

DIFFERENCE MATTERS: THE IMPACT OF ETHNICITY ON SPEAKING UP

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Office*

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CONTENTS

1. INTRODUCTION	3
2. METHODOLOGY	5
2.1 METHODOLOGY	5
2.2 LIMITATIONS TO THE RESEARCH	6
3. LITERATURE REVIEW	8
4. FINDINGS	20
4.1. THE FREEDOM TO SPEAK UP GUARDIAN ROLE	20
4.2. PROPENSITY OF WORKERS TO SPEAK UP	21
4.3 FACTORS IMPACTING ON PEOPLE’S DECISIONS TO SPEAK UP	24
4.4 EXPERIENCES OF LIAISING WITH A FREEDOM TO SPEAK UP GUARDIAN	26
4.5 FREEDOM TO SPEAK UP GUARDIAN AWARENESS OF DISPARITIES ..	27
4.6 STRATEGIES FOR ENGAGING BME WORKERS	29
4.7. OTHER RELEVANT FACTORS	31
5. CONCLUSIONS	33
APPENDIX 1: SURVEY DATA	41
APPENDIX 2: REFERENCES	48

1. INTRODUCTION

1.1 PURPOSE OF THIS PAPER

This report responds to our brief by the [National Guardian's Office](#) to explore whether ethnic differences impact on whether people speak up to a Freedom to Speak Up Guardian.

The report was drafted in the context of findings in the 2019 and 2020 National Guardian's Office Freedom to Speak Up Guardian Surveys and subsequent statements in the NHS People Plan, which referred to a joint training programme for Freedom to Speak Up Guardians and WRES Experts and the recruitment of more BME staff to Freedom to Speak Up Guardian roles, in line with the composition of the NHS workforce.

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.

Freedom to Speak Up Guardians

Freedom to Speak Up Guardians are expected to:

- support workers to speak up
- work in partnership with others in the organisations they support to tackle barriers to speaking up.

There is now a network of over 700 Freedom to Speak Up Guardians supporting workers in primary and secondary care organisations, independent health care providers, clinical commissioning groups, hospices, and national bodies.¹

Freedom to Speak Up Guardians are appointed by their organisation. According to NGO guidance, these appointments should happen through a fair and open process. In addition, the guidance states that Freedom to Speak Up Guardians should have sufficient time to effectively carry out the role and meet the needs of the workers they support.

In March 2018, the NGO published a [universal job description](#) for the Freedom to Speak Up Guardian, setting out the expectations for this role. These expectations

¹ The NGO maintains a [directory](#) of FTSU Guardians. It includes contact details for FTSU Guardians that have received training in line with NGO requirements.

include taking appropriate action when an issue is brought to their attention.² The job description is described as universal 'because the principles can apply to a Freedom to Speak Up Guardian role in any organisation'.

Freedom to Speak Up Guardians are expected to operate independently, impartially and objectively, while working in partnership with individuals and groups throughout their organisation, including their senior leadership team.

Speaking up

Speaking up may take many forms, including a discussion with a line manager, raising an issue with a Freedom to Speak Up Guardian, or through a professional association or staff side body, or bringing a matter to the attention of a regulator.

1.2 ABOUT US

Roger Kline is Research Fellow at Middlesex University Business School. He authored *'The Snowy White Peaks of the NHS'* (2014), designed the Workforce Race Equality Standard (WRES) and was appointed as the joint national director of the WRES team (2015-17). Roger Kline's recent publications include:

- *Fair to Refer?* (2019), co-authored with Dr Doyin Atewologun, on the disproportionate referrals of some groups of doctors to the General Medical Council
- *The Price of Fear. Estimating the financial cost of bullying and harassment to the NHS in England* (2018), co-authored with Professor Duncan Lewis

Ghiyas Somra is People, Policy, and Research Manager at [brap](#), a charity transforming the way we think and do equality. Every year, brap works with over a hundred healthcare providers (including NHS trusts), providing support and development around organisational change, leadership development, and inclusive cultures.

1.3 A NOTE ON LANGUAGE

Throughout this paper, we use the term 'BME' to refer to people who are of Black or minority ethnic heritage. In doing so, we use the definition from the UK census which, in turn, is used in the NHS Workforce Race Equality Standard Technical Guidance.

² Freedom to Speak Up Guardians support workers to speak up. However, NGO guidance states that Freedom to Speak Up Guardians themselves are not responsible for investigating matters brought to them, and that they should not take part in investigations or make decisions on the issues connected to speaking up cases brought to them.

2. METHODOLOGY

2.1 METHODOLOGY

The research was undertaken in four distinct phases:

- **Phase 1: rapid literature review**
This phase consisted of a rapid review of the available academic and grey literature and relevant reports.

It enabled us to develop two hypotheses to test in our interviews and survey.
- **Phase 2: one-to-one interviews**
During this phase, we conducted 15 one-to-one interviews with a sample of Freedom to Speak Up Guardians supporting 18 NHS trusts across England. The sample consisted of those who responded to an email from the National Guardian's Office to the Freedom to Speak Up Guardian network seeking participants in a research project exploring the impact of ethnicity on people's decision to speak up. The purpose of this phase was to understand:
 - the extent to which Freedom to Speak Up Guardians had identified BME staff as underrepresented in speaking up statistics
 - the skills and competencies Freedom to Speak Up Guardians felt were necessary to engage with and speak up on behalf of BME workers
 - the strategies Freedom to Speak Up Guardians had employed to engage BME staff
- **Phase 3: online survey**
Between 7 March and 19 April 2021, an anonymous online survey was sent to workers working on eight trust sites. The survey explored:
 - awareness of the Freedom to Speak Up Guardian role
 - the extent to which respondents had experienced issues they considered speaking up and factors that influenced their decision to do so or not
 - the experience respondents had if they had engaged with a Freedom to Speak Up Guardian
 - the skills and competencies respondents felt Freedom to Speak Up Guardians need to deliver an effective service
In total, 1,074 people responded to the survey. The ethnicity of respondents was broken down as follows:
 - White/White British: 68.6%
 - Black and minority ethnic: 31.4%
- **Phase 4: focus groups**
We ran two 1.5-hour focus groups attended by almost all the participating Freedom

to Speak Up Guardians, as well as undertaking limited follow-ups. The focus groups explored with Freedom to Speak Up Guardians some of the themes arising from the survey and encouraged participants to expand on issues identified in phase 1.

2.2 LIMITATIONS TO THE RESEARCH

The research gave insights into the issue we were asked to consider. There are, however, two prime shortcomings to the approach taken.

a. Characteristics of the Freedom to Speak Up Guardians

Firstly, though the Freedom to Speak Up Guardians represented a reasonable cross-section by type of trust and geography, those chosen were not a random sample and were Freedom to Speak Up Guardians who expressed an interest in taking part following a request from the National Guardian's Office. They might, therefore, be expected to be both more interested in the issue and more aware that it was an issue that needed to be addressed.

Though there are now a range of organisations supported by Freedom to Speak Up Guardians, including primary care and independent healthcare organisations, expressions of interest were sought from Freedom to Speak Up Guardians in NHS trusts only. Among other things, this was to reduce potential variables that could have undermined reliability of data subsequently collected.

The participating Freedom to Speak Up Guardians supported organisations from all seven NHS regions and six of the seven categories of trusts. However, ambulance trusts were not represented, and it is worth noting their WRES and Index ratings are significantly worse than average.

In addition, six of the fifteen Freedom to Speak Up Guardians interviewed were of BME heritage – a substantially higher proportion than the overall national proportion of Freedom to Speak Up Guardians from that background in NHS trusts (10%).

The participating Freedom to Speak Up Guardians supported trusts that were, generally, above average in the 2020 Freedom to Speak Up Index, itself a composite of a small number of questions from the national NHS Staff Survey. The 18 trusts included a trust in the ten most highly rated trusts in the 2020 Index. None of the trusts were either in the list of the 10 most improved or those that saw the sharpest score declines in 2020.

b. Survey limitations

Secondly, the survey had significant limitations. It was distributed locally by Freedom to Speak Up Guardians. We were not prescriptive as to how it should be distributed since to have done so might have significantly delayed the process as the NHS was still emerging from the COVID-19 pandemic. So, although within trusts and in aggregate they suggest some important findings, the survey data cannot be compared between trusts and should be treated with some caution.

Difference Matters

We did not interview BME staff who were not Freedom to Speak Up Guardians, but the scale of BME responses to the survey – and the fact that 40% of the Freedom to Speak Up Guardians we interviewed were of BME heritage – allowed us to have some confidence in our insights.

3. LITERATURE REVIEW

This section provides an overview of the relevant literature. References are outlined in Appendix 2.

Academic literature

A limited literature search on Google Scholar using matches for “black and ethnic minority workers” and “whistleblowing” among academic and grey literature produced remarkably little literature that matched both terms.

The authoritative UK review on healthcare whistleblowing does not address the issue¹. Their literature review references only one small scale published academic report touching on the issue².

Previous UK academic studies on whistleblowing had not addressed whether the ethnicity of those raising concerns (or considering doing so) was a factor affecting their confidence to do so, nor whether a difference of protected characteristic between such workers and those with whom they might raise concerns in any way influenced whether concerns were actually raised or how they were handled³.

A 2013 cross-sector analysis of 1,000 UK whistleblowing cases – one third of which was from health and social care – similarly does not include analysis by ethnicity or race⁴.

Internationally, we found a similar absence of published peer-reviewed accounts.

Two (small scale) US lab studies looked at whether the ethnicity of the whistleblower affects their credibility. Jacobson (2019) found no evidence that ethnicity impacted on decision-making, while Bhatia (2012) found no influence on colleagues’ decision making. Both authors note a complete absence of literature on what factors might impact the confidence of staff making disclosures or how they were treated if they did so^{5 6}.

Reitz et al. (2020) asked UK healthcare employees how often they felt that junior, middle and senior level employees spoke up in their organisation about issues of malpractice, to challenge ways of working and to offer ideas. Their results were similar to those from their wider research across other sectors and internationally. They concluded:

Our research shows that the more senior you are, the more you expect positive consequences from speaking up (additionally, if you are male, you are also more likely to expect positive outcomes than if you are female).

When asked what would happen if they spoke up about a problem... 13% of junior UK healthcare respondents thought it likely they would be rewarded, 48% of them

Difference Matters

thought they would be ignored and 33% of them thought they'd be suppressed (in other words prevented from speaking up). Compare this to distinctly more positive responses (although arguably still worryingly poor) from senior respondents.

One interviewee reported how one trust's board engagement with Workforce Race Equality Standard data focused solely on the trust's relative standing. The board knew how to play the league table game, how to explain away or celebrate the trust's ranking. What it did not seem able to talk about was decades of persistent, systemic discrimination and unfairness. No quick or obvious solution lay to hand, so opening up such conversations were unwelcome⁷.

UK grey literature

There is some relevant grey literature in the UK.

Fuller (2019) noted that when faced with racism at work, just one in five reported the incident to HR, with fear of the consequences the biggest barrier to speaking up. Of the respondents who took no action:

- four in 10 said they did so out of fear of the consequences
- a quarter said they did not consider the incident serious enough to report
- twenty-three per cent (23%) claimed they were unsure of who to report it⁸.

In 2018, a National Guardian's Office Case Review took place at an NHS Trust regarding, in part, a "failure of the trust to meet its responsibilities regarding equality and diversity resulting in black and ethnic minority staff not feeling free to speak up"⁹. The review found that:

the culture, policies and procedures of the trust did not always support workers to speak up, including evidence of a bullying culture. Many workers who spoke to the National Guardian's Office during the review expressed a belief that the trust did not take their views or concerns seriously. The review also found that the trust did not appropriately support the needs of its black and ethnic minority workers, including a failure to respond to multiple and serious concerns raised by many of those workers.

The review further stated:

The National Guardian's Office received evidence that many workers had raised a range of concerns relating to bullying and discrimination against black and minority ethnic staff that had been ignored. The information indicated that the practices and cultures of the trust frequently did not support its staff to speak up.

Trust workers told us about their experiences of speaking up over a long period of time regarding their belief that a culture existed where individuals were appointed into jobs without a proper, fair and open recruitment procedure taking place. Because of this culture it was alleged that many individuals were appointed on the

basis of who they knew, instead of being selected for their relevant competence and experience...

An example given by workers of this continuing culture was the appointment of the new Freedom to Speak Up Guardian. While many workers expressed confidence in the individual appointed, staff were nevertheless unaware of any advertisement for the role, or a proper recruitment process for it. Instead the trust had merely announced to staff that an individual had been appointed to the role.

The National Guardian's Office guidance on the appointment of Freedom to Speak Up Guardians states that employers should ensure that staffing groups facing barriers to speaking up receive support to speak up. It also makes clear that Freedom to Speak Up Guardians should be appointed in a fair and open way to instil confidence in the workforce¹⁰.

As neither the previous nor the newly appointed Freedom to Speak Up Guardian in this trust was a BME worker – and because supporting vulnerable and minority staff was not specifically addressed in the trust's speaking up policy or draft strategy – it was not clear how the trust would assure itself that BME workers would receive this support.

In addition to BME workers, the review identified minority working groups, such as those whose employment was of a temporary or junior nature, including trainees, volunteers and students, which meant that they were less connected within the trust and often lacked support to speak up.

