



National Guardian's Office

Guidance

Recording Cases and Reporting Data

Guidance for Freedom to Speak Up Guardians

February 2022



Introduction

This guidance is designed to help Freedom to Speak Up Guardians record cases and report case data to the National Guardian's Office consistently.

This document replaces the [previous guidance](#) on recording cases and reporting data, published in March 2021, and the accompanying document "Data collection: guidance on professional groups".

When this guidance comes into effect

This updated guidance comes into effect on **1 April 2022** – it applies to cases brought to Freedom to Speak Up Guardians on or after 1 April 2022.

The [previous version](#) – to be read in conjunction with the accompanying guidance on professional groups – applies to cases received between 1 April 2021 and 31 March 2022.

Summary of changes

The changes we have made are designed to meet the needs of Freedom to Speak Up Guardians who work in a wide range of organisations. They also respond to feedback we have received on the previous guidance from Freedom to Speak Up Guardians.

The changes to the guidance include the following:

Previous version	Revised version
The number of cases raised to FTSU Guardians, champions, ambassadors etc., in your organisation in total during the reporting period	In line with our guidance on Developing Freedom to Speak Up Champion and Ambassador Networks (April 2021), this item has been updated to remove reference to Freedom to Speak Up Champions, Ambassadors etc. The item now reads – The number of cases raised to Freedom to Speak Up Guardians in the organisation you support in total during the reporting period
-	A new item has been added –

	Number of cases with an element of other inappropriate attitudes or behaviours
Number of cases with an element of worker safety	Number of cases with an element of worker safety or wellbeing
Number of cases with an element of bullying or harassment	There are many definitions of bullying and harassment. We have included particular definitions from the Advisory, Conciliation and Arbitration Service.
Professional level	This item has been removed.
Professional group	This item is now called – Professional/worker group The professional/worker group categories have also been updated.

In [Annex 2](#), you will find answers to some frequently asked questions about recording cases and reporting data.

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National Guardian's Office

The [National Guardian's Office](#) (NGO) works to make speaking up business as usual in the healthcare sector in England.

The office leads, trains and supports a network of Freedom to Speak Up Guardians and provides learning and challenge on speaking up matters to the healthcare system.

Further information

If you have comments on this guidance or suggestions for improvement, please contact the National Guardian's Office:

enquiries@nationalguardianoffice.org.uk

0191 249 4400 (10 AM – 2 PM, Monday – Friday, excluding bank holidays)

Recording cases

Freedom to Speak Up Guardians are required to record **all** cases of speaking up that are raised with them, whether they are raised 'formally' or otherwise.¹

Records:

- help you keep track of cases
- promote consistent case handling
- provide a measure of the speaking up culture and use of the Freedom to Speak Up Guardian route in the organisation/s you support
- are a source of information to identify trends and barriers to speaking up.

General approach

Cases should be recorded:

- in a consistent and systematic way
- with due regard to confidentiality
- in compliance with local data and information management and security policies.

Confidentiality

Confidentiality should always be respected. Details of individual cases should not be shared outside the bounds of your agreement with the person you are supporting.

As a general rule, without express consent, this includes not sharing details of individual cases among local networks of Freedom to Speak Up Guardians, nor with other parts of the organisation/s you support (and the organisation by which you are employed, if this is different), or with those outside your organisation.

Confidentiality may need to be broken in exceptional circumstances, such as an immediate risk of harm to a person. **However, there may be ways to protect confidentiality even when further action is needed.** Decisions on the extent of information that needs to be disclosed to allow appropriate action to be taken will need to be made on a case-by-case basis. In all cases where confidentiality may be affected, this should be discussed with the person who spoke up.

¹ For more information, please refer to our [report](#) following our case review at Derbyshire Community Health Services NHS Foundation Trust.

Information governance

The [Data Protection Act 2018](#) and the [General Data Protection Regulation \(GDPR\)](#) form part of the data protection regime in the UK.

You should seek advice from the experts in your organisation regarding the data you are collecting, how it is processed, stored and retained.

