National Guardian
Freedom to Speak Up

A Case Review Process for NHS Trusts and Foundation Trusts

1. Introduction

The Francis Freedom to Speak Up review summarised the need for an independent case review system as 'a mechanism for external review of how concerns have been handled at local level and the impact on the individual where there is legitimate cause for concern' [Paragraph 7.6.5].

The purpose of this summary is to set down how the National Guardian's Office (NGO) could undertake such a review of individual cases referred to it. It summarises how this process could operate, including the triaging of cases referred to the NGO, evidence gathering and report writing, and how some specific challenges could be addressed.

This summary sets out a pilot case review process, with the intention that its operation and progress is continuously monitored by the NGO, with changes and amendments made where required. The NGO will also encourage feedback from all interested parties as to the operation of the process to help identify where improvements can be made.

1.1 Seeking advice and guidance

Because this is an entirely new process the NGO has worked with a range of organisations and individuals to co- create a process that will help to establish the right culture across the NHS.

The NGO has taken the advice from its Accountability and Liaison Board to undertake a listening exercise to seek a wide range of views for case review criteria. As a result the NGO arranged two events to which organisations' and individuals' views were sought and created an email account specifically for receiving information from those who were not able to attend the meetings.

Following suggestions from attendees that a draft case review process should be publically available before the end of the listening exercise to allow for comment, the NGO published these proposals on its website in draft form.

The NGO also posted a summary of all the comments it has received so far. All comments will help the NGO to refine and improve the process and are gratefully received.

1.2 Case review based on stated good practice

The Francis Freedom to Speak Up (FTSU) review sets out how the freedom of NHS staff to speak up about their concerns should be supported. The review's 20 principles set out how this support should be provided and additional examples of good practice to do this are given in Annex A of the FTSU review.

Those principles, actions and examples of good practice establish an authoritative set of standards, based on the considerable evidence submitted to the review, that state how NHS trusts should support their staff to raise concerns and how they should respond to them.

It is therefore proposed that the National Guardian's Office should review cases concerning the freedom to speak up principally on the basis of the principles and good practice summaries in the FTSU review, with the principles themselves setting the standards against which the NGO assesses how NHS trusts have supported the freedom of their staff to speak up in particular cases.

Those areas that a case review should cover are set out at 4.5 below.

References in this summary to the 'executive summary' are in relation to the executive summary of FTSU review.

The complete 20 principles of the FTSU review are set out in Annex A to this summary.

As well as reviewing cases based on the principles and good practice set out in the FTSU review the National Guardian's Office can also refer to additional standards of published good practice, which include:

- Freedom to speak up: raising concerns (whistleblowing) policy for the NHS April 2016
- Whistleblowing: Guidance for Employers and Code of Practice – Department for Business Innovation and Skills March 2015

1.3 The expectations of the National Guardian's Office

The accepted principles of good practice when supporting NHS staff to speak are commonly known. This includes the contents of the Freedom to Speak Up review, which have been widely shared across the NHS since it was published in February 2015, including where it has been discussed at board level within NHS trusts.

Following the review some NHS trusts took the initiative to appoint their own Freedom to Speak Up Guardians, before they were contractually obliged to do so from April 2016.

Therefore, it is the expectation of the NGO that NHS trusts will have continued to implement the recommendations of the Francis review to ensure that they support their staff to speak up and that they will be familiar with the standards to which a case review by the NGO will evaluate them.

2. The purpose of a case review

A guiding principle of case reviews will be to identify the greatest possible learning from a given set of circumstances regarding how the freedom of NHS staff to raise concerns should be supported.

2.1 Reviewing responses to NHS staff concerns

Principle 15 in the Francis FTSU review sets out how an external body could be established to review concerns raised by NHS workers. In turn, this principle led to the establishment of the NGO, headed by a National Guardian.

The principle makes clear that the responsibility for dealing with NHS staff concerns lies squarely with the trusts responsible [Executive Summary paragraph 74] and that it should not be the purpose of a body such as the NGO to investigate concerns [paragraph 77]. Rather, the body supporting the National Guardian should 'challenge or invite others to look again at cases' [paragraph 78].

Therefore, the purpose of a case review will be primarily to support NHS trusts to identify how they can improve their own processes and support for staff when raising concerns by reviewing how NHS trusts responded to such concerns.

