

## **National Freedom to Speak Up Guardians Conference**

Responses to submitted questions

Attendees at the National Freedom to Speak Up Guardians Conference on 8 March were given the opportunity to ask our speakers questions throughout the event via Slido. As our speakers didn't have the chance to answer all the questions asked on day, we have therefore produced this document to respond to the questions put to the speakers.

As there were many overlapping themes, we have arranged our responses by subject matter to make this document more accessible to read and to avoid duplication of answers.

### Suitability of Freedom to Speak Up Guardian

<b>How will Henrietta Hughes respond to the jailing of an NHS director who was a Freedom to Speak Up Guardian? How will she help prevent unsuitable future appointments?</b>	The appointment of Freedom to Speak Up Guardians is the responsibility of individual trusts. This has been done by nomination, appointment and election in different organisations. The National Guardian's Office has provided a job description and person specification to assist trusts in these appointments. We would expect that appropriate checking of qualifications and references should be standard in the NHS.  Where concerns are raised to the National Guardian's Office about the suitability of a Freedom to Speak Up Guardian, this is communicated to the trust's Chief Executive with a request to understand how the trust is meeting the needs of their staff.
<b>How does Henrietta Hughes plan to ensure that future and current Freedom to Speak Up Guardians are appropriate for the role in the light of the recent imprisonment case of a Guardian?</b>	

## The Freedom to Speak Up Guardian role

<p><b>[Liberal Democrat MP] Norman Lamb recently commented that Guardians cannot be truly independent since they are employed by the organisation. Views?</b></p>	<p>The Freedom to Speak Up Guardian role is new and trusts have not been given prescriptive guidance regarding how the role is established. Guardians may have volunteered, been nominated or appointed after open competition, been elected and some trusts have commissioned the service from an independent company. There is also a variety of protected time allocated</p>
<p><b>Some trusts are using outside agencies for their Freedom to Speak Up function. What does that say about those trusts' culture and commitment to openness?</b></p>	<p>This variation may depend on the size and geographical spread of the organisation. The role has been filled in different organisations by an individual or a team with variation in terms of access to executive and non-executive directors for reporting and support. Freedom to Speak Up Guardians have diverse backgrounds reflecting the many types of staff groups in the NHS</p>
<p><b>Has there been any research to identify the difference between internal Guardians and the external independent Guardian Service. What are the positives and negatives?</b></p>	<p>The National Guardian's Office intends to capture data about more of the above in due course. As the office gathers more information about the differences in how the role has been established it will be able to feed this back to trusts which can then review and revise their funding arrangements and process to support staff to speak up.</p>
<p><b>If you are only working 1 day a week how can you influence the development of open and honest cultural change that Sir Robert Francis talks about in his paper?</b></p>	<p>In addition to the reactive role of Freedom to Speak Up Guardians, being available for staff who want to speak up, the role also has a proactive element. This can include attending all staff inductions, having drop-in sessions, reviewing complaints and incidents data as well as the staff survey and patient Friends and Family Test. They can also work in a network or steering group with organisational development, patient safety, union representatives, Local</p>

<p><b>Can our regulators set out the expectations of the role in terms of resources? So many colleagues have mentioned today that they have no protected time.</b></p>	<p>Healthwatch, Workforce Race Equality Standard (WRES), dignity at work ambassadors and others.</p>
<p><b>Where do you put the role in terms of banding?</b></p>	<p>In this way Freedom to Speak Up Guardians are identifying areas within their organisations that have variations in staff reporting and are working with the leadership team to improve this culture for staff. The speaking up process will also be part of CQC inspections and the National Guardian’s Office is working with CQC to produce guidance on this for inspectors and for Freedom to Speak Up Guardians.</p>
<p><b>With so many different models for the Freedom to Speak Up role, what guidance or support can you give to help establish new Guardians?</b></p>	<p>This model has not been used in other parts of the world, however the NHS in Scotland has consulted on appointing an Independent National (Whistleblowing) Officer, which can be viewed <a href="#">here</a></p>
<p><b>Where else in the world is the Guardian model used to help whistle-blowers? Has it been successful?</b></p>	
<p><b>Is it possible to measure the effectiveness of Freedom to Speak Up? How do we know how well we are doing?</b></p>	<p>This is possible by using data gathered by Guardians about their work, as well as data from other sources. For example, Guardians’ primary function is to support staff to speak up and therefore the data they gather regarding how many workers they have supported will demonstrate how well known the Guardian is and how confident workers feel in bringing their concerns to them.</p> <p>It will also be important for Guardians to seek feedback from workers on the support they received from the Guardian, once the matter is concluded. Staff surveys are another source of data about how well supported workers feel to speak up.</p>

