

Raising concerns

Guidance for nurses
and midwives



We are the nursing and midwifery regulator for England, Wales, Scotland and Northern Ireland.

- We exist to protect the health and wellbeing of the public.
- We set the standards of education, training and conduct and performance so that nurses and midwives can deliver high quality healthcare consistently throughout their careers.
- We make sure that nurses and midwives keep their skills and knowledge up to date and uphold our professional standards.
- We have clear and transparent processes to investigate nurses and midwives who fall short of our standards.

This booklet has been approved by Plain English Campaign and has been awarded their Crystal Mark for clarity.

Last updated August 2017

Introduction

This document provides guidance for nurses and midwives on raising concerns (which includes ‘whistleblowing’). It explains the processes you should follow when raising a concern, provides information about the legislation in this area, and tells you where you can get confidential support and advice.

As a nurse or midwife, you have a professional duty to put the interests of the people in your care first and to act to protect them if you consider they may be at risk. Where we use the term **in your care** throughout this document, it is used to indicate all of those people you come across or know about because of your work as a nurse or midwife, not just those people you deliver specific care for or have direct clinical or managerial responsibility for.

This guidance supports and should be read together with **The Code: Professional standards of practice and behaviour for nurses and midwives (the Code)** (NMC, 2015). No matter what sort of healthcare environment or geographical area you work in, it is important that you know how to raise concerns appropriately. This guidance cannot cover every single situation that you may face, but it sets out the broad principles that will help you to think through the issues and take appropriate action in the public interest.

You should use this guidance with whistleblowing policies issued by your employer and with local clinical governance and risk management procedures, which will provide information on reporting incidents early or near misses. You should also make sure that you understand and follow your local authority’s safeguarding policies.

Safeguarding the health and wellbeing of those in your care means these people should not be exposed to abuse or neglect.

Abuse or neglect and the different circumstances in which they take place can take many forms. A list of actions that may constitute neglect or abuse and should give rise to concern includes the following (taken from Chapter 14, Care and Support Statutory Guidance (2014) issued by the Department of Health under the Care Act 2014).

- Physical abuse
- Domestic violence
- Sexual abuse
- Psychological abuse
- Financial or material abuse
- Modern slavery
- Discriminatory abuse
- Organisational abuse
- Neglect and acts of omission
- Self-neglect.

Immediate concerns about abuse or neglect should be dealt with under local safeguarding procedures first. For more information about this, please see your local safeguarding policies and the further reading section.

This guidance is for all nurses, midwives and pre-registration nursing and midwifery students, no matter where you might work. The principles supporting this guidance also apply to all healthcare professionals, so this guidance may be helpful to other staff within the workplace. However, if you are a self-employed nurse or midwife or working as a volunteer, we recommend that you get more advice before raising any concerns you might have (see the section 'Where can I get help or advice?').

We recognise that it is not always easy to report concerns.

You may not know how to, or you may worry that you are being disloyal, or fear reprisals from your employer's reaction. It may also be particularly difficult for those of you who work and live in remote and small communities. However, the health and wellbeing of the people in your care must always be your main concern. Raising your concern early can prevent minor issues becoming serious ones, and so protect the public from harm and improve standards of care.

If you are not sure how this guidance applies to your situation, or if you want some confidential advice before you raise your concern, or at any stage during the process, we recommend that you get advice from your professional body, trade union or the independent whistleblowing charity **Public Concern at Work** (PCaW). PCaW provides confidential advice to employees who witness wrongdoing or malpractice in the workplace and who are not sure whether or how to raise their concern.

Professional bodies and trade unions can play a vital role in offering local support and guidance to staff who have concerns about any part of their work, including fears about patient or client care. They can also raise matters formally with your organisation on your behalf and can access other forums within your organisation. Raising a concern can often seem isolating and intimidating - having this support can help you to meet your professional standards with more confidence.

Your role in raising concerns

- 1 As a nurse or midwife, you have a professional duty to report any concerns from your workplace which put the safety of the people in your care or the public at risk.
- 2 The Code (section 16) states the following.
 - 2.1 Act without delay if you believe that there is a risk to patient safety or public protection.
 - 2.2 To achieve this you must:
 - 2.3 Raise and, if necessary, escalate (take further action on) any concerns you may have about patient or public safety, or the level of care people are receiving at your workplace or any other healthcare setting and use the channels available to you in line with our guidance and your local working practices.
 - 2.4 Raise your concerns immediately if you are being asked to practise beyond your role, experience and training.
 - 2.5 Tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can.
 - 2.6 Acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.
 - 2.8 Not obstruct, intimidate, victimise or in any way hinder a colleague, member of staff, person you care for or member of the public who wants to raise a concern.
 - 2.9 Protect anyone you have management responsibility for from any harm, detriment, victimisation or unwarranted treatment after a concern is raised.

