

2: Reviewing our Freedom to Speak Up policy

Key findings and recommendations

Our review found that:

- The CQC Freedom to Speak Up Policy had not been updated to reflect the new national policy and guidance published by NHS England in 2022.
- A revised policy prepared in 2022 and rejected by the Board in 2022 did not reflect the national guidance in significant ways.
- There had been a lack of proactive support for the CQC Guardian, for example 2 of the 3 Guardians left and were not replaced and administrative support had been withdrawn. The remaining Guardian has continued to support people within the limitations of the available resource.
- The non-executive lead for Freedom to Speak Up at CQC left the organisation in December and has not been replaced. We are currently exploring options to cover this role.

- Our latest CQC staff survey, and feedback received from the engagement carried out for workstream 4 of this review (see [section 4](#)) show a lack of confidence in speaking up. The positive responses to the statement "I think it is safe to challenge the way things are done here" fell from 49% overall in 2021 to 29% overall in 2022.
- There is therefore work to be done to ensure that everyone working at CQC, including specialist professional advisors, experts by experience, contractors and people seconded into CQC are aware of the arrangements and the support available.
- While the national policy position deliberately uses the term 'speaking up' as opposed to 'whistleblowing', it is important that training and support is provided to ensure that a protected disclosure is recognised when it is made.
- A new policy will be an important first step and further work will be needed to build a vibrant speak up culture. This should be seen as part of the wider work on culture at CQC.

Aim 2: CQC has a culture, supported by effective policies, processes and practices, to listen to, act on, or respond to concerns raised by colleagues, including advisory and complementary staff, about CQC. This means staff feel safe to speak up and that speaking up is invited, welcomed, celebrated, inclusively listened to, and responded to well.

We recommend that CQC should:

- Adopt the proposed new Freedom to Speak Up policy (being presented separately).

- Take immediate steps to implement the new policy, including:
 - the appointment of an executive lead for Freedom to Speak Up
 - the recruitment of additional guardians
 - the allocation of additional resources, including ring-fenced time and administrative support.
- Use the Freedom to Speak Up 'reflection and planning tool' to inform a further programme of development and improvement, reviewing our position against all 8 principles.
- Explore and align the above development work with the wider work on culture.
- Ensure that barriers to speaking up, including ethnicity and disability, are considered and addressed, taking account of relevant guidance, including the National Guardian Office publication, [Inclusive Freedom to Speak Up](#).
- Ensure a summary of the actions identified from the above exercise is captured and reported back to Board jointly by the executive lead and lead guardian.
- Ensure effective standard operating procedures to support the policy are devised and implemented.
- Implement a programme of regular review of the effectiveness of Speak Up arrangements using the Freedom to Speak Up Quality Statement and the joint National Guardian and NHS improvement tool.

Why we looked at this area of our work

We recognised a need to update the arrangements for Freedom to Speak at CQC before this review was launched. The Board had considered and rejected a new draft policy in 2022, requesting that further work be undertaken.

The circumstances that led to this review raised questions about the level of awareness of 'Speaking Up' as a concept and of the support available to people at CQC. This question of awareness applies equally to people who want to speak up, the people (usually managers or leaders) who are spoken up to and those whose role includes providing advice when issues are raised. Without a good level of awareness, opportunities to sign post colleagues to the support available may be missed.

Given CQC's role in assessing and making judgements about the effectiveness of Speaking Up arrangements in the organisations that we regulate, it is important that we lead by example. Our new Single Assessment Framework includes a quality statement called "Freedom to speak up" which states, "we foster a positive culture where people feel that they can speak up and that their voice will be heard." We should hold ourselves to account for the standards that we set for others.

As well as putting a spotlight on our own arrangements, we took the opportunity to review the arrangements with the National Guardian's Office to ensure that the role of the National Guardian is clear in respect of support to people speaking up at CQC.

What we looked at

We looked at the following sources of information when reviewing our Freedom to Speak Up policy:

- Guidance and resources provided by NHS England and the National Guardian's office. The [NHS England guidance](#) includes a standard policy for organisations including arm's length bodies. The [National Guardian for Freedom to Speak Up](#) refers to this as a basic minimum and it comes with the expectation of key consistency of approach across organisations.

- Policies from other organisations that National Guardian's Office considered to be exemplar. Contact was made with these organisations.
- Information from discussions with the likes of the National Guardian for Freedom to Speak Up, CQC's Guardian and Guardian team at NHS England. Internally the team attended 2 meetings with the Trade Unions to explain the background and approach and after the draft policy was issued. Meetings were held with 2 non-executive directors with a special interest in Freedom to Speak Up and their comments played into the review.
- The latest CQC staff survey results and the feedback from discussions held as part of workstream 4. This left no doubt of the need for a significant reset of approach and the need to rebuild confidence in Speak Up, both in terms of process and importantly, in speak up culture.

We also considered 3 elements which emerged across the wider review. Consideration of a 'protected disclosure' in the context of whistleblowing was the first aspect, which covered how people are supported to recognise it and respond appropriately. Secondly we also considered the need for good communication with specialist professional advisors, and those working with them, to ensure they were aware of the arrangements for speaking up. Finally, we considered the need to recognise and address the impact of ethnicity on speaking up. This is explored in [research commissioned by the National Guardian's Office](#) and conducted by Roger Kline and Ghiyas Somra, which informed the National Guardian publication [Inclusive Freedom to Speak Up: Appreciating how what we bring to the workplace impacts on speaking up](#).