Information to record

Anonymised data shared with the NGO

You should record the following information, which you are expected to report quarterly to the National Guardian's Office:

- The number of cases:
 - received
 - raised anonymously
 - with an element* of:
 - patient safety/quality
 - worker safety or wellbeing
 - bullying or harassment
 - other inappropriate attitudes or behaviours
 - where people indicate that they are suffering disadvantageous and/or demeaning treatment as a result of speaking up
 - brought by professional/worker groups
 - where there was a response to the feedback question (and the answer)

- Themes from feedback and learning points.

***A case may include elements of patient safety/quality, bullying or harassment, worker safety or wellbeing and/or other inappropriate attitudes or behaviours (as well as other matters). Please use all categories that apply for each case.**

You can find out more about data reporting requirements later in this guide.

Other information to record

You may also want to record the following information to understand cases better, monitor the use of your service, and identify trends and themes and potential barriers to speaking up:

A brief factual summary

- Recording this information as soon as possible after contact is made will ensure that the information given is fresh in your mind and accurate
- Be mindful of the degree of urgency with which action may need to be taken and/or a response required
- A case may be made up of multiple discrete issues, each with its distinct escalation route. Good listening skills and open questions will help you understand the whole picture
- When thinking about the case, you will want to note areas that indicate barriers to speaking up experienced by the person/s involved.

Has the individual spoken up previously?

- This information may inform discussions and expectations around requests for confidentiality. It may also reveal barriers to speaking up using other routes.

What is their desired outcome?

- This information may provide helpful information about the next steps or potential solutions. It may also help inform discussions around managing expectations
- You will want to ensure all aspects of the case are appropriately handled irrespective of the desired outcome.

Contact preferences

- It is important to record how, when and how often the person speaking up wants to be contacted.

Action taken

- It is important to record what action/s are taken and when, how and to whom referrals are made
- This is also another place to note anything encountered as the case progresses that indicates a barrier to speaking up or that policies are not being followed or could be improved.

Investigation

- The number of cases where an investigation is initiated, and whether these investigations are carried out by the organisation itself (internal) or by third parties (external).

Further characteristic details

- The characteristics of the person speaking up could potentially identify barriers to speaking up. These include 'protected characteristics' - such as age, gender, ethnicity or sexual orientation, as well as characteristics such as the person's contractual relationship (e.g. students, agency workers and volunteers) or their work shift patterns (e.g. night shift workers)
- This information may facilitate understanding of the Freedom to Speak Up Guardian's reach across the organisation and identify groups that may be using the Freedom to Speak Up Guardian route more/less frequently.

Follow up

It is good practice to follow up with the person who brought a case to you, providing a written summary of what was discussed, action/s agreed, and the next step/s. This communication can also include a helpful reminder about your role as a Freedom to Speak Up Guardian, how the information shared by the person speaking up will be stored and for how long, and information about confidentiality.

Open/Closed

A case should not be closed until you are satisfied that all possible routes have been reasonably pursued, including all avenues of dispute.

In some circumstances, someone speaking up may decide to 'drop out' of the process – however, you will want to make sure any action taken in response to a case reaches an appropriate conclusion before it is closed.

Freedom of Information and Subject Access Requests

Your records may need to be disclosed (e.g. to comply with a subject access request under the [Data Protection Act 2018](#)).

What is a Freedom of Information and/or Subject Access Request?

The Freedom of Information Act 2000 provides public access to information held by public authorities. The legislation entitles members of the public to request information from public authorities, i.e. a Freedom of Information (FOI) request.

Public authorities include government departments, NHS organisations and other bodies that exercise functions of a public nature. Further information can be found [here](#).

A Subject Access Request (SAR) is where an individual has the right to ask an organisation whether they are using or storing their personal information. They can also ask for copies of this personal information, verbally or in writing. This applies to organisations that collect and store personal information, not just applicable to public authorities.

What to do if you receive a Freedom of Information or Subject Access Request

These should be passed to the Information Access/Data Protection team or those responsible for dealing with these requests in your organisation.²

These requests must be responded to within a specific timeframe, so consult your Information Access/Data Protection team (or equivalent) as soon as you receive a request.

Please be mindful of our guidance for Freedom to Speak Up Guardians set out above regarding confidentiality: *'confidentiality should always be respected, and details of individual cases should not be shared outside the bounds of your agreement with the individual you are supporting'*.

