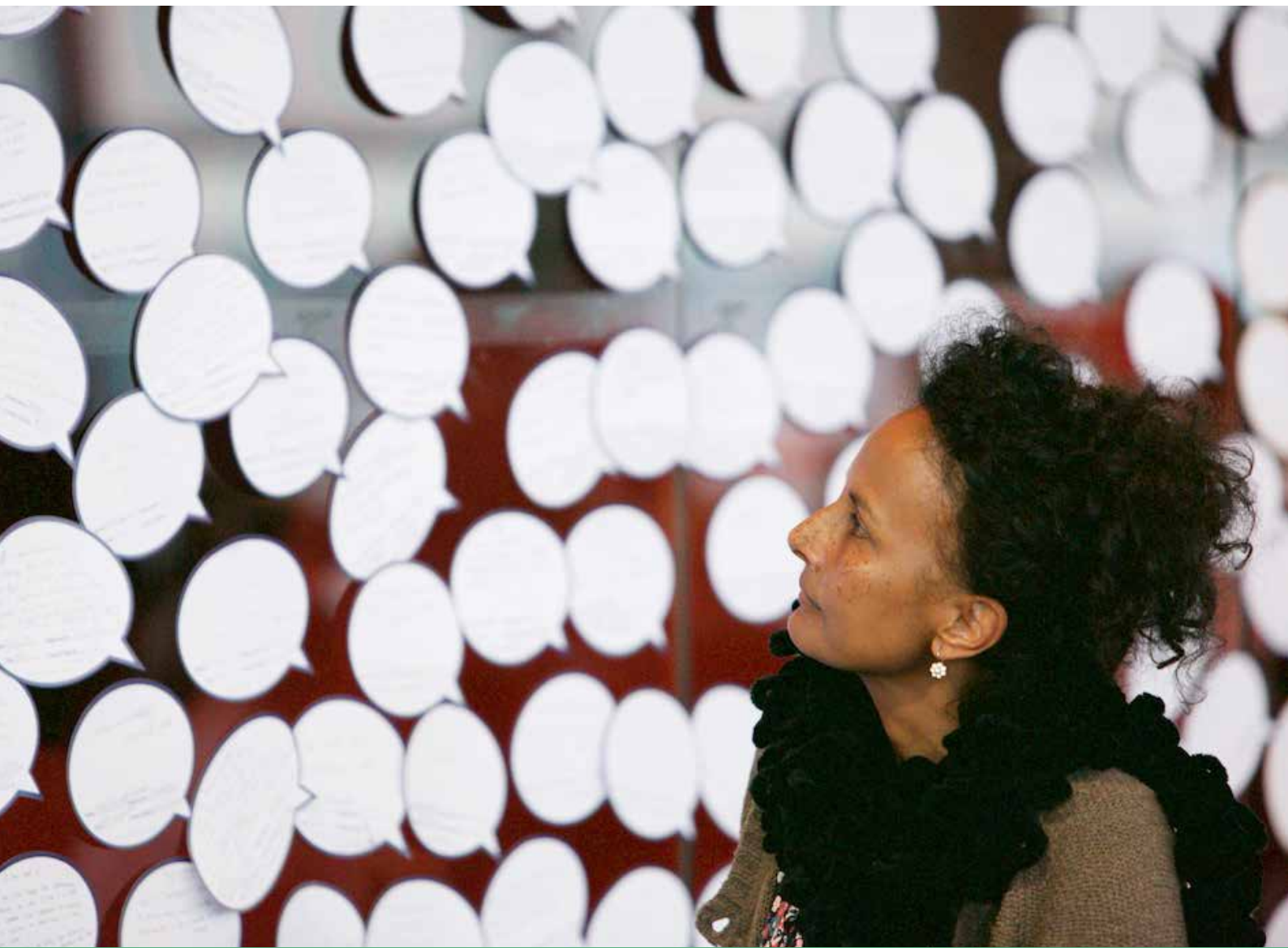


# National Guardian's Office

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Annual Report 2019







# National Guardian's Office

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## Annual Report 2019

Presented to Parliament by the  
Parliamentary Under Secretary of  
State for Patient Safety, Suicide  
Prevention and Mental Health,  
Department of Health and Social  
Care by Command of Her Majesty

March 2020

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A woman with glasses and a white sweater is shown from the chest up, covering her mouth with her right hand. She is surrounded by numerous red speech bubbles of various sizes, some of which contain faint, illegible text. The background is a warm, out-of-focus orange and yellow. The text 'National Guardian's Office' is overlaid in the top left corner in a white, sans-serif font, with a horizontal line underneath it. Below this, the text 'Annual Report 2019' is also overlaid in a smaller white font.

# National Guardian's Office

Annual Report 2019



**Foreword from Nadine Dorries MP**  
**Parliamentary Under Secretary of**  
**State for Patient Safety, Suicide**  
**Prevention and Mental Health,**  
**Department of Health and Social Care**

**I am delighted that the National Guardian's Office has made such positive progress over the past year and this report illustrates the excellent work that Freedom to Speak Up Guardians are delivering throughout England.**

It is when NHS workers don't speak up or where organisations fail to listen, that tragedies like those at Gosport War Memorial and Stafford Hospitals and more recently the Independent Inquiry into circumstances around Ian Paterson are able to occur. We must embrace a learning culture in which we welcome

speaking up. I am hugely encouraged by the examples of fantastic work going on across the health service to embed this positive, forward-thinking culture.

Freedom to Speak Up Guardians are now well established in every trust in England, handling over 19,000 cases over the last two years. The expansion into Primary Care is another great step forward. It is also extremely encouraging that of those workers who do speak up, 87 per cent said they would do so again.

However, neither the National Guardian, nor I, are complacent about what else we need to do. We know that five per cent of cases handled by Guardians include an element of detriment. We need to understand what lies behind that and eradicate it to ensure no one should suffer as a result of speaking up. Equally, the NHS must make sure that Freedom to Speak Up Guardians have the time they need to do their jobs properly.

I am calling on all leaders in the NHS to ensure that workers who speak up are listened to, thanked and supported. That means managers working to foster a culture that invites and acts upon speaking up. As this report highlights, having the confidence to speak up not only improves the quality and safety of patient care, but also the health and wellbeing of our vital NHS workforce.

I thank the National Guardian and the national network of Freedom to Speak Up Guardians, and every member of NHS staff who has spoken up, for helping to make our NHS safer.





## Welcome from the National Guardian

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**As a GP I know that speaking up in health can be a matter of life or death. Poor standards of clinical care, under-staffing, failing equipment, incivility and poor conduct can all lead to patient harm. Movements such as [#metoo](#) and [#timesup](#) show that people are not prepared to suffer in silence.**

There are many barriers preventing people speaking truth to power. Change is happening and we have measured the impact of Freedom to Speak Up in trusts in England. People say it takes time to change culture, we don't have time. Workers across the NHS and independent sector in England now receive support to speak up and the needle is moving in the right direction.

