

A National Guardian for the NHS – **your say**

Improvement through
openness

September 2015

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Improvement through openness

A new culture of openness is needed in the NHS. To improve safety and make the health service a better place to work, we need leadership and a culture that places less emphasis on blame when things go wrong and more importance on transparency and learning from mistakes in the NHS.

The creation of the new National Guardian for the NHS can help transform the way people think about and respond to staff concerns. Working with local guardians at NHS trusts, a new National Guardian can play a pivotal role in cultural improvement within the health service.

Since the February 2013 publication of the Public Inquiry report about Mid Staffordshire NHS Foundation trust, significant progress has been made to ensure that everyone using the NHS receives safe, effective, respectful and compassionate care.

In some places, however, there is still a culture of institutional defensiveness, where mistakes are denied and the opportunity to learn and improve care is missed. The evidence in Sir Robert Francis QC's *Freedom to Speak Up* review detailed the price paid by too many NHS staff who spoke up with their concerns about the quality of care. People who should have listened to those concerns, and acted upon them, responded instead with evasiveness and hostility.

The National Guardian is a stage in the journey towards openness in the NHS, and this consultation sets out how we believe they can contribute to culture change, working together with Local Guardians. We want to hear people's views, including staff who have raised concerns, and those who have experience of listening, investigating and responding to concerns that are raised. This is an opportunity to continue the national conversation started by Sir Robert Francis about the importance of raising concerns in a safe and open culture.

David Behan

Chief Executive

1. Introduction

In response to concerns about culture in the NHS, the Secretary of State for Health commissioned Sir Robert Francis to carry out an independent review: *Freedom to Speak Up*. The review recommended the creation of a National Guardian. This consultation asks how CQC should establish this role.

The National Guardian is intended to fill a gap in the system for staff who have raised concerns and feel that those concerns have been poorly handled by their employer or other bodies. The role will provide high profile national leadership. The National Guardian will support the Local Freedom to Speak Up Guardians and help create a culture of openness within the NHS, where staff are encouraged to raise concerns, lessons are learnt and care improves as a result.

The Department of Health consulted on whether CQC was an appropriate host for the National Guardian. Overall, the consultation received 106 responses with 75 commenting on the National Guardian. The majority of these (56) were in full support of the role being hosted by CQC, and among those who disagreed there was no consensus on a better host.

CQC has been asked to host the National Guardian because the work of the Guardian is consistent with our purpose. Hosting the National Guardian, on behalf of Monitor, the Trust Development Authority and NHS England, has advantages over creating a new body that would require new legislation and incur greater costs. Placing the National Guardian with CQC is consistent with and complementary to existing work that we do with staff who raise concerns, as well as work we do in assessing providers' handling of staff concerns.

We welcome the opportunity to host the National Guardian and to contribute to the culture change that is needed throughout the system to make speaking up a normal part of working in the NHS. Establishing the National Guardian should support the NHS to make it safe for people to speak up and ensure a system is developed where quality and safety issues are always addressed.

The Department of Health's consultation response, 'Learning not blaming',¹ identified that the National Guardian will:

- Advise NHS organisations to take appropriate action where they have failed to follow good practice, or advise the relevant system regulator to take action.
- Deliver guidance on the Freedom to Speak Up Guardian roles and provide support to the Freedom to Speak Up Guardians when in place across trusts in England.
- Provide national leadership on issues relating to raising concerns by NHS workers.
- Offer guidance on good practice and handling concerns.
- Publish reports on the findings of the Office of the Independent National Officer (National Guardian).

The National Guardian will provide an external review of how cases are handled locally, where there is a cause for concern. The National Guardian will review the process that has been followed, but will not investigate the concern or form a judgement on the outcome of any existing investigations. The National Guardian will not remove responsibility for handling concerns from local organisations.

CQC is currently running an open recruitment for an individual to take up the post of National Guardian. We hope to appoint by the end of 2015 and for the Office to be fully operational from April 2016. The appointee will be responsible for deciding how the Office should operate and so we are not consulting on detailed proposals. Instead, this consultation sets out the principles we propose should govern how we establish the new role, the scope of the role, the four functions we believe the National Guardian should undertake, and the possible costs and benefits of introducing the National Guardian role.