The relevant experts in your organisation will help you discuss any exemptions and the level of detail to be provided.

² The NGO cannot give detailed advice as we are not the 'data controller' for the requested information.

Be mindful of inadvertent breaches of confidentiality/identification of individuals in the process and the potential for those individuals to suffer loss, harm, prejudice or loss of privacy. You are dealing with personal information which may also have been provided in confidence and sometimes in small numbers, so be mindful of the requirement to protect the integrity of the level of confidentiality you offer.

Please refer to the [Information Commissioner's Office](#) for further information.

Reporting data

Every quarter, the NGO collects data about the speaking up cases brought to Freedom to Speak Up Guardians. This data informs our understanding of:

- the implementation, utilisation and development of the Freedom to Speak Up Guardian role
- trends and themes in speaking up.

The information is collected at an organisational level (e.g. an NHS trust or national body).

Where several Freedom to Speak Up Guardians support a single organisation only one data return will be needed each quarter. Arrangements for ensuring that multiple returns are not submitted and that the relevant high-level anonymised information is exchanged between guardians to facilitate this should be made locally.

Freedom to Speak Up Guardian's supporting multiple organisations should discuss their data reporting requirements with the NGO.

The dates for upcoming data collection exercises can be found on our [website](#).

Data collection

Freedom to Speak Up Guardians are asked to report the following information regarding the speaking up cases brought to them:

The number of cases raised to Freedom to Speak Up Guardians in the organisation supported in total during the reporting period

- Each person speaking up to a Freedom to Speak Up Guardian should be counted as a separate case even where several individuals may be speaking up about the same matter together or separately
- Each time a single individual speaks up to a Freedom to Speak Up Guardian this should be counted as a separate case
- All cases that are raised during the reporting period should be recorded in your return to the NGO, whether they are open or closed
- If there are no cases for the reporting period, this should be reported as zero cases.

Number of cases raised anonymously

- Anonymous cases are those where the person speaking up is unwilling or feels unable to reveal their identity to you - you do not know who they are
- These cases should be recorded and treated as anonymous cases even if you believe you may know the person's identity
- Cases raised anonymously can be distinguished from cases raised confidentially. Where someone speaks up confidentially, they reveal their identity to someone on the condition that it will not be disclosed further without their consent (unless legally required to do so).

Number of cases with an element of patient safety/quality

- Any case that includes an element that may indicate a risk of adverse impact on patient safety or the quality of care. This can be a current or past matter and may identify risks or be about actual events
- The case should still be recorded in this category where the individual speaking up believes there is an impact on patient safety/quality, even if it is not clear whether there is an impact without further investigation.

Number of cases with an element of worker safety or wellbeing

- Any case that includes an element that may indicate a risk of adverse impact on worker safety or wellbeing. This can be a current or past matter and may identify risks or actual events
- The terms worker safety and wellbeing should be interpreted broadly. The focus should be on the perceptions of the individual bringing the case
- The [Health and Safety Executive](#) states: *"All workers are entitled to work in environments where risks to their health and safety are properly controlled."*

Examples of worker safety or wellbeing could include:

- Lone working arrangements, especially at night
- Insufficient access to personal protective equipment
- Stress at work
- Unsuitable or insufficient risk assessment

Number of cases with an element of bullying or harassment

- Any case that includes an element that may indicate a risk or incident of bullying or harassment. This can be a current or past matter and may identify

risks or be about actual events

- The case should be recorded in this category where the person raising the case believes there is an element of bullying or harassment
- The terms bullying and harassment should be interpreted broadly. The focus should be on the perceptions of the person bringing the case.

There are various definitions of bullying and harassment, including these from the Advisory, Conciliation and Arbitration Service (Acas):

Bullying

"...bullying... can be described as unwanted behaviour from a person or group that is either:

- *offensive, intimidating, malicious or insulting*
- *an abuse or misuse of power that undermines, humiliates, or causes physical or emotional harm to someone*

Examples could include:

- *spreading malicious rumours about someone*
- *consistently putting someone down in meetings*
- *excluding someone from team social events*
- *someone consistently undermining their manager's authority*
- *putting humiliating, offensive or threatening comments or photos on social media"*

Harassment

"Harassment is when bullying or unwanted behaviour is related to any of the following (known as 'protected characteristics' (under the Equality Act 2010), including age, disability, gender reassignment, race, sex and sexual orientation.