Freedom to Speak Up Guardians tackle barriers and help workers to speak up, protecting confidentiality and providing support. This is a powerful social movement with over 1,000 guardians and champions appointed in NHS trusts, independent sector providers and national bodies such as NHS England and CQC.

Guardians have a wide range of professional backgrounds including nurses, midwives, doctors, therapists, chaplains, administration and corporate staff. They work together, sharing and learning best practice and providing support.

Over **19,000** cases were brought to guardians by NHS workers, including thousands of patient safety and bullying and harassment cases. I would like to personally thank every worker who has courageously spoken up and guardians and those who support them. The cases lead to learning and improvement. We have published examples of these in the 100 Voices report.



My office provides training and guidance and the rapid growth in expertise and knowledge has been possible due to the excellent regional networks, where Freedom to Speak Up Guardians meet regularly. I would like to thank the chairs and trainers for making this possible.

I have been very grateful to colleagues in Scotland, Wales and Northern Ireland for sharing their experience and working together to support best practice across the health system as a whole. This is exemplified in the Anti Bullying Alliance: a four nation alliance of over 30 organisations committed to tackling bullying and harassment in health organisations.

#### **Highlights from the past year include:**

**The Freedom to Speak Up Index** - a measure of the speaking up culture in NHS Trusts from a subset of questions in the Annual NHS Staff Survey. The report includes case studies from high performing organisations to support improvement nationally. 180 trusts have improved their Freedom to Speak Up Index score over the past three years, with a six percentage point average improvement.

**Settlement Agreement Guidance and a fact sheet** - published in February 2019 spelling it out that settlement agreements do not silence health workers.

**Expansion of my remit to cover primary care organisations** - working with vanguards and with an increased regional presence, my team is developing an integrated approach to speaking up, bringing together guardians from trusts, primary care, independent sector and national organisations.

**Greater visibility and awareness of Freedom to Speak Up** - including the launch of a new independent website, the annual Speak Up Month in October, the National Freedom to Speak Up Conference

and the HSJ Award for Freedom to Speak Up Organisation of the Year.

**Expansion of the Pan-Sector Network** - bringing together organisations from aviation, military, finance, retail, legal, pharmaceutical, sport, energy, mining and others to share best practice.

Following the events at Gosport War Memorial Hospital, the Government committed to increasing support for workers to speak up. I continue to champion those who speak up through the network of guardians, highlight and share best practice and support and challenge the system.

A culture of valuing the NHS Workforce is a key component of the NHS People Plan. The best organisations have taken positive steps to support their workers. Freedom to Speak Up is part of the NHS Standard Contract and in NHS Leadership Academy programmes. CQC are strengthening their approach to Freedom to Speak Up, inspecting as part of the Well Led domain. Chairs need to review their objectives to ensure that they align with guidance from NHS Improvement and the Well Led domain from CQC.

I call upon you to lead the culture change with me to protect patients from harm. Together we must support health workers in England to speak up by championing them, their guardians and leaders. Until matters are called out, they cannot be resolved. In the words of one worker who told us, 'I felt for the first time that someone was actually listening', we must ensure that those who care for us are heard and that the right actions are taken so that speaking up is business as usual.



**Dr Henrietta Hughes OBE FRCGP**  
**National Guardian for the NHS**

# What is Speaking Up?...

**Speaking up is about anything that gets in the way of great care for patients. This includes patient safety concerns, fraud, individual bullying and systemic behaviours as well as ideas for improvement.**



**No one wakes up in the morning deciding to be a whistleblower.**

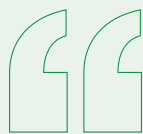
We say speaking up so that people know that there is no threshold. We have been told 'no one wakes up in the morning deciding to be a whistleblower'. When the organisation responds correctly, speaking up is about living the values of the NHS, meeting the professional obligations on clinicians and demonstrating leadership behaviours of which we can be proud.

Speaking up is a relational exercise and only effective if listening up also occurs. Freedom to Speak Up needs to permeate throughout an organisation and not rest solely with the guardian. The training for Freedom to Speak Up Guardians sets out the steps to ensure that the right actions are taken. The worker is thanked, listened to, the right investigation is arranged, the outcome is fed back to the person who spoke up and the lessons learned are used for improvement. These behaviours need to be role modelled by leaders.

Organisations can support workers to speak up by making it clear from day one that speaking up is welcomed, that the

Freedom to Speak Up Guardian is there as a safe and confidential route and that workers will be supported throughout the process.

In a positive speaking up culture, people will feel safe to speak up before matters become a concern and before patients are harmed. We know that fear of retribution is a major barrier and we welcome that CQC are strengthening inspections in this area. Removing detriment is key to reducing the need for workers to seek remedy at employment tribunal. We want to avoid individuals and organisations ending up in a legal process in which the emotional and financial costs involved could have been prevented.



**Freedom to Speak Up needs to permeate throughout an organisation and not rest solely with the guardian.**

We call on the leadership of all organisations to look within and assess whether they are nurturing the very best culture in which staff can flourish and patients benefit. This requires asking difficult questions about how they are identifying and supporting workers who are less likely to speak up.

Vulnerable groups may include BAME workers, trainees, students, agency and contractors. Leaders must strive to meet the needs of these workers and by doing so will improve the visibility and availability of Freedom to Speak Up to all workers.

## ...and what impact is it making?

**The speaking up culture is improving nationally. We can see this in the new Freedom to Speak Up Index, in the increasing number of cases being brought to Freedom to Speak Up Guardians and from our guardian survey, now in its third year.**

**The Freedom to Speak Up Index** is derived from a subset of questions from the NHS Annual Staff Survey. Of the 230 trusts, 180 - that's 78 per cent - improved their Freedom to Speak Up Index Score in the 2015-18 period with an average six percentage point increase. London Ambulance Service was the most improved trust over this timescale with an 18 percentage point increase in the index.

Data is collected quarterly from guardians and published on our website. More cases are being brought to guardians. In the 2018-19 period, over 12,000 cases were raised, an increase of 73 per cent from the previous year. Once again many cases involved bullying and harassment which mirrors the experience of workers in the NHS annual staff survey. This year, the percentage of cases reported anonymously has fallen from 18 per cent to 12 per cent. Cases where detriment is recorded remain at five per cent and we welcome the CQC strengthening the Well Led inspection in this area. Importantly, the data also includes details of feedback from people who have spoken up indicating whether they would do so

again. Of those that have responded, the figure for workers saying given their experience they would speak up again has consistently been around 87 per cent.

Our survey of Freedom to Speak Up Guardians allows us to monitor how the role has been implemented and whether trusts are meeting our expectations. We are increasingly seeing guardians working in networks within their organisations, increasing the reach and visibility of the role. Guardians report that the Freedom to Speak Up culture in their trusts is improving and once again positive perceptions appear to be linked to the higher rating by the Care Quality Commission. For guardians in the national bodies, their perceptions of the culture are on a par with trusts rated requires improvement or inadequate.

