

# HSI22/036

## GOVERNING BODY

<b>Title of paper</b>	Freedom to Speak Up		
<b>Agenda item</b>	10	<b>Date of meeting</b>	4 <sup>th</sup> May 2022
<b>Director lead</b>	Julie Dawes, Chief Nursing Officer		
<b>Author</b>	Steve Cummins, Freedom to Speak Up Guardian		

<b>Purpose</b>	For decision	<input type="checkbox"/>
	To ratify	<input type="checkbox"/>
	To discuss	<input checked="" type="checkbox"/>
	To note/receive	<input checked="" type="checkbox"/>

<b>Link to strategic objective</b>	This paper has links to Objectives:
	<ul style="list-style-type: none"> <li>• 1 – Operational Delivery</li> <li>• 2 – People and Teams</li> <li>• 3 – Service Transformation</li> </ul>

### Executive Summary

The purpose of this paper is to provide assurance to the Board on the development of a healthy and effective Freedom to Speak Up (FTSU) culture in line with current best practice.

The key headlines drawn from the report are:

- Numbers and distribution of FTSU cases remain low within the CCG, as, until February 2022, Hampshire, Southampton and Isle of Wight CCG did not have an appointed Guardian, and there was limited awareness of the service.
- The FTSU Guardian has focused on raising awareness of the service
- There was one patient safety concern raised in 2021/22
- There were no staff safety issues raised in either 2021/22 or to date in 2022/23
- A 'Substantial Assurance' rating achieved as part of the Internal Audit Assurance Review of Freedom to Speak Up Guardians.

<b>Recommendations</b>	<p>The Governing Body are asked to:</p> <ul style="list-style-type: none"> <li>• Note the report and the issues raised</li> <li>• Continue to proactively support the work of the FTSU Guardian, addressing concerns raised directly with Executive Team members and managers and seeking the support of the Guardian as/when appropriate.</li> <li>• Continue the support for the FTSU Guardian role when looking to resolve concerns and inviting the guardian to directorate or team events where possible.</li> </ul>
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<b>Publication</b>	<b>Include on public website</b> ✓
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Please provide details on the impact of following aspects	
Equality and quality impact assessment	There are no direct implications arising from this report
Patient and stakeholder engagement	Learning identified through FTSU Guardian activities is shared with staff and stakeholders as appropriate. Therefore the report may be of interest to patients and stakeholders across the CCG.
Financial and resource implications / impact	There are no direct implications arising from this report
Legal implications	There are no direct implications arising from this report
Principal risk(s) relating to this paper	<p>There are no direct implications on risk arising from this report, however, the Freedom to Speak Up function supports some of the assurance on controls, in particular related to workforce risks - GBAF Risk 05 - Staff Development &amp; Workforce.</p> <p>Staff feeling comfortable to speak up supports overall wellbeing and resilience.</p>
Key committees / groups where evidence supporting this paper has been considered.	<p>The Internal Audit Assurance Review of Freedom to Speak Up Guardians, attached as an appendix to this paper, was presented to the Audit and Risk Committee on the 27th April 2022.</p> <p>Feedback from the Committee is presented at paragraph 3.3.3.</p>

## 1. Summary

1.1 This paper provides an update on the status of the Freedom to Speak Up (FTSU) culture within the Hampshire, Southampton and Isle of Wight CCG (HSI CCG). The update provides a high-level overview of key issues, potential patient safety or worker experience issues and actions taken to improve FTSU culture.

## 2. Context

2.1 The National Guardian's Office and the role of the Freedom to Speak Up Guardian were created in response to recommendations made in Sir Robert Francis QC's report "The Freedom to Speak Up" (2015). These recommendations were made as Sir Robert found that NHS culture did not always encourage or support workers to speak up, and that patients and workers suffered as a result.

2.2 There are over 800 guardians in NHS and independent sector organisations, national bodies and elsewhere that ensure workers can speak up about any issues impacting on their ability to do their job and to identify learning and support improvement of the speaking up culture of the healthcare sector. The National Guardian's Office also provides challenge and learning to the healthcare system as a whole as part of its remit.