	<p>Properly to measure Guardians' effectiveness, it will be necessary to cross-reference certain data. For example, a decrease in referrals for their support will not mean they are becoming less effective if surveys also indicate that workers are happy to report concerns, but are also reporting fewer of them. In such circumstances this could simply mean that workers have fewer concerns to raise or are able to discuss concerns with their line manager.</p>
<p><b>How do we measure the success of Freedom to Speak Up Guardians? Is it another gimmick wasting public money?</b></p>	<p>The Francis Freedom To Speak Up Review highlighted the urgent need for a change in NHS culture to support speaking up and the appointment of Freedom to Speak Up Guardians to bring about this change is essential. Guardians provide NHS trust workers with vital support to speak up about their concerns and therefore measuring how effective Guardians are in this role is key in ensuring the quality of patient services and the wellbeing of workers.</p> <p>Measuring the success of Guardians will be achieved by assessing a variety of data relating to their work, including feedback from workers they have supported.</p>
<p><b>The power of a Freedom to Speak Up Guardian and National Guardian has been repeatedly questioned by employees and leaders. What can we do to ensure that we are taken seriously?</b></p>	<p>To ensure that the role of Guardians is taken seriously the National Guardian's Office have been taking a variety of steps to underscore their role with other bodies and individuals. For example, the National Guardian's Office is providing guidance for CQC inspectors to help their assessment of how speaking up is supported in trusts, which will include helping them to evaluate how Guardians are supported. Secondly, the National Guardian's Office also works closely with NHS</p>

	Improvement to ensure that, where trusts do not adequately support speaking up, the regulator will take appropriate steps to remedy this. Thirdly the National Guardian's Office undertakes regular visits to trusts to meet with Guardians and trust leaders to explain the role of Guardians and the National Guardian's Office and how it is supported by regulators.
<b>Are trusts able to receive data from CQC about number of concerns raised to them so we can review any trends?</b>	CQC have advised us that they will be happy to provide such data directly to Guardians themselves, upon request.

### Leadership and bullying culture

<b>Will Henrietta Hughes help ensure that there are sanctions for managers who engage in serious misconduct through whistle-blower reprisal and suppression?</b>	Freedom to Speak Up Guardians have the opportunity to role model by reporting bullying behaviour that they witness. This will be challenging in an organisation that does not respond appropriately.
<b>How can we help senior leaders in the NHS to respond positively to uncomfortable truths?</b>	The National Guardian's Office will support Freedom to Speak Up Guardians who do not get the response that they need from the leadership of their organisations or if they feel that their role is being undermined. The National Guardian's Office has held engagement events for Non-Executive Directors and HR Directors and is planning further engagement with NHS Foundation Trust Governors, trust executives and non-executive Directors. Responding positively to
<b>How do we support Freedom to Speak Up Guardians if leaders, managers and consultants bully them?</b>	

<p><b>How can we encourage severe bullying concerns to be raised through whistleblowing when despite rhetoric to the contrary organisations support the bully?</b></p>	<p>uncomfortable truths requires confidence in the leadership and the system of investigation, improvement and regulation.</p>
<p><b>What training has been made available to Executive Teams and Non- Executive Directors in relation to Freedom to Speak Up?</b></p>	<p>The National Guardian's Office is working with organisations within and around the NHS to address inequities between different staff groups and different levels of seniority which inhibit the ability of staff in the NHS to speak up to improve the care they deliver to their patients and service users.</p>
<p><b>Should we as Freedom to Speak Up Guardians report bullying or act as role models to appropriately challenge bullying when it is witnessed?</b></p>	<p>Where evidence of serious misconduct is identified, for example through the case review process, this information will be shared with regulators who are able to take appropriate actions as a result.</p>
<p><b>We have introduced a happy staff - happy patients mantra. I had to dismiss few staff as the culture of bullying and victimisation is common. When do we address it?</b></p>	