- 3 Speaking up on behalf of people in your care and clients is an everyday part of your role. Just as raising genuine concerns represents good practice, 'doing nothing' and failing to report concerns is unacceptable. We recognise that nurses and midwives who raise a genuine concern and act with the best of intentions and in line with the principles laid down in this guidance are meeting their professional responsibilities and keeping to the Code.
- 4 Failure to report concerns may bring your fitness to practise into question and put your registration at risk. If you experience any negative reactions within your workplace after raising a concern appropriately, you should contact your professional body or trade union for support and advice.
- 5 In line with the Code, we expect nurses and midwives to work with others to protect the health and wellbeing of those in their care. As a result, this guidance applies to a wide range of situations, not just where a concern relates to the practice of individual nurses and midwives. Examples may include the following.
 - 5.1 Danger or risk to health and safety, such as where health and safety rules or guidelines have been broken.
 - 5.2 Issues to do with staff conduct, such as unprofessional attitudes or behaviour, including concerns related to equality and diversity.
 - 5.3 Issues to do with delivering care involving nurses, midwives or other staff members.
 - 5.4 Issues to do with care in general, such as concerns over resources, products, people, staffing or the organisation as a whole.
 - 5.5 Issues to do with the health of a colleague, which may affect their ability to practise safely.

- 5.6 Misuse or unavailability of clinical equipment, including lack of adequate training.
- 5.7 Financial malpractice, including criminal acts and fraud.
- 6 You do not need to have all the facts to prove your concern but you must have a reasonable belief that wrongdoing is either happening now, took place in the past, or is likely to happen in the future.
- 7 If you witness or suspect there is a risk to the safety of people in your care and you consider that there is an immediate risk of harm, you should report your concerns straight away to the appropriate person or authority.

Nursing and midwifery students

- 8 The principles in this guidance apply to nursing and midwifery students in the same way that they apply to registered nurses and midwives. To uphold these principles, you should act as set out below in the following situations.
 - 8.1 Inform your mentor, tutor or lecturer immediately if you believe that you, a colleague or anyone else may be putting someone at risk of harm.
 - 8.2 Seek help immediately from an appropriately qualified professional if someone for whom you are providing care has suffered harm for any reason.
 - 8.3 Seek help from your mentor, tutor or lecturer if people indicate that they are unhappy about their care or treatment.
- 9 We recognise that it might not be easy for you to raise a concern; you may not be sure what to do or the process may seem quite daunting. If you want some advice at any stage,

we recommend that you talk to your university tutor or lecturer, your mentor, another registered nurse or midwife, or the supervisor of midwives in your practice area. You can also speak to your professional body, trade union or PCaW, who can offer you valuable confidential advice and support.

The difference between raising a concern and making a complaint

- 10 If you are raising a concern, you are worried generally about an issue, wrongdoing or risk which affects others. You are acting as a witness to what you have observed, or to risks that have been reported to you, and are taking steps to draw attention to a situation which could negatively affect those in your care, staff or the organisation.
- 11 However, if you are making a complaint to your employer, you are complaining about how you personally have been treated at work (such as conditions of employment). In these circumstances, you should follow your employer's complaints or grievance procedure.

Respecting an individual's right to confidentiality

- 12 The Code states that people in your care have the right to confidentiality and the right to expect that you only use the information they have given to you for the purpose for which it was given. You should only discuss information with someone outside of the healthcare team if the person in your care has agreed you can. In very exceptional circumstances, you can pass on information without their permission if you believe someone may be at risk of harm and you are acting in their best interests.
- 13 These decisions are complex and you must assess each case individually. Before reporting a concern which might reveal someone's identity, you should get advice. You can find more information in **Confidentiality: NHS Code of Practice** (2003) and its **supplementary code of practice on public interest disclosures** (2010). Both of these are available on the Department of Health, gov.uk and NHS Digital websites. The principles of both these publications can be applied equally to the independent and voluntary sectors in healthcare. Equivalent guidance is also available in **Scotland, Wales** and **Northern Ireland**.

Can I be guaranteed confidentiality when raising a concern?

- 14 We recommend that you give your name when raising a concern. This makes it easier for your concern to be investigated and is the best way for you to be protected under the law. However, we recognise that there may be circumstances when you would like to keep your identity confidential. In this case, you should say so at the start.
- 15 You should understand that there may be practical or legal limits to this confidentiality where the concern cannot be

dealt with without revealing your identity, or that others may guess who has raised the concern. If you raise your concern anonymously, it will be much more difficult for the matter to be investigated, which in turn, affects public safety.