COVID-19 pandemic

The COVID-19 pandemic highlighted the role played by BME staff in frontline services and the factors which contributed to their disproportionate levels of death. These included:

- Disproportionate higher numbers on patient-facing roles
- Evidence of greater redeployment of BME staff into front line roles¹¹
- Disproportionate higher numbers among staff groups who may have been at particular risk but may also have faced challenges having their voices heard, such as agency staff, bank staff, ancillary workers and subcontracted workers
- A reluctance by some BME workers – as first reported by Francis 2015 – to raise concerns
- Greater complaints about access to appropriate personal protective equipment (as reported by surveys by the Royal College of Nursing and the British Medical Association)

There was extensive media coverage with additional issues affecting overseas recruited staff with a view that:

Difference Matters

Filipino nurses and their families have raised concerns that social and cultural factors might be putting healthcare workers in their community at heightened risk from COVID-19. They fear that marginalisation and a possible tendency to 'keep quiet and be extremely hardworking' may, in part, account for what looks like a disproportionate tally of deaths among Filipino nurses in the UK. ¹²

Francis Fernando, former vice-president of the Philippine Nurse Association UK and then deputy head of care of a private care home in London, said Filipino nurses with underlying health conditions had been contacting him about being pressured into going back to work after self-isolating.

A Filipino respiratory nurse said: 'I have learned to speak out and lead a team, but some Filipinos who haven't been here for very long are still very much in the Filipino culture of keeping quiet and being extremely hardworking.'¹³

Freedom to Speak Up review ('Francis Report') (2015)

Sir Robert Francis' Report (Francis 2015) on the [Freedom to Speak Up Review¹⁴](#) was the first official report we could find anywhere in the works that specifically, in some detail, highlighted the specific issues facing BME staff who wish to raise concerns.

Francis summarised that people may be *reluctant to speak up because of fear of being:*

- *blamed or scapegoated*
- *discriminated against*
- *disbelieved*
- *seen as disloyal*
- *seen as disrespectful in a hierarchical system*
- *bullied*
- *fear of wider consequences for their career*

These conclusions were similar to the academic literature that preceded it¹⁵¹⁶.

Section 3.3 of the Francis report considered the experience of workers from a Black and minority ethnic background. We note that at the time, one of the authors of this report was told by DHSC that they had initially not requested analysis of data by ethnicity as "they had no evidence that this was an issue" (contemporaneous note by RK).

The analysis in the Francis report is drawn from the responses to a survey the Department of Health – as it was then known - conducted on behalf of Sir Robert (n=20,000), 10% of whom were from BME backgrounds. Key conclusions were:

- *A higher proportion of BME respondents reported fear of victimisation as a reason for not raising a concern than those from a white background.*

- *A similar proportion of BME workers and those from a white background first raise their concerns informally with their line manager. However, BME staff are more likely to have reported concerns about harassment and bullying than staff from a white background and appear to be less satisfied with the response to their concerns.*
- *After raising a concern, BME staff were:*
 - *more likely to report being victimised or ignored by management than worker from a white background*
 - *slightly more likely to report being victimised by co-workers than workers from a white background*
 - *less likely to report being praised by management than workers from a white background*
- *In addition, after supporting a colleague who had raised a concern, BME workers were:*
 - *more likely to report having suffered detriment than workers from a white background*
 - *more likely to report having been victimised by management compared to workers from a white background*
 - *more likely to report having been victimised by co-workers compared to workers from a white background.*
- *BME workers reported being less likely to raise a concern again if they suspected wrongdoing than staff from a white background.*

These findings should not have been a surprise as they followed growing evidence and awareness that race discrimination was a very significant issue in numerous aspects of NHS culture (such as recruitment, career progression, bullying, disciplinary action) confirmed by a growing range of research reports and the Workforce Race Equality Standard reports.

NHS National Staff Survey 2020

The NHS National Staff Survey 2020¹⁷ reported a significant difference between White and BME workers views on raising concerns. It reported that:

Staff with long-lasting health conditions or illnesses and staff from BME backgrounds are less likely to feel safe to speak up about any concerns they have.

- *BME 62.1*
- *White 67.0*

‘Difficult’ conversations across protected characteristics

A final issue we considered was “protective hesitancy” – or the fear of “saying the wrong thing” when concerns are raised or feedback is given – across a difference of

Difference Matters

protected characteristic. When that happens, it is easily spotted and may well prompt a reciprocal closing down of the conversation where White staff may be reluctant to be direct and honest both in speaking and listening, and where BME staff may decide there is no point in pursuing the conversation. Many White NHS managers express a lack of confidence in talking about “race” or having direct conversations with BME staff: a tendency that may be compounded by a lack of confidence BME staff have that they will be listened to or that it is safe to raise certain concerns.

Thomas (2001) explored “protective hesitancy” whereby White mentors could be defensive and hesitant in giving honest feedback to mentees of colour¹⁸. So, it seems possible that it might impact on some aspects of the worker/Freedom to Speak Up Guardian relationship where there is a BME staff member considering raising an issue with a White Freedom to Speak Up Guardian.

COVID-19 Pulse Surveys (National Guardian’s Office)

Note: we have used the helpful data in these surveys to inform our research, particularly our interviews with Freedom to Speak Up Guardians.

There has been an increasing recognition that there are specific issues to address involving how Freedom to Speak Up Guardians ensure they have the confidence of BME staff. The COVID-19 pandemic highlighted the issue.

The NGO carried out three Pulse surveys during the first wave of the pandemic to gauge the impact of the COVID-19 pandemic on the work of Freedom to Speak Up.

In Pulse Survey 1 (16 April 2020), a Freedom to Speak Up Guardian was quoted as follows:

I have noted newspaper articles recently around BME healthcare staff, not only the desperately sad loss to the NHS of several frontline BME staff but also in terms of BME staff being whitewashed out of COVID-19 celebrations by media outlets. This absolutely horrifies me, and I hope that the NGO are considering and reflecting on these issues.¹⁹

Pulse Survey 2 (14 May 2020) reported that the percentage of respondents reporting workers speaking up about the impact of COVID-19 on Black, Asian and minority ethnic workers was 22%²⁰.

Pulse survey 3 (3 June 2020) reported an increase in the percentage of respondents reporting workers were speaking up about the impact of COVID-19 on Black, Asian and minority ethnic workers. It more than doubled from 22% in one month to 46%²¹.

Freedom to Speak Up Guardian Survey (National Guardian’s Office)

The NGO’s most recent annual (2020) Freedom to Speak Up Guardian survey identified issues that might impact whether Freedom to Speak Up Guardians have

the confidence of BME staff in speaking up, and the existence of specific issues that need to be addressed:

- **Method of appointment**

A greater percentage of respondents were appointed through open competition than in previous years. Overall, 41 per cent of respondents said they were appointed to their role through open competition, up from 33 per cent in 2019.

Among those who had been in the role for less than three months, 56 per cent reported they had been appointed without an interview. There was also an increase in the proportion of respondents who had been in the role for three to six months reporting they had been appointed without an interview.

Comment: Given the 2020 WRES data on recruitment and career progression in general, that trend may disadvantage BME staff becoming Freedom to Speak Up Guardians. It is possible that that was a contributory factor to the fall (12% to 9%) in the proportion of Freedom to Speak Up Guardians of BME heritage. In any case, over half of the organisations were acting contrary to the National Guardian's Office guidance on the appointment of Freedom to Speak Up Guardians (i.e. that Freedom to Speak Up Guardians should be appointed in a fair and open way to instil confidence in the workforce).²²

- **Demographics of Freedom to Speak Up Guardians**

Compared to the NHS workforce, the 2020 survey found that some groups of workers were underrepresented among the national Freedom to Speak Up Guardian network:

- Black and minority ethnic groups were underrepresented. 90 per cent of respondents from NHS trusts identified as white, compared to 79 per cent of the NHS workforce.
- The proportion of respondents from black and minority ethnic groups was 10%.
- Almost three quarters (74%) of respondents from NHS trusts were female. This was similar to the results from the previous year's survey and broadly equivalent to the NHS workforce more widely.
- Six per cent (6%) of respondents from NHS trusts identified as Lesbian, Gay or Bisexual. Eighty-eight per cent (89 per cent) identified as heterosexual or 'straight'. According to the NHS workforce, 2.7 per cent of workers had identified as LGBT+.
- Seventeen per cent (17%) of respondents from all organisations said they have a physical or mental health condition or lasting illness. This was the same as 2019.

Comment: The data suggests BME workers are the only group of workers from protected characteristics which are significantly under-represented as Freedom to Speak Up Guardians compared to their presence in the workforce.

- **Ethnic background**

In 2020, 90 per cent of respondents supporting NHS trusts identified as white and 10 per cent were from Black and minority ethnic groups.

In 2019, 89 per cent of Freedom to Speak Up Guardian respondents to the survey identified as white, compared to 76 per cent of the NHS workforce.

BME representation across the national Freedom to Speak Up Guardian network (e.g. including those supported independent health care providers) dropped from 12% (2019) to 9% (2020).

However, 56 per cent of respondents said believed representation of diverse groups among their local Freedom to Speak Up Guardian/Champion network was improving.

Comment: We sought to explore the extent to which 'local' Freedom to Speak Up Guardian networks (i.e. those supporting a particular organisation) were improving the involvement of BME workers in that role

- **Seniority**

Respondents were asked for their seniority using the NHS Agenda for Change (AfC) bands.ⁱⁱⁱ There were respondents from various levels of seniority. The most common NHS banding among respondents was band 7 (24 per cent). This is consistent with the survey results in 2018 and 2019. Band 8a was the second most common band (19 per cent), a five-percentage point increase from 2019.

Comment: In the absence of ethnicity data, it is not possible to determine whether BME Freedom to Speak Up Guardians were more or less likely to be involved at a lower banded level, but this is quite possible given the overall ethnicity gradient in NHS banding.

- **Time to carry out the role**

There was an increase in the proportion of respondents with ring-fenced time to carry out the role. Seventy per cent (70%) of respondents said they had ring-fenced time, up from 56 per cent in 2019. In organisations not rated by the CQC, 46 per cent of respondents said they had no ring-fenced time for the Freedom to Speak Up Guardian role. Sixty-seven per cent (67%) of respondents from Primary Care organisations also had no ring-fenced time to carry out the role.

Less than half (48%) of respondents said they had enough time to carry out their Freedom to Speak Up Guardian role. This was a slight decrease from 2019, when 50 per cent said they had enough time.

ⁱⁱⁱ This only applies to organisations and roles who use the NHS Agenda for Change (AfC) bands.

Comment: Time to carry out the role may have implications for workers in patient-facing roles who may be disproportionately from BME backgrounds. It may also have implications on the extent to which Freedom to Speak Up Guardians might be able to explore more complex issues linked to concerns raised about behaviours.

- **Networks**

Eighty per cent (80%) of respondents were part of Freedom to Speak Up Guardians, Champions^{iv} or Ambassadors network in the organisation they support. All respondents from large organisations (>10,001 staff) said they were part of a network.

Comment: We sought to explore how effective such networks were and the involvement of BME staff within them.

- **Access**

In the organisation they support, 94% per cent of respondents had direct access to their chief executive or equivalent and 87 per cent had access to the non-executive director or equivalent who had speaking up as part of their portfolio. Over three quarters (77%) of respondents presented reports to Board meetings or equivalent in person. This was an improvement from 66 per cent in 2019.

Comment: This is good but may serve to emphasise the challenges that lower graded Freedom to Speak Up Guardians - who may be more likely to be of BME heritage - may face in terms of confidence and competence without support.

- **Speaking up training for workers**

Seventy-one per cent (71%) of respondents indicated that speaking up training was available to workers in the organisation they support. This was lower for respondents at organisations rated 'requires improvement' (66 per cent) and organisations not rated by the CQC (58 per cent).

Many Freedom to Speak Up Guardians said speaking up training should be mandatory. In organisations where this was not already the case, many said they were pushing for this to change.

Comment: It was unclear the extent to which such training addressed the issues we were asked to consider.

^{iv} 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.

- **Value and support for Freedom to Speak Up Guardians**

There continued to be a gap in how valued respondents felt they were by senior leaders compared to middle managers. Eighty-five per cent (85%) of respondents felt valued by senior leaders, whereas only 68 per cent felt valued by middle managers.

Half of the respondents believed managers supported staff to speak up, up from 43 per cent in 2019. In organisations rated 'requires improvement', this was lower (31 per cent) compared to 'outstanding' organisations (67 per cent).

Almost half of respondents (48 per cent) reported that line managers were a source of detriment in most cases. Middle managers were the next group most likely to be identified as a source of detriment in most cases (29 per cent).

Comment: The perception of middle managers may especially be an issue for Freedom to Speak Up Guardians on lower grades (who may be more likely to be of BME heritage).

- **Disadvantageous treatment for speaking up**

Detriment for speaking up (often referred to as disadvantageous or demeaning treatment) remained a serious concern. Less than half (48 per cent) of respondents said people in their organisation did not suffer detriment for speaking up.

Almost a fifth of respondents (19 per cent) felt individuals suffered detriment for speaking up in their organisation.

Comment. On the basis of the Francis report, the National Staff Survey and disciplinary WRES data, there is clearly a risk that BME staff may be particularly vulnerable to such treatment.

- **Barriers to speaking up**

Half of the respondents reported that significant barriers to speaking up did not exist in their organisation.