As well as publishing the data on our website, we also share this information regularly with NHS Improvement, NHS England and the CQC. A new development is the Change and Engagement page of Model Hospital on which the Freedom to Speak Up Index and speaking up data will be published.



**Of the 230 trusts, 180 - that's 78 per cent - improved their Freedom to Speak Up Index Score in the 2015-18 period.**



## Primary Care and integration

**Developing an integrated approach to speaking up (or ‘Freedom to Speak Up’) is a key priority for the office. We continue to work in partnership with NHS England to support the growth of Freedom to Speak Up and the implementation of the Freedom to Speak Up Guardian role in primary care.**

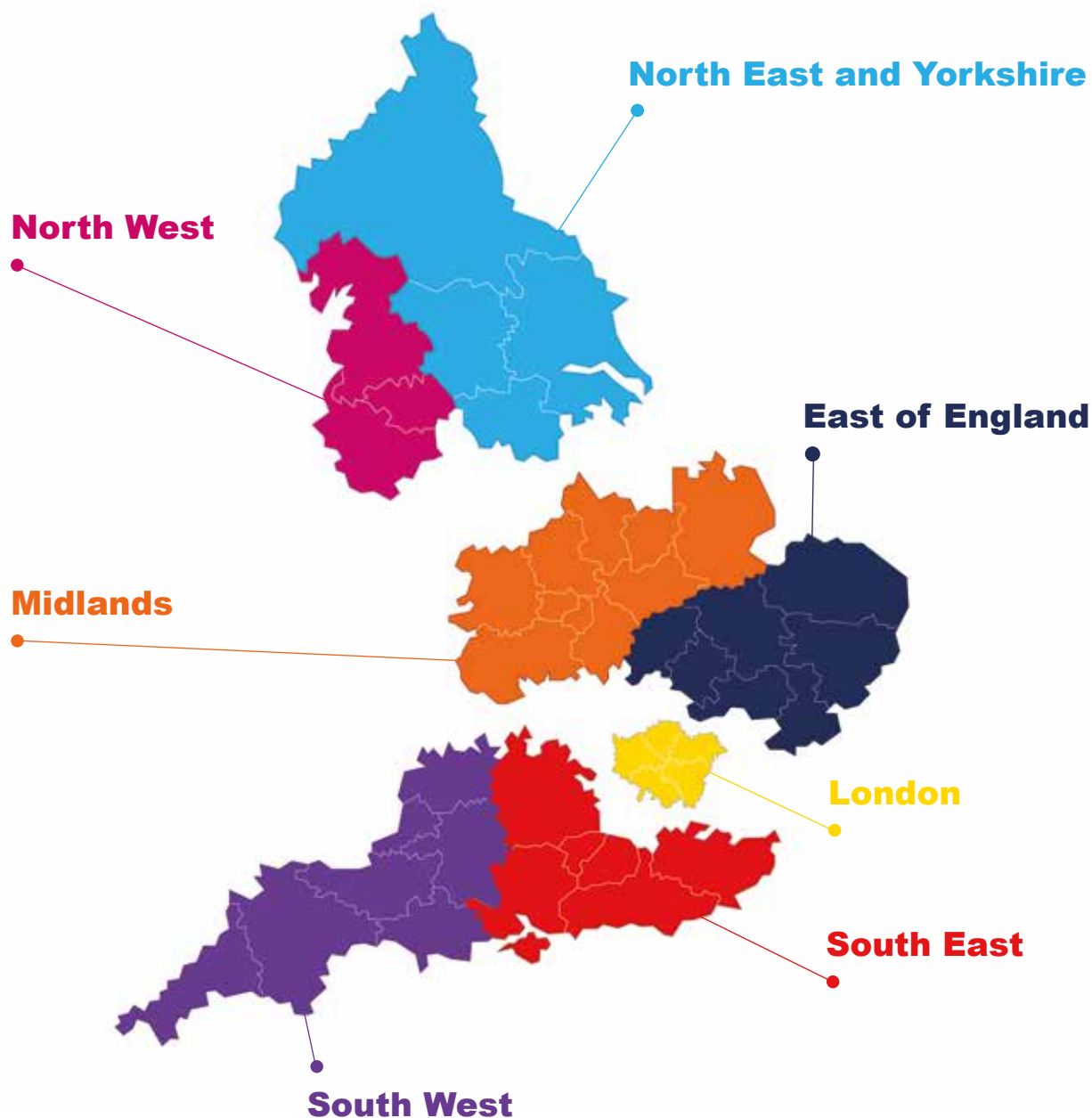
We aim to promote consistency in terms of the principles of speaking up and the role of the guardian and to develop a fully integrated approach to making speaking up business as usual across the patient pathway. The primary care landscape is vast and changing including General Practice and the new Primary Care Networks (PCNs), community dental, community pharmacy and ophthalmic services. We have started to work with what we have termed ‘NGO vanguards’ as a way to describe a range of models of primary care, or integrated delivery, where we can test out a process for developing:

- A Freedom to Speak Up Guardian role that can be implemented in a range of settings
- Escalation processes that enable speaking up issues raised to be acted upon appropriately
- Reporting structures that enable learning
- An integrated approach that enables workers to speak up across healthcare boundaries.

Working with NGO vanguards, including Defence Primary Healthcare Services, Leeds GP Confederation, Modality Partnership and others will help inform our thinking about speaking up in different organisations. The models developed will enable other primary care and integrated delivery organisations to implement the Freedom to Speak Up Guardian role efficiently and effectively.

We have appointed Regional Liaison Leads who continue to support existing networks of guardians and support guardians from primary care and independent sector providers locally.





The NHS Standard Contract requires any organisation providing services subject to the contract to appoint a Freedom to Speak Up Guardian and to follow National Guardian Office guidance. Other providers follow the guidance produced by NHS England. We support both.

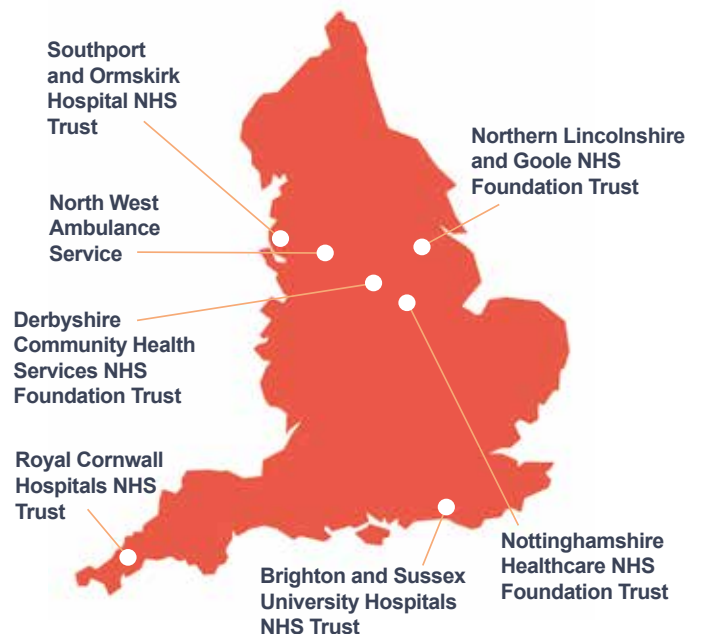
As more organisations recognise the benefit of a positive speaking up culture, we are seeing a growing number of guardians being appointed, attending training and becoming engaged in regional and national networks.

