

**From:** Minh Alexander <\*\*\*\*\*>  
**Subject:** National Freedom To Speak Up Guardian's remit - POCU  
**1516 0181 Dr Minh Alexander**  
**Date:** 12 March 2017 at 17:41:22 GMT  
**To:** David Behan <\*\*\*\*\*>  
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BY EMAIL

David Behan  
Chief Executive  
Care Quality Commission  
13 March 2017

Dear Mr Behan,

**National Freedom To Speak Up Guardian's remit**

Thank you for your attached letter, which is a response to my letter of 20

February raising concerns about:

- 1) Advice given to a current whistleblower by the National Guardian's office: ***"the National Guardian's Office is not able to intervene in the personal circumstances of individuals"***
- 2) The National Guardian's policy proposals.

I write to seek clarification on the first issue.

In your attached letter, you state:

***"The NGO's [National Guardian's office] stance on not intervening in individual cases is in keeping with the outcome of this public consultation".***

This is with reference to CQC's consultation report of May 2016 about the role of the National Guardian.\*

In response to this consultation, CQC reported that the majority of respondents *"agreed with the National Guardian's role in reviewing how individual cases have been handled"*

CQC's consultation response was:

*"The National Guardian's Office is establishing a framework over the coming months, to set out a review process and criteria for case review, and we will be working collaboratively to develop them. The purpose of the review process will be to identify ways in which greater protection and support can be provided for people who speak up, with recommendations to local trusts as well as to Government and regulators to make necessary changes and take action where required."*

I do not take it from this that CQC's consultation decided that the National Guardian should not intervene in individual cases, in the manner originally envisaged by Robert Francis:

*"7.6.17 The INO would in essence fulfil a role at a national level similar to the role played by effective Freedom to Speak Up Guardians locally.*

*They would not take on cases themselves, but could **challenge or invite others to look into cases which did not appear to have been handled in line with good practice or where it appeared that a person raising a concern had experienced detriment as a result of raising the concern.***” Page 169 Report of the Freedom to Speak Up Review

In order to avoid any misunderstanding, may I clarify if it is your understanding that the National Guardian will implement Robert Francis’ recommendations and “*challenge or invite others to look into cases which did not appear to have been handled in line with good practice or where it appeared that a person raising a concern had experienced detriment as a result of raising the concern*”?

I attach a letter by Simon Stevens of 22 September 2014 to Robert Francis, contributing to the Freedom To Speak Up Review, in which he advised that whistleblowers needed an ombudsman-type service to provide ‘safe harbour’ for consideration of their concerns.

Notwithstanding the wider concerns about the office’s lack of powers, and the fact that it has been designed not to scrutinise whistleblowers’ concerns, there can be no semblance of safe harbour if the National Guardian does not even challenge employers to look again at badly handled cases.

Yours sincerely,

Dr Minh Alexander

\*Improvement through openness. CQC report on consultation about the National Guardian’s office. May 2016

[http://www.cqc.org.uk/sites/default/files/20160526\\_consultation\\_response\\_document\\_v8\\_for\\_publication\\_01.pdf](http://www.cqc.org.uk/sites/default/files/20160526_consultation_response_document_v8_for_publication_01.pdf)

Health Committee

Public Accounts Committee

Public Administration and Constitutional Affairs Committee

Simon Stevens chief executive NHS England

Jim Mackey chief executive NHS Improvement

Helen Buckingham Director of Corporate Affairs NHSI, member of National Guardian's Accountability and Liaison Committee

Moira Gibb NED NHS England, member of National Guardian's Accountability and Liaison Committee

Sir Robert Francis CQC NED, Chair of National Guardian's Accountability and Liaison Committee

Dr Henrietta Hughes National Freedom to Speak Up Guardian, CQC