A case review should not be an investigation in the regulatory sense, with the power to compel staff to be interviewed and documents and data to be supplied; it will not be making any determination regarding whether a registered NHS body was in breach of any regulations. Instead it will review the processes, procedures, policies and cultures that operated at the time a particular a concern was raised to determine whether the response to those concerns was appropriate.

A fundamental aspect of this approach will be to work with NHS trusts to support the improvement of their systems and policies for responding to staff concerns (see 2.3 and 4.6 below).

As part of that review it will be necessary to gather information regarding processes, procedures, cultures and systems in order for the review to reach reasonable conclusions about whether or not such processes were appropriate in responding to NHS workers' concerns.

2.2 Guidance on case reviews from FTSU review

The Freedom to Speak Up review [7.6 External Review] sets out additional guidance regarding the possible purpose of a review and recommendations that could be included in a final case review. The case review system should be consistent with this guidance, which includes:

- Case reviews should be a ‘non-legalistic’ review and recommendations on further action to be taken by a NHS body, as appropriate [7.6.10]
- The NGO should not ‘take over the investigation of concerns … [as] this needs to remain the responsibility of the local [NHS] organisations’ [7.6.13]
- The NGO should instead ‘use its discretion’ to review cases where NHS workers’ concerns have highlighted failures to follow good practice, resulting in ‘dangers to patient safety’ and/or ‘injustices to staff’ [7.6.12]
- The NGO could ‘consider how a case was handled, including any negative impact on individuals concerned’ and then ‘advise relevant organisations on any actions that should be taken to deal with the issues raised’ [7.6.15]

(See also 7.2 below re report recommendations.)

2.3 Working with NHS trusts to improve

The purpose of a case review should not be to apportion blame where it identifies that support for staff or a response to a concern was insufficient, but instead to identify how NHS trusts can make improvements to their systems, policies and procedures as well as to commend areas of good practice.

Therefore the case review process should also involve a supportive dialogue during and after the review between the NGO and the NHS body concerned. This will involve discussion between the reviewer and the NHS body about the information that the reviewer has obtained and, on the bases of that information, guidance from the NGO about how the NHS body could improve their systems, policies, procedures and cultures (see also point 4.6 below.)

Where the NGO identifies areas of good practice during a review that they should commend them to the NHS body in question at the time of finding, to support and encourage positive practices.

2.4 Reviewing cases that show good practice

As well as identifying where NHS trusts did not demonstrate best practice regarding supporting their staff to speak up it will also be necessary to record examples of good practice received by the office. It is anticipated that these will largely be supplied by Freedom to Speak Up Guardians (FTSUGs) and the office will encourage them to do so through regular engagement, in the same way that FTSUGs provide information about barriers to speaking up they have encountered.

This will assist the NGO in identifying an ongoing benchmark by which to measure good performance, in conjunction with possible standards of good practice set out in Annex A of the FTSU review.

The NGO will also liaise with the CQC inspectorate to ensure that where inspectors identify good practice in supporting NHS staff to speak up when assessing a NHS service under the Well Led domain that this is recorded to help build a picture of effective practices

2.5 Reviewing the freedom to speak up not the merits of specific allegations

Specifically, it will not be the purpose of a case review to look at the merits of a reported individual concern. That role is the responsibility of agencies charged with monitoring and maintaining the safety of NHS services, including regulators and the services themselves.

Similarly, the function of a case review will not be to provide remedies for perceived wrongs or to constitute an appeal process.

Rather, a case review will look at four main areas, detailed at 4.6 below, relating to how a NHS service supported its workers to speak up in a particular case and whether or not this met best practice. Where there is evidence that best practice was absent recommendations will be made as to how a trust can deliver this.

These four areas are taken from the sub headings in the FTSU review related to each of the 20 principles, namely:

- staff culture
- handling safety concerns
- good practice and
- support for vulnerable groups

It will be important to publicise the purpose and scope of case reviews, in NGO publications, as well as in the reports for case reviews themselves. This will help manage the expectations of those considering referring their concerns to the NGO.