## Case reviews

**A key part of the Francis Freedom to Speak Up Review is listening to the voice of workers who have spoken up. Case reviews are an opportunity to learn from the experience of workers about how their speaking up was handled and where improvements can be made.**

Following the completion of our 12-month pilot case review process, an independent evaluation was carried out and a new case review process has been established. This was in part a response to the key actions identified by the Government in response to the report published about the events at Gosport War Memorial Hospital.

The case review reports published to date have included seven trusts and 95 recommendations have been made



to trusts, national bodies, ourselves and others. These include recommendations about settlement agreements, conflicts of interest, confidentiality, training, the Fit and Proper Person test and ensuring that the speaking up policy meets national standards. We also commend good practice so that this can support system improvement nationally.

The absolute focus of the reviews remains learning and improvement for the whole system. We expect other trusts to review the recommendations to improve their own speaking up systems and culture.

We continue to work closely with our partners in NHS Improvement and CQC to support trusts to implement the improvement we have identified.





**Sometimes workers acting with the best motives to be helpful can inadvertently cross the boundaries between the role of clinical and non-clinical duties**

**Phil Gardner,**  
Freedom to Speak Up  
Guardian at Royal Surrey  
County Hospital NHS  
Foundation Trust

## **CASE STUDY**

### **Clarifying boundaries**

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#### **Royal Surrey County Hospital NHS Foundation Trust**

**A member of the Endoscopy team spoke up to the Freedom to Speak Up Guardian with concerns about blurred boundaries between clinical and non-clinical staff when advising patients about the medications they should cease before attending for endoscopy.**

“Sometimes workers acting with the best motives to be helpful can inadvertently cross the boundaries between the role of clinical and non-clinical duties,” said Phil Gardner, Freedom to Speak Up Guardian at Royal Surrey County Hospital NHS Foundation Trust.

With the consent of the worker, their concern was confidentially discussed with the Matron for Endoscopy, and flagged to the Chief Nurse, as the Executive Lead for Freedom to Speak Up.

Most Standard Operating Procedures (SOP) relate to patient care delivered by clinical workers. The need for SOPs for non-clinical workers was recognised because of this concern being raised.

Two new procedures were developed which clarified the guidance that non-clinical staff may provide to patients; any other matters must be escalated to the nurse-in-charge.

The new procedures have clarified boundaries for clinical and non-clinical staff and as a result reinforced patient safety and potentially enhanced patient experience, in addition to the benefit to staff in having clearly defined parameters in which to work.

“The member of staff who spoke up has reported that the situation has improved after having raised their concern.”

## Influencing the system and the role of regulators

**A key aspect of the work of the National Guardian's Office involves using its insights and experience to influence the speaking up culture across the whole system of healthcare in England.**

An example of this work is the office's collaboration with its partners in system regulation to support trusts to improve their speaking up processes, policies and culture. An increasing number of national bodies are also supporting their workers to speak up. This includes NHS England and Improvement, CQC, the Parliamentary Health Services Ombudsman, NHS Resolution, NHS Blood and Transplant, NICE and the General Medical Council.

We have updated guidance to Care Quality Commission inspection teams across England to support their evaluation of how trusts support their workers to speak up and respond to the matters they raise.

Recent inspection reports of hospital trusts have shown increased reference to and analysis of trusts' speaking up arrangements. We will continue to work with the CQC to support its assessment of this key area of organisations' governance and safety.

The office has also worked with NHS Improvement and NHS England to provide guidance for trust boards on speaking up. An updated version of this guidance was published in July 2019.

Working with NHS Employers, DHSC, law firms and others, revised guidance

on the settlement agreements and the use of confidentiality clauses for all NHS organisations was published in February 2019. The guidance makes it clear that nothing in a settlement agreement between a worker and their employer should prevent them from speaking up about, 'any matter that may prevent an organisation from delivering high quality safe care'.

We have also sought to influence the system by contributing to national reviews and investigations related to speaking up. This included providing evidence to the independent Kark review of the Fit and Proper Persons Test, published in February 2019.

One of the report's findings stated, '... we think there should be a focus upon behaviour which suppresses the ability of people to speak up about serious issues in the health service, whether by allowing bullying or victimisation of those who 'speak up' or blow the whistle, or by any form of harassment of individuals'.

The National Guardian also presented evidence to the House of Commons Women and Equalities Select Committee during its inquiry into sexual harassment in the workplace. The committee published its findings in July 2018. The report set out five priorities to put sexual harassment at the top of the agenda for employers. The government published its response in December 2018.

**We have worked in partnership with the NHS Leadership Academy on the Rosalind Franklin programme and the Aspiring Chief Executives programme, with the BMA on changing the terms of reference for Junior Doctor's Forum membership to include Freedom to Speak Up Guardians and with Health Education England to improve the visibility and knowledge of Freedom to Speak Up Guardians to junior doctors. We have supported the General Medical Council to develop online information in their new Speaking Up hub.**

**As a non-statutory organisation, the National Guardian's Office relies on the powers of our funding bodies and others to help make speaking up business as usual:**

### Care Quality Commission (CQC)

Freedom to Speak Up is included in the CQC Well Led domain of hospital inspections. We provide guidance to CQC inspectors and guardians. Knowledge and learning from the past three years is being used to improve the quality and detail as part of the review of the Well Led Framework.

We have asked CQC to remove the word 'Whistleblowing' from their pre-inspection request as this causes confusion and distress in trusts. They have agreed to do this and to replace it with the words 'Freedom to Speak Up'.

We are working with CQC to strengthen their inspection in areas of perceived detriment by workers that have spoken up and implementation of key elements of the Freedom to Speak Up Guardian role

including ring-fenced time. The response to the Kark Review of the Fit and Proper Person Test, and the development of guidance for all NHS organisations, needs to recognise the consequences of suppressing speaking up and why fostering a positive speaking up culture is a key leadership behaviour.

### NHS England and NHS Improvement

NHS Improvement has issued a national policy on 'Raising Concerns, Freedom to Speak Up (Whistleblowing)' to trusts and guidance to trust Boards with an accompanying checklist.

The implementation of the National policy has been variable as demonstrated in our case reviews. The most frequent recommendation made by those reviews was to ensure that the Speaking Up Policy met the minimum national requirements.

The best organisations are picking up on recommendations and improvements. However, the quality of the approach nationally remains variable. For all workers to have a psychologically safe environment, there needs to be a more systematic approach to implementing national policies and good practice guidance.

We welcome that more organisations commissioned by NHS England are appointing Freedom to Speak Up Guardians.

