Actions and the performance of the NHS in handling concerns and the treatment of those who raise them, and report to Parliament.

**Principles & Actions**

**Culture Change**

Principle	Action	YAS Action	Link to self-assessment	Action Lead	Due Date	Progress	Completed	
1	Culture of safety: Every organisation involved in providing NHS healthcare, should actively foster a culture of safety and learning in which all staff feel safe to raise concerns.	1.1 Boards should ensure that progress in creating and maintaining a safe learning culture is measured, monitored and published on a regular basis	Key work streams underway across the Trust as part of the Sign up to Safety campaign (The deteriorating adult and child, moving patients safely and EOC human factors) and the lessons learned action plan following the 2015 survey. Regular reports will be submitted via the relevant assurance committee/group to Board.	Organisational Commitment	Louise Hodgson (Sign up to Safety Lead) and Rebecca Mallinder (Head of Investigations & Learning)	Ongoing	Feb 16 - safety update being published monthly. Sign up to Safety Lead being in post for 3 months and development being made and reported to CGG. Investigations & Learning Policy approved by CGG Jan 16 and to go to TMG Feb 16.	
		1.2 System regulators should regard departure from good practice, as identified in this report, as relevant to whether an organisation is safe and well-led.		Support for Managers & Staff				
2	Culture of raising concerns: Raising concerns should be part of the normal routine business of any well led NHS organisation.	2.1 Every NHS organisation should have an integrated policy and a common procedure for employees to formally report incidents or raise concerns. In formulating that policy and procedure organisations should have regard to the descriptions of good practice in this report.	Strengthening of the raising concerns policy and associated HR policies and incident management policies.	Support for Managers & Staff	Cath Cox (Head of HR) - HR policies review Rebecca Mallinder (Head of Investigations & Learning) - incident management policies review	Feb-16	Feb 16 - policy developed, awaiting approval	
			Development of a route map that signposts staff on raising concerns or reporting incidents.	Support for Managers & Staff	Rebecca Mallinder (Head of Investigations & Learning) and Clare Ashby (Head of Safety)	Jan-16	Feb 16 - Route map developed	
		2.2 NHS England, NHS TDA and Monitor should produce a standard integrated policy and procedure for reporting incidents and raising concerns to support Action 2.1.	Support for Managers & Staff					
3	Culture free from bullying: Freedom to speak up about concerns depends on staff being able to work in a culture which is free from bullying and other oppressive behaviours.	3.1 Bullying of staff should consistently be considered, and be shown to be, unacceptable. All NHS organisations should be proactive in detecting and changing behaviours which amount, collectively or individually, to bullying or any form of deterrence against reporting incidents and raising concerns; and should have regard to the descriptions of good practice in this report.	YAS should have a strong and clear process in place for the management of reported cases of bullying. Review to be undertaken as part of policy review to ensure this is fit for purpose in line with the best practice guidelines outlined in the FTSU report.	Organisational Commitment	Cath Cox (Head of HR)	Dec-15	Feb 16 - managed via HR processes.	
		3.2 Regulators should consider evidence on the prevalence of bullying in an organisation as a factor in determining whether it is well-led.		Organisational Commitment				