2.6 Historic cases

It is accepted that cases referred to the NGO for possible review will obviously relate to safety concerns raised sometime in the past. All cases, therefore, are in one sense ‘historic’. Although the FTSU report (paragraph 77 of the Executive Summary) advised that the purpose of case reviews should not be to review ‘historic’ cases this is interpreted as meaning cases that are already known and, in many circumstances, have already been looked into.

A guiding principle of case reviews (see point 2 above) is to achieve maximum learning from how a NHS responded to the raising of a safety concern. It is likely that the more time that has passed since concern was first raised the more likely the handling of it will have already been reviewed, either internally, externally, or both.

Therefore, to permit maximum learning from the cases and to ensure that its limited resources to not duplicate work already done the NGO will review cases referred to it by NHS workers who have been employed in the NHS for a period of up to two years prior to the point they are referred to the NGO for review (see 3.1.1 below.)

2.7 Preparing for the case review process

In accordance with its commitment to working in an open and transparent way the NGO will publish this summary and any necessary supporting material on its website. This will be done in advance of the commencement of the case review process to give notice to NHS trust of how the process will work and the standards of good practice against which cases will be reviewed, although it is expected that trusts will have already begun to apply these principles following the publishing of FTSU report in 2015.

To further support preparation for the case review process the NGO will also make direct contact with each NHS trust and the Guardians in those trusts to ensure that they are aware of how the process will work and when it will begin.

3. Pre-Review Process

It is expected that the NGO will regularly receive referrals from a variety of sources, including Freedom to Speak Up Guardians and NHS workers of cases to review. It will be a function of the Case Review Manager to log these referrals prior to a decision regarding which cases should be subject to full review.

As part of this process the NGO will need to take as much relevant information as possible in order to determine whether the case meets the threshold for those capable of review (see 3.1.1 below.) This information will include that relating to potential or actual harm to patients and/or staff and what is known about how the NHS trust in question has responded to such concerns.

3.1 Identifying which referrals should be formally reviewed

3.1.1 Case review criteria

A set of criteria will be required to determine which of the cases referred to the NGO are potentially suitable for formal review. Where a case passes this threshold the NGO will then exercise its discretion whether or not to review it.

At its meeting on 12.12.16 the Accountability and Liaison Board of the National Guardian's Office advised that an Advisory Group for the NGO would be able to provide ideas and suggestions for what these criteria should be and meetings

scoping the potential membership of a future Advisory Group took place on 20 January for this purpose.

The NGO also invited ideas and suggestions from all interested parties regarding the case review process to be sent by 20 February 2017 and published the feedback received on its website.

Below are a set of criteria, inclusive of the ideas and suggestions received from the attendees of the meetings in January and others, as of 13 February 2017:

WHO

- The NGO will accept referrals from the following persons or agencies (*note - the term 'worker' is defined in its broadest sense, to include agency staff, trainees, students and non-executive directors of NHS trusts*):

    - a current NHS worker or workers who have raised a concern; or
    - from those working for the NHS during a two year period prior to the referral; or
    - a Freedom to Speak Up Guardian; or
    - a body responsible for delivering or monitoring NHS services

- The NGO may also use its discretion to accept referrals from any other source it deems appropriate

WHAT

- The available information shows that the NHS body in question failed to respond appropriately to a serious concern, or concerns relating to the safety of patients and/or NHS workers; and
- The information also indicates that significant, wider systems learning may be obtained from reviewing the case
- In respect of any matter that is not otherwise the subject of either a criminal investigation or an investigation by NHS Protect or the NHS Counter Fraud Authority
- Where it is practicable for the NGO to review the case in question
- The NGO will consider prioritising those cases where the available information shows that a failure to respond appropriately to the raising of a safety concern either caused serious harm to staff or patients or created the risk of such harm

WHEN

- Where there is a concurrent investigation or investigations into the matter concerned the NGO will only undertake a review of the same case once a discussion with the relevant authority has taken place to ensure resources of different agencies are not duplicated.

3.1.2 The evidence required to assess referrals

Paragraph 76 of the executive summary states that the purpose of a case review should be to 'review the handling of concerns where there is reason to believe that there has been failure to follow good practice …' Therefore cases should only be considered for possible review where there is clear evidence received in the referral that the NHS body has already responded to a concern and has failed to do so appropriately. Where the referral contains little or no such information the case should not be considered for possible case review.