How do I raise a concern?

- 16 Normally you will be able to raise your concern directly with the person concerned or your line manager and, in many instances, the matter will be easily dealt with. However, there may be times when this approach fails and you need to raise your concern through a more formal process. We outline the various stages of this process below. They are based on the tiered approach reflected in the Public Interest Disclosure Act 1998 (PIDA) (see the section 'What legislation is in place to protect me?').
- 17 Where possible, you should follow your employer's policy on raising concerns or whistleblowing. This should provide advice on how to raise your concern and give details of a designated person who has responsibility for dealing with concerns in your organisation. Sometimes, if you are worried about how or whether to raise your concern or if you cannot find the policy, it can help to discuss things informally with a senior, impartial member of staff. They should ideally be an NMC registered nurse or midwife, such as one of the following.
 - 17.1 Clinical supervisor.
 - 17.2 Supervisor of midwives.
 - 17.3 Lead nurse, lead midwife or other professional or clinical lead.
 - 17.4 University tutor or lecturer (if a student).
 - 17.5 Mentor or practice placement manager (if a student).

- 17.6 Health and safety team (when the concern is about health and safety).
- 17.7 Risk, quality assurance or clinical governance team (when the issue is quality or risk).
- 18 Your concerns may not be limited to the care of a particular person, but about the overall standards of care or practice in an area. In these cases, you may find it helpful to speak to a clinical or professional lead (who may be a consultant, or specialist nurse or midwife) as they will be concerned with professional standards and quality of care, and so will be interested in knowing if things are not as they should be.
- 19 A 'lead professional' has organisational responsibility for the quality of nursing or midwifery practice, and so will often investigate and work to settle concerns raised about practice and risk in these areas. They also might be able to help you better understand the standards or practice you are concerned about and offer the support you might need to raise your concerns.
- 20 It is also valuable to get advice on how to raise a concern from a representative of your professional body, trade union or PCaW. They have a wealth of expertise, and can provide independent and confidential support during this process.

21 Immediate concerns

If you witness or suspect that there is a risk of immediate harm to a person in your care, you should report your concerns to the appropriate person or authority immediately. You must act straight away to protect their safety.

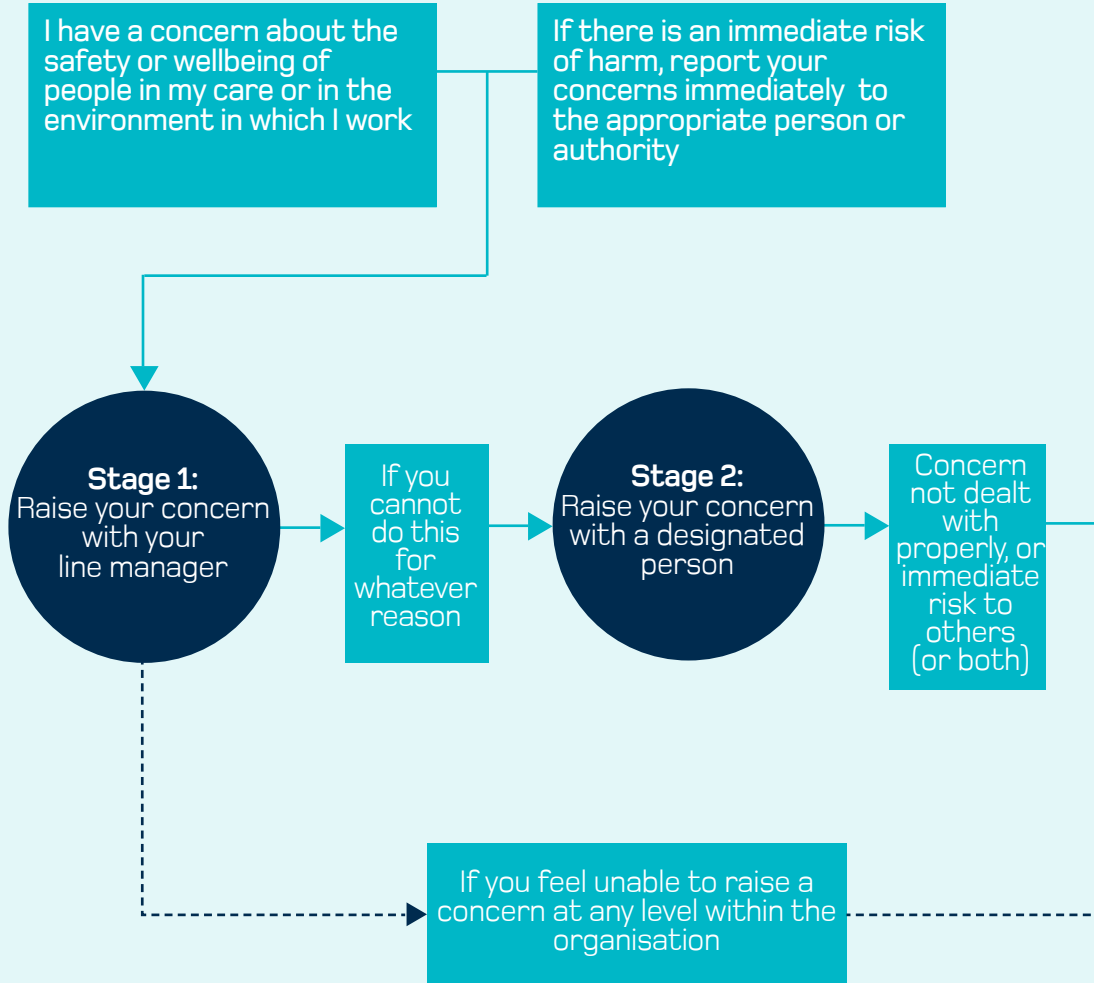
Stage 1: Raising your concern with your line manager