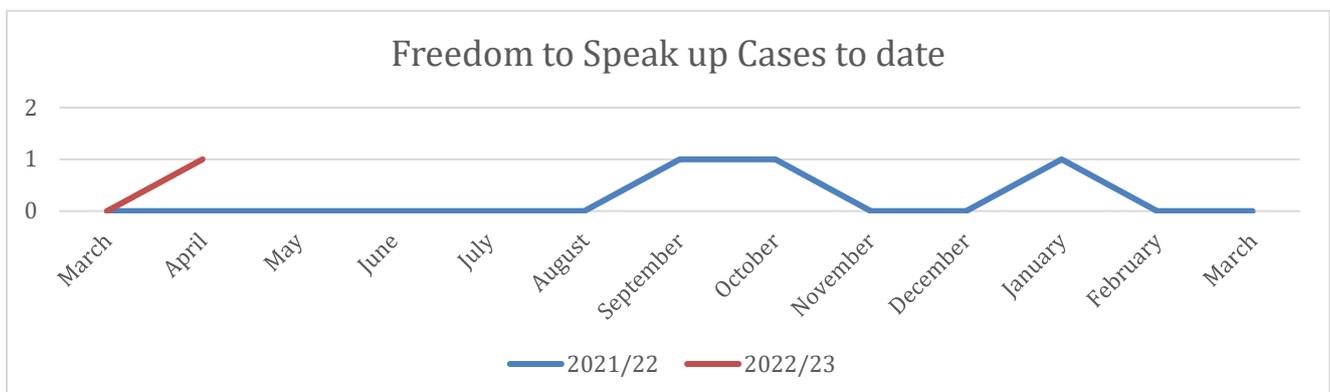
2.3 Since the inception of HSI CCG on 1<sup>st</sup> April 2021 until February 2022, the Freedom to Speak Up function operated as a collaboration between the HR team, the Non-Executive Director for patient and public involvement, (Non-Executive Lead for Freedom to Speak Up), the Chief Nursing Officer and a Governance Manager. The number of enquiries received were low, and there was limited awareness of the service.

2.4 In February 2022, Steve Cummins was appointed as the CCG's Freedom to Speak Up Guardian.

## 3. Key issues

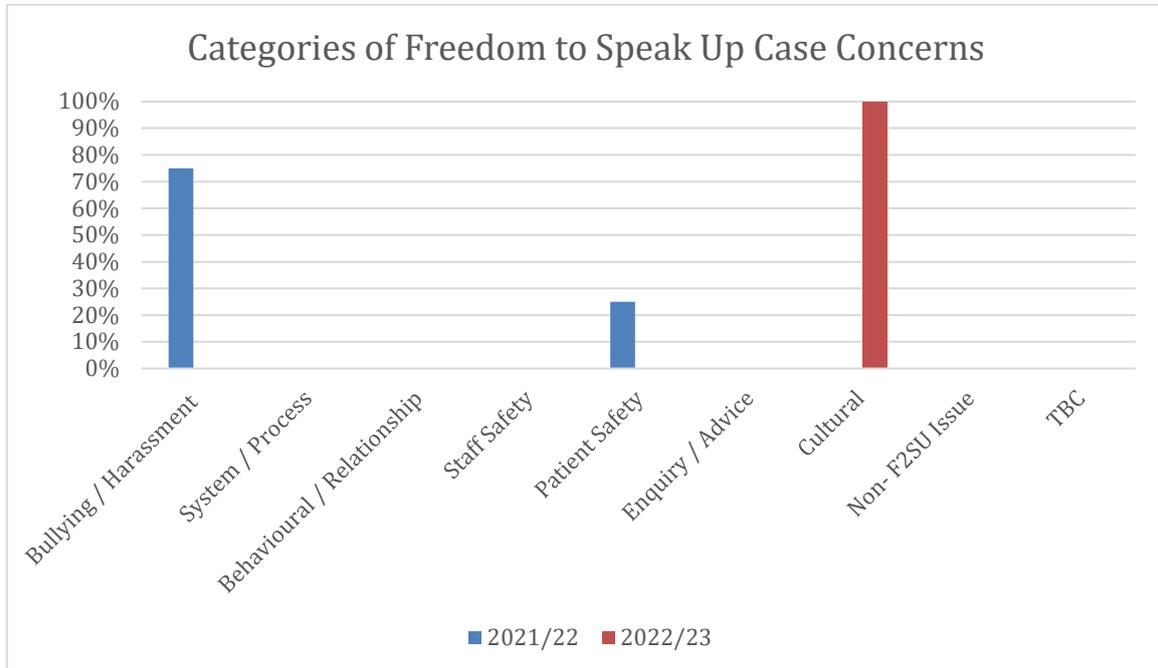
### 3.1 Assessment of Cases

3.1.1 Over the last year, to the date of this report, there have been four cases, (one in September 2021, one in October 2021, one in January 2022 and the latest in April 2022). The following data and narrative provide information on the types of cases being dealt with by the FTSU Guardian. The trend and spread can be seen below:

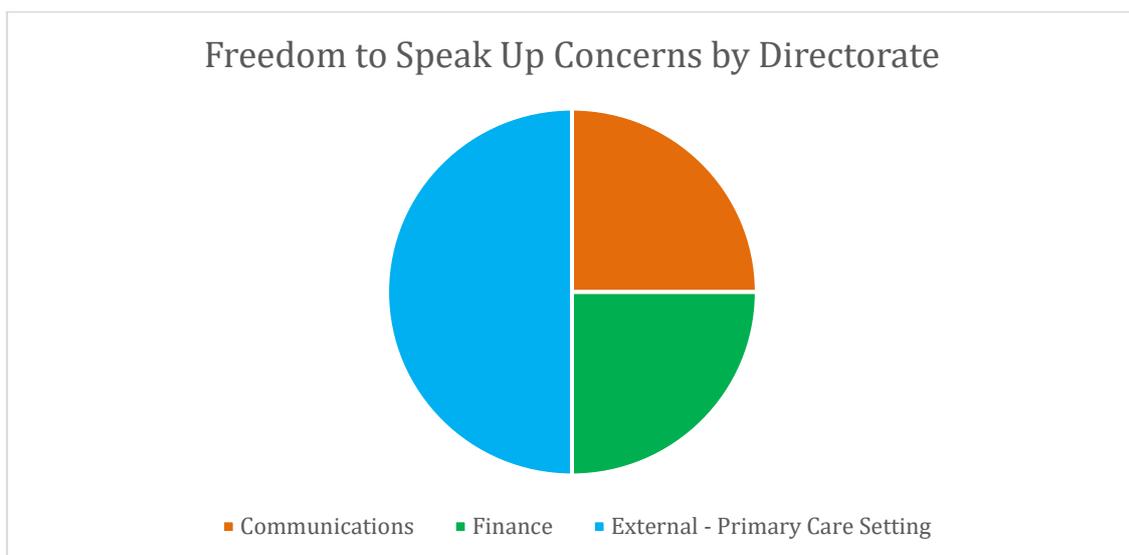


3.1.2 The chart below illustrates the numbers of cases by category by year to date. It is too early in the reporting cycle to determine any trends, though this will continue to be

monitored, however it is worth noting that a majority of cases brought to Freedom to Speak Up Guardians nationally in 2019-2020 (over 36%) and 2020-21 (over 30%) were related to behaviours, including an element of bullying / harassment, and so the emerging trends seem to be in common with those across the networks and described nationally.



3.1.3 The chart below shows the rolling concerns by Directorate for 2021/22 and 2022/23. This data indicates that most concerns have come from external, Primary Care settings. Currently the CCG does not offer a FTSU service to Primary Care. However, in the absence of a formal framework the CCG has agreed to be cited as an interim measure if practices have any immediate/urgent issues to raise.



### 3.2 **Potential patient or staff safety issues**

- 3.2.1 There was one patient safety concern raised, as part of a general query, in January. The query was subsequently withdrawn. While there is no indication the withdrawal was as a result of undue pressure, the query has been followed up to ensure as such.
- 3.2.2 There were no staff safety issues raised in either 2021/22 or to date in 2022/23.