Forty-four per cent (44%) of respondents said that they had identified groups who face barriers to speaking up in the organisation.

Results varied greatly by CQC rating, with 67 per cent in 'outstanding' organisations reporting significant barriers to speaking up did not exist in the organisation, compared to 30 per cent of respondents from organisations rated 'requires improvement'.

Respondents identified multiple groups of workers who may face barriers to speaking up. These included black and minority ethnic workers, LGBTQ+ workers and people living with disabilities and long-term health conditions.

Respondents were acting to support groups facing barriers to speaking up. Actions included joining staff networks and forums, promoting Freedom to Speak Up by a variety of channels and reaching out to different groups to offer further support.

Comment. We sought to explore, going forward, what additional support might be needed, or which existing methods were rated most effective.

- **Groups identified whose role might be an indicator of having barriers to speaking up**

Workers without regular IT access in their roles, such as porters, domestic and hospitality workers, faced barriers to speaking up, according to many respondents. Respondents had identified that these groups might miss messaging about the Freedom to Speak Up service in their organisation and did not necessarily have the same access to emails as an option to contact their Freedom to Speak Up Guardian(s).

Workers on lower pay bands had also been identified in responses to this question, along with administrative and clerical staff.

Junior doctors on rotation, part-time workers, night shift workers and community-based workers were also mentioned by Freedom to Speak Up Guardians as facing barriers to speaking up.

Comment. These groups are likely to include disproportionately higher numbers of BME staff.

- **Characteristics of Freedom to Speak Up Guardians**

More than half of the respondents felt their age, ethnicity, gender and sexual orientation had no influence on whether workers spoke up to them. However, 15 per cent of respondents reported that they believed their ethnicity discouraged workers from speaking up to them.

Comment. We sought to explore (albeit with a very small sample) whether those Freedom to Speak Up Guardians we interviewed thought their protected characteristic influenced whether workers spoke to them and whether they thought the majority of NGO respondents were correct to think it was not an issue – and if so what the implications were.

Our hypotheses

Based on this literature scan, we tested two hypotheses in our interviews, focus groups and survey.

Hypothesis 1. *There are significant additional barriers to speaking up among BME workers. Some of those barriers are shared with other staff groups, but the grey literature suggests there may be a combination of specific factors influencing the confidence of BME workers in speaking up.*

Difference Matters

Hypothesis 2. *There are mixed views among Freedom to Speak Up Guardians as to whether their own ethnicity might be a factor impacting on how effectively they perform their role i.e. both in BME workers having confidence and their being able to effectively respond.*

4. FINDINGS

4.1. THE FREEDOM TO SPEAK UP GUARDIAN ROLE

The qualities and competencies required were described by the Freedom to Speak Up Guardians as largely those set out in the Freedom to Speak Up Guardian Education and Training Guide²³, with one notable and relevant exception.

There was unanimity among the Freedom to Speak Up Guardians interviewed on two related issues:

- a. That a difference of protected characteristic between a Freedom to Speak Up Guardian and a member of staff considering raising a concern might impact on whether the BME member of staff felt confident in raising the concern or in being heard, while an understanding of, and ability to act upon, equality diversity and inclusion (EDI), particularly but not exclusively on race, was an essential attribute.

Freedom to Speak Up Guardians (white and BME, individually and collectively) could not understand how it was possible to undertake the role effectively unless that was the case.

- b. That an understanding of EDI, and specifically of race, was an essential attribute, the absence of which would make it very difficult for the Freedom to Speak Up Guardian to do their job effectively. The shared view was that inclusion, with specific reference to race, should be a core competency in any job description for a Freedom to Speak Up Guardian.

An issue stressed again and again was that building trust was essential if BME staff were to speak up – and that required an understanding of one’s own biases, the pressures on and fears of BME staff, and credibility being built.

We asked Freedom to Speak Up Guardians what they thought the key skills and values were to be effective and whether their views had changed since they had been in post. We felt this was an essential context to the two hypotheses.

Key skills and values listed included:

- empathy, listening skills
- coaching skills
- presentation skills
- the ability to empower people
- integrity is essential – and to be consistently demonstrated
- courage – stamina to speak up, as often a lonely role
- being approachable, accessible and curious when responding to concerns
- being alert to one’s own prejudices and biases
- curiosity about who *doesn’t* raise concerns

Some Freedom to Speak Up Guardians also said they needed mental health insight as workers are often distressed or can even display some form of mental illness. In

Difference Matters

addition, a passion for EDI and an understanding of cultural competence was seen as key to staff having confidence in a Freedom to Speak Up Guardian. Finally, Freedom to Speak Up Guardians also felt their effectiveness depended significantly on the wider culture within their organisations.

Participants also suggested the role had changed a lot in the five years since it started – most notably, Freedom to Speak Up Guardians pointed out it is ‘no longer just responding to individual concerns’. In addition, most people had found their caseload had increased significantly in the last four years. Other changes Freedom to Speak Up Guardians had witnessed included:

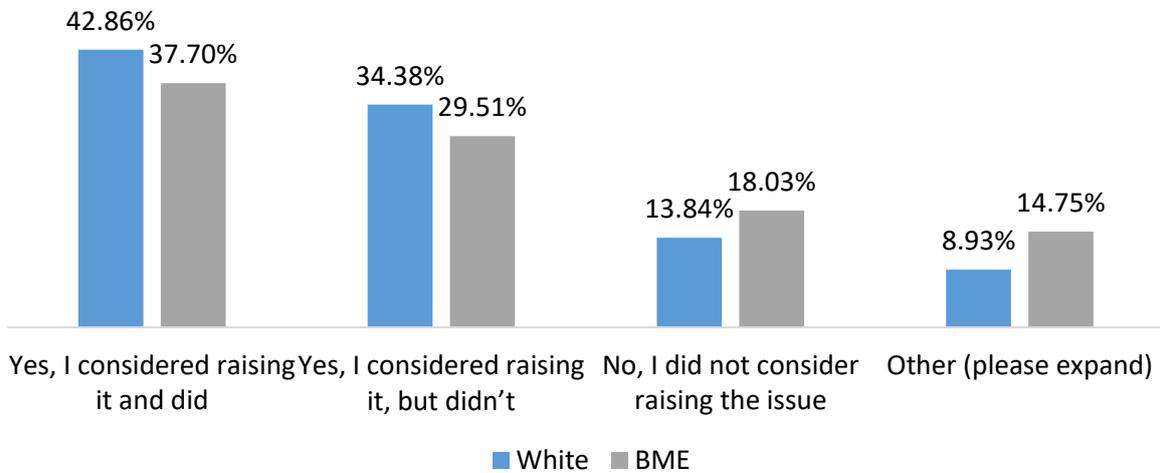
- it can be very lonely with a lot of responsibility and pressure, and that it was much better to have two or more Freedom to Speak Up Guardians;
- Freedom to Speak Up Guardians were required to be more analytical – understanding the context, looking beyond the immediate concern or the symptom, and being holistic;
- a number of participants described how they went looking for issues and concerns rather than waiting for issues to blow up. In this respect, being more proactive with data (e.g., triangulating) was seen as increasingly important;
- Freedom to Speak Up Guardians recounted how speaking up isn’t just verbal – as one participant put it: ‘Speaking up for some staff is voting with their feet: leaving or going off sick. I think we need to read the signs and what form speaking up takes’;
- the NHS can be very grade conscious, and Freedom to Speak Up Guardians felt this would influence whether they were listened to by managers and their Board (and may impact whether and how staff approached them). In this respect, many felt their effectiveness was strongly linked to whether their trust leadership valued them (or not).

4.2. PROPENSITY OF WORKERS TO SPEAK UP

Over fifty-five per cent (55.4%) of survey respondents had, in the preceding four years, experienced an issue they felt could have been raised with a Freedom to Speak Up Guardian. Fig 1 shows the proportion of this subset who had gone on to engage with a Freedom to Speak Up Guardian, disaggregated by ethnicity.

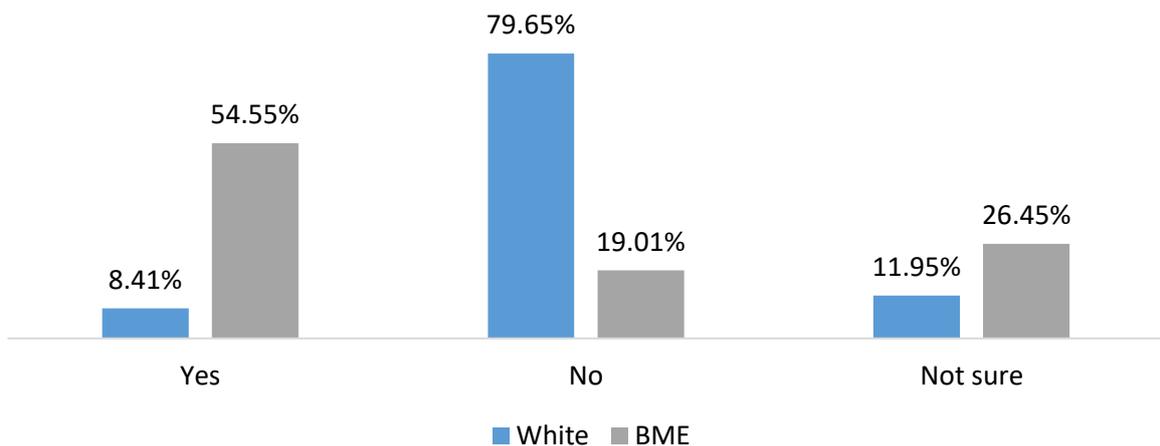
As can be seen in Fig 1 (below), 62.3% of BME respondents chose not to raise their concern with a Freedom to Speak Up Guardian, compared with 57.2% of White workers in a similar situation. Responses in the ‘other’ category include people who have spoken to a Freedom to Speak Up Guardian informally, have raised their concern directly with their manager, or are still considering how to respond.

Fig 1: % of workers experiencing an issue and then raising it with a Freedom to Speak Up Guardian



Survey respondents were asked if the issue in question involved people – workers or patients – being treated differently because of their race, nationality, or ethnicity. As Fig 2 shows, BME respondents were far more likely to say their concern involved some element of race-based inequality. (More detail about the content of respondent’s concerns is outlined below.)

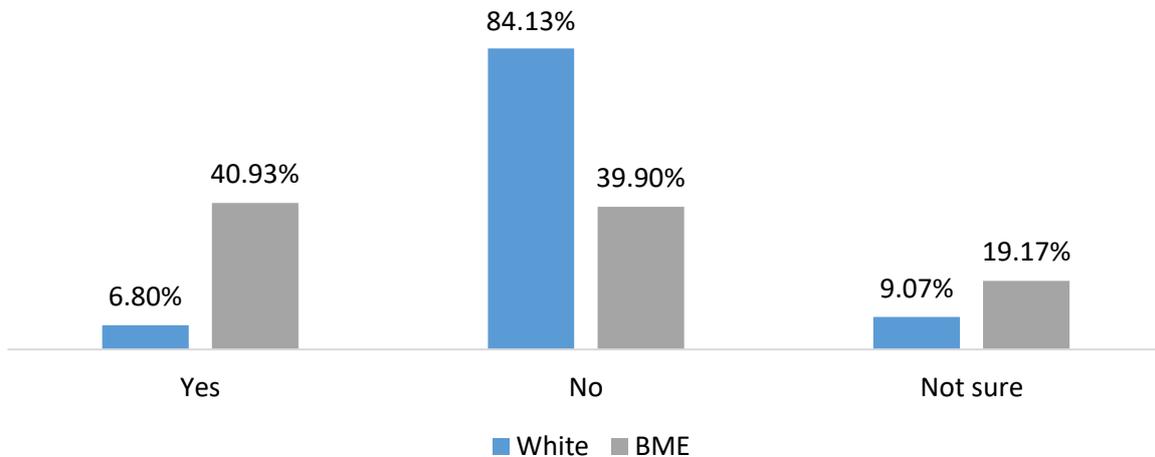
Fig 2: % of issues involving people being treated differently because of their race, nationality, or ethnicity



Finally, respondents were asked if they were more likely to raise a concern with a Freedom to Speak Up Guardian who was of the same ethnicity as themselves (regardless of whether they had encountered an issue or not). As can be seen in Fig 3 (below), BME respondents were six times more likely than White respondents to say they were more likely to raise a concern with a Freedom to Speak Up Guardian of the same ethnicity as themselves.

Difference Matters

Fig 3: % of respondents saying they would be more likely to raise a concern with a Freedom to Speak Up Guardian who was of the same ethnicity as themselves



For comparison, survey respondents were asked if they were more likely to raise a concern with a Freedom to Speak Up Guardian of the same gender as themselves. 18.0% of women said they would, compared with 9.0% of men.

Feedback from Freedom to Speak Up Guardian themselves also suggests this is an issue. Several examples were given of BME staff testing the water, and only once confidence was won did significantly more cases come through word of mouth if the initial case was dealt with effectively.