Example –

A group of people at work keep making offensive comments about a team member's age. This is making them feel humiliated and anxious about coming to work. This is likely to be harassment because of the team member's age."

You can find more information on these particular definitions on the [Acas](#) website.

Number of cases with an element of other inappropriate attitudes or behaviours

- Any case that includes an element that may indicate a risk of other inappropriate attitudes or behaviours that do not constitute bullying or harassment. This can be a current or past matter and may identify risks or be about actual events
- The case should be recorded in this category where the person raising the case believes there is an element of other inappropriate attitudes or behaviours
- The terms other inappropriate attitudes or behaviours should be interpreted broadly. The focus should be on the perceptions of the person bringing the case
- Examples of other inappropriate attitudes or behaviours may include:
 - Actions contrary to an organisation's values
 - Incivility
 - Microaggressions.

Please distinguish other inappropriate attitudes or behaviours from bullying. The other inappropriate attitudes or behaviours category seeks to capture those cases that would not otherwise fall within the bullying or harassment category.

As mentioned above, there are various definitions of bullying. However, the multiple definitions of bullying tend to share the following features:

- unwanted behaviour, that is:
 - *intended* to harm, hurt or humiliate another person
 - *repeated* (or has the potential to be repeated) over time
 - *abuse or misuse of power* in practice or perception.³

A case may include elements of patient safety/quality, bullying or harassment, worker safety or wellbeing, and/or other inappropriate attitudes or behaviours (as well as other matters). Please select all categories that apply for each case.

Number of cases where disadvantageous and/or demeaning treatment as a result of speaking up is indicated

- This category refers to treatment as a result of the act of speaking up, rather than the specifics of the matter raised by speaking up
- Disadvantageous and/or demeaning treatment as a result of speaking up may include being ostracised, given unfavourable shifts, being overlooked for promotion, or being moved from a team. It can be a deliberate act or a failure

³ Power imbalances can change over time and in different situations, even if they involve the same people.

to act (i.e. an omission)

- You should record the number of cases brought to you where a person feels they have suffered disadvantageous and/or demeaning treatment as a result of speaking up
- A case being recorded as indicating disadvantageous and/or demeaning treatment as a result of speaking up is based on the perceptions of the person speaking up
- In some cases, people may come to you to discuss disadvantageous and/or demeaning treatment that has occurred some months after their initial speaking up case. In these instances, this needs to be recorded as a new case.

Professional/worker group

- The professional/worker group of those speaking up to you, according to the categories found in [Annex 1](#)
- Please assign people to one of the described categories wherever possible, rather than using the 'other' category. Each person should be assigned to a single, most appropriate category.

Feedback (including main themes)

Feedback should be obtained when a case is closed, even when the person speaking up may be unhappy with the outcome of their case.

Each person who spoke up to you should be offered the opportunity to provide feedback to you, even where several people may have spoken up together.

You may have your own feedback questions, but the NGO asks Freedom to Speak Up Guardians to ask the following question:

- *Given your experience, would you speak up again? (Yes/No/Maybe/Don't know)*

This should be supplemented with the follow-up question:

- *Please explain your response*

You may wish to categorise the information provided in the supplementary question so that themes and trends can be identified and actioned.

You are asked to report the following information to the NGO each quarter:

- The number of cases where you have received feedback, **irrespective of the quarter in which the case was originally received/opened**
- The number of responses in each response category, i.e. Yes/No/Maybe/Don't know
- Brief details of the main themes from the feedback you have received each quarter. Examples of themes from feedback may include:
 - *'...People felt listened to throughout the speak up process'*
 - *'...More regular updates were needed for the person speaking up.'*

Please do not include identifying information about people who have spoken up.

Summary of learning points

Speaking up is an opportunity to learn and improve. Recording the learning points for you or your organisation that arise out of cases will assist you in making suggestions for improvement.