It is expected that the information provided in some referrals will be insufficient to allow the Case Review Manager to decide whether the case meets the criteria advised by the AG. In such cases the NGO should not undertake the gathering of information in the nature of a review to determine whether that referral meets the criteria for case review. They may instead inform the referrer of the need to provide more information.

3.2 Recording and responding to referrals for case review

All referrals received by the NGO for cases to be reviewed should be recorded, including a brief summary of the concern, when it was received, contact details of the referrer and the initial response of the NGO.

All NGO staff will be familiar with the referral recording system that is adopted so that they are able to appropriately record referrals for review taken by the office.

3.3 RAG rating referrals in respect of risk

The Case Review Manager should RAG rate all referrals for case review in terms of risk to ensure that staff respond to them appropriately, in accordance with the NGO escalation protocol; for example, where a referral to review a case also contains information relating to a safeguarding concern the risk for referral will be rated as red to ensure that NGO staff respond to it with appropriate speed according to their safeguarding policies and procedures.

3.4 NGO and Public Interest Disclosures

The NGO is a prescribed body for the purposes of the Employment Rights Act 1996, as amended by the Public Interest Disclosure Act 1998. This means that, where information given to the NGO as part of a case review referral satisfies certain legal requirements it can be deemed to be a 'protected disclosure', namely one which entitles the referrer to possible redress at an employment tribunal for any detriment received from their employer as a consequence of making that disclosure.

It is likely that some referrals to the NGO will satisfy the legal requirements referred to above, and therefore be 'protected disclosures'.

S.148 of the Small Business, Enterprise and Employment Act 2015 also requires prescribed bodies annually to report on how they are responding to protected disclosures and the NGO will do this.

4. Conducting Case Reviews

4.1 Initial contact with the NHS body

Once the Case Review Manager (CRM) has selected a case for review they will then notify the relevant NHS body without delay of their intention to conduct a case review.

As part of this notification the CRM should communicate the reasons for the review, its overall purpose, how the process will work, including the report writing process and potentially what information they will require from the NHS body to complete the review.

At all times the focus should be on open and transparent communications between the CRM and the NHS body.

The correspondence should also emphasise that the NGO's role is not to apportion blame, but instead to support the work of the NHS body to improve its management of and response to the concerns of staff and to improve patient safety.

The NGO should provide no less than fourteen working days' notice of its intention to conduct the review. This is in order to support the NHS body in question to prepare for the review, including the provision of documentary information.

4.2 Agreeing dates and review requirements

Before initiating the case review the Case Review Manager should agree in advance with the NHS body what information they require, which persons they might wish to speak to and the date and time of any visits to a NHS body they may wish to make to obtain information in person.

4.3 Gathering information during a case review

In order for a case review to assess whether a NHS body has appropriately handled the concerns raised by a NHS worker it will be necessary to gather available evidence on the processes, systems and cultures of that NHS body.

The sources of information will include the person or body that referred to the case to the NGO, the NHS body involved in the case and any other source that the NGO regards as relevant.

As discussed at point 1.1 above it is proposed that the areas of work looked at should be based on the 20 principles set out in the Francis review, which sets down guidelines and actions for NHS trusts to help deliver cultures and procedures that support their staff to speak up about their concerns and to respond appropriately to them.

The process of gathering information will involve requesting data and interviewing individuals.

The NGO does not have statutory powers and therefore cannot compel NHS services to cooperate with any case review process in any way. Therefore, the NGO should work supportively and collaboratively with NHS staff and trusts to obtain information regarding processes, policies and procedures, underpinning the role of the NGO to support NHS trusts to examine their own work and take the necessary steps to improve it (see also points 2.1 and 5.6 above).

It is envisaged that the CRM will occasionally need to contact trusts at the highest level to assist in procuring information, where this has previously not been forthcoming.

However, where an NHS body refuses to meet a reasonable request for information during a case review this refusal and the reasons for it should be both noted in the report and potentially inform any stated conclusions.

4.4 Corroboration

When gathering information the NGO should ensure that, wherever possible, the information is corroborated, i.e. it will be necessary to find more than one piece of information to support the assertion of an existence of a fact.

Without corroboration it will not be reasonable to assert in a final report that a fact, or a particular set of facts is true and therefore capable of supporting a conclusion and any recommendations.