### 3.3 **Actions taken to improve FTSU culture**

- 3.3.1 Since the appointment of the Freedom to Speak Up Guardian in February, the following activities have been undertaken to raise the profile of the Freedom to Speak Up service and to promote speaking, and listening up:
- Attended
    - LGBTQ safe spaces Group
    - Staff Forum meetings in North & Mid and South West
    - Wellbeing Champions and Mental Health First Aiders monthly meetings
  - In collaboration with the Communications team, developed Freedom to Speak Up pages on the staff StayConnected site
  - Arranged to attend future Corporate Induction sessions, to discuss the Freedom to Speak Up service and to promote speaking, and listening up among new staff
- 3.3.2 An Internal Audit Assurance Review of Freedom to Speak Up Guardians was conducted between 28<sup>th</sup> February and 21<sup>st</sup> March 2022. Owing to the work carried out to date and in the five weeks between the Freedom to Speak Up Guardian's appointment and the conclusion of the review, the CCG has achieved a 'Substantial Assurance' rating.
- 3.3.3 The Internal Audit was presented to the Audit and Risk Committee on the 27<sup>th</sup> April, where the report was noted, and it was acknowledged that quarterly reporting would be made to the Governing Body.
- 3.3.4 The full Internal Audit Assurance Review of Freedom to Speak Up Guardians is attached as at appendix one.

## 4. **Next steps**

- 4.1 In line with actions arising from the Internal Audit Assurance Review of Freedom to Speak Up Guardians, quarterly reports, similar in style and content to this paper will be presented to the Board, setting out the nature of cases, any patient or staff safety issues, and an update on actions taken to improve FTSU culture.
- 4.2 As recorded in the Internal Audit Assurance Review, the Guardian is currently considering how to implement a network of Champions and further detail will be provided in due course.

## 5. **Decision required**

- 5.1 The Governing Body are asked to:
- Note the report and the issues raised
  - Continue to proactively support the work of the FTSU Guardian, addressing concerns raised directly with Executive Team members and managers and seeking the support of the Guardian as/when appropriate.
  - Continue the support for the FTSU Guardian role when looking to resolve concerns and inviting the guardian to directorate or team events where possible.



Internal Audit

**FINAL**

## NHS Hampshire, Southampton and Isle of Wight Clinical Commissioning Group

Assurance Review of Freedom to Speak Up Guardians

**2021/22**

April 2022

# Executive Summary

## OVERALL ASSESSMENT



## ASSURANCE OVER KEY STRATEGIC RISK / OBJECTIVE

Freedom to Speak Up is a national initiative developed to address the need for a more open and supportive culture. It is considered to be an integral part of encouraging staff to raise any issues of patient care quality or safety.

## SCOPE

The purpose of the review was to assess the CCG's arrangements against national guidance relating to Freedom to Speak Up, including review of procedures to ensure processes are in place for investigating concerns reported to the Local FTSU Guardian.

## KEY STRATEGIC FINDINGS



Acknowledging the appointment of the Freedom to Speak Guardian in February 2022, limited progress has been made formalising a process for managing and reporting of FTSU e.g. a network of FTSU Champions has yet to be established.



The CCG has a Freedom to Speak Up (FTSU) policy, approved in December 2021 and appointed a FTSU Guardian in February 2022.



At the time of the audit no reports have been produced for presentation at any of the CCG'S sub committees and /or Governing Body, although the FTSU Guardian is planning to produce the first report in May 2022.

## GOOD PRACTICE IDENTIFIED/OTHER FINDINGS



The NHS guidance focuses on six principles of which one refers to a strategy to improve the FTSU culture. The CCG's policy covers the areas outlined in the guidance that refers to aspects of a strategy.



For the three enquiries received by the CCG to date, all were responded to with two working days as defined in the CCG's policy.

## ACTION POINTS

Urgent	Important	Routine	Operational
0	0	2	2

## Assurance - Key Findings and Management Action Plan (MAP)

Rec.	Risk Area	Finding	Recommendation	Priority	Management Comments	Implementation Timetable (dd/mm/yy)	Responsible Officer (Job Title)
1	Directed	No reports have been produced and presented to, to date for any of the CCG'S sub committees or the Governing Body. It is understood that the CCG are planning to produce regular reporting to the Governing Body.	To assist with the oversight (management and monitoring) of the Freedom to Speak Up process, regular reports be prepared and presented to a nominated Governing Body sub-committee and/or the Governing Body.	3	As stated, 'it is understood that that the CCG are planning to produce regular reporting'.  This was not possible prior to the Appointment of the Guardian, however, it is now in hand, therefore we would argue that this is routine, with the first quarterly report to be provided to the Board In May 2022.	04/05/22	FTSU Guardian
2	Directed	At present the CCG does not have a network of Freedom to Speak Up Champions. It is understood that the CCG is currently considering how to implement a network of Champions in line with the guidance on networks.	Once the role of FTSU Champions has been developed, its role and responsibilities be clearly explained in the FTSU policy.	3	The CCG is currently considering how to implement a network of Champions, once that is done, we will consider the role and reflect that in the policy.	30/09/22	FTSU Guardian