2. CQC's role in relation to staff concerns

CQC's purpose is to make sure health and social care services provide people with safe, effective, compassionate, high-quality care and to encourage services to improve. CQC's role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and to publish what we find, including performance ratings, to help people choose care.

Concerns raised by care staff are a vital source of information which help us to decide when, where and what we inspect, and we assess how well providers we regulate handle and respond to staff concerns to inform our judgement and rating. An open culture towards concerns is a core component of good leadership. The National Guardian role supports CQC's purpose and role with regard to staff concerns, culture and leadership and their impact on good quality care.

The creation of the National Guardian should complement and not undermine existing effective systems around staff concerns. The role must work closely with systems regulators and professional bodies and their existing mechanisms around issues like fitness to practice, the duty of candour, and the fit and proper person requirement (FPPR). Further detail on the operation of these mechanisms within CQC, and how the National Guardian will operate alongside them, is set out below.

Assessing providers' handling of concerns

Since October 2014 we have been able to look at the processes in place to handle staff concerns as part of our comprehensive inspections. Through our new approach we assess the leadership and culture of each organisation in more depth than before. Staff confidence about raising concerns is an indicator of openness in an organisation and how it wants to learn and improve.

As Sir Robert Francis's review highlights, while there are some services that are reporting and acting on concerns about poor care as a matter of routine, this does not happen all of the time. We have found services that support staff in raising concerns about poor care, confident in the knowledge that they will be listened to and that action will be taken to address any issues that exist – but we have also found many that do not support staff. It is important that services learn from those that do this well, so that this can become a reality across the system. Every organisation needs to create and nurture an open and transparent culture of safety and learning. The National Guardian will help to create such a culture.

Fit and proper persons requirement

CQC checks that all registered providers have appropriate processes for ensuring their directors meet the fit and proper persons requirement (FPPR). Introducing this requirement for directors is an important step towards ensuring an open, honest and transparent culture.

We consider the FPPR when assessing applications for registration, and applications from existing providers to vary registration, as well as when we inspect NHS trusts and NHS foundation trusts. Using the well-led key question, we confirm that the provider has undertaken appropriate checks and is satisfied that, on appointment and subsequently, all new and existing directors are of good character and have the necessary qualifications, skills and experience to perform their work. This may involve checking personnel files and records about appraisal rates for directors. The inspection team will check providers' awareness of the various guidelines and that they have implemented approaches in line with good practice.

When we receive concerns about the fitness of directors to perform their work we will usually request a response from the provider. The response will either satisfy us that due process has been followed or will lead to a request for further dialogue with the provider, a follow-up inspection, or regulatory action. If the National Guardian receives a concern about the fitness of directors from staff there will need to be clear mechanisms to refer this, where appropriate, so it can be considered by CQC under the FPPR.

Duty of candour

The intent behind the statutory duty of candour is to ensure that providers are open, honest and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in general in relation to care and treatment. It also sets out specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology when things go wrong.

CQC's inspection approach reflects the duty of candour under its safe and well-led key questions. Inspectors look at the processes and systems a provider has in place that demonstrate how they are meeting the requirement. They will talk to staff and

people who use services and their representatives to find out whether a provider has a culture of openness, transparency and candour in line with the regulation.

As with the FPPR, if the National Guardian receives a concern relating to the duty of candour there need to be clear mechanisms to refer this, where appropriate, so it can be properly considered by CQC.

Responding to concerns raised with CQC

We want to encourage staff in provider organisations to bring us information about poor care they have experienced or witnessed. People who work within services are CQC's eyes and ears on the ground. We use their information to help us to determine who to inspect, and when and how we will carry out our inspections. Concerns raised by staff are often an attempt to prevent poor care in the future and provide vital information about potential risks of poor quality care or potential harm.

CQC, Monitor and the NHS Trust Development Authority (TDA) are prescribed bodies under the Public Interest Disclosure Act (PIDA). This means that staff can report incidents of malpractice to these bodies which they can refer to later, for example at a potential future employment tribunal.

We understand that it takes great courage for healthcare professionals to raise concerns about poor care and so we want to make it as simple and easy as possible to report concerns about poor care to us.

3. The scope of the National Guardian

The National Guardian is being established to lead culture change in the NHS where the *Freedom to Speak Up* review has identified issues of concern and where improvements are needed.