The future development of Quality Accounts, part of the Government response to Gosport, is a welcome approach, ensuring that trust boards are fully sighted on speaking up.

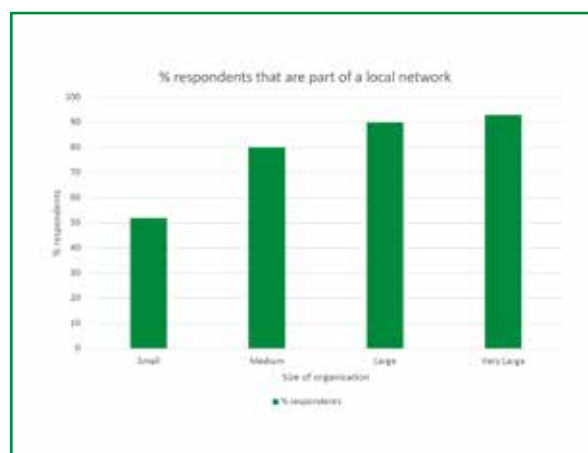
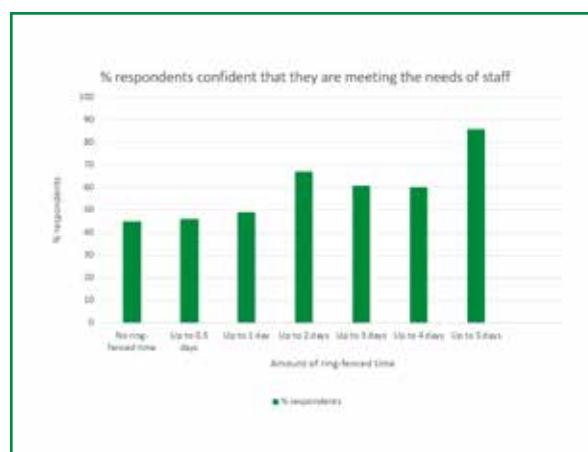
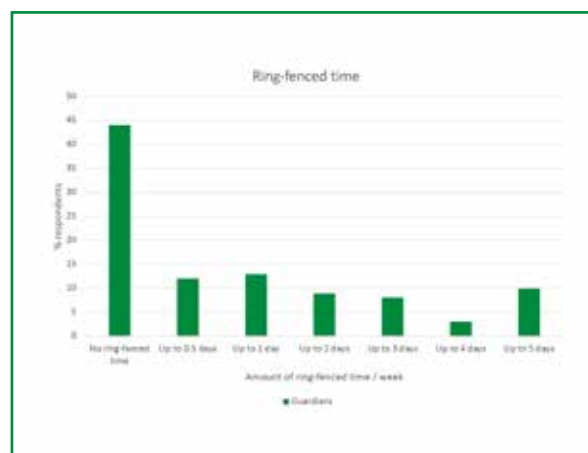
## Meeting the needs of workers

The 2019 Freedom to Speak Up Guardian survey has shown that 44 percent of guardians do not have ring-fenced time. This is a concern as the previous survey showed that guardians without ring-fenced time were less likely to attend training or regional meetings, to present to their Board in person, to seek feedback on their performance or to be confident that they are meeting the needs of staff.

As the number of cases is increasing, guardians need sufficient time to support their colleagues, work in partnership within and outside their organisation and meet our expectations.

We are working closely with CQC to ensure that ring-fenced time for guardians is part of the Well Led domain and call on all organisations to assess the time needed to support a positive speaking up culture.

The survey also shows that an increasing number of guardians are part of a local network, particularly in larger organisations. This is encouraging as the reach and visibility of the role is improved and workers, and guardians, can receive support.





As time went on, other staff on the ward were able to see the appropriate actions being taken and improvements being made following their colleague speaking up.

Liz Keay, the trust's guardian

## CASE STUDY

# How speaking up improved patient safety

### Norfolk and Suffolk NHS Trust

**At Norfolk and Suffolk NHS Trust, a case came to light of a clinician who spoke to a colleague about a concern they had regarding a senior member of staff working in an inpatient unit. Their colleague recommended that they raise this with the trust's Freedom to Speak Up Guardian.**

The issue involved a senior ward nurse who gathered staff together to discuss a patient with dementia who had been displaying challenging behaviours, such as banging on doors, kicking furniture and assaulting staff.

During the staff briefing, the senior nurse suggested that staff use an unauthorised prevention and management of aggression (PMA) technique to control the patient. Many team members felt this was extreme and unnecessary, but felt unable to voice their concerns as they feared reprisals.

Liz Keay, the trust's guardian, immediately passed this information to the senior manager in charge of the area. They raised this as an incident on the trust electronic patient safety system, reported it to the police and began an internal investigation, suspending the senior nurse from duties for the duration. The Nursing and Midwifery Council also conducted a 'Fitness to Practise' investigation.

The individual who reported the incident was kept informed by Liz via their colleague and their confidentiality was preserved to all those involved in reporting and investigating the incident.

After the issue was brought to the guardian, the following changes were made:

- All workers were directed not to undertake the PMA technique in future.
- Managers checked that all staff understood current methods for managing challenging behaviours.
- Improvements were made to investigate incidents faster to speed up this process.

Liz said, "The individual who spoke up found it particularly stressful initially, so it was important that I reassured them that it was the right thing to do and thanked them for speaking up, even though this was through a third party. It is vital that workers know they will be listened to when they speak up.

"As time went on, other staff on the ward were able to see the appropriate actions being taken and improvements being made following their colleague speaking up. I hope this will empower and embolden them to speak up in the future."





## Supporting and sharing

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**Freedom to Speak Up Guardians are doing an amazing job, but it is often a challenging one. Guardians frequently deal with complex speaking up issues and individuals in distress. Sometimes, when supporting individuals to navigate a route to resolution, they themselves can face barriers that obstruct the flow of information and action necessary to support cultural improvement.**

Some guardians have told us that they are blocked from presenting their reports to the board, that they are kept in the dark during HR and other investigations and rather than being thanked for identifying issues within their organisations, they feel vulnerable as the messenger.

We are committed to supporting guardians to fulfil their role. Since November 2018, we have delivered training to over 550 individuals in a speaking up role. We are increasing our capability to provide





We are grateful for the work done by members of the Community Mental Health and Learning Disability network to articulate the psychological safety needs of guardians dealing with trauma and emotionally charged issues.

The National Guardian wrote to the Chief Executives of all organisations with guardians to remind them of their duty of care to these individuals, to encourage discussion to draw out specific actions and interventions required. The National Guardian also arranged for guardians to have access to an external national confidential support line, day or night, 365 days a year.

There has been encouraging engagement with the speaking up agenda from many other non-provider organisations with several regulators and professional bodies appointing their own Freedom to Speak Up Guardians. This has enabled the office to create a national network which will meet regularly and foster the same peer support and learning environment to enable a deeper understanding of the issues faced by different organisations.

regional support with the appointment of Regional Liaison Leads.