PRIORITY GRADINGS

**1 URGENT** Fundamental control issue on which action should be taken immediately.

**2 IMPORTANT** Control issue on which action should be taken at the earliest opportunity.

**3 ROUTINE** Control issue on which action should be taken.

## Operational - Effectiveness Matter (OEM) Action Plan

Ref	Risk Area	Finding	Suggested Action	Management Comments
1	Delivery	The CCG has a designated FTSU email box. At the date of the audit no communications have been received since the FTSU Guardian's appointment in February 2022. There have however been three cases previously (1 in September 2021, 1 in October 2021 and the latest in January 2022). These three cases have been responded to within two working days as per the CCG's policy.	Linked to the audit recommendation regarding producing regular reports, consider including nil returns where appropriate within these reports.	<i>See response to recommendation 1 in the Management Action Plan.</i>
2	Delivery	The Governance Manager was nominated to be the designated the Freedom to Speak Up Guardian in February 2022 and will be receiving training for the role on the 31 <sup>st</sup> March, following which training for staff and managers can be disseminated.	Following the formal training given to the Freedom to Speak Up Guardian, consider developing a CCG wide training programme for relevant staff.	<i>To be progressed in the future once the network of Champions has been established.</i>

ADVISORY NOTE

Operational Effectiveness Matters need to be considered as part of management review of procedures.

## Findings



### Directed Risk:

Failure to properly direct the service to ensure compliance with the requirements of the organisation.

Ref	Expected Key Risk Mitigation	Effectiveness of arrangements	Cross Reference to MAP	Cross Reference to OEM
GF	<b>Governance Framework</b> There is a documented process instruction which accords with the relevant regulatory guidance, Financial Instructions and Scheme of Delegation.	Partially in place	1 & 2	1 & 2
RM	<b>Risk Mitigation</b> The documented process aligns with the mitigating arrangements set out in the corporate risk register.	In place	-	-
C	<b>Compliance</b> Compliance with statutory, regulatory and policy requirements is demonstrated, with action taken in cases of identified non-compliance.	In place	-	-

### Other Findings



The Robert Francis report was issued in February 2015 and the purpose of the report has been to provide independent advice and recommendations on creating a more open and honest reporting culture in the NHS. The review followed on from the Public Inquiry, also chaired by Sir Robert, into the Mid Staffordshire NHS Foundation Trust which exposed unacceptable levels of patient care and a staff culture that deterred staff from raising concerns. The executive summary of the Francis Report states:

*'There are however two steps which should be taken. Some NHS bodies which are not currently prescribed persons to whom disclosures could be made, should be added to the list. These include NHS England, CCGs and Local Education and Training Boards.'*

Guidance for Boards on Freedom to Speak Up in NHS Trusts and NHS Foundation Trusts was issued by NHSE&I in July 2019.



The CCG has an Executive Lead for Freedom to Speak Up and a Non-Executive Director with responsibility for oversight on Freedom to Speak Up. In addition, staff can approach the Chief of Staff, Chair of the Audit & Risk Committee (and Conflicts of Interest Guardian), Executive Director of Workforce or member of the People team, Chief Medical Officer and the Counter Fraud and Security Specialists, all of who are willing and able to listen to concerns and provide information about where to go for more support.

## Other Findings



Guidance for Boards on Freedom to Speak Up (FTSU) in NHS Trusts and NHS Foundation Trusts was issued in July 2019. The guidance focuses on six principles, one of which refers to a strategy to improve FTSU culture. The guidance states 'Your [FTSU] strategy could be a separate document or a distinct section within a relevant policy or strategy.'

The supplementary guidance further sets out that 'Regardless of presentation, it needs to set out clearly how it fits in with the trust's overall strategy'. and that:

- It describes ambitions and aims
- It includes clear objectives, measures and targets
- The objectives include a focus on the development of leadership values, behaviours, skills and knowledge

The CCG's policy covers the areas outlined in the guidance that refers to aspects of a strategy.