## Case reviews

<p><b>Robert Francis recently said "We mustn't forget injustices" (HSJ 9 February 2017). How does the National Guardian's Office support former NHS staff treated unfairly after raising valid concerns?</b></p>	<p>As part of its remit the National Guardian's Office will review cases referred to it where the concerns of staff have not been properly handled. These are likely to include referrals from former staff members.</p>
<p><b>When will Henrietta Hughes and her team start taking referrals about whistle-blower cases that have reportedly not been handled well locally by trusts?</b></p>	<p>We have received cases for consideration since the beginning of 2017. Once the case review process formally commences the National Guardian's Office will then start assessing which cases it will select for review.</p>

## Potential for a future Mid Staffs

<p><b>Bearing in mind the financial pressures that impacted Mid Staffs, what does the National Guardian's Office think about Francis saying recently that another Mid Staffs will happen</b></p>	<p>The pressures on staff in the NHS are well documented and demand is rising. Speaking up is a cost effective form of compliance but it is only effective if the leadership responds appropriately by creating a culture where speaking up is valued and organisations are genuinely interested in feedback from their patients and staff. With Freedom to Speak Up becoming part of CQC's inspections, this will help to embed speaking up into the business as usual of NHS trusts.</p>
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## Attendance at the conference

<p><b>Why we have not included whistle-blowers from today's meeting? Why are Black and Minority Ethnic (BME) organisations not included?</b></p>	<p>The conference was aimed specifically at Freedom to Speak Up Guardians for networking and training. Invitations to have stands at the conference were extended to organisations including staff representative organisations, however not all were able to attend.</p>
<p><b>Are there any whistle-blowers at this event sharing their valuable experiences?</b></p>	<p>Within the Freedom to Speak Up Guardian community many have chosen to take on this role because of their own experience of speaking up. Health Education England have produced a film with more information, which can be viewed <a href="#">here</a>.</p>
<p><b>Today 45% doctors and 25% staff are BME. But snowy white peaks do not give me any assurance that we will address this. How do you reassure BME staff?</b></p> <p><b>Does the absence of some stands e.g. HCPC / Unison indicate that we need to recognise concerns come from ALL staff e.g. AHPs and non-clinical staff?</b></p>	
<p><b>Could we consider involving whistle-blowers in the upcoming awards ceremony?</b></p>	<p>No decisions have yet been confirmed about the format of the awards we will be hosting at the October conference.</p>

## Whistleblowing

<p><b>Should we financially reward whistle-blowers?</b></p>	<p>The Securities and Exchange Commission in the USA has set up the Office of the Whistleblower to allow staff in financial institutions to claim an award for speaking up about possible securities law violations. This can be viewed <a href="#">here</a></p> <p>The award is a percentage of the enforcement action when greater than \$1m. Additionally, fines can be imposed on organisations that come between employees or ex-employees and the Office of the Whistleblower.</p> <p>The Nigerian government has also set up a system to reward whistle-blowers who provide information about stolen funds, which can be viewed <a href="#">here</a></p> <p>The motivation for the majority of staff in the NHS is the care of their patients and imposing financial penalties on trusts rarely occurs in practice, as funds withheld by commissioners are usually returned to providers in order to address performance targets. The exceptions are fines levied by Guardians of Safer Working Hours and the Information Commissioners Office including some high profile cases by clicking <a href="#">here</a> and <a href="#">here</a></p>
<p><b>How are we going to develop more positive relations with previous whistle-blowers so that we can learn from their experiences as recommended in the Freedom to Speak Up Review?</b></p>	<p>The National Guardian's Office has already taken steps to seek the views and opinions of staff with previous experience in speaking up regarding its work and will continue to do so. For example, as part of drafting its case review process, the National Guardian's Office</p>