“The number of BME staff raising concerns ‘doubled’ after I came into post”. BME Freedom to Speak Up Guardian

“We saw a significant increase in the number of BME staff raising concerns with me after I had worked with the BME network. I felt a combination of ‘privilege’ and lack of ‘cultural intelligence’ may have hindered my engagement before.” White Freedom to Speak Up Guardian

“In our trust, there was certainly an issue about overseas staff not speaking up, and the culture of the Trust was generally not conducive. That might be made worse if staff had concerns that raising a concern might have implications for their visas or if there was a culture of not raising concerns as highlighted in COVID.” White Freedom to Speak Up Guardian

It could sometimes take Freedom to Speak Up Guardians who were aware of the need to win the confidence of BME workers and networks a considerable amount of time and effort to do so – and that might involve challenging conversations.

As mentioned earlier, there was unanimity among the Freedom to Speak Up Guardians interviewed that a difference of protected characteristic between a Freedom to Speak Up Guardian and a member of staff considering raising a concern might impact on whether the BME member of staff felt confident in raising the concern or in being heard. Significantly, however, most White Freedom to Speak Up Guardians participating in the research did not think *their* ethnicity was an issue

affecting people's perception of them, with most believing staff were primarily interested in whether they were compassionate, trustworthy, and had a 'passion for equality', whereas BME Freedom to Speak Up Guardians (largely) felt their ethnicity did affect the perception that BME staff had, but they agreed that the perception of their values, skills and commitment was also decisive.

4.3 FACTORS IMPACTING ON PEOPLE'S DECISIONS TO SPEAK UP

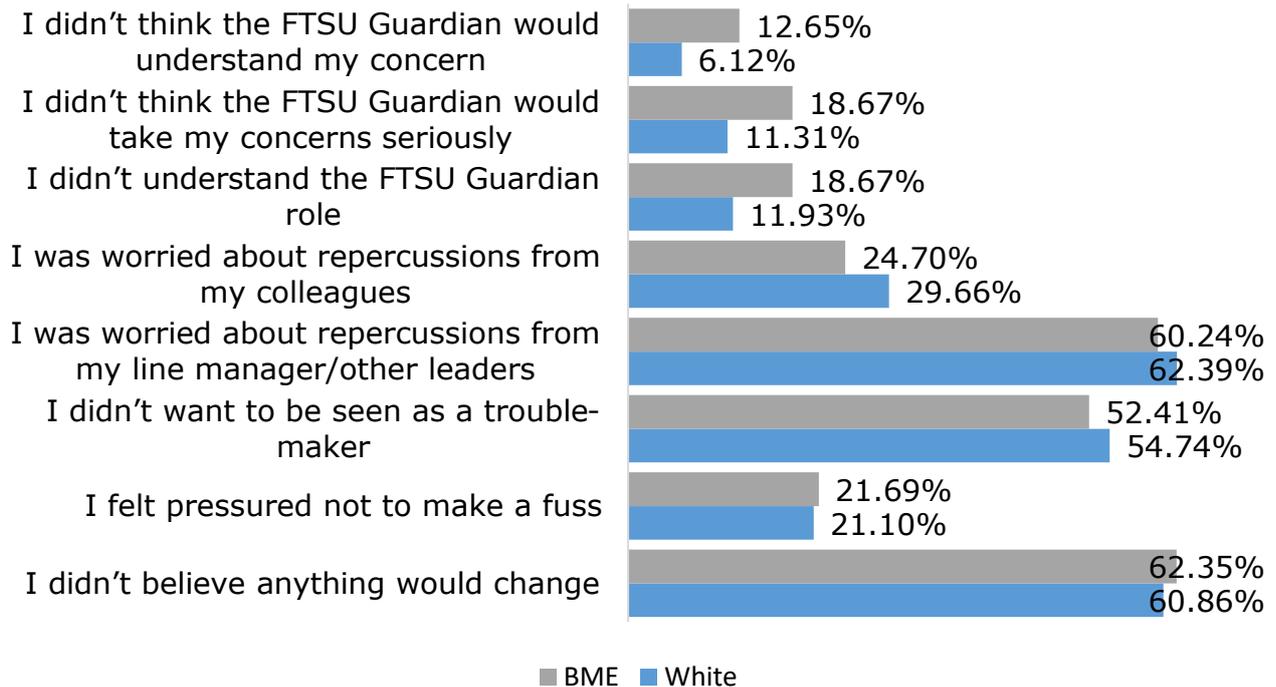
Survey respondents were asked to identify issues that were significant factors when they were considering raising an issue (or would be if they were ever to raise one). As Fig 4 shows, the two most significant barriers to people raising concerns are fear of repercussions from managers/other leaders and a belief that nothing will change as a result. Both White and BME respondents tended to give these factors equal weight.

The factors showing the greatest variation in responses between White and BME respondents were:

- not thinking a Freedom to Speak Up Guardian would understand an issue (BME respondents were twice as likely as White respondents to cite this as a concern)
- not thinking a Freedom to Speak Up Guardian would take an issue seriously (BME respondents were 1.5 times more likely to cite this as a concern)
- not understanding the Freedom to Speak Up Guardian role (BME respondents were 1.5 times more likely to cite this as a concern)

Fig 4: Factors that would (or did) affect people's decision to speak up to a Freedom to Speak Up Guardian

Difference Matters



BME survey respondents who indicated they would be more likely to engage with a Freedom to Speak Up Guardian of the same ethnicity as themselves relayed a range of reasons as to why this was the case. Broadly, however, responses referred to workplace discrimination being subtle and hard-to-define, and therefore difficult to explain to someone who had not experienced it first-hand. Given this, a respondent said they would prefer to speak to someone who was ‘more likely to understand the nuances of working dynamics’. Another respondent claimed, ‘there are some things which are not always easy to explain’ and it would therefore be easier to engage with someone who could shortcut this part of the conversation.

Connected with this point, some respondents also suggested that the subtle nature of much workplace discrimination makes it harder for people to take it seriously (even if they understand it). In this respect, BME Freedom to Speak Up Guardians are seen as having an understanding of the emotional impact of discrimination, even if they have not experienced it themselves. As one survey respondent put it:

I would feel more likely to go to the FTSU Guardian if they were from a person of colour as I feel they would have a point of reference and may likely understand the subtle discrimination that people of colour are subjected to on a daily basis.

Some respondents also discussed how speaking up can be a daunting experience and the prospect of not being believed or understood compounded their trepidation. For example, one respondent recounted how they had cancelled multiple meetings with their Freedom to Speak Up Guardian, as they were worried about how they

would come across: whether they would be believed, and how their concern would be progressed.

It may also be worth noting that a small number of respondents to the survey suggested a Freedom to Speak Up Guardian's ethnicity would have a *negative* impact on their decision to speak up. Some respondents suggested Freedom to Speak Up Guardians may bring cultural expectations to bear on a discussion which would cause them to diminish a concern. For example: *'I would be less inclined [to raise a concern with a BME Guardian] ... some Asian cultures would see it as complaining and would pressure to be more compliant'*.

Responses from Freedom to Speak Up Guardians themselves were more varied. Generally, BME Freedom to Speak Up Guardians felt their ethnicity did make a difference in BME staff's willingness to speak to them:

"As a BME Guardian I may be better able to ask, 'is the issue race or might it be something else?' rather than just work hard to gain confidence of BME staff." **BME Freedom to Speak Up Guardian**

"It became clear that being a BME Guardian appeared to give staff more confidence to raise issues – 'you'll understand what I am saying to you.'" BME Freedom to Speak Up Guardian

"The numbers and proportion of my cases that came from BME staff jumped after I was appointed and is now the large majority of the caseload." **BME Freedom to Speak Up Guardian**

There was a great deal of discussion among Freedom to Speak Up Guardians about precisely how ethnicity impacts on BME workers' decision to speak up. Some BME Freedom to Speak Up Guardians felt BME workers naturally felt safer talking to another BME person. Others, however, felt this downplayed the skills BME Freedom to Speak Up Guardians participating in this research have (particularly, their credibility and ability to build trust).

"Race is certainly a factor (in whether BME staff raise concerns) but there may be other factors at work as well with BME staff not raising concerns – difference of hierarchy and the culture of organisation." **White Freedom to Speak Up Guardian**

In addition to BME staff being more reluctant to speak out, some Freedom to Speak Up Guardians felt there could be similar issues with disabled staff, LGBTQ+ staff and neurodiverse staff being more reluctant to speak out. In all these cases, trust was felt to be extremely important.

4.4 EXPERIENCES OF LIAISING WITH A FREEDOM TO SPEAK UP GUARDIAN

The satisfaction of survey respondents who had raised a concern with a Freedom to Speak Up Guardian was measured against three factors:

- did the Freedom to Speak Up Guardian understand the issue?

Difference Matters

- did Freedom to Speak Up Guardian take the issue seriously?
- did the Freedom to Speak Up Guardian raise the issue with a suitably senior member of staff?

Responses to whether the Freedom to Speak Up Guardian understood the issue did not vary significantly by ethnicity. Nor did responses to whether the Freedom to Speak Up Guardian raised the issue with a sufficiently senior person (see Appendix 1).

Fifty-six per cent (56.2%) of White respondents 'strongly agreed' that their Freedom to Speak Up Guardian took their issue seriously. This is compared with 46.7% of BME respondents feeling the same way. However, 37.8% of BME respondents 'agreed' that their Freedom to Speak Up Guardian took their issue seriously (compared with 20.2% of White respondents).

Unfortunately, BME respondents tended not to elaborate on why they felt Freedom to Speak Up Guardians did or did not take their issue seriously. So, it is difficult to pinpoint why strength of opinion varies within this factor. Instead, survey respondents talked generally about Freedom to Speak Up Guardians not 'acting on' or 'engaging with' their concerns.

People who had raised an issue with a Freedom to Speak Up Guardian were also asked to rate their Freedom to Speak Up Guardian's skills in three areas:

- listening skills
- ability to empathise
- understanding of discrimination and bias (if relevant)

Responses did not vary significantly by ethnicity and were generally positive (see Appendix 1).

4.5 FREEDOM TO SPEAK UP GUARDIAN AWARENESS OF DISPARITIES

Freedom to Speak Up Guardians relayed how the COVID-19 pandemic – and inequalities in BME infection rates – acted as a something of a wake-up call. It led to some Freedom to Speak Up Guardians realising there was a real issue with BME workers raising concerns, which they had not properly appreciated before. A Freedom to Speak Up Guardian described how establishing a BME COVID-19 group led to more formalised governance involving BME workers and so offered an insight into the kinds of issues workers were facing (but not speaking up about).

The greatest difference, however, was between NHS trusts who now recorded the ethnicity of workers speaking up and those who didn't. While most NHS trusts engaged with as part of this review were now collecting this data, this was a relatively recent development for most. As such, its use to identify patterns in those speaking up is limited. Some trusts, however, do use this data to hold Freedom to Speak Up Guardians to account. At least one Freedom to Speak Up Guardian regularly reports engagement figures to their board and welcomed the scrutiny this brought. Another Freedom to Speak Up Guardian had analysed their engagement

data alongside staff survey and workforce data to show how specific groups are disproportionately impacted (e.g. healthcare assistants and BME workers).

Having started to collect ethnicity (and other equalities) data, most Freedom to Speak Up Guardians commented on how useful this was and expressed surprise and disappointment that this had not been required by the NGO.⁵ However, there does seem to be an issue around disclosure rates for marginalised groups and (re)designing forms, so they allow the recording of this information.

In addition, Freedom to Speak Up Guardians had identified two cohorts who were less likely to speak up:

- some Freedom to Speak Up Guardians reported particular issues with overseas-trained staff who can be anxious about raising concerns due to fear of the consequences (especially if they felt their visas would be jeopardised) or if they had previously worked in a culture in which concerns were not raised
- two Freedom to Speak Up Guardians reported noticing issues with night shift staff, bank and agency staff - who are more likely to be BME - not raising concerns

White Freedom to Speak Up Guardians emphasised they had become more aware of the importance of ethnicity over the last year or so (i.e. around the start of the COVID-19 pandemic in England):

“I thought I was doing well although I could tell from individual cases that there were specific issues with BME staff raising concerns. When evidence of more serious problems within the trust was provided I realised I had not sufficiently understood the perceptions or experiences of BME staff.” **White Freedom to Speak Up Guardian**

“I personally didn’t take enough notice of race disparity and the potential impact of BME confidence on people approaching me. Covid changed that in conversations with the BME network. They were uncomfortable conversations at times but very productive and made me realise what I hadn’t been doing. We have now created a network of BAME champions who are Speak up Ambassadors.” **White Freedom to Speak Up Guardian**

“I have worked closely with the BME network to develop BME advocates – trust, authenticity and credibility is crucial. I am disappointed many FTSUGs don’t see the importance of protected characteristic and wonder how they do their job.” **White Freedom to Speak Up Guardian**

⁵ At the time of publication, the National Guardian’s Office was reviewing its guidance for Freedom to Speak Up Guardians on recording cases and reporting data. As part of this review, the NGO was engaging with Freedom to Speak Up Guardians about the feasibility of requiring them to record – and potentially report to the NGO – demographic data about those who speak up to them.

“Our Trust was insistent the network of champions must be diverse and they are.”

BME Freedom to Speak Up Guardian

“I have now thought a lot about how to improve BME staff confidence. Having more BME ambassadors has helped but it is unreasonable to expect one BME person to represent all aspects of the BME experience.”

White Freedom to Speak Up Guardian

“I have noticed substantial levels of discrimination against BME staff and been conscious of being one of the very few BME Guardians nationally.”