The Freedom to Speak Up review looked just at NHS trusts and NHS Foundation trusts, but Sir Robert Francis recommended that the principles be appropriately adapted and then applied to primary care. NHS England will be consulting later in 2015 on how this might work in practice. Until we know how Freedom to Speak Up will be applied in primary care, and in particular, how Local Guardians might operate, we do not believe the National Guardian role should be extended. To do otherwise would risk shifting ownership of the problem away from frontline providers and would not support the creation of a learning culture. The potential resources required for the office of the National Guardian is hard to predict accurately until it is operational. Starting with concerns raised by staff in NHS trusts and NHS foundation trusts only will allow the National Guardian to gain a better understanding of the resources needed.

For these reasons, we do not propose that the National Guardian should initially review cases of staff raising concerns in primary care, although over time we would expect the remit to be extended. We would also expect that the National Guardian's other functions around providing leadership and good practice guidance to the system could also be applied to primary care in the future.

No similar review has been undertaken in adult social care or the independent healthcare sector, and whether such reviews should be commissioned is a matter for the Department of Health. Without the same level of understanding provided by an in-depth national review, we would not presume that the National Guardian is the right solution and so we propose that the National Guardian does not cover adult social care or independent healthcare. Adult social care providers and independent healthcare providers may wish to follow the principles recommended in the *Freedom to Speak Up* review.

However we do propose to include in the scope independent healthcare providers who deliver NHS services covered by the standard contract; social enterprises; and trusts put out to franchise or where contracts have been put out to tender for large services, for example community services.

The National Guardian will not have a role in dealing with concerns raised by the public as there are separate systems which should be followed for these to be raised.

Question 1

Do you agree with the proposed scope for the National Guardian?

4. Principles for the National Guardian

We know historically that many people who have raised concerns in the NHS have been poorly treated and we know that a culture of openness and learning does not yet exist everywhere. We want the National Guardian to help change this by creating a strong network of Local Guardians; by reviewing cases where concerns appear to have been handled poorly; by advising providers on best practice; and by supporting and challenging the wider system to change (the next section on 'Functions of the National Guardian' sets out further detail.)

This is a big and challenging task, and expectations of what the National Guardian can achieve will be high. The principles below are intended to set clear parameters for how the National Guardian role will work in practice, and we would welcome views on whether these are the right principles:

- a) The National Guardian will be independent of NHS providers, and the National Guardian's decisions will be free from any interference, including from national bodies. The proposed methods of safeguarding this independence are set out in the next section.
- b) The National Guardian will have wide discretion on whether or not to get involved in specific cases. The National Guardian must be able to act swiftly, and not be hindered by bureaucratic processes.
- c) NHS providers will continue to be responsible for the effective handling of staff concerns. Culture change and learning that ultimately improve care must happen at the local level, and the National Guardian will work with Local Guardians to support this, not undermine it.
- d) The National Guardian will not circumvent existing authorised processes for raising concerns or replace existing legal remedies. The National Guardian will not second-guess or interfere with ongoing processes locally or nationally. They will challenge and support the system to change culture, including where they believe processes could be improved.
- e) The National Guardian, whilst not having specific statutory powers, will have sufficient authority from four arm's length bodies – CQC, Monitor, TDA and NHS England – to ensure recommendations are taken seriously and acted upon, where necessary by ensuring that the powers of the relevant regulator are engaged. The National Guardian recommendations on improving the handling of concerns, both locally and nationally, will have no statutory force. It is anticipated that the credibility of the National Guardian and their backing from national bodies will ensure action.

- f) The National Guardian will challenge others (locally and nationally) to look again at cases, and advise on appropriate actions rather than undertaking investigations directly. The National Guardian may consider how a case was handled, including any negative impact on individuals concerned, focusing on the process and whether this followed good practice. They will not investigate the concern, or pass judgement on the outcome of any investigation.
- g) The National Guardian will not review historic events, but may consider cases where the original concern was raised with a provider in the past but ill-treatment of the staff member currently employed by the same provider remains an issue. They would not review events in the past (such as the original raising of the concern or employment tribunal issues), but they would consider the current situation and whether the individual was being treated in line with good practice, suggesting appropriate actions if not.

In addition to these principles, the National Guardian will be observant of the relevant provisions of the Health and Social Care Act 2012, the Public Sector Equality Duty under the Equality Act 2010 and the Human Rights Act 1998.