4.5 Areas to review

As discussed at point 1.1 the case review should look at evidence of how a NHS body is meeting the recommendations set out in the 20 principles of the Francis review, under four sub-headings.

(Note that the points below do not cover all of the 20 principles set out in the Francis review, as not all of the points are relevant to what a NHS body should be actively doing to support appropriately the freedom of NHS staff to speak up about their concerns.)

The list below is a checklist to be followed when gathering information during a review. It also represents a structure for summarising and analysing that information in a case review report.

This list is not exhaustive and not all cases will necessarily require an assessment of all the categories, but the list provides a basic framework form evaluating how a NHS body has supported the freedom of its staff to raise safety concerns.

CULTURE CHANGE

1. **Safety Culture**

    - Evidence of a prompt and appropriate response to the safety concerns raised by a NHS worker
    - Evidence of implementation of appropriate policies and procedures in place to ensure that learning from safety incidents takes place and is embedded in the practices of the NHS body
    - Evidence of appropriate monitoring of safety issues at board level
    - Evidence of prompt and effective feedback to staff raising safety concerns

2. **Culture of Raising Concerns**

    - Evidence of implementation of a clear and up to date policy and procedure for employees to formally report incidents or raise concerns

3. **Culture Free from Bullying**

    - Evidence that the NHS body appropriately addresses issues of bullying, including evidence of implementation of updated HR policies and procedures

    - Must be regular training for those in positions of leadership and management in how to address and prevent bullying and effective actions responding to staff survey results

4. **Culture of Visible Leadership**

    - Evidence that all staff have open access to the NHS body's senior leaders in order to raise concerns, informally and formally

5. **Culture of Valuing Staff**

    - Evidence that NHS trusts publicise actions they have taken to improve safety following the raising of safety concerns by staff
    - Evidence of trusts supporting front-line staff to take a lead role in developing safety initiatives and strategies

6. **Reflective Practice Culture**

    - Evidence that all staff attend regular reflective practice meetings, where safety and learning from incidents are discussed
    - Evidence that reflective practice discussions focus on safety, not blame

HANDLING CASES

7. **Raising and Reporting Concerns**

    - Trusts must have a clear process for recording all formal reports of incidents and concerns

8. Investigations

- Evidence that investigations into incidents and concerns take place without undue delay and are conducted by staff who are appropriately trained using national standards for investigations and who are sufficiently independent
- Evidence of appropriate managerial oversight of investigations into incidents and concerns
  Evidence that staff who raise concerns receive prompt feedback regarding the outcome of relevant investigations

9. Mediation & Dispute Resolution

- Evidence that, where appropriate, trusts take reasonable steps to resolve staffing disputes arising from incidents and concerns raised by them

SUPPORTING GOOD PRACTICE

10. Training

- Evidence that trusts are making training available to all staff regarding the organisation's approach to raising concerns and acting on them

11. Support

- The trust responsible for the service in question has a FTSUG in place and that person is both sufficiently accessible and independent
- The staff member in question was able to access support to raise their concern, either from a manager, FTSUG or other appropriate person
- Where the staff member required appropriate, additional support, including counselling services and psychological support, these were available and met the needs of staff

12. Support to find alternative NHS employment

- Evidence that, where appropriate, a NHS worker, unable to continue in their current employment because of raising a concern, has been offered support to find alternative NHS employment

13. Transparency

- Evidence that the NHS body is taking steps to publish data regarding the number of concerns formally reported by staff, the actions taken to respond to those concerns and the outcomes
- Evidence relating to confidentiality clauses in settlement agreements indicates that they have only been drafted in the public interest

14. Accountability

- Evidence that trusts have appropriately responded to any incidents where workers are victimised, or otherwise unreasonably treated for raising concerns, including making protected disclosures

VULNERABLE GROUPS

15. Non-permanent staff & minority groups

- Evidence that non-permanent staff, including bank and agency workers, locums, students and volunteers have access to the same support and procedures when raising concerns that is available to permanent staff
- Evidence that all staff, regardless of their racial, ethnic, religious background, or any other protected characteristic under the Equality Act 2010, have equal access to support and procedures when raising concerns

4.6 Feedback from the NGO to interested parties during the review process

The review process should not only involve the gathering of information and report writing, but also the providing of continual feedback from the NGO to interested parties of what the review has identified in terms of practices that potentially need improving. These parties will include the NHS trust concerned, as well as the person(s) and/or body(s) that first referred the matter to the NGO.