BME Freedom to Speak Up Guardian

4.6 STRATEGIES FOR ENGAGING BME WORKERS

The NHS People Plan states:

“Staff should expect their employers to take action on the following areas:

“Building confidence to speak up: By March 2021, NHS England and NHS Improvement will launch a joint training programme for Freedom to Speak Up Guardians and WRES Experts. We are also recruiting more BAME staff to Freedom to Speak Up Guardian roles, in line with the composition of our workforce.”²⁴

Most Freedom to Speak Up Guardians had started working closely with BME networks. However, some had found the networks in their trusts under-developed or otherwise ineffective. As noted above, a Freedom to Speak Up Guardian discussed how they had found a BME COVID-19 group more effective in raising issues facing BME colleagues. Others noted the amount of time it can take to gain the confidence of BME staff within networks. Finally, a Freedom to Speak Up Guardian suggested they had problems connecting with their trust’s network because of their ethnicity: in particular, they were told the network was a space for BME people and they were wary of inviting a White person to attend.

However, all Freedom to Speak Up Guardians in our sample are now formalising their relationship with BME networks, with some success. For example, a Freedom to Speak Up Guardian had created a network of BME champions who are also Freedom to Speak Up Champions. This was particularly important, they felt, as BME workers will often test the water before formally liaising with a Freedom to Speak Up Guardian. Having Black women as Freedom to Speak Up Champions in another Trust had also been extremely ‘helpful to turn around the feeling of being helpless,’ they said.

Freedom to Speak Up Guardians were increasingly members of a wide range of networks and policy making groups:

“Visibility is key but also being present in key forums. I am a member of the local Joint Negotiating Committee and attend the body developing HR policy. I use both

roles to be proactive, influencing policy but also identifying potential hotspots through triangulating data.” **White Freedom to Speak Up Guardian**

“We have developed a separate Speak Up network with Filipino staff.” **White Freedom to Speak Up Guardian**

Some Freedom to Speak Up Guardians had liaised closely with their trust’s equality, diversity and inclusion lead, but with mixed results. Some participants found them extremely helpful – particularly around data collection and analysis – but others found them less so.

Skills around race were regarded as equally important for engaging with middle managers.

“It is really important Guardians have the skills and confidence to engage with middle managers who are a key challenge as they are under severe work and time pressure and have inadequate training. As a result, they can be defensive, especially if a concern is raised by a BME member of staff (whether about racism or not).” **White Freedom to Speak Up Guardian**

There was a shared view that trust was crucial in building credibility, especially with BME workers who might be more cautious about coming forward:

“Trust is crucial and with BME staff that can sometimes take a long time but once established, cases come tumbling out.” **White Freedom to Speak Up Guardian**

“A passion for EDI [equality, diversity and inclusion] and understanding of cultural competence is key to staff having confidence in you and you being aware of how best to engage.” **White Freedom to Speak Up Guardian**

When specific training around race and Guardianship was discussed, there was scepticism about what sort of training might be provided, in part based upon unsatisfactory experiences of equality, diversity and inclusion training as being ineffective.

“I’m sceptical about training if it is like the unconscious bias training the trust organised, which was embarrassing and ineffective.” **BME Freedom to Speak Up Guardian**

“Training in how to have conversations, how to listen, understanding why BME staff are more reluctant to raise concerns can be helpful but it must be built around real case studies and must challenge existing mind sets of some Guardians.” **White Freedom to Speak Up Guardian**

“Tick box training will be counter-productive. Training needs to be a combination of challenge, reflection and showing examples of good practice. That should be framed around race but not just around race.” **White Freedom to Speak Up Guardian**

“I feel more national training on those key skills was needed and that should certainly include raising awareness of the blockages to BME staff raising concerns and how to move “difficult conversations” to one of trust.” **White Freedom to Speak Up Guardian**

Difference Matters

There was a shared view that it would be very good if Freedom to Speak Up Guardian ethnicity reflected the workforce. To enable this, the key concern was there was support for all Freedom to Speak Up Guardians with the skillset and personal qualities and initiatives to help develop future BME Freedom to Speak Up Guardians.

“I simply do not believe there isn’t plenty of black talent perfectly able to take on these roles. We need to find them, develop them and make sure appointments systems are fair.” **White Freedom to Speak Up Guardian**

“There should certainly be more BME Guardians but even where that happens it may not make the difference needed if people are set up to fail through not having had the development opportunities, or support.” **White Freedom to Speak Up Guardian**

“There should be a serious development programme if we want more Guardians – perhaps combining it with a Well-being role.” **White Freedom to Speak Up Guardian**

“Race is a factor impacting BME staff and that there is little support system on this for FtSUGs. There is definitely an issue with BME staff being more wary of raises issues - not confident in process and in outcomes – or consequences.” **BME Freedom to Speak Up Guardian**

4.7. OTHER RELEVANT FACTORS

Freedom to Speak Up Guardians relayed a number of factors that they felt hindered their ability/capacity to engage BME staff. These include:

Time pressures. Freedom to Speak Up Guardians talked in general terms about their perceptions of how much the role had changed in the last five years. In particular, there were much greater expectations of Freedom to Speak Up Guardians and assumptions they will work strategically (‘it’s no longer just responding to individual concerns,’ said one). As a result, there is less time to devote to relationship building. Furthermore, some Freedom to Speak Up Guardians suggested the concerns BME staff raise can be more complex and require more analysis (‘you need to examine the context and look beyond the obvious’), which can be time-consuming.

Some Freedom to Speak Up Guardians spoke very positively about the prospect of working with another Freedom to Speak Up Guardian in the organisation(s) they support – not only to share the burden of work, but to have some emotional support too. The development of job shares and ‘deputy’ Freedom to Speak Up Guardians was seen by some Freedom to Speak Up Guardians as an important part of creating a pipeline of future Freedom to Speak Up Guardians (notably BME ones) and being a better way of working.⁶

⁶ In accordance with NGO guidance, all Freedom to Speak Up Guardians are expected to meet the full requirements set out in the universal Job Description. The title ‘deputy’ may soon be no longer used as will be made clear in further imminent NGO guidance.

Banding of Freedom to Speak Up Guardians. Perhaps unsurprisingly, many Freedom to Speak Up Guardians also talked about how NHS grade hierarchy can be a toxic influence and impact race, potentially hindering staff raising concerns.

Banding was also seen as an issue impacting Freedom to Speak Up Guardians themselves. Freedom to Speak Up Guardians were often relatively junior and felt that this could impede their discussions with line managers or when reporting more formally.

“The grading of Guardians generally is a problem because the NHS is so conscious of grades... if a Guardian wants to raise a concern with a middle manager it can be really hard if the Guardian is of a lower grade. On the other hand, insisting on a minimum grade might make it even harder to recruit BME Guardians since they were generally in lower grades.” **White Freedom to Speak Up Guardian**

“It is crucial that Guardians have a credible banding, or they won’t be taken seriously. Key to that should be a development programme to build a pipeline, so people can start as champions, then act as deputies.” **White Freedom to Speak Up Guardian**

Organisational culture. Several Freedom to Speak Up Guardians mentioned that the effectiveness of the Freedom to Speak Up Guardian role depended very significantly on the wider culture within the organisation. That fits with the findings of the 2020 National Guardian’s Office Freedom to Speak Up Survey.

“If your Board are really supportive, understand the importance of the role and a learning culture, then it can be very effective. But if the culture is not supportive the role can be hard work and less effective. I’ve seen both.” **White Freedom to Speak Up Guardian**

Metrics. There was concern that the National Guardian’s Office had been slow in addressing the collection and use of ethnicity data. It was felt that NHS trusts should be told this is a requirement.

More generally, there was a concern from some Freedom to Speak Up Guardians that the focus on the quantity of concerns responded to might be obscuring other crucial metrics, such as how long cases took to be resolved – something some felt was a specific problem for concerns raised by BME workers.

5. CONCLUSIONS

5.1 IMPACT OF ETHNICITY

Based on the responses to the survey and feedback from Freedom to Speak Up Guardians, we conclude that the ethnicity of a Freedom to Speak Up Guardian can impact on a person's decision to speak up. Specifically, BME workers are more likely to raise a concern with a BME Freedom to Speak Up Guardian.

As stated in section 4.2, BME people are more likely to say the ethnicity of a Freedom to Speak Up Guardian would impact their decision to speak up than women are to say the gender of Freedom to Speak Up Guardian would be a consideration. Furthermore, there was anecdotal evidence from BME Freedom to Speak Up Guardians that their appointment had a huge impact on the number of BME colleagues raising a concern (two BME Freedom to Speak Up Guardians talked about the number of concerns raised by BME staff 'doubling' after they came into post).

However, although there is clearly a connection between a Freedom to Speak Up Guardian's ethnicity and workers' propensity to speak up, we are not able to be precise about how strong that relationship is.

5.2 REASONS FOR ENGAGING A BME FREEDOM TO SPEAK UP GUARDIAN

By far, the most common reason for BME workers preferring to engage a BME Freedom to Speak Up Guardian is an assumption they will understand and take issues around bias and discrimination seriously. This is particularly the case because discrimination can be subtle and difficult to prove, and workers may be wary of possible consequences of raising such issues.

The kinds of issues BME workers want to raise with Freedom to Speak Up Guardians involve race as a factor much more than the issues affecting White people do.⁷ As such, it is crucial Freedom to Speak Up Guardians have a firm understanding of how to identify and respond to racism.

5.3 FREEDOM TO SPEAK UP GUARDIAN SKILLS AND COMPETENCES

Liaising with BME workers speaking up

Freedom to Speak Up Guardians need a range of skills to effectively support a BME colleague speaking up. Many of these are 'generic' skills, such as effective listening, demonstrating compassion, and taking appropriate action in response to a concern. In addition, participating Freedom to Speak Up Guardians suggested additional skills

⁷ As section 4.2 shows, BME staff are nearly 10 times more likely than White staff to say an issue they were considering raising with a Guardian involved people being treated differently because of their race, nationality, or ethnicity.

Freedom to Speak Up Guardians might need when dealing with BME colleagues or race-related issues. These include:

- an understanding of unconscious bias, including the ability to analyse a situation to understand whether this is a factor;
- connected with the above, an ability to sensitively ask probing questions to draw discrimination to light;
- an appreciation of the factors that may prevent BME people from speaking up (fear of repercussions, a reluctance to be seen as 'playing the race card', fear of being seen as a troublemaker), and an ability to support people around these;
- cultural knowledge and understanding (such as an appreciation of how different cultures view and defer to authority, how some overseas trained colleagues may view their work status as precarious, how some cultures view speaking up as 'complaining', and so on)

Most of the (White) Freedom to Speak Up Guardians engaged with as part of this review demonstrated the first three attributes. It was less clear whether White Freedom to Speak Up Guardians generally understood the cultural factors that may form part of a concern.

Survey results suggest that BME colleagues who had spoken up also found Freedom to Speak Up Guardians had a good understanding of discrimination and bias, were satisfied with their listening skills, and thought them empathetic. So, while there may be some suggestion that some Freedom to Speak Up Guardians lacked cultural awareness, it seems BME staff are generally satisfied with a Freedom to Speak Up Guardian if they engage one.⁸ As such, there may be an issue around the perception BME colleagues have of (White) Freedom to Speak Up Guardians - a perception which isn't necessarily borne out by their actual experience of them.

Understanding of the experience of BME workers

Previous research suggests that in addition to the skills outlined above, it is important that Freedom to Speak Up Guardians understand the experience of BME workers in the NHS and, in particular, some of the experiential factors that may make it difficult for BME colleagues to speak up. These include continually being told by the system that their experiences are valued less than White colleagues', being systematically marginalised, not being convinced their concerns will be acted upon, possible consequences of raising an issue (especially if it includes allegations of discrimination), and scepticism about whether organisations will seriously promote race equality. Freedom to Speak Up Guardians we interviewed recognised these challenges and shared their reflections on BME staff experience and how to address these concerns

⁸ An issue around BME colleagues feeling Guardians took their concerns seriously is discussed in section 4.4

Difference Matters

While Freedom to Speak Up Guardians engaged with as part of this review displayed a range of important competencies, it was not clear whether all had reflected on why BME staff may be wary of speaking up to a senior White colleague (based on their experience of structural racism).

Nevertheless, it is important to note many Freedom to Speak Up Guardians in our sample displayed an understanding of ethnicity as a barrier to speaking up in and of itself. For example, one White Freedom to Speak Up Guardian recalled how they were supporting a BME colleague to raise a complaint directly to a senior White leader. The Freedom to Speak Up Guardian invited another BME colleague to attend because they sensed it would be uncomfortable for the complainant to be the only BME person in the meeting with two senior White colleagues. As insightful as this is, however, we are unable to say what proportion of Freedom to Speak Up Guardians more generally have applied this reasoning to their own experiences of engaging BME workers (perhaps because they – rightly – feel BME colleagues would find a sympathetic ear).