We have extended our capacity to offer advice clinics and attend network meetings where guardians share innovative ideas and learn from the experience of others in a confidential environment. We continue to work in partnership with our Advisory Working Group members and others to ensure that speaking up, listening well and taking appropriate action is everyone's responsibility.

Our conference in March 2019 focussed on integration and brought together, for the first time Freedom to Speak Up Guardians from across patient pathways. To facilitate greater opportunities for an integrated approach to speaking up, in 2020 there will be Regional Integration and Development Events. These will promote awareness and local networking across the system as well as development opportunities tailored to individual needs identified by reference to the Guardian Education and Training Guide.

## Learning from others

**The best organisations in health recognise the connection between happy staff and happy patients. Leaders have regular conversations with their workforce to gain a deep understanding of how improvements can be made for the benefit of patients, service users and workers. Other sectors are starting to recognise how important it is for the workforce to feel safe to raise issues of safety and conduct.**

It is clear that this is a complex area in which regulation, training and leadership are key elements in all sectors. In order to learn from the best, the National Guardian's Office (NGO) established a Pan Sector Network with representatives from academia, banking, finance, retail, sport, third sector, government departments, pharmaceutical, legal and high safety sectors such as aviation, mining, and chemical industries.

In this way innovations such as The James Reason model from aviation, the John Lewis newsletter, UK Sport coaching, the Army mediation service, global approaches to speaking up and the Bystander intervention from Exeter University have been shared.

The National Guardian regularly contributes to discussions about improving culture in other sectors, sharing the learning from the Freedom to Speak Up Guardian model in health.

Bullying and harassment is a significant issue in NHS organisations, with a quarter of NHS staff completing the annual staff survey saying that they have experienced bullying and harassment in the last year. Working in partnership with the Royal College of Surgeons of Edinburgh and the Royal College of Obstetricians and Gynaecologists, the NGO has helped launch the Anti Bullying Alliance. This is a growing four nation alliance bringing together national bodies and grass root campaigns with the aim of tackling bullying and harassment by sharing effective interventions, case studies and expertise.

The need for effective speaking up arrangements is not limited to England and the NGO welcomes innovations which are happening in NHS Scotland and a growing interest in this area in Wales and Northern Ireland. By working together, sharing experience and a willingness to learn from other settings there is a great opportunity to foster a positive culture for workers across the UK in all sectors.





The clinician reflected that through the Freedom to Speak Up process, the actions taken enabled her to feel more supported by the organisation and helped reconnect with her managers.

Dr Jude Graham

## CASE STUDY

# Making policies work for workers

### Rotherham, Doncaster and South Humber NHS Foundation Trust

**At Rotherham Doncaster and South Humber NHS Foundation Trust, a concern was brought to the Freedom to Speak Up Guardian from a clinical worker. She had transferred to work in the organisation from a neighbouring trust and expressed concerns about the trust's sickness policy.**

The worker did not agree with the policy wording, which she felt was not appropriate to cover her absence, and said that the policy in practice had felt detrimental.

Dr Jude Graham, the trust's guardian, arranged a meeting with the staff member. The worker expanded upon her concern, which was not solely about the policy but also about the support she received after returning to work from a family bereavement. The complexity of the issue also resulted in a breakdown in communication between the worker and her manager.

The policy, which was in use within another trust rather than RDaSH, was being used under the TUPE transfer agreement. Once the worker was shown the RDaSH Trust policy, she asked to be supported using this policy, which she felt was more relevant towards her situation. The staff member also advocated a review of the categories for absence listed on the electronic recording system.

Over three meetings, facilitated by Jude, the following changes were made:

- The TUPE transfer process and other support for teams who are transferred has been reviewed.
- The process for recording absence has been revised, specifically where absence is for a reason other than sickness and specifically where a staff member is bereaved.
- Information has been made available for staff managers and clinical leaders to provide support to workers they supervise who are bereaved.

A staff focus group has also been established to support staff who may experience domestic violence. This group is currently designing teaching podcasts for managers and works with the safeguarding team to design a trust policy to support staff who experience domestic violence.

Jude said, "The clinician reflected that through the Freedom to Speak Up process, the actions taken enabled her to feel more supported by the organisation and helped reconnect with her managers.

"She explained that her experiences were taken seriously and felt assured that changes have been put in place to support others who may find themselves in a similar position. She would definitely speak up again in the future and also advocates this to others in her team and organisation."

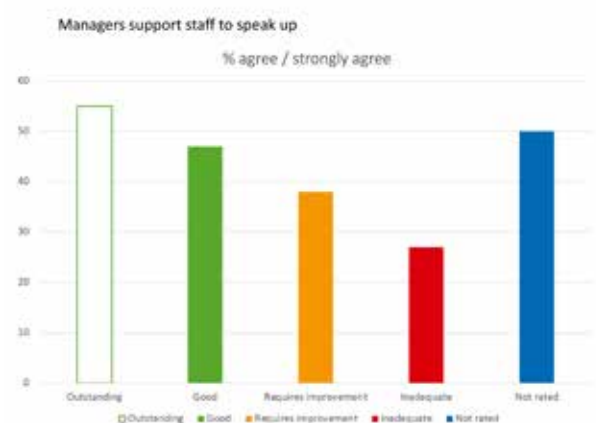
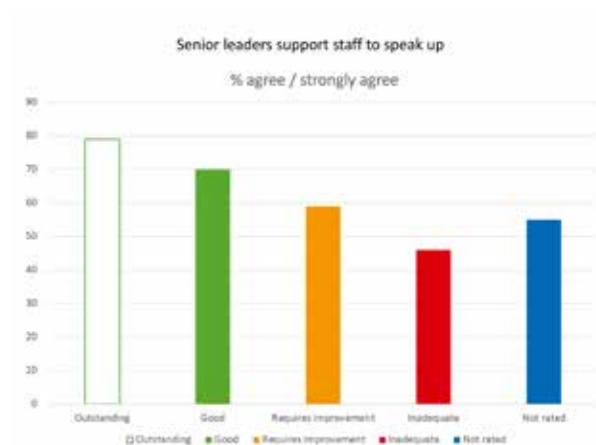




## Leadership is the key to culture

Leaders at every level need to foster a supportive culture where workers are able to speak up about ideas and concerns. Leadership is assessed in the Well Led domain of CQC inspections. For the past two years this has included the Freedom to Speak Up arrangements in NHS trusts and Foundation Trusts as well as independent sector providers. The PMS inspections of Primary Medical Services and Primary Dental Services are planned to include Freedom to Speak Up as part of Well Led domain inspections.