		3.3	Any evidence that bullying has been condoned or covered up should be taken into consideration when assessing whether someone is a fit and proper person to hold a post at director level in an NHS organisation.	This is built into the process for recruitment of a post at director level.	Organisational Commitment	Steve Page (Executive Director of Standards & Compliance)	Jan-16	Feb 16 - consideration of potentially including this within reference checks for Director posts?	
4	Culture of visible leadership: All employers of NHS staff should demonstrate, through visible leadership at all levels in the organisation, that they welcome and encourage the raising of concerns by staff.	4.1	Employers should ensure and be able to demonstrate that staff have open access to senior leaders in order to raise concerns, informally and formally.	Development of a route map that signposts staff on raising concerns or reporting incidents. Guidance on how to use this practically will be issued to staff and managers.	Organisational Commitment	Rebecca Mallinder (Head of Investigations & Learning) and Clare Ashby (Head of Safety)	Jan-16	Feb 16 - Route map developed	
				YAS should introduce a FTSU Guardian model as recommended that reports directly to the CEO to strengthen this process.	Organisational Commitment	Rebecca Mallinder (Head of Investigations & Learning) and Clare Ashby (Head of Safety)	Jan-16	Feb 16 - Guardian model approved by TEG. JDs developed. Recruitment to be undertaken in March/April.	
5	Culture of valuing staff: Employers should show that they value staff who raise concerns, and celebrate the benefits for patients and the public from the improvements made in response to the issues identified.	5.1	Boards should consider and implement ways in which the raising of concerns can be publicly celebrated.	Development of a communications strategy to highlight the work being undertaken by FTSU working group and once the process is in place, to celebrate concerns raised and share these with staff as appropriate	Communications & Staff Engagement	Olivia Eames (Communications Officer)	Dec-15	Feb 16 - comms strategy in place. App now live. Merchandise being explored	
6	Culture of reflective practice: There should be opportunities for all staff to engage in regular reflection of concerns in their work.	6.1	All NHS organisations should provide the resources, support and facilities to enable staff to engage in reflective practice with their colleagues and their teams.	Some models currently in place across the Trust to facilitate reflective practice and this is being expanded across the Trust in a wider piece of work that will feed into this.	Support for Managers & Staff				
<b>Better Handling of Cases</b>									
7	Raising and reporting concerns: All NHS organisations should have structures to facilitate both informal and formal raising and resolution of concerns.	7.1	Staff should be encouraged to raise concerns informally and work together with colleagues to find solutions.	Development of a route map that signposts staff on raising concerns or reporting incidents.	Support for Managers & Staff	Rebecca Mallinder (Head of Investigations & Learning) and Clare Ashby (Head of Safety)	Jan-16	Feb 16 - Route map developed	
				Strengthening of the raising concerns policy and associated HR policies and incident management policies. These should be supported by practical procedures and the route map for staff.	Support for Managers & Staff Communications & Staff Engagement	Cath Cox (Head of HR) - HR policies review Rebecca Mallinder (Head of Investigations & Learning) - incident management policies review	Feb-16	Feb 16 - policy developed, awaiting approval. Route map and SOP developed	
8	Investigations: When a formal concern has been raised, there should be prompt, swift, proportionate, fair and blame-free investigations to establish the facts.	8.1	All NHS organisations should devise and implement systems which enable such investigations to be undertaken, where appropriate by external investigators, and have regard to the good practice suggested in this report.	Strengthening of the raising concerns policy and associated HR policies and incident management policies including triangulation of learning. These should be supported by practical procedures and the route map for staff.	Support for Managers & Staff	Cath Cox (Head of HR) - HR policies review Rebecca Mallinder (Head of Investigations & Learning) - incident management policies review		Feb 16 - policy developed. Investigations & Learning Policy developed and approved.	