The challenges facing Freedom to Speak Up Guardians and (particularly BME) workers considering speaking up are compounded by a range of issues, as outlined in the 2020 Freedom to Speak Up Guardian survey. These include:

- only half of the respondents believing managers support staff to speak up
- middle managers being seen as potential sources of detriment may especially be an issue for both staff and Freedom to Speak Up Guardians on lower grades (both of whom may be more likely to be of BME heritage)

Essentially, the Freedom to Speak Up Guardians we interviewed had ensured they have the skills to deal effectively with concerns raised by BME colleagues. As we discuss below, however, this may not be representative of the Freedom to Speak Up Guardian network as a whole. Furthermore, a more proactive anti-racist approach may be needed to encourage BME colleagues to engage with a Freedom to Speak Up Guardian in the first place. In this respect, we would expect Freedom to Speak Up Guardians who regard themselves as allies⁹ to demonstrate an understanding of:

- their power and position
- the trepidation many people have about recounting experiences of racism
- the need to focus on their role in responding to racial bias and inequitable outcomes (and not putting the onus on marginalised groups)
- the need to make themselves accountable for who engages with them

5.4 ROLE REQUIREMENTS

There is no national standard for support and supervision on issues of discrimination. In addition, because many of the 700 Freedom to Speak Up Guardians are

⁹ 'Allies' is a term referring to people with power and privilege who are committed to building relationships with marginalised groups and challenging inequality. We note that development around allyship is becoming increasingly common in the NHS.

appointed without due process, there is no way to guarantee they have the necessary competencies.

5.5 STRATEGIES TO ENGAGE BME WORKERS

Currently, the strategies being used by Freedom to Speak Up Guardians participating in the research to engage BME staff are primarily to:

- build trust, often through difficult conversations and being patient, and through demonstrating they can be effective when BME staff raise concerns
- work to build relationships of trust and engagement with staff networks, notably the local BME ones
- be proactive, triangulating data and lived experience, and then intervening rather than simply waiting for individuals to raise concerns
- try to develop their understanding of the barriers to BME workers raising concerns and developing the listening and analytical skills combined with a degree of cultural competency that gives both them and BME workers more confidence

These strategies, however, have met with mixed success (though they may have recently gained more traction as a result of the COVID-19 pandemic and Black Lives Matter). Freedom to Speak Up Guardians noted how time-intensive their work is and how difficult it can be to build trust with BME networks. The discussion in section 5.3 about structural racism is relevant here as Freedom to Speak Up Guardians may not always understand how much ethnicity acts as a barrier to their involvement with these networks.

5.6 RESOURCING THE ROLE AND DEVELOPING THE PIPELINE OF FUTURE FREEDOM TO SPEAK UP GUARDIANS

Time is a factor that can hinder engagement strategies, constrain proactive work, and reduce the amount of time Freedom to Speak Up Guardians have to listen and sit with a colleague. Perhaps unsurprisingly, then, there was a great deal of support for the idea of having greater capacity, perhaps by having two or more Freedom to Speak Up Guardians supporting an NHS trust.

Freedom to Speak Up Guardians we interviewed were at significantly different grades but doing what seemed largely similar roles. There was some indication that the skills needed to do the job are at least at Band 8a and Freedom to Speak Up Guardians said they would welcome guidance on this.

However, there was also a recognition by some Freedom to Speak Up Guardians that making 8a level a minimum grade would be likely to act as a barrier to increasing the numbers of BME Freedom to Speak Up Guardians, since a disproportionately higher numbers of BME workers are below that grade. That led to a discussion as to how a pipeline could be created – perhaps notably using Freedom to Speak Up Champion/Ambassador roles as “stretch opportunities” with a conscious eye on developing BME Freedom to Speak Up Guardians, as well as job sharing or having multiple Freedom to Speak Up Guardians.

A number of Freedom to Speak Up Guardians raised a concern about Freedom to Speak Up Guardians not being appointed through a fair and transparent advertised process. This seems to have got worse in the last year, possibly linked with the COVID-19 pandemic. There was a general view that the post being fairly advertised and appointed was crucial for the credibility of the Freedom to Speak Up Guardian.

5.7 DATA COLLECTION

The collection of data on the ethnicity of those raising concerns (and outcomes) is patchy. Common barriers include not having the systems in place to record this information. However, in NHS trusts where data is collected and reported to the board, Freedom to Speak Up Guardians find it a useful accountability mechanism.

A good data set analysing the work and outcomes of Freedom to Speak Up Guardians by ethnicity was seen by Freedom to Speak Up Guardians as essential and several suggested a national standard should be set.

5.8 OVERVIEW AND FINAL COMMENTS

There is growing evidence that the NHS needs to pay attention specifically to whether BME workers have confidence in Freedom to Speak Up Guardians and indeed other routes for speaking up within their employers. We noted in section 3, for example, that the NHS National Staff Survey (2020) found staff with long-lasting health conditions or illnesses and staff from BME backgrounds were less likely to feel safe to speak up about concerns.

The NGO Pulse survey 3 found an increase in the percentage of Freedom to Speak Up Guardian respondents reporting workers were speaking up about the impact of COVID-19 on Black, Asian and minority ethnic workers. It more than doubled from 22% in one month to 46%. However, the most recent National Guardian's Office Freedom to Speak Up survey suggested that BME representation among the Freedom to Speak Up Guardian network may have dropped nationally from 12% in 2019 to 9% in 2020 (to 10% in trusts). That data suggests BME workers are the only group of staff from protected characteristics which are significantly under-represented as Freedom to Speak Up Guardians compared to their presence in the workforce.

Half of the respondents believed managers supported staff to speak up. Almost half of the respondents (48 per cent) reported that line managers were a source of detriment in most cases. Middle managers were the next group most likely to be identified as a source of detriment in most cases (29 per cent). The perception of middle managers may especially be an issue for Freedom to Speak Up Guardians on lower grades (who may be more likely to be of BME heritage)

Less than half (48 per cent) of the respondents said people in their organisation did not suffer detriment for speaking up. However, almost a fifth of respondents (19 per cent) felt individuals suffered detriment for speaking up in their organisation. Based

on the Francis report findings and disciplinary WRES data, there is a risk that BME workers may be particularly vulnerable to such treatment.

Respondents identified multiple groups of workers who may face barriers to speaking up. These included:

- Black and Minority Ethnic workers, LGBTQ+ workers and people living with disabilities and long-term health conditions.
- Workers without regular IT access in their roles, such as porters, domestic and hospitality workers, faced barriers to speaking up according to many respondents. Respondents had identified that these groups may miss messaging about the Freedom to Speak Up service in their organisation and did not necessarily have the same access to emails as an option to contact their Freedom to Speak Up network.
- Workers on lower pay bands had also been identified in responses to this question, along with administrative and clerical staff.
- Junior doctors on rotation, part-time workers, night shift workers and community-based workers were also mentioned by Freedom to Speak Up Guardians as facing barriers to speaking up.

These groups are likely to include disproportionately higher numbers of BME workers.

Just 15 per cent of respondents reported that they believed their ethnicity discouraged workers from speaking up to them. Though the Freedom to Speak Up Guardians interviewed and trusts surveyed represent a reasonable cross section of the type of trust and geography, those interviewed were not a random sample and were Freedom to Speak Up Guardians who expressed an interest in taking part following a request from the National Guardian's Office. They might therefore be expected to be both more interested in the issue and more aware that it was an issue that needed to be addressed. They were self-selecting volunteers, all of whom, notwithstanding their varying views on the precise nature of the barriers, shared a view that the ethnicity of staff might influence their confidence in speaking up and raising concerns with Freedom to Speak Up Guardians.

The Freedom to Speak Up Guardians in our sample supported trusts which were more likely to be rated above average in the 2020 Freedom to Speak Up Index, itself a composite of a small number of national staff survey measures. The 18 trusts included one of the highest scoring trusts in the Index, none in the ten most improved list, or those that saw the sharpest score decline in 2020. Moreover, six of the 15 Freedom to Speak Up Guardians interviewed were of BME heritage, substantially higher than the national average of 10% (NHS trusts).

The survey carried out as part of this research has significant limitations. It was distributed locally by Freedom to Speak Up Guardians. We were not prescriptive as to how it should be distributed since to have done so might have significantly delayed the process as the NHS emerged, to a degree, from COVID-19. Although

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within trusts and in aggregate they suggest some important findings, the survey data cannot be compared between trusts and should be treated with some caution.

We did not interview BME workers who were not Freedom to Speak Up Guardians, but we have some confidence that the scale of BME responses to the survey, and the fact that 40% of the Freedom to Speak Up Guardians we interviewed were of BME heritage, allowed us to have some confidence in our insights.

We considered the implications of the fact that our group of Freedom to Speak Up Guardians were not a random cross-section in the light of the 2020 NGO Freedom to Speak Up Guardian Survey, which reported that:

- Respondents identified multiple groups of workers who may face barriers to speaking up (such as Black and minority ethnic workers), and the NHS national staff survey 2020 also reported a significant difference between White and BME workers views on raising concerns
- In the 2020 Freedom to Speak Up Guardian survey, 15% of Freedom to Speak Up Guardians reported that they believed their ethnicity discouraged workers from speaking up to them (compared with more than half suggesting their age, ethnicity, gender and sexual orientation had no influence on whether workers spoke up to them)

Therefore, we decided it was reasonable to conclude that the Freedom to Speak Up Guardians we interviewed were more likely to be aware of the challenges faced by BME staff, and the skills, competencies and characteristics needed to respond to these challenges. Similarly, it seems reasonable to conclude that the survey respondents will have views that reflect that their Freedom to Speak Up Guardians were likely to be attuned to their specific needs arising from their ethnicity than might be the case had we conducted a true cross-section of the NHS workforce.

For those reasons, we have some confidence in concluding that the Freedom to Speak Up Guardians whose views are summarised in this report may be likely to have a greater grasp of the skills, competencies and characteristics required of Freedom to Speak Up Guardians to enable BME workers to raise concerns with some confidence. In addition, the staff survey returns are likely to be more positive about the responses of Freedom to Speak Up Guardians given.

We are not able to draw any conclusions as to whether survey responses for Freedom to Speak Up Guardians who did not accept the significance of ethnicity would have had the same results. We do not know, but it seems possible the responses could be different where Freedom to Speak Up Guardians did not share the understanding and skills our cohort did.

We are not able to say if similar conclusions can be drawn for other routes (a manager, a trade union representative, a health and safety representative or an HR business partner) other than whether the person approached has the appropriate skills, track record and understanding of the significance of the ethnicity of the person speaking up is likely to impact on confidence in speaking up and how well the recipient responds.

In respect of our two hypotheses, therefore, we concluded:

Hypothesis 1 stated: “There are significant additional barriers to speaking up among BME staff. Some of those barriers are shared with other staff groups, but the grey literature suggests there may be a combination of specific factors influencing the confidence of BME staff in speaking up”.

We found that the hypothesis was upheld on the available evidence.

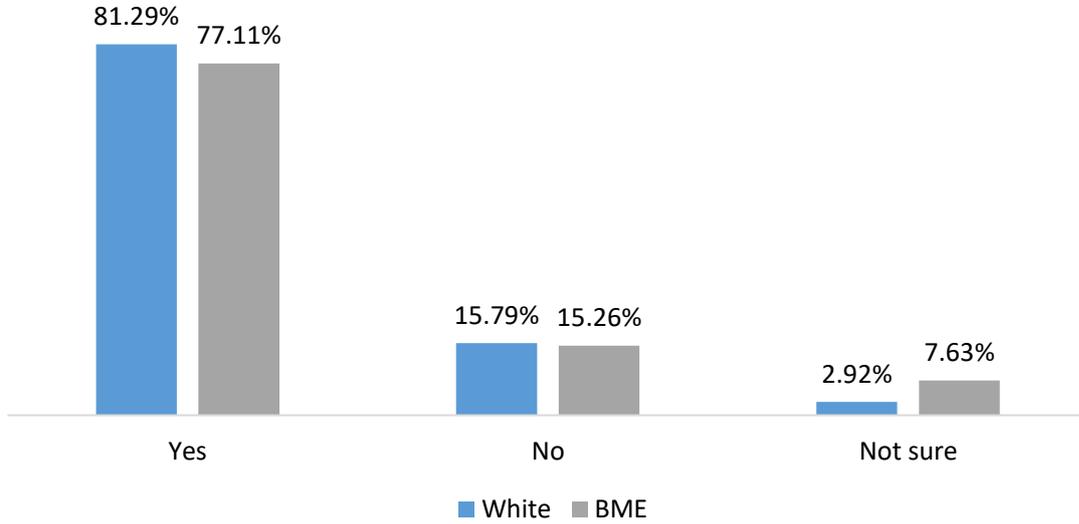
Hypothesis 2 stated: “There are mixed views among Freedom to Speak Up Guardians as to whether their ethnicity might be a factor impacting on how effectively they perform their role, i.e. both in BME workers having confidence in them and them being able to effectively respond.”