Question 2

Do you agree that these principles are the rights ones? Are there any missing?

Independence of the National Guardian

The independence of the National Guardian is critical for the role's credibility and impact, and we would welcome views on the proposals set out below.

The *Freedom to Speak Up* review states that the National Guardian must be independent of both providers and national bodies so it is able to review their practices and make recommendations without fear of interference. As CQC is itself an independent regulator, locating the role within CQC gives the necessary

independence from providers. CQC must also ensure that the function is established in a way that safeguards its independence from CQC and the other arm's-length bodies. In doing so, there are certain accountability requirements that CQC needs to consider:

- The Chief Executive is Accounting Officer for CQC and is responsible for ensuring appropriate stewardship of public funds. Therefore expenditure that relates to the National Guardian's role and activity must be appropriately managed and bound by relevant financial controls, and be subject to the Chief Executive's ultimate oversight.
- CQC consists of the Board (including committees), Chief Executive and employees. The Board will require some oversight of the National Guardian role, given its own accountability for CQC to Ministers and Parliament.

It is the independence of judgement of the National Guardian that is critical. In a similar way to the operation of CQC's Chief Inspectors, the National Guardian's decisions over which cases to review, and their recommendations regarding those cases must be entirely free from interference from other CQC executive staff or other national bodies. They remain accountable to the Chief Executive of CQC for the overall delivery of their role and functions, just like the Chief Inspectors.

The National Guardian will be an appointment by the Chief Executive of CQC on behalf of the Board. They will not be a member of the Executive Team, thereby allowing the role to operate independently of the executive function of CQC. The National Guardian appointment will be reviewed periodically (eg every three years).

The Office of the National Guardian will be hosted in CQC's premises with access to separate and private facilities to manage confidential matters. Any information received or generated by the National Guardian, including from staff raising concerns, will be handled sensitively and confidentially. It will be covered by a restricted access protection, with access only for the National Guardian and those approved by the National Guardian and in accordance with the requirements of the Data Protection Act 1998, the Security Policy Framework and the Government's 'Mandatory Minimum Measures'.² This means that information would not be accessible or shared with CQC or other organisations unless the National Guardian decides that this is appropriate. To ensure independence, reports from the National Guardian will not be signed off by CQC or other arm's length bodies. This means that the National Guardian would be free to point out where any arm's length body, including CQC, had not followed good practice. We are interested in hearing views about how the National Guardian's reports and communications should be branded. Options include using CQC branding or the branding of all four arm's length bodies.

The National Guardian will not have any statutory powers, and so will need sufficient authority from CQC, Monitor, TDA and NHS England to ensure that reviews and recommendations made by the National Guardian are taken seriously and acted upon quickly. We propose that the relationship between the National Guardian and the

appointing arm's length bodies (Monitor, TDA and NHS England) would be governed through memorandums of understanding (MoU), an annual steering group, and an annual report from the National Guardian presented to each arm's length body's Board. It is expected that the National Guardian will have unrestricted access to the Chief Executives and Chairs of each of these bodies.

In addition to governance arrangements, the MoUs would need to cover information-sharing protocols and operational agreements. Similar agreements would be needed with other national bodies, including professional regulators such as the General Medical Council and the Nursing and Midwifery Council, the Whistleblowing Helpline (administered by Mencap), and the Parliamentary Health Service Ombudsman. We would also envisage a steering group of national bodies to ensure that the recommendations of the National Guardian can be shared and acted upon swiftly.

Furthermore we propose that an advisory group is established including organisations that work closely with NHS staff.

Question 3

Do you agree that the proposed arrangements will be enough to effectively ensure the National Guardian's independence, and provide effective governance?

Question 4

How should communications from the National Guardian be branded?

5. Functions of the National Guardian

The National Guardian will be charged with leading culture change in the NHS when it comes to raising concerns safely, handling concerns effectively, reporting transparently and sharing the learning from concerns. It is a challenging remit, and expectations will be high. We believe it is important to set out as clearly as possible what functions the National Guardian will undertake to discharge its duty. We propose four functions, which are described below:

a) To build a strong network of Freedom to Speak Up Guardians

CQC believes that the Local Freedom to Speak Up Guardians within every NHS trust will make a key difference to staff being able to raise concerns. A culture of safety and learning can only be developed if providers take prime responsibility for encouraging staff to raise concerns, and handling them in an open and transparent way. The Local Guardians can help to ensure local ownership of this issue, and their effective functioning will be critical to the success of the national role.

