

National Guardian Freedom to Speak Up

Case Reviews Referral Guidance

This guidance

The purpose of this guidance is to provide useful information for those considering referring a case for review to the National Guardian's Office. It briefly explains the purpose of a case review, how the review process works and how to make a referral for a case to be reviewed.

What is the National Guardian's role?

The role of the National Guardian was established following the Francis Freedom to Speak Up Review in 2015, which looked into how NHS workers should be better supported to raise concerns.

The National Guardian is independent and responsible for leading a change in the culture in NHS trusts, so that speaking up becomes business as usual.

The National Guardian's role includes providing guidance and training to Freedom to Speak Up Guardians appointed to each NHS trust and reviewing the handling of concerns raised in trusts where there is evidence that this did not meet with good practice.

Initially the case review process will begin in June 2017 for a twelve month trial period, after which a review will take place to see what changes and improvements may be necessary.

What is a case review?

The purpose of a case review is to identify any areas where the handling of NHS workers' concerns does not meet the standards of accepted good practice in supporting speaking up in NHS trusts. Examples of good practice which a review will assess how a trust has handled a concern will include those set up in the Freedom to Speak Up Review. The emphasis of a case review will be on learning, not blaming.

Where a review finds that good practice was not followed the National Guardian will make recommendations about how this can be improved.

Case reviews will also identify where NHS trusts have demonstrated good practice in supporting their workers to raise concerns, to help develop a positive culture of speaking up.

Where the National Guardian makes recommendations to support speaking up they will ask the trust in question to provide an action plan for their implementation. The National Guardian will then monitor how the action plan is put into effect. This will include liaising with the local Freedom to Speak Up Guardian, as well as trust staff to verify the plan has been implemented.

A case review will not intervene in individual cases, or look into the merits of the original concern itself. The responsibility for undertaking this role rests with other bodies, including the NHS trust in question. Instead, a case review will examine how the concern was responded to, for example, whether the worker who raised the matter received appropriate support and whether the concern was properly investigated.

Who can refer a case to the National Guardian?

The National Guardian will consider referrals from a variety of persons and bodies, including those currently working for the NHS, former workers who worked in the NHS up to two years prior to the referral and bodies responsible for regulating the work of trusts.

'NHS workers' includes bank, agency and locum staff, as well as students.

The National Guardian can also exercise discretion to accept a referral from any other source they deem appropriate.

What types of cases can be reviewed?

For a case to be suitable for review a referral should meet the following criteria:

- The case referred relates to the failure of a NHS trust to respond appropriately to a concern relating to the treatment of patients and/or workers
- And there is evidence to show that learning may be obtained from reviewing the case

How will the National Guardian select cases for review?

The National Guardian will select cases on the basis of all the information provided in the referral. As part of the referral process the National Guardian's Office may ask for additional information from the referrer to help identify the issues in the case.

The National Guardian will select a case to review which meets the above criteria and where there is evidence that considerable learning can be obtained regarding the handling of workers' concerns. This may mean that the National Guardian will not select a case where a concern has already been appropriately investigated. Where appropriate, the National Guardian will prioritise those cases where there is evidence that the handling of a concern caused significant harm to staff or patients, or created the risk of such harm.

What types of cases cannot be reviewed?

The National Guardian will only consider reviewing those cases where it practicable to do so. Cases which may not be practicable to review could include those where it is difficult to obtain evidence about the original concern due to the length of time which has elapsed since it took place.

The National Guardian is not able to investigate the merits of the original concern to determine whether there was evidence to support that concern or not. Such an investigation is the responsibility of other bodies, including the relevant NHS trust.

The National Guardian cannot review cases that are the subject of a criminal investigation or an investigation by NHS Protect

How can I refer a case to the National Guardian?

Case review referrals can be sent to the National Guardian's Office by email to:

casereviews@nationalguardianoffice.org.uk

When referring by email we recommend that you use the downloadable referral form available on our webpages. Using this form will assist us in promptly processing your referral:

<http://www.cqc.org.uk/content/national-guardians-office>

If you have any questions or difficulties making a referral please contact us on:

Phone: 0300 067 9000

Will my referral be treated in confidence?

All referrals are treated in the strictest confidence. The National Guardian's Office will only share information it receives in exceptional circumstances, where it is necessary to protect the welfare of individuals, for example where the information relates to a child or adult safeguarding matter.

While the NGO works with other agencies to ensure that the case review procedure is effective it will only share personal and sensitive information relating to individuals involved in case reviews for the exceptional reasons stated above.

What information should I provide in my referral?

In order to assist the national Guardian's Office to promptly process your referral please provide the specific information set out on the referral form on our website.

Once you have made a referral to the National Guardian you may be contacted and asked to provide additional information in order for the Office to properly process your referral.

Demographic information is included in order to help ensure that we are reviewing a representative selection of cases that are referred to us.

Is a referral to the National Guardian a protected disclosure under the Public Interest Disclosure Act?

The Public Interest Disclosure Act provides legal protection to those who make disclosures of information under Act, where the nature of those disclosures meets certain, legal requirements.

For the purposes of the Act the National Guardian's Office is a prescribed body, which means that an individual can make a disclosure to the NGO that is protected under the Act. This means any disclosure of information to us, whether or not as part of case referral, may be protected under the Act.

What happens once I have made a referral for a case review?

After you have made your referral the National Guardian's Office will consider whether it is suitable to be reviewed by staff from the Office or not. The Office may contact you for further information in order to make this decision.

Once the Office has made a decision this will be communicated to you in writing, with the reasons given for the decision.

Where the Office has decided that a case is suitable for review it is unlikely that a review can begin immediately. This is because of the limited resources of the Office. The Office will take all reasonable steps to commence a case review as soon as is practicable.

Once a review begins the Office will publish the fact that it has started to review a case into how the trust in question handled a concern raised by staff. However, no details relating to the case, including the identity of the persons concerned will be published.

How long will a case review take?

This will depend on the complexity of the case and how much information needs to be gathered and analysed. However, the National Guardian's Office will update the referrer as to the progress of the review at regular intervals.

What powers does the National Guardian have in a case review?

The National Guardian does not have statutory powers. However, the National Guardian expects trusts to reasonably support case reviews, to provide the relevant information for their completion and to take action to implement case review recommendations.

Where trusts do not reasonably support the case review process the National Guardian will refer the matter to those bodies responsible for regulating trusts, including the Care Quality Commission and NHS Improvement, so that they may use their regulatory powers to ensure trusts take effective action.

Will a case review reflect my views?

Yes, once a review is complete, but before any report is published, you will be asked to give your view whether the case review adequately met your concerns. If you wish, your views on this will then be stated in the final published report.

Will published reports protect the identity of individuals?

Yes, published reports will not contain any information which could lead to the identification of any individuals involved.

Who will see the final case review report?

Once a case review is complete the report that is written about that review will be published on our web pages. It will also be shared with all interested parties, including the person who raised the concern, the trust in question and regulators.