

National Guardian

Freedom to Speak Up

Case Review Phase Two

Frequently Asked Questions

[Type here]

1. Why is there a ‘Phase 2’ of the National Guardian’s case review process?

The National Guardian’s Office launched its pilot case review process in June 2017. After the conclusion of the pilot the office commissioned an independent evaluation of the process. Phase 2 incorporates learning from the pilot and evaluation.

2. How is Phase 2 different from the pilot case review process?

The new process will offer more options for responding to individuals who refer case reviews. In addition to undertaking a case review as we have previously done, the NGO will respond to referrals by supporting a referrer to work with the trust in question to address the points they are raising or seek support elsewhere. Alternatively the NGO will engage with the trust itself to look at the specific issue/s concerned.

3. How will the National Guardian’s Office now respond to case review referrals?

Following the receipt of a referral, the NGO will now consider responding to that referral by using one of the following options-

- **Option 1:** helping the referrer to access support to speak up, either from the trust where they work or used to work, or, where appropriate, from an external agency, such as a helpline or a regulator;
- **Option 2:** where appropriate, engaging or working with the NHS trust in question to address the issues raised in the referral. The NGO will publish a summary of the case and improvement actions that the trust will take. This contrasts with option 3, described below, where the trust develops its actions in response to the review *after* the NGO has published its report.
- **Option 3:** where appropriate, undertaking a broader review, in the same way as the office carried out reviews during the pilot process, and publishing its findings and recommendations for learning and improvement.

4. Why has the National Guardian’s Office introduced the Option 1 response to case referrals?

Option 1 builds on the network of support that is now available for trust workers. It encourages and assists referrers to access support from a Freedom to Speak Up Guardian or other sources of support from within the organisation concerned. It also

[Type here]

highlights other options that a referrer might wish to take outside of the case review process.

5. Why has the National Guardian's Office introduced the Option 2 response to case referrals?

Option 2 provides a route for resolution of an issue at the local level, whilst still enabling learning and improvement to be identified.

6. How will the National Guardian's Office decide which option to use when responding to a referral?

The NGO will always first examine whether Option 1 is the best way to respond to a case review referral. This will include discussing with the referrer what support they may have already accessed and whether other support is available.

Where Option 1 does not appear to offer a viable means of looking at an issue and providing an opportunity for learning and improvement, the office will consider whether Options 2 or 3 are an appropriate response to the referral. When looking at these options the NGO will consider how many workers are possibly affected by the issues raised and whether the evidence indicates potentially serious failings in that organisation's speaking up culture.

To reach a decision, the office may look at a range of published information and other data, including staff surveys, inspection reports and cultural reviews.

7. Who can refer cases to the National Guardian under phase 2?

As with our pilot process, workers and former workers from NHS trusts can refer cases to the office. As with the pilot process, the NGO will use its discretion to accept referrals from other sources. The case review process will continue to only operate in trusts and foundation trusts.

8. Before referring a case for review, where can I go for help to speak up?

You should refer to your trust's speaking up policy. That will advise you of a number of routes that you could use for speaking up, including raising the matter to a Freedom to Speak Up Guardian.

[Type here]

9. If I am a former trust worker can the trust still support me to speak up about matters that took place when I worked there?

Yes, former trust workers can still contact their organisation's Freedom to Speak Up Guardian.

10. Should I first try and to seek help to speak up where I work before I refer a case to the National Guardian?

Yes. If there is a matter you wish to be resolved you should raise this in your trust, through the most appropriate means. If this is not possible, you should escalate the matter to a regulator such as CQC, NHS Improvement, or a professional registration body.