In the spirit of these appointments, CQC will be appointing its own Freedom to Speak Up Guardian to support our staff in raising concerns and responding to these in a way that helps us to learn and improve.

Local Guardians will report to the Chief Executive of their organisation to ensure local ownership, but we believe there is a key role for the National Guardian in providing professional support and advice, and nurturing a strong network of individuals who can lead culture change in the NHS. This may include convening regular meetings, sharing learning, supporting networking, and enabling local Guardians to stay in touch with each other and the National Guardian.

Local ownership will mean a degree of local flexibility is needed in how the roles operate. However, we believe that they should be underpinned by a consistent framework, including person specifications, and that post holders should receive standard training. The National Guardian will have a key role in designing this framework and in advising Health Education England on the training they receive. Once appointed the National Guardian will produce advice on implementation of the Local Guardian role, building on the good practice already taking place in those trusts who have already taken this role forward. It is recognised that some trusts have already appointed Freedom to Speak Up Guardians and we are not discouraging trusts from taking this step before the framework is developed.

The Local Guardians will be appointed by the Chief Executive of their organisation to act in a genuinely independent capacity. They should be the first point of call for individuals who do not feel that their concerns are being dealt with appropriately through the usual systems (for example, having raised with their line manager they do not believe the issue has been considered). They will provide advice and support to staff about raising and handling concerns, and also to the trust's Chief Executive and Board. They will also, however, be able to raise concerns with the National Guardian if

they have lost confidence in their trust's leadership, or consider good practice has not been followed in the handling of concerns.

The National Guardian will publish reports on numbers, themes and trends in concern handling, and may request information and analysis from Local Guardians to support this reporting function.

Question 5

Do you agree with our proposal that the National Guardian should build a strong network of Local Freedom to Speak Up Guardians, and do you have additional ideas for how this should be delivered?

b) To review how staff concerns have been handled

The National Guardian will have wide discretion over whether or not to review how individual concerns have been handled. This will be in situations where it appears good practice has not been followed locally and the individual has suffered detriment and/or safety and quality issues raised have not been investigated and resolved.

As the National Guardian will not have any statutory powers, this would not be a system of case management, would not involve specific investigation, and would not be a means of appeal. Staff looking for advice on how to raise a concern or what to expect should continue to contact the Whistleblowing Helpline, or their Local Freedom to Speak Up Guardian.

The National Guardian will have wide discretion as to which cases they consider. Where the National Guardian decides to review an individual case, they will focus on the process that has been followed, and consider whether or not it represents good practice. They will not come to their own separate judgement about the merit of the concern raised or the outcome of investigations. They may however make recommendations to NHS trusts and NHS foundation trusts, arm's length bodies or other national bodies to look again at how they handled an individual case, and suggest actions they should take to ensure good practice is followed.

These recommendations will have no statutory force. Where the National Guardian feels regulatory action is needed, they should be able to refer issues to CQC, Monitor, TDA and NHS England (those raising a concern may be signposted to other relevant organisations outside system regulators such as professional regulators or

ombudsmen). It will then be for these bodies to decide what action they consider appropriate in the light of the National Guardian's recommendations.

Staff members will be able to contact the National Guardian through a confidential web form either directly or by phoning a call handler who will complete the form for them. Before contacting the National Guardian, individuals should:

- Go through relevant NHS trust processes for raising and managing a concern.
- Contact the Whistleblowing Helpline if they need advice.
- Contact the Freedom to Speak up Guardian at the trust if one exists.
- Understand that the National Guardian does not manage cases or investigate, but will provide independent advice.
- Be clear that their concern is about a current or ongoing issue (from April 2016 onwards).

The Office of the National Guardian, or a member of their team, will review the initial information and then contact the person raising the concern. The length of time taken to go through formal processes is often a source of major frustration to staff who feel a concern they raised has been handled poorly. The National Guardian will want to avoid adding to this frustration and as such will need to establish mechanisms for responding within reasonable timeframes and sharing these publicly.

