

By e-mail: [HRDlistening@dh.gsi.gov.uk](mailto:HRDlistening@dh.gsi.gov.uk)

4<sup>th</sup> June 2015

Dear Department of Health

## **RESPONSE TO FREEDOM TO SPEAK UP CONSULTATION**

Thank you for the opportunity to respond to your consultation on implementation of the Freedom to Speak Up recommendations. We have restricted our response to the questions which we feel able to offer informed suggestions:

### **Question 1: Do you have any comments on how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented in an effective, proportionate and affordable way, within local NHS healthcare providers?**

We believe that creating appropriate accountability for implementing all of the accepted recommendations is crucial to this initiative's success. This should include:

- Changes to the CQC regulations to make more explicit the requirements to listen to and act on staff concerns; have appropriate arrangements in place including FTSU Guardians etc
- Proactive and robust use of the CQC's powers to take action where necessary. In particular the Fit and Proper Person arrangements need to be seen to be used to remove managers from positions of seniority where they have been involved in mistreatment of staff raising concerns / whistleblowers. There needs to be transparency about what action is being taken: we suggest an annual report be required on any actions taken under the Fit and Proper Person arrangements.
- Changes to the NHS contract to reflect the new requirements
- A statutory prohibition of use of compromise agreements to prevent staff/ ex-staff from speaking up about their concerns or experience; and a statutory requirement to publish information about compromise agreements, financial payments as part of such arrangements and to provide the national officer with full information about intended action being taken against staff who have made a protected disclosure
- A statutory right for staff / ex-staff to have their ESR (employment service record) corrected where it unfairly calls into question their performance / reliability because they have raised concerns

**Question 2: Do you have any opinions on the appropriate approach to the new local FTSU Guardian role?**

We believe that this role needs to be consistent wherever it is in England.

The Guardians must have access to the highest levels of personnel within the organisation where they work including the chief executive but also non-executive directors.

We believe that the Guardians must be free to act independently, including taking matters outside the organisation, without fear of adverse consequences. However, they should also be known, trusted and respected within the organisation in which they work. We therefore think they should be appointed from within the organisation (but that this role should always be stand-alone – not just a role added to another job function. In order to give the Guardians the protection and independence required we suggest that:

- There is not a direct line of accountability to the organisation in which they work. This might be achieved through secondment arrangements with another organisation, like the CQC.
- The appointment process should always include independent assessors, including representatives of staff and someone who has had to raise concerns within an organisation; and a patient representative.

**Question 5: What are your views on how training of the local FTSU Guardian role should be taken forward to ensure consistency across NHS organisations?**

All Guardians should receive the same training and be afforded the opportunity to network with each other and offer mutual support.

**Question 6: Should the local FTSU Guardian report directly to the Independent National Officer or the Chief Executive of the NHS organisation that they work for?**

Whilst the Guardian must have guaranteed access to the chief executive of the organisation within which they work they must be sufficiently protected and independent, and therefore not accountable to them or the board. See our suggestions to question 2. The Guardians should report to the Independent National Officer.

**Question 7. What is your view on what the local FTSU Guardian should be called?**

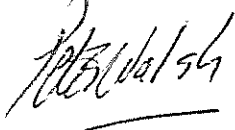
Please see our comments about independence. Unless the role can be credibly be described as genuinely fully independent we would strongly advise against using the

word "independent" in the title. We think something like "Staff Concerns Guardian" might be more appropriate than the suggestions provided. "FTSU Guardian" is rather long winded and not very clear, and "FTSU" may not have longevity, or be readily recognised. We do think that the same job title and job description should apply right across the country.

**Question 8: Do you agree that the Care Quality Commission is the right national body to host the new role of Independent National Officer, whose functions are set out in principle 15 of the Freedom to Speak Up report?**

Yes the CQC seems to be the most appropriate place for the National Officer to be hosted.

Yours sincerely

A handwritten signature in black ink, appearing to read "Peter Walsh", written over a horizontal line.

**Peter Walsh**  
**Chief Executive**