The aim of such continual feedback will be help trusts to remedy any identified problems as quickly as possible and to ensure that the referrer of the case is kept up to date with its review.

5. Public law principles

The NGO, while not exercising any regulatory function, is a subsidiary of a public body and must therefore act in accordance with public law principles, i.e. in a manner which is fair, reasonable and proportionate.

Therefore, in respect of how the NGO gathers information for case reviews, it should only make reasonable requests for information that are proportionate with its aim of identifying the need for learning and improvement relating to speaking up about safety concerns in the NHS.

6. Reporting

The draft case review report will summarise the relevant evidence under each of the sub-headings outlined in the evidence gathering and report structure, above at paragraph 4.5. It will both commend those areas where trusts have taken clear and effective steps to support the freedom of staff to speak up, as well as identify areas of required learning and improvement, on the basis of the evidence.

6.1 Report structure and style

6.1.1 Structure

Each report should begin with an overall summary of the information gathered and the report's overall conclusions and recommendations. This can be followed by an outline of why the review was conducted, by whom and with what purpose. In addition, as stated at 2.2 above, each report should also summarise the reasons for and the scope of the review.

Details of the information gathered during the review can be set out in the main body of the report, following the report structure in 4.5 above i.e. 4 main headings and 15 sub-headings. Conclusions and recommendations can be set out in full at the end of the report (see 6.2 and 6.3 below.)

Any actions taken by a NHS body during the review process to remedy any identified problems should also be reported.

Where the NGO has judged that it had a duty to refer evidence relating to the potential or actual risk of harm to patients or staff to an external agency, such as a regulator or safeguarding authority, the report should state that the NGO took this action. This is to ensure that all readers of the report understand that the NGO responded promptly and appropriately to such evidence.

6.1.2 Comments from individuals and trusts

Each report will be shared in draft form with the referrer, the individual(s) concerned and the relevant trust. Those with whom the draft report is shared will be asked to comment on the factual accuracy of the draft. Where comments are received that

stated facts are incorrect and there is evidence to reasonably support any amendments these will be made.

The report will summarise the responses to it from all of the above. This summary should include whether those referring the matter to the NGO believe that the review adequately addressed their concerns (see 6.5.)

6.1.3 Style

The language used in each report should be jargon-free and the narrative articulated in a way that is concise and accessible to all readers, especially members of the public. Sentences should be short and the language accessible. The tone should be supportive and free from blame, but reports should also be clear in identifying any evidence of deficiencies in supporting NHS staff to speak up.

It will be necessary to devise a report template to ensure the consistency of layout and appearance of each report. Therefore, colours and logos already employed by the NGO should be used.

6.2 Report conclusions

Conclusions should be stated at the end of the report, in respect of each of the 4 main headings -

- Culture Change
- Handling Cases
- Supporting Good Practice
- Vulnerable Groups

A brief summary of the evidence provided in the body of the report will be attached to each conclusion.
Each conclusion should state whether, in the opinion of the report's author, the NHS body demonstrated good practice in responding appropriately to the concerns of their staff, or whether there is a need for learning and improvement.

6.3 Recommendations

At the end of each conclusion the report should make recommendations where there is evidence of a need for a NHS body to improve its response to the concerns of its staff. Recommendations should reflect the good practice stated in the 20 principles of the Francis review, as tailored to the particular circumstances of each case.

Recommendations should be reasonable, proportionate and supportive, consistent with the overall approach to the case review process already outlined.

As discussed at 2.3 above the Francis review provides important guidance regarding the operation of a case review process, including the type of advice and recommendations that the process could lead to. At paragraph 7.6.12 the report envisaged some possible recommendations that could arise from a case review:

- Advising the relevant NHS body 'to take appropriate and proportionate action'
- Advising a regulator to make a direction requiring possible action, including –

    - correction of any failure to investigate the concerns adequately
    - correction of any non-compliance with good practice

6.3.1 Tracking the implementation of recommendations

It will be necessary to monitor the implementation of recommendations made in reports to help ensure that the improvements identified are achieved. Therefore, the NGO will need to liaise regularly with relevant FTSUGs to identify whether the NHS body in question has implemented the actions recommended in a review report.