	<p>undertook a one month listening exercise to canvass the views of former NHS staff who have spoken up regarding its draft procedure. This generated considerable valuable feedback, which was included in the draft process.</p> <p>The National Guardian's Office will also develop an expert reference group to provide advice and guidance on its operations and former NHS staff will be very welcome to apply to join this body.</p> <p>In addition, our goal is continually to learn and develop our way of working in every aspect of our operations and we encourage everyone with an informed view to send us feedback, views and guidance about how we can improve.</p>
<p><b>How do we criminalise those who acted wrongly against whistle blower?</b></p>	<p>Where someone believes that an individual has committed a criminal act against someone who has spoken up, they should contact the police to investigate the matter.</p>
<p><b>How can we better celebrate whistle-blowers?</b></p>	<p>Wherever possible the National Guardian's Office seeks the views and ideas of workers with previous experience in speaking up regarding how it can make speaking up business as usual. An example of this involvement has been the conversation between the National Guardian's Office and interested groups to elicit their input into how the National Guardian's Office case review trial could work. As a result of that conversation, the National Guardian's Office was able to use these ideas and suggestions to develop its draft proposals.</p>

## Other organisations

<p><b>[Henrietta Hughes'] presentation identified acute, community and mental health trusts. What about commissioners who may also commission primary care now?</b></p>	<p>Where primary care workers are employed or contracted in trusts they fall under the remit of the trust's Freedom to Speak Up Guardians. In primary care, all providers are required to have nominated Freedom to Speak Up Guardians by September 2017 and the National Guardian's Office is working closely with NHS England who are leading on this. There are differences in regulations for GPs on the National Performers List and the Responsible Officers for GPs are at NHS England even if the GP is employed by the trust.</p> <p>Click <a href="#">here</a> for more information about how to identify the Responsible Officer for the individual GP.</p>
<p><b>How did the Civil Aviation Authority (CAA) establish a culture of openness in the first place?</b></p>	<p>Sean Parker (Safety Reporter at CAA) has said 'The aviation industry realised that most of the causal factors in accidents were known about before accidents happened, usually things had gone wrong previously but we "got away with it that time". To realise the potential benefits in learning from the cases where we "got away with it", i.e. identifying the latent defects or problems, legislation mandating the reporting of occurrences was introduced in the UK in 1976. Since then the industry and the regulator have consistently promoted the open reporting of problems and errors to enable learning and improvement, hopefully ultimately avoiding accidents. We have been teaching this philosophy to all new aviation personnel for the last 40 years.'</p>

<p><b>What if any links are there to Healthcare Safety Investigation Branch (HSIB)?</b></p>	<p>The National Guardian's Office has met HSIB to exchange information about their respective operations and are currently engaged in discussing how to share information.</p>
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### Engagement and guidance

<p><b>Is there/could there be a dedicated National Guardian's Office point of contact for trusts regionally to facilitate relationships.</b></p>	<p>There are 10 regional networks and the dedicated points of contacts at present are the 2 National Engagement Managers who each cover 5 regions as follows:</p> <p>Russell Parkinson – North East, East of England, South West, Yorks and Humber and East Midlands</p>
<p><b>How can we obtain guidance on writing board reports?</b></p>	<p>Lorraine Turnell – London, North West, West Midlands, South East Coast and Thames Valley/Wessex</p>
<p><b>The National Guardian's Office has asked us to record additional data such as length of service and protected characteristics of staff who approach them with concerns. Could this put staff off?</b></p>	<p>The regional networks are invaluable as sources of support where sharing and learning best practice is encouraged and facilitated. The National Guardian's Office is able to share resources that Guardians have shared with the office including board reports.</p> <p>The National Guardian's Office have shared its guidance on recording concerns that Guardians receive and clearly sets out its suggestion that information about protected characteristics is NOT requested at the initial point of contact but rather, is better addressed when seeking feedback on the service provided.</p>

**Some trust directors think that Freedom to Speak Up Guardians help people speak up and then their job is done. How do we decide when a whistle-blower no longer needs support?**

When an individual speaks up, it is essential that they are listened to, thanked, given the required support and kept informed throughout the process, asked about their experience and protected from reprisal. The role of the Freedom to Speak Up Guardian is to support and empower individuals and teams to raise concerns through the appropriate channels and processes. This support and advice continues through the investigation processes which will likely follow and any actions required as a result of that investigation.