9	Mediation and dispute resolution: Consideration should be given at an early stage to the use of expert interventions to resolve conflicts, rebuild trust or support staff who have raised concerns.	9.1	All NHS organisations should have access to resources to deploy alternative dispute resolution techniques, including mediation and reconciliation to: <ul style="list-style-type: none"> <li>• address unresolved disputes between staff or between staff and management as a result of or associated with a report raising a concern</li> <li>• repair trust and build constructive relationships.</li> </ul>	The Trust has current processes in place to access and facilitate mediation between staff and management or staff and staff. This is led by the learning and development team and is available when required.	Support for Managers & Staff	Fiona Goulding (Learning & Development) and Cath Cox (Head of HR)			
<b>Measures to Support Good Practice</b>									
10	Training: Every member of staff should receive training in their organisation's approach to raising concerns and in receiving and acting on them.	10.1	Every NHS organisation should provide training which complies with national standards, based on a curriculum devised jointly by HEE and NHS England in consultation with stakeholders. This should be in accordance with the good practice set out in this report.	YAS to strengthen current training materials and sessions in line with the updates to policy and procedure to ensure staff are aware of how to raise concerns and what happens. This should form part of the annual clinical refresher day also.	Support for Managers & Staff	Fiona Goulding (Learning & Development)	Jan-16	Feb 16 - review to be undertaken ahead of go-live dates.	
11	Support: All NHS organisations should ensure that there is a range of persons to whom concerns can be reported easily and without formality. They should also provide staff who raise concerns with ready access to mentoring, advocacy, advice and counselling.	11.1	The Boards of all NHS organisations should ensure that their procedures for raising concerns offer a variety of personnel, internal and external, to support staff who raise concerns including: <ul style="list-style-type: none"> <li>a) a person (a 'Freedom to Speak Up Guardian') appointed by the organisation's chief executive to act in a genuinely independent capacity</li> <li>b) a nominated non-executive director to receive reports of concerns directly from employees (or from the Freedom to Speak Up Guardian) and to make regular reports on concerns raised by staff and the organisation's culture to the Board</li> <li>c) at least one nominated executive director to receive and handle concerns</li> <li>d) at least one nominated manager in each department to receive reports of concerns</li> <li>e) a nominated independent external organisation (such as the Whistleblowing Helpline) whom staff can approach for advice and support.</li> </ul>	a) FTSU Guardian model to be implemented across the Trust b) A non-executive director should be nominated to take this role. c) A nominated executive director should be placed to receive and handle concerns d) A nominated manager in each department to receive reports of concerns; this could be included as part of the FTSU Guardian model e) Route map and policies should signpost staff to an independent organisation. This should be agreed by the FTSU working group.	Support for Managers & Staff	a) Rebecca Mallinder (Head of Investigations & Learning) b) Steve Page (Executive Director of Standards & Compliance) c) Steve Page (Executive Director of Standards & Compliance) d) Rebecca Mallinder (Head of Investigations & Learning) e) Rebecca Mallinder (Head of Investigations & Learning)	Jan-16	Feb 16 - Guardian model approved by TEG. JDs developed. Recruitment to be undertaken in March/April.	
		11.2	All NHS organisations should have access to resources to deploy counselling and other means of addressing stress and reducing the risk of resulting illness after staff have raised a concern.	YAS to review and strengthen where necessary the access to counselling and wellbeing services when staff have raised a concern.	Support for Managers & Staff	Rob Dimsdale (Employee Wellbeing Advisor)	Feb-16	Feb 16 - signpost to this included within processes. Employee Wellbeing Advisor linking in with work being undertaken and this will be captured within the Datix record.	
		11.3	NHS England, NHS TDA and Monitor should issue joint guidance setting out the support required for staff who have raised a concern and others involved.		Support for Managers & Staff				
12	Support to find alternative employment in the NHS: Where a NHS worker who has raised a concern cannot, as a result, continue in their current employment, the NHS should fulfil its moral obligation to offer support.	12.1	NHS England, the NHS Trust Development Authority and Monitor should jointly devise and establish a support scheme for NHS workers and former NHS workers whose performance is sound who can demonstrate that they are having difficulty finding employment in the NHS as a result of having made protected disclosures.		Support for Managers & Staff				

