

PSYCHIATRISTS'
**SUPPORT
SERVICE**

Information guide
for psychiatrists

On whistle-
blowing and
passing on
concerns

3

Introduction

This information guide is intended for a psychiatrist concerned about whistle-blowing. The information can be used as a guide only and is not a substitute for professional advice. If you need further advice and support, please contact the Psychiatrists' Support Service or one of the organisations listed at the end of the information guide.

Definition of whistle-blowing

When someone passes on to others information about actions in the workplace that are possibly unsafe or illegal this is often called 'whistle-blowing'. The General Medical Council (GMC) refers to this as 'passing on concerns'.

Duties

The GMC's core guidance in *Good Medical Practice* states that:

- You must protect patients from risk of harm posed by another colleague's conduct, performance or health.
- If you have good reason to think that patient safety is or may be seriously compromised by inadequate premises, equipment, or other resources, policies or systems, you should put the matter right if that is possible.
- In all other cases you should draw the matter to the attention of your employing or contracting body.
- If they do not take adequate action, you should take independent advice on how to take the matter further.
- You must record your concerns and the steps you have taken to try to resolve them.

Difficulties

Difficulties in taking action commonly include:

- reluctance to speak directly in criticism
- fear of retaliation, whether personal or organisational
- uncertainty about who else to refer to
- unwillingness to get a colleague into trouble
- the possibility of legal action for slander or libel
- assuming other people have already noticed and decided whether or not to take action.

These difficulties are compounded when:

- there is a considerable power differential, for example seniority
- there is a culture of collusion
- your job is not secure.

However, your duty to put patients' interests first and act to protect them must override personal and professional loyalties. The Public Interest Disclosure Act 1998 provides legal protection against victimisation or dismissal for individuals who disclose information in order to raise genuine concerns and expose malpractice in the workplace.

THE PUBLIC INTEREST DISCLOSURE ACT

Health Service Circular 1999/198 states that every National Health Service (NHS) trust and health authority should have in place policies and procedures which comply with the Public Interest Disclosure Act and, as a minimum, include:

- Guidance to help staff who have concerns about malpractice raise these reasonably and responsibly with the right parties.
- The designation of a senior manager or non-executive director with specific responsibility for addressing concerns which need to be handled outside the usual management chain.
- A clear commitment that staff concerns will be taken seriously and investigated.
- An unequivocal guarantee that staff who raise concerns responsibly and reasonably will be protected against victimisation.

What to do

Public Concern at Work advises that you should:

- keep calm
- think about the risks and outcomes before you act
- remember you are a witness, not a complainant
- ask for advice.

Don't:

- forget there may be an innocent or good explanation
- become a private detective
- use a whistle-blowing procedure to pursue a personal grievance
- expect thanks.

IN THE NHS

- Effective reporting is part of good clinical governance.
- Obtain and consult the trust's whistle-blowing policy or equivalent.
- Talk things over with a trusted colleague.
- Aim at improving the situation with the least possible damage to the individual.
- Generally, discussion with your own manager is advisable unless they are the source of your concern; they may be

aware of others' concerns and be able to approach the individual's manager.

- Keep records of all your observations and actions.
- Follow local policies such as adverse incident reporting.
- If necessary go to a higher level of management, probably the medical director.
- If the concern is about another health professional, then the appropriate routes are usually the employer first, then the regulator (the GMC for doctors).
- Your role is to bring concerns to the attention of the people responsible for investigating and taking action.
- When writing, copy in the responsible manager's manager, but do not send multiple copies.
- Subsequently, you may not hear about the details of the action, but ask for some form of appropriate feedback.
- If the concern is wider, for instance about a trust's decision, and you are considering going to the media, obtain expert advice and ensure as far as possible your actions are in line with your employer's policy.

Similar points apply within the private sector, especially for large organisations. It is more difficult with individuals in private practice.

Frequently asked questions

Q: What is whistle-blowing?