Please report the following information to the NGO:

- A summary of the main learning points from the cases brought to you
- Examples of learning points may include:
 - *'... More support is needed for shift workers to access speaking up channels.'*
 - *'...Having a Freedom to Speak Up Champion in staff networks has helped raise the profile of speaking up in the organisation.'*

In your feedback themes, please also include examples of good practice where you can.

Sharing and learning

We [publish](#) some of the anonymised data at an organisational level, where possible:

- The number of cases:
 - received
 - raised anonymously
 - with an element of: patient safety/quality; bullying or harassment; worker safety or wellbeing; and/or other inappropriate attitudes or behaviours
 - where disadvantageous and/or demeaning treatment as a result of speaking up is indicated.

Other data is combined (i.e. aggregated) for all organisations before publication to avoid actual or perceived breaches of confidentiality. (Freedom to Speak Up Guardians should make similar arrangements when, for example, sharing information with the board (or equivalent) in the organisation they support.)

The information is also uploaded to the [Model Health System](#), a digital information service to support improvement in the NHS. Freedom to Speak Up Guardians can use this service to inform their understanding of their organisation's speaking up culture.

Annex 1: Professional/worker groups

These professional/worker group categories are informed by feedback from Freedom to Speak Up Guardians and based on NHS Digital's National Workforce Data Set.

Professional/Worker Group	Definition
Additional clinical services	<ul style="list-style-type: none"> • Staff directly supporting those in clinical roles. In addition, support to nursing, allied health professionals and other scientific staff are included. • Have significant patient contact as part of their role.
Additional professional scientific and technical	<ul style="list-style-type: none"> • Scientific staff, including registered pharmacists, psychologists, social workers, and other roles such as technicians and psychological therapists.
Administrative and clerical	<ul style="list-style-type: none"> • Non-clinical staff, including non-clinical managers, administration officers, executive board members who do not have significant patient contact as part of their role.
Allied health professionals	<ul style="list-style-type: none"> • Registered clinical staff providing diagnostic, technical and therapeutic patient care, including dietitians, radiographers and physiotherapists. • Includes qualified ambulance staff such as paramedics.
Estates and ancillary	<ul style="list-style-type: none"> • Non-clinical support and maintenance staff, including gardeners, plumbers, cooks and housekeepers who do not have significant patient contact as part of their role.
Healthcare scientists	<ul style="list-style-type: none"> • Registered qualified and other staff working in defined healthcare scientist roles, including Clinical scientists and biomedical scientists and technicians working in healthcare science. • It also includes public health scientific staff.
Medical and dental	<ul style="list-style-type: none"> • Registered doctors and dentists.

Nursing and midwifery registered	<ul style="list-style-type: none"> Registered nurses and midwives.
Students	<ul style="list-style-type: none"> Directly employed staff undertaking formal education, including student nurses and midwives.
Other	<ul style="list-style-type: none"> This can include any professional group that does not fit any other category. This can also include volunteers working in charity shops, fundraisers and similar.
Not known	<ul style="list-style-type: none"> This can include an instance when a person has not disclosed their professional/worker group to you or anonymous cases.



Annex 2: Common questions and answers on recording cases and reporting data

'My line manager is requesting access to my case records. I'm concerned that this would be a breach of confidentiality. What should I do?'

Confidentiality should always be respected. Identifying details of individual cases should not be shared outside the bounds of your agreement with the person you are supporting.

Speak with your line manager about the expectations around confidentiality and the importance of avoiding actual or perceived confidentiality breaches for an effective speak-up culture.

Discuss with your line manager to understand more about the reason for the request, as this will inform the next steps. For example, are records requested to comply with a Freedom of Information or Subject Access Request, or perhaps as part of legal proceedings? In which case, you will want to explore this with the relevant experts in your organisation.

'A group of workers are speaking up about matters in their department. Do I record this as one case?'

Each person speaking up to a Freedom to Speak Up Guardian should be counted as a separate case even if they are speaking up about the same issue, together or separately.

The workers may be speaking up about the same matter, but their desired outcomes and experiences of the speaking up process may be different.

Counting each person as a separate case will help you provide a more tailored and holistic service to everyone. It also means that the information you capture - including feedback from those who spoke up - will be accurate and comprehensive.