The CCG has a current Freedom to Speak Up Policy. It was approved by the Policy Sub Group on 14<sup>th</sup> December 2021 and is due for its next review in November 2022. The Policy was reviewed and approved by the Audit and Risk Committee at its January 2022 meeting. Guidance for boards on Freedom to Speak Up (in NHS Trusts and NHS Foundation Trusts) was used as a comparison to establish that the current CCG Policy followed the principles of the national guidance. Apart from the observations raised in the Management Action Plan of this report, no other exceptions were noted.



The Freedom to Speak Up Policy does not specifically refer to who should fulfil the role of FTSU Guardian. Comparisons have been made with other CCG's and it was noted the FTSU Guardian is a Lay Member of the Governing Body, (for example NHS Cheshire Clinical Commissioning Group) with the Director of Governance or equivalent as the Executive Lead. Within the CCG, the FTSU Guardian role currently sits with the Governance Manager, although this may not always be the case. It is for this reason that specific reference to who should fulfil the role of the FTSU Guardian is excluded from the FTSU policy.



**Delivery Risk:**

Failure to deliver the service in an effective manner which meets the requirements of the organisation.

Ref	Expected Key Risk Mitigation	Effectiveness of arrangements	Cross Reference to MAP	Cross Reference to OEM
PM	<b>Performance Monitoring</b> There are agreed KPIs for the process which align with the business plan requirements and are independently monitored, with corrective action taken in a timely manner.	In place	-	-
FC	<b>Financial Constraint</b> The process operates within the agreed financial budget for the year.	In place	-	-
R	<b>Resilience</b> Good practice to respond to business interruption events and to enhance the economic, effective and efficient delivery is adopted.	In place	-	1

**Other Findings**

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There is no formal reporting process in place although the Freedom to Speak Up Guardian plans to produce regular reports going forward. It is important that such reports includes information on the numbers of enquiries made and compliance with requirements of the policy to respond to the enquirer within two working days.
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There are no financial constraints regarding the Freedom to Speak Up (FTSU) process, although the constraints of COVID, the CCG merger and transition to a ICS/ICB has affected the implementation comprehensive FTSU system.
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As mentioned earlier in the report there has only been 3 FTSU enquiries, however these were responded acknowledging confidentially to with two working days demonstrating there is an investigation process in place.
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The CCG Freedom to Speak Up (FTSU) Guardian was appointed in February 2022, since his appointment his has been developing and promotion the process for managing FTSU issues across the CCG. For example, the dedicated FTSU email box is used to allow enquires from across the CCG. The Guardian has plans to start a series of training sessions to inform and educate staff of the process to raising FTSU Enquiries. The training session will cover how advice and support can be sought when enquires are made.

## Scope and Limitations of the Review

1. The definition of the type of review, the limitations and the responsibilities of management in regard to this review are set out in the Annual Plan. As set out in the Audit Charter, substantive testing is only carried out where this has been agreed with management and unless explicitly shown in the scope no such work has been performed.

## Disclaimer

2. The matters raised in this report are only those that came to the attention of the auditor during the course of the review, and are not necessarily a comprehensive statement of all the weaknesses that exist or all the improvements that might be made. This report has been prepared solely for management's use and must not be recited or referred to in whole or in part to third parties without our prior written consent. No responsibility to any third party is accepted as the report has not been prepared, and is not intended, for any other purpose. TIAA neither owes nor accepts any duty of care to any other party who may receive this report and specifically disclaims any liability for loss, damage or expense of whatsoever nature, which is caused by their reliance on our report.

## Effectiveness of arrangements

3. The definitions of the effectiveness of arrangements are set out below. These are based solely upon the audit work performed, assume business as usual, and do not necessarily cover management override or exceptional circumstances.

<b>In place</b>	The control arrangements in place mitigate the risk from arising.
<b>Partially in place</b>	The control arrangements in place only partially mitigate the risk from arising.
<b>Not in place</b>	The control arrangements in place do not effectively mitigate the risk from arising.