All information shared with the National Guardian following the initial contact will be stored confidentially and will not be shared outside the Office of the National Guardian. As previously stated this means that information would not be accessible or shared with CQC or other organisations unless the National Guardian decides that this is appropriate.

The National Guardian may use the information to help compile reports on numbers, themes and trends in concern handling, but this would never disclose confidential information.

Question 6

Do you agree with our proposal that the National Guardian should review how concerns have been handled in individual cases, where serious issues appear to exist, and do you have additional ideas for how this should be delivered?

c) To support and advise providers

The National Guardian will advise providers on good practice in responding to staff concerns and will set out how providers can implement good practice based on existing guidance. In addition to the provision of general information, this will also include responding to direct requests from providers.

Where a specific case is raised with the National Guardian (either by a provider or staff member), the National Guardian can provide advice on processes, including identifying where good practice has not been followed and suggesting actions to correct this. However, the National Guardian will not actively intervene in ongoing provider processes or employment disputes. For example, the National Guardian may recommend to an employing provider that it arrange for an independent investigation into a concern. In another case they may suggest that some form of mediation is attempted.

Monitor, TDA and NHS England are considering how to implement the *Freedom to Speak Up* review recommendation around supporting staff who have raised concerns to find employment in the NHS. The National Guardian will advise on the creation of any scheme, and will also be well-placed to advise providers on its implementation.

The National Guardian will act with the authority of CQC, Monitor, TDA and NHS England rather than having any statutory powers itself. Where the National Guardian finds that a provider has not followed good practice, it will be able to refer issues to these national bodies.

The National Guardian will capture information on the type and volume of concerns being addressed coming from providers so that this data can be monitored, trends identified and used to inform the National Guardian's annual report.

Question 7

Do you agree with our proposal that the National Guardian should support and advise providers, and do you have additional ideas for how this should be delivered?

d) To provide challenge and support for the system

The National Guardian will have a highly visible role in providing challenge and support to the system, including sharing good practice, reporting on common themes in concerns raised and actions taken, identifying barriers to improvement and how these might be overcome, and reporting on progress towards the creation of a safe and open culture. Recommendations from the National Guardian will have no statutory force alone and so the National Guardian will work with other national bodies to influence a change in culture throughout the NHS.

The National Guardian will ensure that there is a coordinated approach to advice which is offered across the system to avoid duplication and potential confusion. It will be important to ensure that those speaking up can differentiate between the National Guardian and other initiatives to support the system such as the FPPR requirement and duty of candour. The Office of the National Guardian will also work alongside and in communication with the Whistleblowing Helpline.

Question 8

Do you agree with our proposal that the National Guardian should provide support and challenge to the system, and do you have additional ideas for how this should be delivered?

Question 9

Do you agree that the four functions described are the right ones to enable the National Guardian to discharge its role, as described in the Freedom to Speak Up review?

Question 10

Do you have any further views on how the National Guardian should discharge its role?

6. Assessment of costs and benefits

We are developing the National Guardian role alongside considering its likely costs and benefits. We outline below what we think the impact will be for all those affected. We would welcome views on this assessment, and further examples of likely costs and benefits to you or to your organisation.

Costs

The Office of the National Guardian

We will aim to appoint the National Guardian by December 2015 and they will be supported by a small transition team. These in-year costs are being absorbed by CQC within our 2015/16 budget. The permanent team will be established from April 2016/17, and the National Guardian will determine what staff will support him or her in this role. As such, we are not yet able to set out what the ongoing cost of the permanent team will be. We will include this information when we publish our final assessment of the costs of the team when the final policy is announced in April 2016.

CQC supporting the National Guardian

Although the National Guardian will operate independently of CQC, only reporting to our Chief Executive, there will still be costs to CQC. For example, CQC's intelligence team could provide analysis to support themed reviews carried out by the National Guardian. The CQC legal team will provide advice to the National Guardian. The CQC engagement team will receive Parliamentary questions and freedom of information requests which would then be forwarded to the National Guardian. Costs will also be incurred in developing web forms and other information technology requirements.

Contact with the National Guardian is designed to be digital in the first instance, in order to represent maximum value for money for tax-payers. However the online

service would need to have telephone support ('assisted digital') for those people who cannot or do not want to use the web form. It is likely that our contact centre, the National Customer Service Centre, will require operational changes, for example setting up a new phone number. Selected National Customer Service Centre staff will also have to be trained to deal with the different types of confidential calls they will receive.