11. If I submit a case review referral, will the NGO definitely review my case?

The NGO will not review cases where:

- There is a police or fraud investigation
- There are outstanding decisions to be made in the case, such as an on-going employment tribunal
- There are practical barriers to the review, for instance where the matter relates to historic issues and appropriate evidence may not be available
- Where the available information suggests that minimal learning will be obtained by undertaking a review

12. What will happen when the office responds to a referral using 'Option 2'?

The office will first look at information and evidence related to the matter before discussing the case with the trust concerned. The purpose of the engagement process is to identify learning and improvement, both in the handling of speaking up cases and the delivery of a positive speaking up culture in the organisation.

Where the NGO identifies necessary improvements it will ask the trust to set out actions to address them. The NGO will then publish a summary of its findings and the trusts actions to share the learning from the review.

[Type here]

13. What will happen when the office responds to a referral using 'Option 3'?

The office will discuss the case with the trust concerned and look at information and evidence related to the matter, as well as other aspects of the trusts culture that might indicate barriers or enablers of speaking up. This will involve speaking to members of staff within the trust that are involved in the case, and may also involve wider engagement with trust workers, for instance through arranging staff forums.

The NGO will publish its findings and recommendations and the trust will be asked to produce an action plan addressing the points raised. Action plans will be monitored by NHS Improvement.

General Case Review FAQs

14. What is a case review?

The NGO reviews cases referred to it relating to NHS trusts' handling of their workers speaking up, where there is evidence that this has not been done in accordance with good practice.

15. Why are case reviews carried out?

The purpose of a review is to help trusts improve their speaking up culture and processes. The NGO also shares the learning it identifies during its reviews by publishing its findings. Reviews are not investigations into the matters workers may have raised, but instead look at how the trust concerned responded to a worker speaking up.

Reviews are collaborative processes, with the NGO working with an organisation and its workforce to deliver improvement.

16. I am concerned about a serious issue in my trust – should I submit a request for a case review?

If you are a worker, or former worker in an NHS trust and feel that your employer has not properly responded to a serious issue you have raised with them, you are welcome to submit a referral about this to the NGO.

[Type here]

17. How is a case review different to an inspection?

The National Guardian's Office is not a regulator and does not inspect services. When it conducts a case review in an NHS trust the office works with that organisation to identify learning and improvement. The office cannot compel trusts to submit to a review. Reviews do not find breaches of regulations, but instead make recommendations for learning and improvement. In the case of reviews involving engagement ('Option 2'), the NGO works with the trust to identify actions to address its review findings.

18. What will happen when I submit a case review?

The NGO will acknowledge receipt of your referral with two working days. We will then aim to inform you of how we will respond to your referral with 20 working days, although this may take longer in some circumstances.

19. Will the NGO review all cases that are referred to it?

The NGO will always seek to support workers who refer cases to it to speak up. How the NGO decides to respond to a referral will depend on the individual circumstances of that case. For example, the office may decide that the appropriate response to your case will be to offer support to speak up about the matters you have raised within your organisation.

20. How will the NGO protect my confidentiality when I submit a case for review?

Wherever possible, the NGO will seek to protect the confidentiality of individuals who refer cases to it. In most circumstances the NGO will ask a referrer for their consent before discussing their case with their employer or any other agency. The office will only share information contained in a case review referral where there is a need to protect individuals from possible harm, for example where the matter relates a safeguarding issue.

In all circumstances, the NGO will let referrers know when they have discussed or shared information about their case with another organisation.

[Type here]

21. Will my trust be told that the NGO has received a case review referral?

The NGO will only inform your trust about your referral if you have given your consent to do so, or, in rare circumstances, without your consent where there is a need to protect individuals from harm. Please note, if you do not want your trust to know about your referral the NGO may be limited in the support it can provide to you.

22. Will the NGO inform other agencies, such as a regulator, about a case review referral they have received?

The NGO will only share case review referral information with other agencies where the referrer has consented to this, or possibly without their consent, where there is a need to protect individuals from harm.

23. Do case reviews make any difference?

In response to the NGO's case review findings and recommendations, NHS trust are expected to draw up meaningful and effective actions to deliver improvements to the speaking up culture in their organisations. These actions are monitored by regulators.