We found that the hypothesis was partially upheld

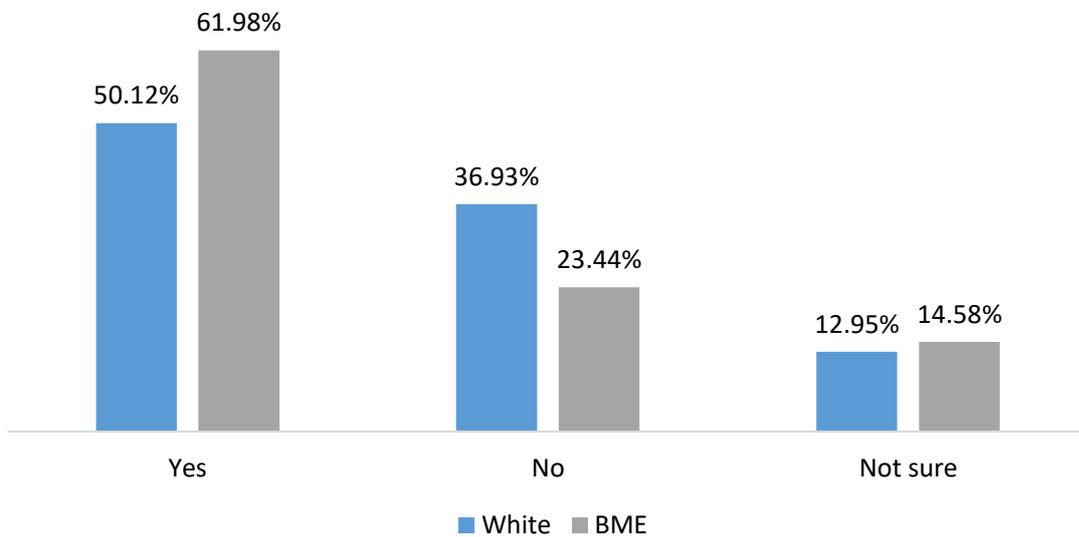
All the Freedom to Speak Up Guardians interviewed accepted that ethnicity might act as a barrier to raising concerns with Freedom to Speak Up Guardians. However, there were mixed views on the significance of different reasons why this might be so. Our survey responses suggest a difference of ethnicity between the workers raising concerns (or considering doing so) and the Freedom to Speak Up Guardian might make a difference to whether concerns were raised, though the experience of Freedom to Speak Up Guardians was generally rated as similar to that of White workers.

APPENDIX 1: SURVEY DATA

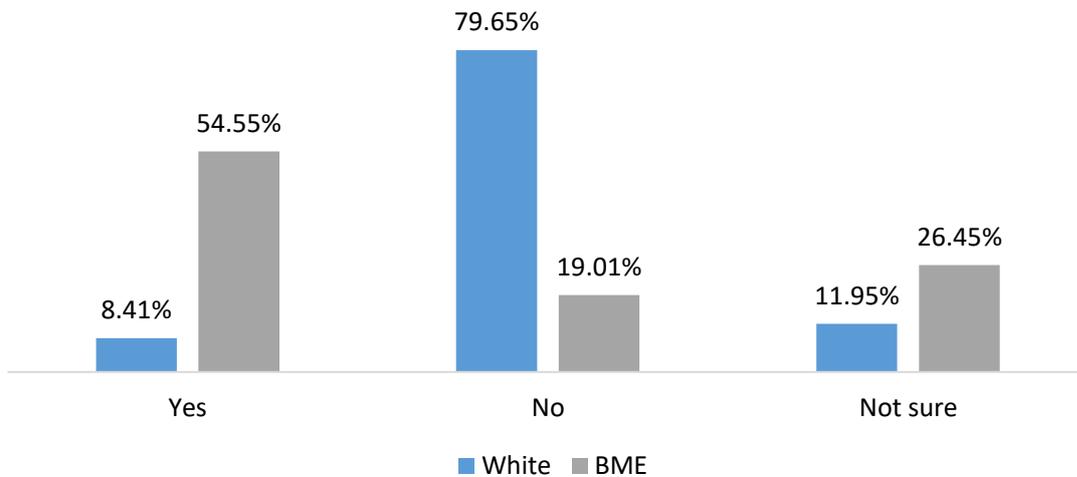
Qu 1: Before this survey, had you heard about Freedom to Speak Up (FTSU) Guardians?



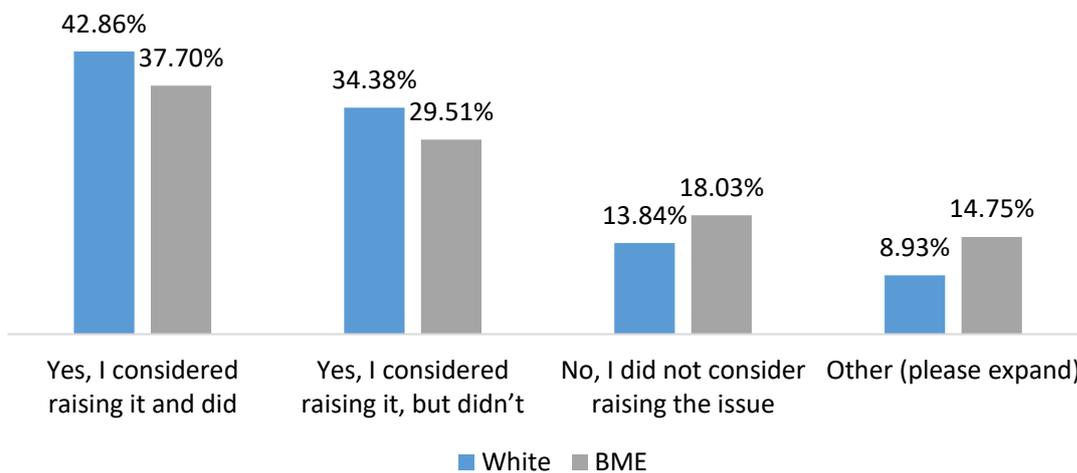
Qu 2: In the last four years, was there ever an issue that you think you could have raised with a Freedom to Speak Up Guardian?



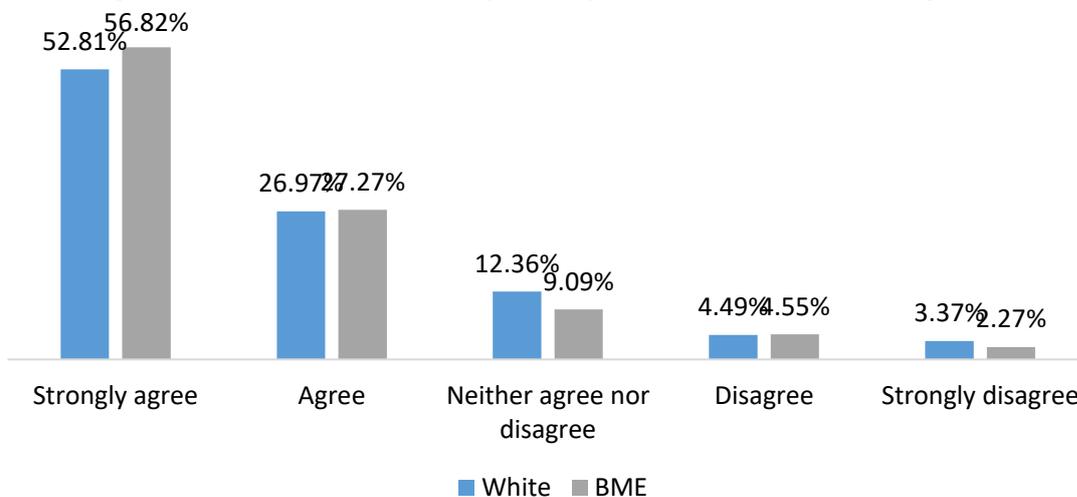
Qu 3: Did the issue involve people – staff or patients – being treated differently because of their race, nationality, or ethnicity?



Qu 4: Did you consider raising the issue with a Freedom to Speak Up Guardian?

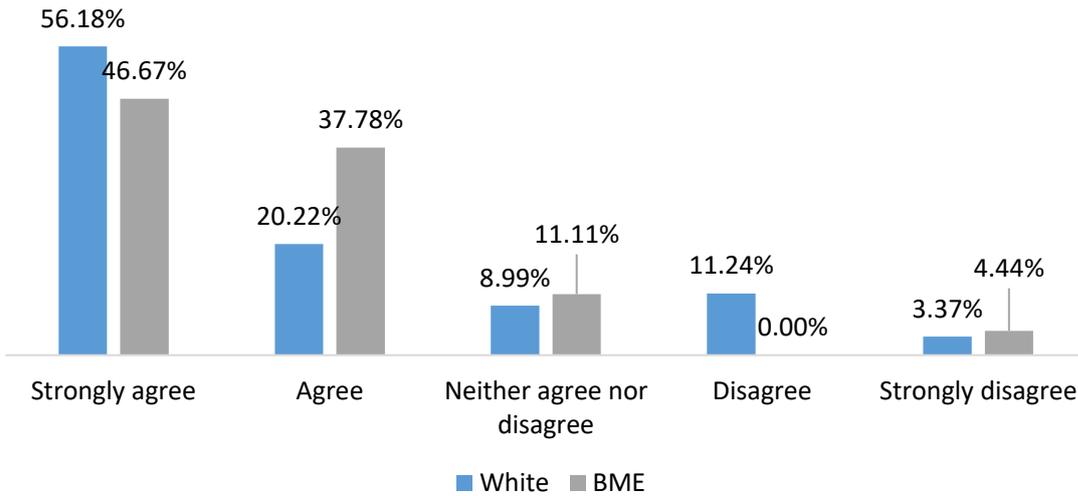


Qu 5: Do you feel the Freedom to Speak Up Guardian understood your issue?

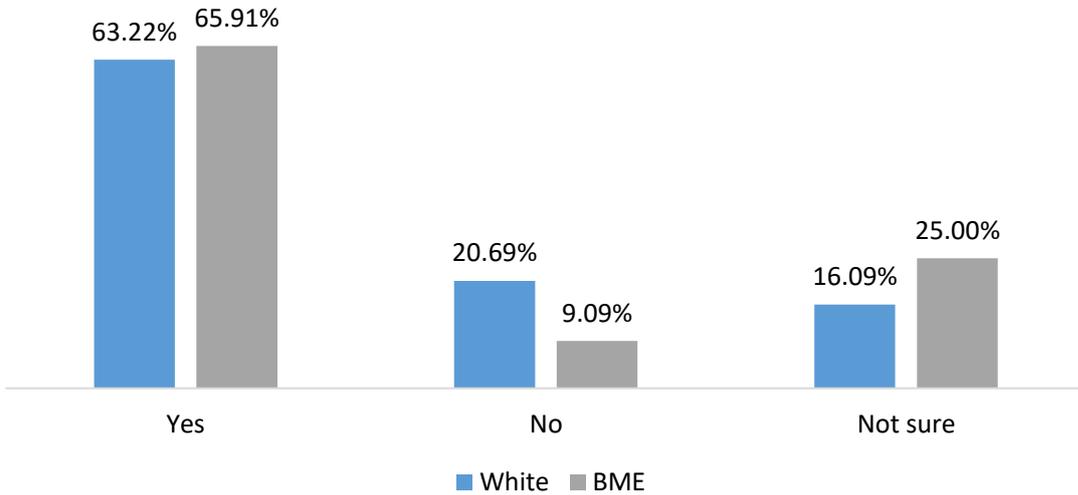


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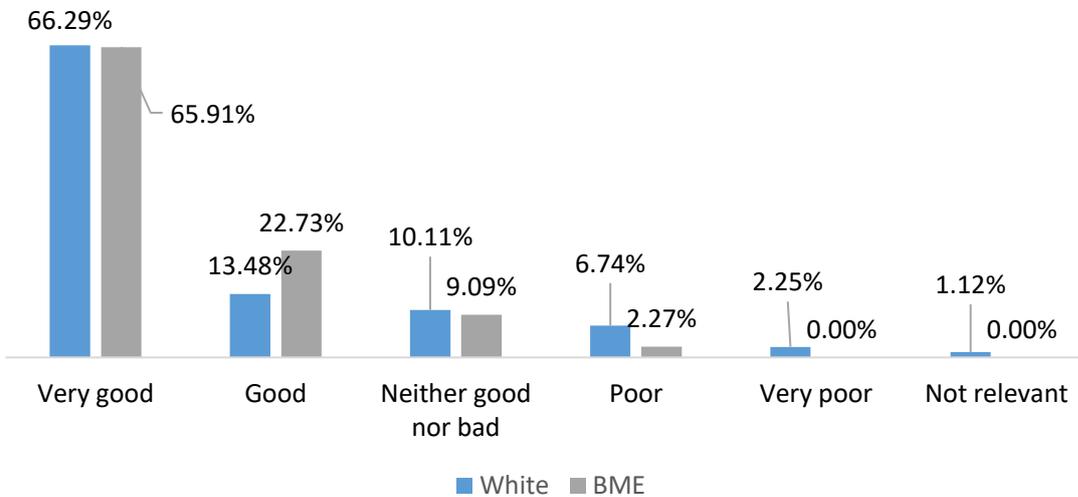
Qu 6: Do you feel the Freedom to Speak Up Guardian took the issue seriously?