A: When someone passes on to others information about actions in the workplace that are possibly unsafe or illegal this is often called 'whistle-blowing'.

Q: Who can I ask for advice?

- First consult with a trusted colleague, who may be able to provide you with formal and informal information about your organisation, and give you space for reflection.
- It would be wise to consult your defence organisation, or union (such as the British Medical Association or the Hospital Consultants and Specialists Association) before taking any action.
- The College Psychiatrists' Support Service can provide information, advice and support.
- Public Concern at Work is a charitable legal advice centre primarily concerned with this issue. You can contact them at their helpline: 020 7404 6609.

Q: Is whistle-blowing the same as making a complaint?

A: This type of reporting of concern is about something that affects others (patients, for instance) rather than oneself.

Q: Do I have to be able to prove it?

A: No. You are acting as an alerting mechanism. But you should be able to show that you have acted reasonably and in good faith. Keeping records of both observations and of later actions and discussion is strongly recommended.

Q: Who should I tell and how?

A: First clarify within your organisation for the problem or issue who would be the right person to go to. For senior doctors the medical director is likely to be appropriate. For doctors in training a tutor or dean may be appropriate.

Q: Can it be confidential?

A: It is advisable to check this at the outset. It is helpful if you can be as open as possible, that is, not to report anonymously, and be prepared later to give evidence if necessary. Ideally, there should be a first stage confidential system, where your name is not passed on without your agreement.

Q: What happens to whistle-blowers?

A: Cultures are changing, but there have undoubtedly been difficulties in the past. However, the term 'whistle-blowing' is often not used when concerns are raised and appropriately dealt with, so 'successes' usually go unrecognised.

Q: How can I avoid antagonism?

A: Try to avoid isolation on the issue by keeping others involved and informed and do not let it appear to be a personal 'campaign' or vendetta. Consider using an independent mentor for support.

Sources of further help and support

British Medical Association

BMA House, Tavistock Square
London WC1H 9JP
Tel: 020 7387 4499
www.bma.org.uk

General Medical Council

St James Buildings, 79 Oxford Street
Manchester M1 6FQ
Tel: 0845 357 8001
www.gmc-uk.org

Healthcare Commission

Finsbury Tower, 103–105 Bunhill Row
London EC1Y 8TG
Tel: 020 7448 9200
www.healthcarecommission.org.uk

Hospital Consultants and Specialists Association

1 Kingsclere Road, Overton, Basingstoke,
Hants RG25 3JA
Tel: 012 5677 1777
Email: conspec@hcsa.com
www.hcsa.com

Medical and Dental Defence Union of Scotland

Mackintosh House, 120 Blythswood Street
Glasgow G2 4EA
Tel: 0141 221 5858
www.mddus.co.uk

Medical Defence Union

230 Blackfriars Road
London SE1 8PJ
Tel: 020 7202 1500
www.the-mdu.com

Medical Protection Society

33 Cavendish Square
London W1G 0PS
Tel: 020 7637 0541
www.mps.org.uk

National Clinical Assessment Service

1st Floor, Market Towers, 1 Nine Elms Lane
London SW8 5NQ
Tel: England and Northern Ireland 020 7062 1655,
Wales 029 2044 7540, Scotland 013 1220 8060, 24-hour
emergency contact 020 7062 1655
Email: advice.service@ncas.npsa.nhs.uk
www.ncas.npsa.nhs.uk

National Patient Safety Agency

4–8 Maple Street
London W1T 5HD
Tel: 020 7927 9500
www.npsa.nhs.uk

Psychiatrists' Support Service

Royal College of Psychiatrists
17 Belgrave Square, London SW1X 8PG
Tel: 020 7245 0412
Email: psychiatristssupportservice@rcpsych.ac.uk

Public Concern at Work

Suite 301, 16 Baldwins Gardens
London EC1N 7RJ
Tel: 020 7404 6609
Email: helpline@pcaw.co.uk
www.pcaw.co.uk

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and Public Concern at Work.*