'I am part of a team of Freedom to Speak Up Guardians supporting lots of different sites within a large organisation. Do we report for each site, or as the Head Office?'

You should submit one data return for each organisation you are supporting, even if that organisation operates over several sites. (Freedom to Speak Up Guardian's supporting multiple organisations should discuss their data reporting requirements with the NGO.)

Please coordinate with the other Freedom to Speak Up Guardians in your team to agree on arrangements for submitting data as part of the national data collection process.

However, please be mindful that confidentiality should always be respected. Identifying details of individual cases should not be shared outside the bounds of your agreement with the individual you are supporting, even when sharing information between guardians.

‘A person contacted me anonymously, but they have since disclosed their identity to me. Do I still record the case as anonymous?’

At the point of contact, the person was anonymous, so the case should be recorded as having been raised anonymously.

As cases progress, people may feel confident about revealing their identity, but it is the status of the case at the point that it is raised that should be reported as part of the national data set.

‘Someone has raised an improvement idea. How do I record that?’

The NGO's definition of speaking up includes improvement suggestions, so please record it as you would any other case.

‘I work for a very small organisation. I am worried that the people speaking up to me could be identified if I report data about my cases.’

Confidentiality should always be respected. Identifying details of individual cases should not be shared outside the bounds of your agreement with the person you are supporting. As a rule, without express consent, this includes not sharing details of individual cases among local networks of Freedom to Speak Up Guardians, nor with other parts of your organisation, or with those outside your organisation.

The NGO publishes *some* of the data you report to us at an organisational level, if possible. Other data (e.g. professional/worker groups, themes from feedback) is combined (i.e. aggregated) for all organisations before publication. We do this to avoid any actual or perceived breaches of confidentiality.

Freedom to Speak Up Guardians should make similar arrangements when reporting on cases locally.

‘My senior leadership team is not keen on making the number of speaking up cases publicly available. They are worried about the organisation’s reputation. I understand the requirement to submit data, but what shall I do?’

Freedom to Speak Up Guardians are required to report non-identifiable information to the NGO regarding the speaking up cases brought to them. This is a contractual requirement for organisations subject to the NHS standard contract, an expectation

of other organisations with Freedom to Speak Up Guardian arrangements, and something considered by CQC when assessing the well-led domain of inspections.

Every quarter, we receive data from Freedom to Speak Up Guardians supporting a range of organisations across England, including national bodies, NHS trusts, independent healthcare providers and primary care organisations.

The information you share provides invaluable insight into the implementation and utilisation of the Freedom to Speak Up Guardian role. The data can also provide confidence – and assist in learning and improvement – for the colleagues and organisations you support, other Freedom to Speak Up Guardians and the healthcare system.

‘My organisation would like me to collect data on the characteristics of people speaking up – for example, ethnicity and gender. I understand this is to gain assurance that Freedom to Speak Up is reaching everybody, but I am concerned that this might make it easy to identify those speaking up. What shall I do?’

All workers should have the freedom to speak up. However, we know that some groups face particular barriers to speaking up.

Information about the characteristics of those who speak up can support assurance about the effectiveness of the speaking up culture, including whether it is reaching groups facing barriers to speaking up. You may wish to put in place a process where this information can be collected from people who speak up to you, for example as part of a feedback mechanism when a case is closed.

However, confidentiality should always be respected, and identifying details of individual cases should not be shared outside the bounds of your agreement with the person you are supporting. So, for example, if information about the characteristics of those who speak up could identify individuals speaking up - and whether it does will depend on context - this should not be shared.

‘A person has spoken to me about being bullied by their line manager. I would record this as a case with an element of bullying or harassment. Should it also be recorded as a case containing an element of other inappropriate attitudes or behaviours?’

The other inappropriate attitudes or behaviours category seeks to capture those cases that would not otherwise fall within the bullying or harassment category.

The person in this case is speaking up about being bullied, so you're right to record it as such. However, it should not be recorded as a case with elements of other inappropriate attitudes or behaviours unless the case contains other strands that do not constitute bullying or harassment but can be defined as other inappropriate attitudes or behaviours.