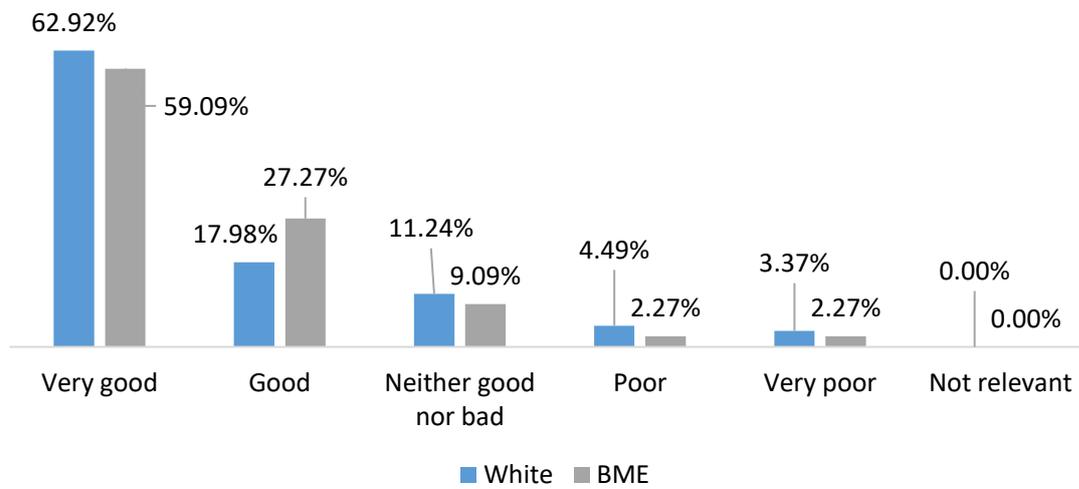
Qu 7: Did the Freedom to Speak Up Guardian raise the issue with a suitable member of staff who has the authority respond to your concern?



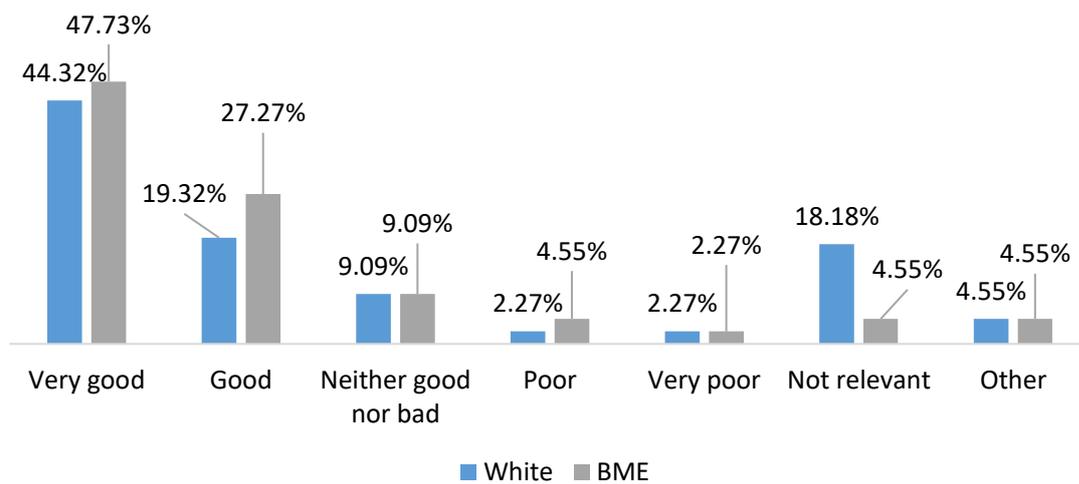
Qu 8: How would you rate your Freedom to Speak Up Guardian's listening skills?



Qu 9: How would you rate your Freedom to Speak Up Guardian's ability to empathise?

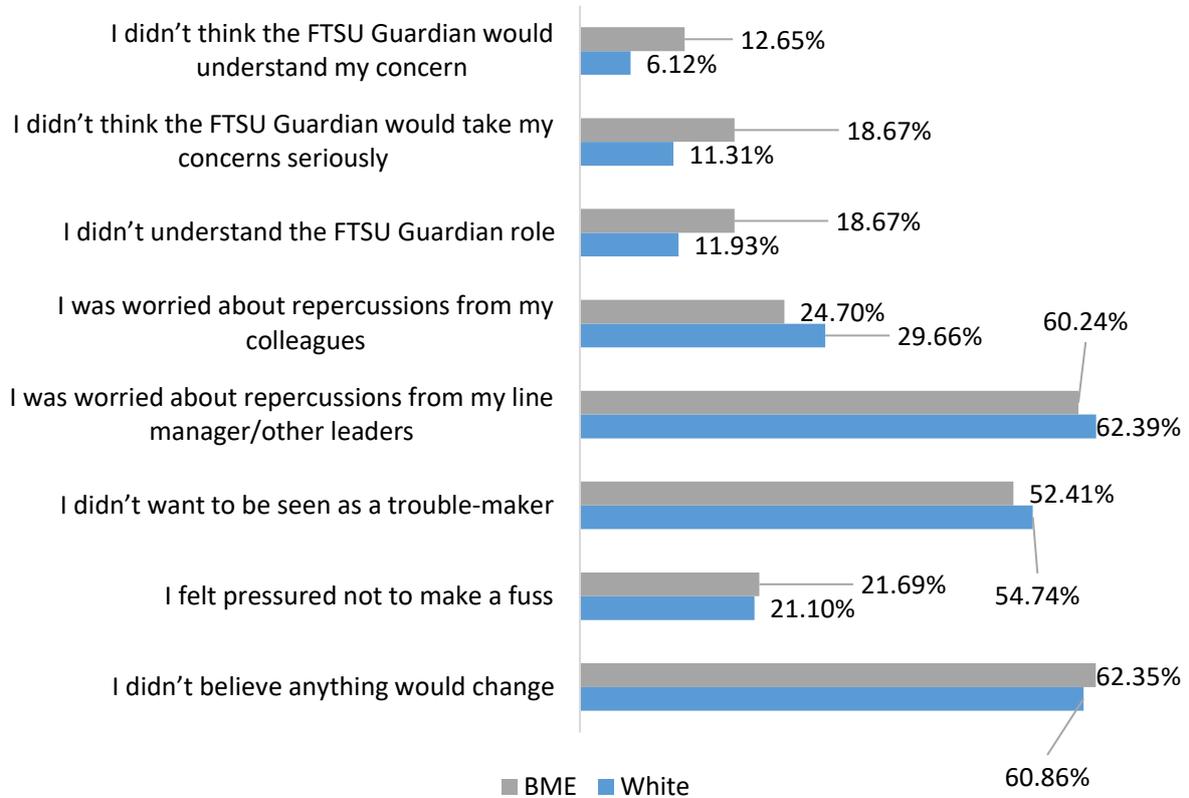


Qu 10: How would you rate your Freedom to Speak Up Guardian's understanding of discrimination and bias if that seemed relevant?

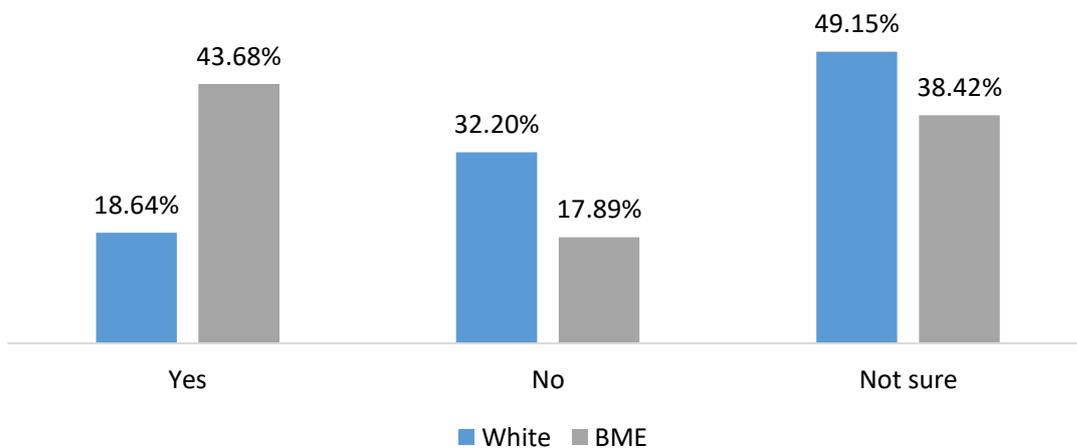


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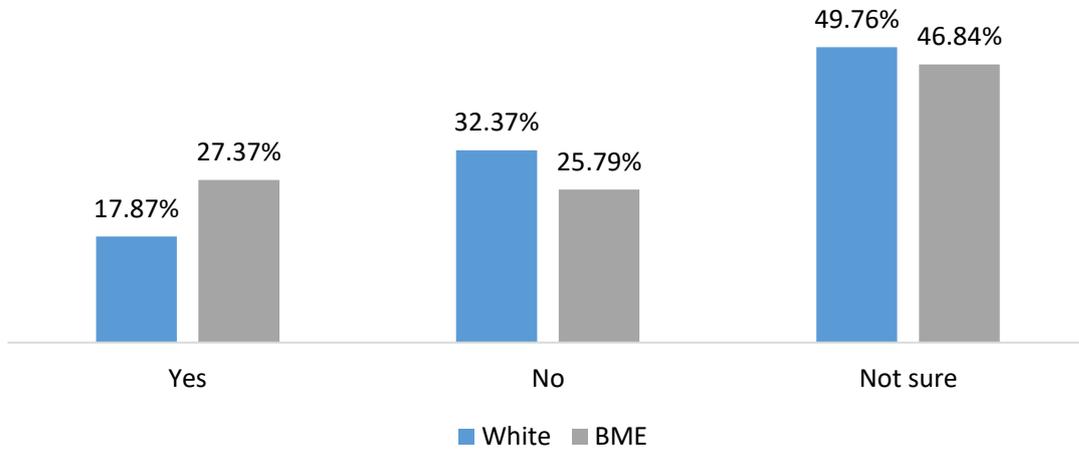
Qu 11: Have any of the following played on your mind when considering speaking up to a Freedom to Speak Up Guardian?



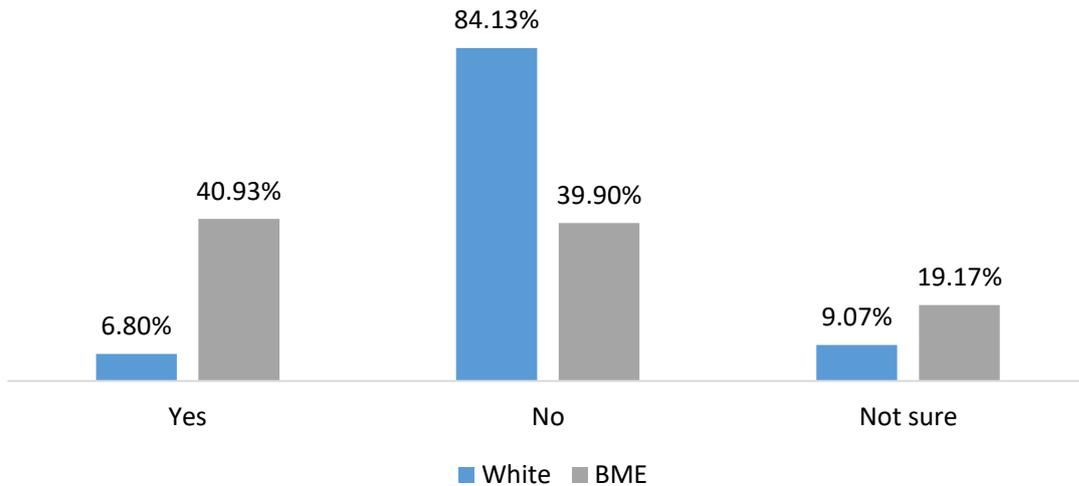
Qu 12: Thinking about your colleagues, do you think they would be more likely to speak up to a Freedom to Speak Up Guardian who was of the same ethnicity as them?



Qu 13: Thinking about your colleagues, do you think they would be more likely to speak up to a Freedom to Speak Up Guardian who was of the same gender as them?

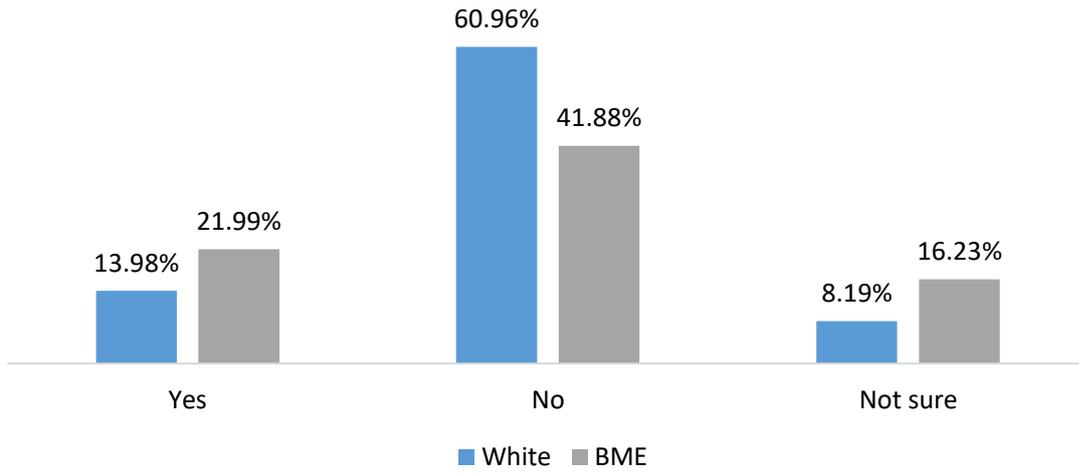


Qu 14: Thinking about yourself, do you think you would be more likely to speak up to a Freedom to Speak Up Guardian who was of the same ethnicity as you?



Qu 14: Thinking about yourself, do you think you would be more likely to speak up to a Freedom to Speak Up Guardian who was of the same gender as you?

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