To facilitate the monitoring of the process a record of each case review should be opened detailing the initial referral, a brief summary of evidence, outcomes, report recommendations and information received from FTSUGs regarding the implementation of recommendations.

All review cases should be recorded as 'open' until such time as they can be marked 'closed' upon confirmation that the NHS body has implemented the NGO report's recommendations. The CRM should periodically review the status of all open cases to see if they can be closed.

Where it is identified that a NHS trust continues not to implement recommended changes the NGO will share this information with NHS Improvement and CQC to help ensure the changes are made.

6.3.2 Reporting the implementation of recommendations

Where there is clear evidence of trusts implementing changes in response to recommendations made in case review reports the NGO should regularly report and record such changes, as they will represent important and positive outcomes that demonstrate how the freedom to speak up is increasingly supported across the NHS, as well as the value of the NGO, the case review process and local FTSUGs.

6.4 Quality assurance of the draft report

Once the NGO has completed a draft case review report this should then be submitted to a quality assurance process, to ensure quality, consistency and that reports comply with the stated purpose of the NGO and adhere strictly to the agreed case review process.

To ensure objectivity in assuring the quality of case review reports the responsibility for this role must fall upon a senior NGO manager who is not involved in the reviewing of cases. Quality Assurance will therefore be undertaken by the NGO Head of Office.

6.5 Sharing of a case review report

Once a draft report has completed the quality assurance process it should be shared with the NHS body without delay to permit any necessary actions to be taken promptly. Similarly, it should also be shared with the individual or body that first referred the case to the NGO to allow them to comment regarding whether the review has adequately addressed their concerns. It should also be published and share with key stakeholders (see below).

6.5.1 Sharing case review information with arm's length bodies

The NGO will need to maintain and develop effective working relationships with teams arm's length bodies to ensure that information obtained during the review process, which is of potential relevance to the work of regulators, is promptly passed to them.

This would be consistent with the stated governance arrangements of the NGO, which state:

'The National Guardian's Office does not have any statutory powers but will have a strong working relationship with the CQC, NHS England and NHS Improvement to ensure that when appropriate, they will leverage their powers to support of the National Guardian's recommendations to NHS Trusts.'

6.6 Publication

Reports should be published on the website of the NGO, to ensure that the work of the NGO is open and transparent to all and that reports are in the public domain. Where appropriate, information will need to be redacted to protect the identity of individuals.

In addition to publication the report should also be sent directly to the following key stakeholders:

- The person or persons who originally referred the case in question to the NGO
- The CEO and chair of the NHS trust responsible for the service in question
- The relevant Freedom to Speak Up Guardian
- The 3 sponsors of the NGO, namely CQC, NHSI and NHSE
- Other relevant bodies responsible for monitoring and delivering NHS services, including NHS Employers

7. Conflicts of interest

Consideration needs to be given how to avoid to potential conflicts of interest that could arise during the course of the work of the NGO in respect of the work of those staff responsible for undertaking case reviews.

Specifically, a foreseeable conflict arises where those staff members, having previously provided advice and guidance to a NHS body about how to respond to staff concerns during the course of their NGO work (outside reviewing cases) then undertake a case review of the work of that body following a referral. Such circumstances could result in NGO staff reviewing actions taken by the NHS body as a result of their own advice, leading to reasonable observations that they are not sufficiently independent to conduct the review.

To avoid any such perception of bias, staff responsible for case reviews should not provide any advice or guidance to NHS services about how they should manage their systems to respond to the concerns of their staff, unless they specifically provide this during a case review.

8. Complaints

It is envisaged that complaints may arise concerning decisions taken by the NGO during the case review process, including whether or not to review a case that is referred and the outcome of that review. Complaints should be handled in accordance with NGO complaints policies and procedures and reviewed at an appropriate grade by a staff member not involved in the review.

9. Thematic reporting

The National Guardian's Office will be constantly monitoring and reviewing the themes which emerge from the case review process and will produce a thematic report, as part of the office's annual report, where these themes will be set out.