## Assurance Assessment

4. The definitions of the assurance assessments are:

<b>Substantial Assurance</b>	There is a robust system of internal controls operating effectively to ensure that risks are managed and process objectives achieved.
<b>Reasonable Assurance</b>	The system of internal controls is generally adequate and operating effectively but some improvements are required to ensure that risks are managed and process objectives achieved.
<b>Limited Assurance</b>	The system of internal controls is generally inadequate or not operating effectively and significant improvements are required to ensure that risks are managed and process objectives achieved.
<b>No Assurance</b>	There is a fundamental breakdown or absence of core internal controls requiring immediate action.

## Acknowledgement

5. We would like to thank staff for their co-operation and assistance during the course of our work.

## Release of Report

6. The table below sets out the history of this report.

Stage	Issued	Response Received
<b>Audit Planning Memorandum:</b>	14 <sup>th</sup> December 2021	28 <sup>th</sup> February 2022
<b>Draft Report:</b>	24 <sup>th</sup> March 2022	5 <sup>th</sup> April 2022
<b>Final Draft:</b>	5 <sup>th</sup> April 2022	6 <sup>th</sup> April 2022
<b>Final Report:</b>	6 <sup>th</sup> April 2022	

# AUDIT PLANNING MEMORANDUM

## Appendix B

<b>Client:</b>	NHS Hampshire, Southampton and Isle of Wight CCG		
<b>Review:</b>	Freedom to Speak Up Guardians		
<b>Type of Review:</b>	Assurance	<b>Audit Lead:</b>	Roy Plowman, Auditor

<b>Outline scope (per Annual Plan):</b>	The purpose of the review was to assess the CCG’s arrangements against national guidance relating to Freedom to Speak Up, including review of procedures to ensure processes are in place for investigating concerns reported to the Local FTSU Guardian.		
<b>Detailed scope will consider:</b>	<p><b>Directed</b></p> <p>Governance Framework: There is a documented process instruction which accords with the relevant regulatory guidance, Financial Instructions and Scheme of Delegation.</p> <p>Risk Mitigation: The documented process aligns with the mitigating arrangements set out in the corporate risk register.</p> <p>Compliance: Compliance with statutory, regulatory and policy requirements is demonstrated, with action taken in cases of identified non-compliance.</p>	<p><b>Delivery</b></p> <p>Performance monitoring: There are agreed KPIs for the process which align with the business plan requirements and are independently monitored, with corrective action taken in a timely manner.</p> <p>Financial constraint: The process operates with the agreed financial budget for the year.</p> <p>Resilience: Good practice to respond to business interruption events and to enhance the economic, effective and efficient delivery is adopted.</p>	
<b>Requested additions to scope:</b>	(if required then please provide brief detail)		
<b>Exclusions from scope:</b>			

<b>Planned Start Date:</b>	28/02/22	<b>Exit Meeting Date:</b>	21/03/22	<b>Exit Meeting to be held with:</b>	Governance Manager
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### SELF ASSESSMENT RESPONSE

<b>Matters over the previous 12 months relating to activity to be reviewed</b>	<b>Y/N (if Y then please provide brief details separately)</b>
Has there been any reduction in the effectiveness of the internal controls due to staff absences through sickness and/or vacancies etc.?	N
Have there been any breakdowns in the internal controls resulting in disciplinary action or similar?	N
Have there been any significant changes to the process?	N
Are there any particular matters/periods of time you would like the review to consider?	N

## SUMMARY OF OUTCOME FOR EACH AREA WITHIN THE SCOPE OF THE REVIEW

The following table summarises the audit assessment for each area set out within the scope of the review:

Control expectation	Internal Audit Assessment			
	Control in place			Comments
	Yes	No	Partial	
Existence of up to date and approved policies and procedures;	✓			
Processes are in place to capture and record concerns raised under the Freedom to Speak up agenda;			✓	See recommendation 2.
Systems and processes are in place to demonstrate adherence to and embedding of the principles and actions set out in national guidance;	✓			
The resourcing of Freedom to Speak Up processes, and the support and training afforded to individuals to effectively discharge their responsibilities;	✓			
The investigation process and confidentiality arrangements;	✓			
Advice and support available to those raising concerns;	✓			
CCG-wide awareness and promotion of the process;	✓			
The reporting of outcomes, including Board/Governing Body oversight, and how they translate into lessons learned where appropriate.			✓	See recommendation 1.