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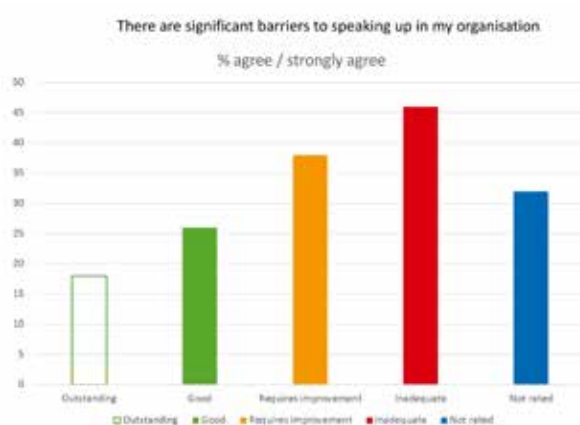
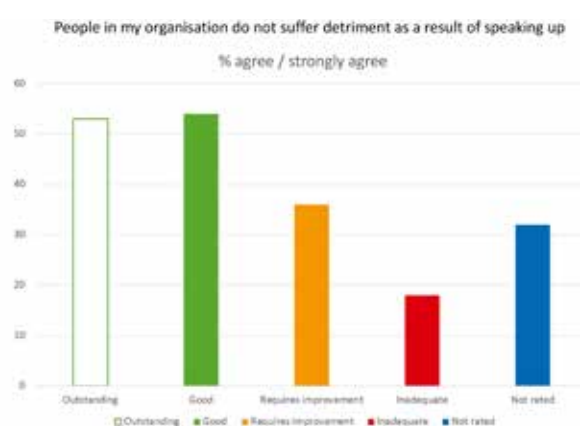
The view of the workforce is an important indicator of the performance of organisations. We call on Chairs and Chief Executives trusts to review their speaking up data, along with other survey results and use these to identify areas for improvement in their culture. This year, a new measure of culture, the Freedom to Speak Up Index, was launched. The index is a single measure from four questions in the annual NHS Staff Survey about whether workers feel encouraged, knowledgeable and secure to speak up.

The Index enables trusts to see how their speaking up culture compares with others. It appears that the trusts with the highest scores are rated Good or Outstanding by the CQC overall and in Well Led.

The Index report shows how the highest scoring organisations have listened hard to the views of their workforce ensuring that they feel valued and that their ideas and concerns are escalated and acted upon.

Taken with other indicators of culture and leadership, leaders can use this as a starting point for improvement, knowing that they will be able to measure the impact of their interventions. Chairs need to review their objectives to ensure that these reflect the guidance from NHS Improvement and the Well Led domain from CQC on the overall and speaking up culture of the organisation.

The NHS Improvement Guidance for Boards sets out the individual responsibilities of board members and every trust has an executive and non-executive lead for speaking up. The best organisations thank workers for speaking up, listen and respond, using the learning for improvement to patient care and worker wellbeing.

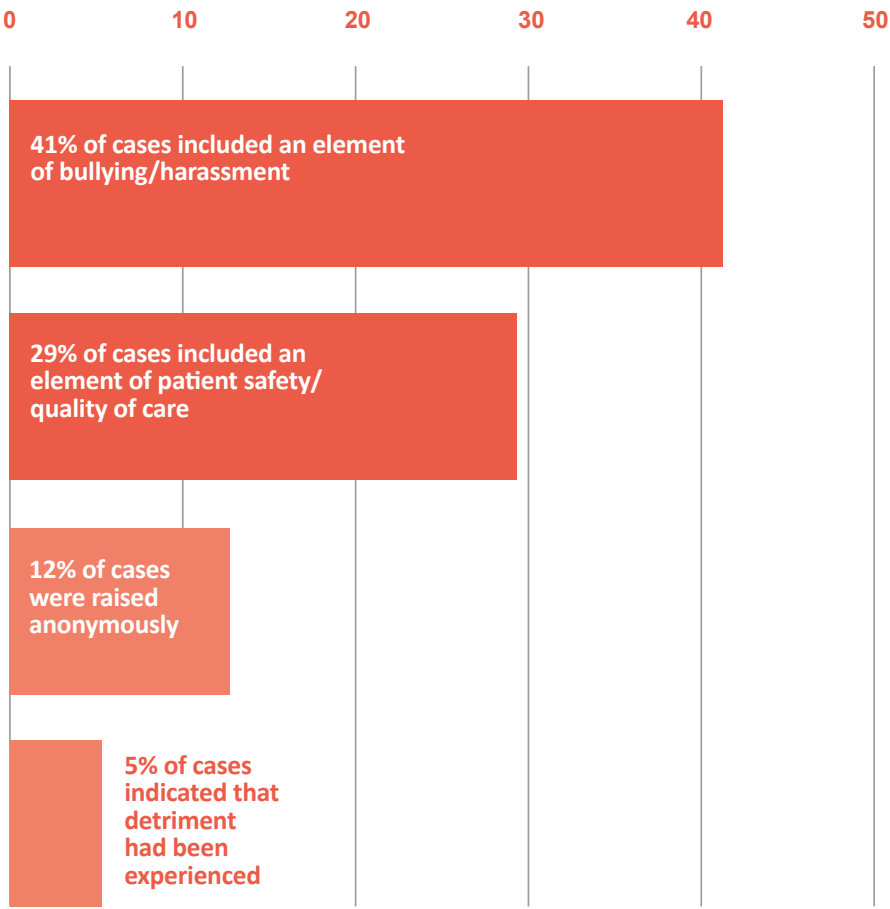


The CQC, NHS England and NHS Improvement have set out their combined responsibilities to workers who speak up from providers and other health organisations. The National Guardian's Office provides training and guidance to these and other national organisations and calls out inconsistencies to hold the system to account and improve regulatory alignment.

## In 2018/19...



## Organisations rated most highly



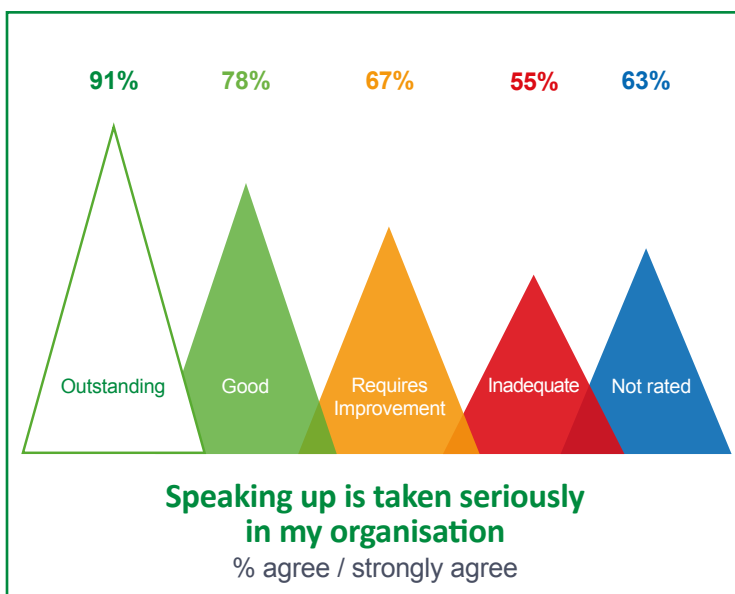
**19,331**  
cases raised to  
guardians in  
trusts over  
two years