The Freedom to Speak Up Guardian is likely to meet with those raising concerns throughout the period of time it takes to conclude the processes involved. There will usually be a final "conclusion and closure" meeting with the Guardian and, at this meeting, most Guardians would make it plain that they remain available to individuals or teams, should they feel they need to discuss the matter further.

At the same time it is important to stress that the Guardian is not a counsellor or therapist and some individuals with ongoing needs might be better supported through more formal assistance. Such assistance and support would usually be accessed via Occupational Health or General Practitioner.

Therefore the Freedom to Speak Up Guardian supports the raising of concerns and those doing so, from the start to the finish of the process that manages the concern, with an open door approach to those involved beyond the conclusion.

## Terminology

<p><b>How do we help staff understand all the terminology such as whistle blowing, speaking up, raising concerns?</b></p>	<p>Speaking up, raising concerns and “whistle-blowing” all amount to the same thing. It is important for each trust to understand how the terminology is perceived by its own staff. One trust might be comfortable using the term “whistle-blower” and that might be the key word search for a member of staff looking for the policy.</p>
<p><b>The term “whistleblowing” can have negative connotations would it make sense to introduce a universal positive term one to help shift culture change?</b></p>	<p>In another trust, “whistleblowing” might be understood as reporting matters externally or in respect of criminal offences only. The National Guardian’s Office would suggest asking your staff what they think and being consistent in your messaging. Speaking up is about anything that gets in the way of staff delivering great care. We use the term ‘Speaking Up’ to reduce the risk of confusion about what can and can’t be reported, how and to whom.</p>
<p><b>My trust leadership is very uncomfortable with the term “whistle-blower”. How can we make them understand that this is to help the trust?</b></p>	
<p><b>Should we move away from the term “whistle-blower” to something more positive?</b></p>	

## Junior doctors/student nurses

<b>What is the process to protect junior doctors from losing their training place because they have whistle blown?</b>	Trainees have professional duties to speak up when things go wrong. They will be acutely aware of good and bad practice. Freedom to Speak Up Guardians are best placed to engage with them at team meetings and staff inductions and to offer the absolute reassurance that is required when considering reporting concerns about someone who may be signing off your training record.
<b>Will Freedom to Speak Up or raising concerns be incorporated into the student nurses curriculum?</b>	
<b>How do we engage doctors, particularly trainees with their responsibility to raise concerns and Freedom to Speak Up?</b>	

## Support

<p><b>Sometimes staff comment that it is not worth speaking up, that the Freedom to Speak Up Guardian might listen but nothing gets done. How do we address this?</b></p>	<p>Apathy around speaking up can be addressed by effective feedback to the individual(s) speaking up and by wider communication to the staff both before and after the event. Trusts could consider sharing case studies, positive and negative, where appropriate and with consent, where someone having spoken up has made a difference to the way in which the trust operates. Even when a matter reported cannot be resolved immediately or at all, communicating this to the staff at an early stage and keeping them informed as to the reasons why and any developments in the process goes a long way to ensure that workers feel valued and ‘listened to.’</p> <p>Staff speaking up happens all the time in trusts where issues are raised and resolved without the individual even being aware of the significance of what they are doing. The Freedom To Speak Up Guardian is not there to interfere with this process nor act as a substitute for it. Culturally, trusts should be encouraging the use of existing line management processes and ensuring that managers have the requisite knowledge and training to respond well to concerns.</p> <p>Trusts also have the responsibility to promote The Freedom To Speak Up Guardian role as an additional channel for staff to speak up if existing arrangements are, for whatever reason, unavailable or undesirable.</p> <p>When faced with a situation where staff members raise concerns that are possibly malicious, the Freedom To Speak Up Guardian is not there to consider the veracity of the complaint or to determine the</p>
<p><b>How do we deal with a situation where staff members raise concerns that are possibly malicious to an individual or to the organisation on a whole?</b></p>	
<p><b>What is the responsibility of the Freedom to Speak Up Guardian if the whistle-blower becomes sick or leaves the organisation?</b></p>	
<p><b>Do/should ex-employees have access to local Freedom to Speak Up Guardians to raise concerns?</b></p>	
<p><b>When someone comes to us with a concern but wants to remain anonymous, what can we do?</b></p>	
<p><b>How do we distinguish ourselves from being another “staff side” organisation?</b></p>	

**Is there a link to safeguarding process in our organizations (currently already mandatory training)?**

outcome. They can have a role in helping the staff member distil and clarify, if necessary, the matter they want to report so that they can best support that person by ensuring that the issue is properly signposted and investigated. However, they are not staff-side and are not there to represent individuals the way in which a representative would by giving employment or legal advice or by accompanying staff to grievance or disciplinary hearings. They will not act as a shield for a staff member found to have made allegations purely to cause distress or damage. They should not compromise their integrity or independence in a case.