		12.2	All NHS organisations should actively support a scheme to help current and former NHS workers whose performance is sound to find alternative employment in the NHS.	HR to advise	Support for Managers & Staff	Cath Cox (Head of HR)			
13	Transparency: All NHS organisations should be transparent in the way they exercise their responsibilities in relation to the raising of concerns, including the use of settlement agreements.	13.1	All NHS organisations that are obliged to publish Quality Accounts or equivalent should include in them quantitative and qualitative data describing the number of formally reported concerns in addition to incident reports, the action taken in respect of them and feedback on the outcome.	YAS to ensure the recommended information is included in the QA 15-16 and going forward.	Communications & Staff Engagement	Craig Reynolds (Quality & Risk Coordinator) & Gareth Flanders (Head of Quality)	Feb-16	Feb 16 - data will be captured via Datix and go into next year's QA.	
		13.2	All NHS organisations should be required to report to the National Learning and Reporting System (NLRs), or to the Independent National Officer described in Principle 15, their relevant regulators and their commissioners any formally reported concerns/public interest disclosures or incidences of disputed outcomes to investigations. NLRs or the Independent National Officer should publish regular reports on the performance of organisations with regard to the raising of and acting on public interest concerns; draw out themes that emerge from the reports; and identify good practice.	All formally reported incidents relating to patient safety are currently reported to the NRLS every 2 weeks. Discussion to take place and agree what information should or is required to be reported to commissioners and/or regulators and on what frequency.	Continual Review & Assurance	FTSU Group	Jan-16	Feb 16 - YAS to consider implementation	
		13.3	CEOs should personally review all settlement agreements made in an employment context that contain confidentiality clauses to satisfy themselves that such clauses are genuinely in the public interest. b) All such settlement agreements should be available for inspection by the CQC as part of their assessment of whether an organisation is well-led. c) If confidentiality clauses are to be included in such settlement agreements for which Treasury approval is required, the trust should be required to demonstrate as part of the approval process that such clauses are in the public interest in that particular case. d) NHS TDA and Monitor should consider whether their role of reviewing such agreements should be delegated to the Independent National Officer recommended under Principle 15.	Included within YAS HR policies.	Organisational Commitment	Steve Page (Executive Director of Standards & Compliance)	Jan-16	Feb 16 - included within YAS HR policies.	

14	<p>Accountability: Everyone should expect to be held accountable for adopting fair, honest and open behaviours and practices when raising or receiving and handling concerns. There should be personal and organisational accountability for:</p> <ul style="list-style-type: none"> <li>• poor practice in relation to encouraging the raising of concerns and responding to them</li> <li>• the victimisation of workers for making public interest disclosures</li> <li>• raising false concerns in bad faith or for personal benefit</li> <li>• acting with disrespect or other unreasonable behaviour when raising or responding to concerns</li> <li>• inappropriate use of confidentiality clauses.</li> </ul>		Employers should ensure that staff who are responsible for, participate in, or permit such conduct are liable to appropriate and proportionate disciplinary processes.	Strengthening of the raising concerns policy and associated HR policies and incident management policies.	Support for Managers & Staff	Cath Cox (Head of HR) - HR policies review Rebecca Mallinder (Head of Investigations & Learning) - incident management policies review	Feb-16	Feb 16 - policy developed. Investigations & Learning Policy developed and approved.	
			Trust Boards, CQC, Monitor and the NHS TDA should have regard to any evidence of responsibility for, participation in or permitting such conduct in any assessment of whether a person is a fit and proper person to hold an appointment as a director or equivalent in accordance with the Health and Social Care Act 2008 [Regulated Activities] Regulations 2014 regulation 5.	YAS recruitment process for director level position covers this requirement.	Continual Review & Assurance	Steve Page (Executive Director of Standards & Compliance)	Jan-16		
			All organisations associated with the provision, oversight or regulation of healthcare services should have regard to any evidence of poor conduct in relation to staff who have raised concerns when deciding whether it is appropriate to employ any person to a senior management or leadership position and whether the organisation is well-led.	YAS values based recruitment underway	Organisational Commitment	Steve Page (Executive Director of Standards & Compliance)	Jan-16		
15	<p>External Review: There should be an Independent National Officer (INO) resourced jointly by national systems regulators and oversight bodies and authorised by them to carry out the functions described in this report, namely:</p> <ul style="list-style-type: none"> <li>• review the handling of concerns raised by NHS workers and/or the treatment of the person or people who spoke up, where there is cause for believing that this has not been in accordance with good practice</li> <li>• advise NHS organisations to take appropriate action where they have failed to follow good practice, or advise the relevant systems regulator to make a direction to that effect</li> <li>• act as a support for Freedom to Speak Up Guardians</li> <li>• provide national leadership on issues relating to raising concerns by NHS workers</li> <li>• offer guidance on good practice about handling concerns</li> <li>• publish</li> </ul>	15.1	CQC, Monitor, NHS TDA, and NHS England should consider and consult on how such a post might jointly be created and resourced and submit proposals to the Secretary of State, as to how it might carry out these functions in respect of ongoing and future concerns.		Continual Review & Assurance				