(Between 1 April 2017  
and 31 March 2019)

Year Two  
12,244

Year One  
7,087

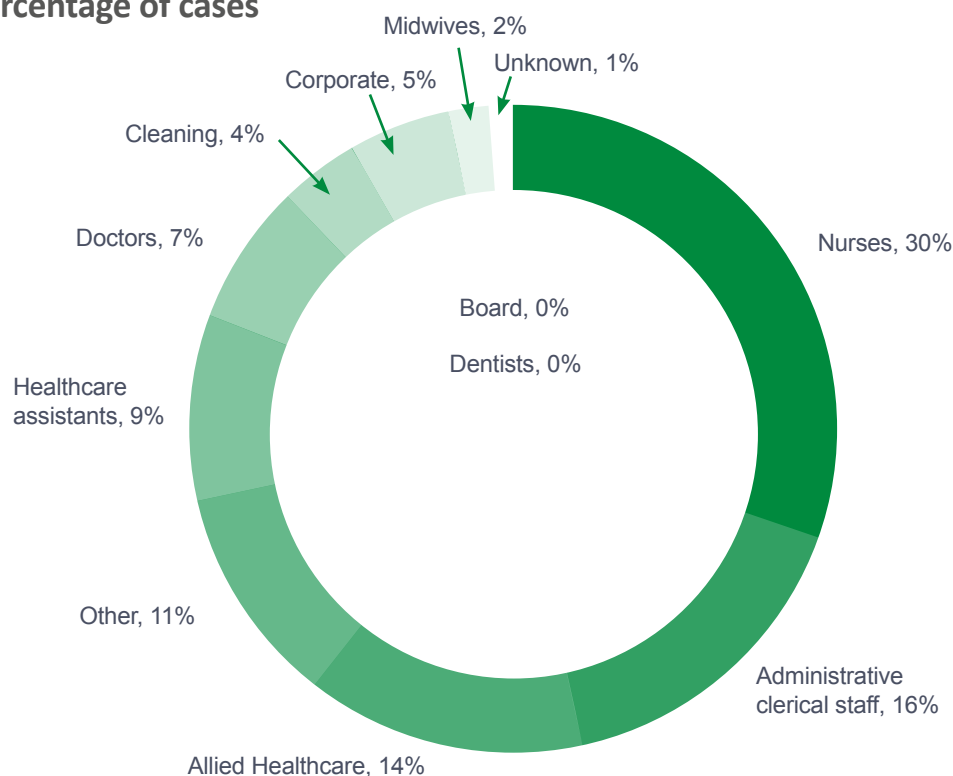




by the CQC have the best speaking up cultures

## Who is speaking up?

Percentage of cases



**500**  
trained  
guardians in  
over 300  
organisations

## Future priorities and challenges

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**As described in its 2018 annual report, the office is working with national leaders. The office is working closely with its partners in the Care Quality Commission to ensure that future Well Led PMS inspections have an appropriate focus on speaking up. This year it has appointed Regional Liaison Leads to identify and develop speaking up networks across primary care. These include vanguard organisations that are leading the way in developing the guardian role in primary care. We are also supporting national bodies and other government departments to develop and improve their own speaking up cultures.**

A key challenge for the office in the months and years ahead is to promote the speaking up agenda in the area where service users are arguably the most vulnerable, namely adult social care (ASC). As more providers of care, subject to the NHS Standard Contract, appoint Freedom to Speak Up Guardians, we are supporting these organisations to develop effective speaking up cultures.

Recent events at Gosport War Memorial Hospital and Whorlton Hall are a reminder of the potentially tragic consequences that can occur when speaking up in healthcare remains ignored and unsupported. The National



Guardian's Office will continue to highlight where workers report detriment for speaking up, including in its published guardian data and case review reports. It is the responsibility of all parts of the healthcare system, whether those delivering or regulating services, to ensure that these damaging and dangerous cultures end.

The tragedy at Whorlton Hall also demonstrated the need for regulators to ensure that they use all the means at their disposal to monitor and inspect services in a robust and effective way. The National Guardian's Office will continue its work



with system and professional regulators to support their evaluation of speaking up cultures, including updating guidance for inspectors of different services.

Our survey results show that Freedom to Speak Up Guardians in national bodies perceive the speaking up cultures in their own organisations need improvement. We actively encourage national bodies to reflect on how they are supporting their staff and the impact that this has on the health and care system, and the National Guardian proposes that Chairs of national bodies will also review their objectives to increase the focus on the culture of their organisation.

Guardians learn and share best practice from each other in our network for national bodies. The principles in the national guidance for Boards applies equally to non-provider organisations and we welcome the way that this has been embraced by national bodies.

The NHS has a great track record for innovation but not for implementing improvements nationally. The implementation of recommendations and actions from our case reviews by trusts across the country will further improve the culture and experience of workers.

## Governance

The National Guardian's Office is joint-funded by the Care Quality Commission (CQC), NHS Improvement (NHSI) and NHS England. Senior representatives from the CQC and NHSI form the office's Accountability and Liaison Board (ALB).

Current ALB members are:



**Sir Andrew Morris OBE**  
NHSI Non-Executive  
Director Current Chair



**Sir Robert Francis QC**  
CQC Non-Executive  
Director

The ALB meets four times a year. Its responsibilities include:

- Acting as a 'critical friend' for the office, providing input and guidance on strategic plans and development
- Acting as key liaison point between the National Guardian's Office and its funding bodies
- Reviewing complaints made about the office

The National Guardian for the NHS reports annually to the boards of CQC, NHS Improvement and NHS England on the work of the NGO.

In addition to the ALB, the office receives advice and support from two groups it has developed. The first of these is the Advisory Working Group, which comprises

individuals and organisations with a variety of backgrounds and interests, whose expertise and experience help inform the development of the office's work.

The second group is the Partnership Working Group, whose members are senior leaders drawn from the office's funding bodies, as well as the Department of Health and Social Care. The Partnership Working Group is an operational group to bring the funding organisations together and support the implementation of the National Guardian's work programme by providing insight and advice on emerging priorities.

Liaison between the office and PWG members also helps ensure the co-ordination of the organisations' respective work to support speaking up in healthcare.

### Structure

When fully staffed, the National Guardian is supported by a London-based team of 11. In addition, the office has also created regionally-based posts to co-ordinate an integrated approach to speaking up in primary care.

### Finances

The NGO was allocated a budget of £1m and spent a total of £957K in 2018-19. In addition, to support developing an integrated approach to Freedom to Speak Up in primary care, NHS England agree to fund up to an additional £0.67m. £153K of this additional funding was spent in 2018-19.

### Prescribed Person

The National Guardian's Office is a 'prescribed person' for the purposes of s.43F of the Public Interest Disclosure Act 1998. As such, the office annually reports on the number of 'qualifying disclosures' workers have made to it and how it has responded to those disclosures.

For more information about the National Guardian's Office visit  
[www.nationalguardian.org.uk](http://www.nationalguardian.org.uk)

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