If the person who has spoken up moves to a new organisation, we would hope that they and the Freedom To Speak Up Guardian would have agreed what further support the individual might require, how they might be informed, as far as possible, of the result of the investigation. Some staff groups such as junior doctors move around frequently and it is important for trusts to consider how they might allow those groups to get feedback on their speaking up, for example, by activating the function of Datix that sends the results of investigations at the conclusion of the case or by some other method.

Similarly, if the person who spoke up is off sick, and especially if the sickness is as a consequence of their speaking up, or they are suspended, the National Guardian's Office would hope that the trust's HR department would work with the Guardian to allow for the individual to have the continuing support of the Guardian if that is requested.

Attendance at new staff induction meetings is a valuable way for staff who have left an organisation to be supported when they arrive at a new trust.

If someone wants to remain anonymous when reporting a concern, that

	<p>is their choice and the Freedom To Speak Up Guardian must do what they can with the information given. It is important to record as much information as possible, not only in order to properly evaluate the same but also in case the individual gains the courage, in time, to reveal their identity to the Guardian and possibly wider. It does not stop the matter being dealt with as far as possible but it can often make the concern more difficult to investigate as there is no ability to ask questions, seek clarification or check information. It is also difficult to give any feedback to the person and almost impossible to protect them from reprisal or to stop others guessing their identity</p>
	<p>Some information passed to a Freedom to Speak Up Guardian as part of a request to support a worker to speak up will also include information that relates to a potential safeguarding matter. Where this occurs a separate safeguarding alert should also be raised by the Guardian with the appropriate safeguarding manager and the local authority safeguarding team.</p>

## Training

<p><b>A priority of the Freedom to Speak Up Guardian role is culture change. It would be good to know when the training and development is going to focus on that aspect.</b></p>	<p>We have announced dates for our in-house training for Freedom to Speak Up Guardians and plans for train the trainer.</p>
<p><b>Is the National Guardian's Office considering devising a training package on responding to whistle blowing that can be rolled out, rather than individual trusts devising their own? *</b></p>	<p>*Awaiting response from HEE</p>

## Media and communications material

<p><b>Has anyone introduced a whistle blowing app in their trust and, if so, how is it working?</b></p>	<p>The National Guardian's Office is aware that some trusts are using apps to facilitate speaking up in their organisations and are working with some Freedom To Speak Up Guardians to help the office understand and evaluate the effectiveness of this.</p>
<p><b>Is this conference being recorded? It would be a great shame, and a missed opportunity, if the talks and Q&amp;As are not made more widely available. *</b></p>	<p>Yes, if you would like the audio from the conference the morning session can be downloaded <a href="#">here</a> and the afternoon session can be downloaded <a href="#">here</a></p>

<p><b>Nick's presentation was very powerful. Could we have it recorded to use in training?</b></p>	<p>Nick Harper's presentation is included in the audio recording from the conference. Nick Harper also contributed to the film made by HEE which can be found <a href="#">here</a>.</p>
<p><b>Will we get copies of today's slides?</b></p>	<p>All Freedom to Speak Up Guardians should have received these by email and an optional link to download them via Google Drive.</p>
<p><b>When will the National Guardian's Office start using social media?</b></p>	<p>There are no plans to use social media until the office has a full establishment of staff.</p> <p>The National Guardian's Office is developing an online hub, with a focus on learning. This is to facilitate the network of Freedom to Speak Up Guardians to share their work in order to help other Guardians develop their role. Further details will be announced shortly.</p>
<p><b>Can we do a poll on the question "How many Guardians have regular contact with their CEO or board"?</b></p>	<p>This question will be asked as part of the planned survey of Freedom to Speak Up Guardians</p>