16	Coordinated Regulatory Action: There should be coordinated action by national systems and professional regulators to enhance the protection of NHS workers making protected disclosures and of the public interest in the proper handling of concerns.	16.1	CQC, Monitor, NHS TDA in consultation with the Department of Health should work together to agree procedures and define the roles to be played by each in protecting workers who raise concerns in relation to regulated activity. Where necessary they should seek amendment of the regulations to enable this to happen.		Continual Review & Assurance				
		16.2	Healthcare professional regulators should review their procedures and processes to ensure compliance with the good practice set out in this report and with this Principle.		Continual Review & Assurance				
17	Recognition of organisations: CQC should recognise NHS organisations which show they have adopted and apply good practice in the support and protection of workers who raise concerns.	17.1	CQC should consider the good practice set out in this report when assessing how organisations handle staff concerns. Good practice should be viewed as a positive factor contributing to a good or outstanding rating as part of their well-led domain.		Continual Review & Assurance				
<b>Particular Measures for Vulnerable Groups</b>									
18	Students and Trainees: All principles in this report should be applied with necessary adaptations to education and training settings for students and trainees working towards a career in healthcare.	18.1	Professional regulators and Royal Colleges in conjunction with Health Education England should ensure that all students and trainees working towards a career in healthcare have access to policies, procedure and support compatible with the principles and good practice in this report.		Support for Managers & Staff				
		18.2	All training for students and trainees working towards a career in healthcare should include training on raising and handling concerns.	YAS to ensure raising concerns training is included within training provision for students and trainees across all universities that YAS work with.	Support for Managers & Staff	Fiona Goulding (Learning & Development) & Kirsty Lowrey-Richardson	Feb-16	Feb 16 - training provision to be explored as part of working group March 2016.	
19	Primary Care: All principles in this report should apply with necessary adaptations in primary care.	19.1	NHS England should include in its contractual terms for general/primary medical services standards for empowering and protecting staff to enable them to raise concerns freely, consistent with these Principles.		Continual Review & Assurance				
		19.2	NHS England and all commissioned primary care services should ensure that each has a policy and procedures consistent with these Principles which identify appropriate external points of referral which are easily accessible for all primary care staff for support and to register a concern, in accordance with this report.		Continual Review & Assurance				
		19.3	In regulating registered primary care services CQC should have regard to these Principles and the extent to which services comply with them.		Continual Review & Assurance				
<b>Enhancing the Legal Protection</b>									
20	Legal protection should be enhanced	20.1	The Government should, having regard to the material contained in this report, again review the protection afforded to those who make protected disclosures, with a view to including discrimination in recruitment by employers (other than those to whom the disclosure relates) on grounds of having made that disclosure as a breach of either the Employment Rights Act 1996 or the Equality Act 2010.		Support for Managers & Staff				

		<p>20.2 The list of persons prescribed under the Employment Rights Act 1996 should be extended to include all relevant national oversight, commissioning, scrutiny and training bodies including NHS Protect, NHS England, NHS Clinical Commissioning Groups, Public Health England, Healthwatch England, local Healthwatch, Health Education England, Local Education and Training Boards and the Parliamentary and Health Services Ombudsman.</p>		Continual Review & Assurance				
		<p>20.3 The Government should ensure that its proposal to widen the scope of the protection under the Employment Rights Act 1996 includes all students working towards a career in healthcare.</p>		Support for Managers & Staff				