We noted the Joint National Guardian and NHS improvement tool [Freedom to Speak Up – A reflection and planning tool](#). This is designed to identify strengths and areas for development and is recommended to be completed every 2 years. The tool identifies 8 principles:

1. Value speaking up
2. Role model speaking up and set a healthy Freedom to Speak Up culture

3. Make sure workers know how to speak up and feel safe and encouraged to do so
4. When someone speaks up, thank them, listen and follow up
5. Use speaking up as an opportunity to learn and improve
6. Support guardians to fulfil their role in a way that meets workers' needs and National Guardian's Office requirements
7. Identify and tackle barriers to speaking up
8. Continually improve our speaking up culture.

We also noted the current arrangements for the National Guardian's Office in relation to CQC. The National Guardian's Office provides support to the CQC Guardians on the same basis as with NHS providers. Consideration of any changes to formal governance arrangements is a matter for the Department for Health and Social Care and sits outside this review.

What we found from our review

This review highlighted that CQC's Freedom to Speak Up Policy had not been updated to reflect the new national policy and guidance published by NHS England in 2022. This has now been done in line with our established procedures for revising policies, and proposed updates will be presented to the CQC Board for approval in March.

A new policy will be an important first step and further work will be needed to build a vibrant speak up culture. This should be part of the wider work on culture at CQC.

We also identified a lack of proactive support for the CQC Guardian, for example 2 of the 3 Guardians left and were not replaced, and administrative support had been withdrawn. The remaining Guardian has continued to support people within the limitations of the available resource.

The non-executive lead for Freedom to Speak Up at CQC left the organisation in December and has not been replaced. We are currently exploring options to cover this role.

Our latest CQC staff survey, and feedback received from the engagement carried out for workstream 4 of this review (see section 4) showed a lack of confidence in speaking up. The positive responses to the statement "I think it is safe to challenge the way things are done here" fell from 49% overall in 2021 to 29% overall in 2022.

There is therefore work to be done to ensure that everyone working at CQC, including specialist professional advisors, experts by experience, contractors and people seconded into CQC are aware of the arrangements and the support available. While the national policy position deliberately uses the term '[speaking up](#)' as opposed to 'whistleblowing', it is important that training and support is provided to ensure that a protected disclosure is recognised when it is made.

The need for rapid and significant improvement was recognised and accepted as the current policy, practice and governance was so far from best practice.

Recommendations for action

Improvements are needed to ensure that CQC is leading by example and that people working at CQC feel that speaking up is encouraged, supported, valued and that it makes a difference. We recommend that CQC should:

- Adopt the proposed new policy (being presented separately).
- Take immediate steps to implement the new policy, including:
 - the appointment of an executive lead for Freedom to Speak Up
 - the recruitment of additional guardians
 - the allocation of additional resources, including ring-fenced time and administrative support.

- Use the Freedom to Speak Up 'reflection and planning tool' to inform a further programme of development and improvement, reviewing its position against all 8 principles.
- Explore and align the above development work with the wider work on culture.
- Ensure that barriers to speaking up, including ethnicity and disability, are considered and addressed, taking account of relevant guidance, including the National Guardian Office publication, [Inclusive Freedom to Speak Up](#).
- Ensure a summary of the actions identified from the above exercise is captured and reported back to Board jointly by the executive lead and lead guardian.
- Ensure effective standard operating procedures to support the policy are devised and implemented.
- Implement a programme of regular review of the effectiveness of Speak Up arrangements using the Freedom to Speak Up Quality Statement and the joint National Guardian and NHS improvement tool.

This will be evaluated through the deployment of the reflection and planning tool described and further enhanced by assessment against the Freedom to Speak Up Quality Statement. Progress will additionally be measured through our staff surveys.

Evaluation

There should be a thorough evaluation of how well CQC supports people at CQC to Speak Up following the implementation of recommendations from this review. This should seek to understand whether CQC has improved its practices against the following aims in this review:

- CQC has a culture, supported by effective policies, processes and practices, to listen to, act on, or respond to concerns raised by colleagues, including advisory and complementary staff, about CQC. This means staff feel safe to speak up and that speaking up is invited, welcomed, celebrated, listened to, and responded to well. [Aim 2]

Six months after this review is published, CQC should look at progress against the implementation of the recommendations. After 12 months there should be an evaluation report on the outcomes of CQC's response and this should mark the formal close of the review. The evaluation should then continue to understand the full impact of the recommendations in achieving the aims set out.

To evaluate how this review has impacted CQC's ability to support people at CQC to Speak Up, possible methods include:

- recommendation tracking
- a survey of all CQC colleagues including those who have raised a concern
- a survey for all advisory and complementary staff exiting CQC
- focus groups with CQC colleagues to understand whether they feel safe to raise their concerns
- focus groups with CQC colleagues who have requested reasonable adjustments to understand their experiences
- focus groups with those responsible for handling whistleblowing and information of concern about care
- focus groups with those responsible for responding to concerns about CQC raised by CQC colleagues. The groups will include advisory and complementary staff, People Directorate colleagues, Complaints Team and the guardian(s)
- focus groups with advisory and complementary staff about their appointment, contracting and deployment
- analysis of whether CQC has responded to or acted on information of concern about CQC, and how this varies by protected characteristics.