Provider organisations

Once the National Guardian has made its recommendations, provider organisations might choose to make changes to their approach. Making these changes might impose costs on providers in terms of staff time spent delivering the changes or any other non-staff expenditures relating to the changes. We cannot predict what these costs might be, however in making these changes providers will be following best practice so we do not consider them a cost of the National Guardian. Instead we consider these costs to be those that a provider should incur in order to deliver safe, effective, compassionate and high quality care.

Monitor, TDA, NHS England, CQC

The National Guardian may make recommendations directed at the four arm's length bodies (CQC, Monitor, TDA and NHS England), which could require staff time to make changes and improvements. Some of these organisations will also support trusts in making improvements, which is likely to require time from their staff.

Benefits

People who use services

Ultimately it should be people who use services and those close to them who benefit from the National Guardian. Lives should be saved and harm to patients reduced from improvement in practices following a more open and honest culture in the NHS.

Staff

Staff working for provider organisations should also benefit from the existence of the National Guardian. They will feel safe to speak up, no longer fearing that their jobs could be at risk, and feel confident that their concerns will be acted on. This means the worries they might have felt in speaking up previously should be alleviated.

Provider organisations

Provider organisations should benefit as a result of National Guardian recommendations. Following best practice in handling concerns should help to establish a culture of learning and sharing of lessons. Managers should encourage staff to speak up and human resources staff should be trained to handle concerns. As a result, staff should be happier, which could lead to a reduction in staff absence and reduced recruitment and retention costs. Providers could also make savings on legal costs if cases are handled more effectively.

Question 11

Do you agree with the assessment of drivers of costs and benefits of the National Guardian and its functions? Can you provide further examples of likely drivers of costs and benefits?

7. Responding to this consultation

You can respond to our consultation in the following ways. Please send us your views and comments by 9 December 2015.

Online – use the web form at: www.cqc.org.uk/nationalguardian

By email – send your response to: nationalguardianconsultation@cqc.org.uk

By post – write to us at:

CQC Consultation: Independent National Officer

CQC National Customer Service Centre

Citygate

Gallowgate

Newcastle upon Tyne

NE1 4PA

We will consider all comments received during the consultation and will amend the guidance accordingly. We will produce a document that summarises all the responses and changes that we have made. We will provide general comments about suggested changes and amendments that we have not made.

Our consultation response will be published in February 2016.

8. Consultation questions summary

Question 1: Do you agree with the proposed scope for the National Guardian?

Question 2: Do you agree that these principles are the rights ones? Are there any missing?

Question 3: Do you agree that the proposed arrangements will be enough to effectively ensure the National Guardian's independence, and provide effective governance?

Question 4: How should communications from the National Guardian be branded?

Question 5: Do you agree with our proposal that the National Guardian should build a strong network of Local Freedom to Speak Up Guardians, and do you have additional ideas for how this should be delivered?

Question 6: Do you agree with our proposal that the National Guardian should review how concerns have been handled in individual cases, where serious issues appear to exist, and do you have additional ideas for how this should be delivered?

Question 7: Do you agree with our proposal that the National Guardian should support and advise providers, and do you have additional ideas for how this should be delivered?

Question 8: Do you agree with our proposal that the National Guardian should provide support and challenge to the system, and do you have additional ideas for how this should be delivered?

Question 9: Do agree that the four functions described are the right ones to enable the National Guardian to discharge its role, as described in the *Freedom to Speak Up* review?

Question 10: Do you have any further views on how the National Guardian should discharge its role?

Question 11: Do you agree with the assessment of drivers of costs and benefits of the National Guardian and its functions? Can you provide further examples of likely drivers of costs and benefits?

¹ Department of Health (July 2015), *Learning not Blaming: The Government response to the Freedom to Speak Up consultation, the Public Administration Select Committee report 'Investigating Clinical Incidents in the NHS', and the Morecambe Bay Investigation*, London. <https://www.gov.uk/government/publications/learning-not-blaming-response-to-3-reports-on-patient-safety>

² Cabinet Office (April 2014), *Security Policy Framework*, London. <https://www.gov.uk/government/publications/security-policy-framework>