- 22 Normally, you will be expected to raise your concern internally first, such as with your line manager. You can do this verbally or in writing. Be clear, honest and objective about the reasons for your concern.
- 23 You should keep a clear written record of your concern and any steps that you have taken to deal with the matter including who you raised the concern with and on what date, and an outline of your concern.
- 24 While you should also keep a record of any written or verbal communication that you send or receive from your employer, be aware of the need to protect confidentiality. For example, if you need to refer to an incident with a particular patient or client, record details of the event and take appropriate steps to maintain confidentiality.

Stage 2: Raising your concern with a designated person

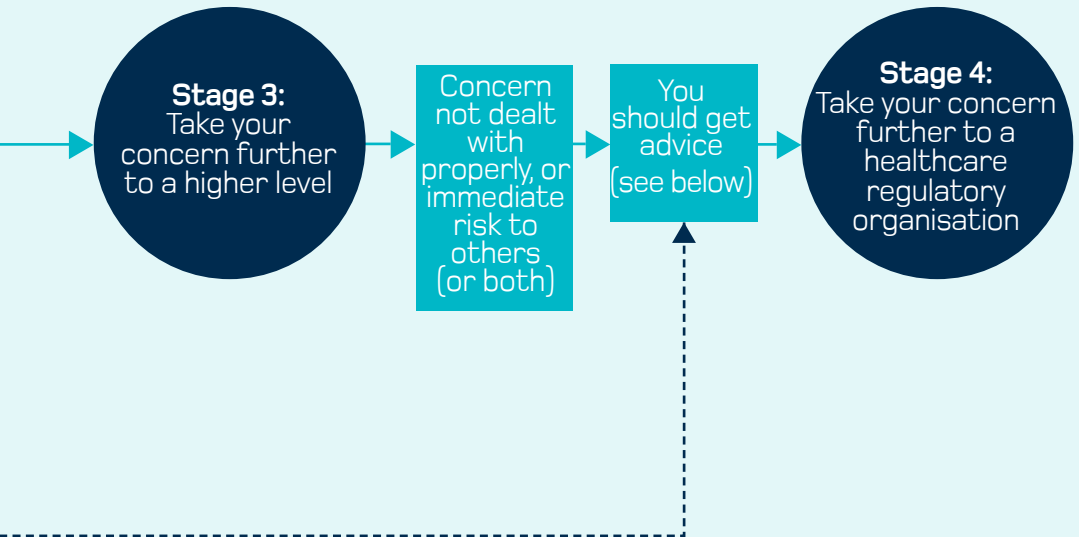
- 25 If for any reason you feel unable to raise your concern with your line manager, you should raise your concern with the designated person in your organisation. You should be able to find out who this is by looking at your employer's raising concerns or whistleblowing policy. The designated person will normally be someone who has been given special responsibility and training in dealing with employees' concerns. If you want your identity to remain confidential, you should say so at this stage.

Stages in raising concerns



Key points

- Take immediate action.
- Protect client confidentiality.
- Refer to your employer's whistleblowing policy.
- Keep an accurate record of your concerns and action taken.



Getting advice

If you are not sure about whether or how to raise a concern at any stage, you should get advice.

You can get independent, confidential advice from your professional body, trade union or PCaW. Students can also speak to their university tutor or mentor.

Stage 3: Taking your concern to a higher level

26 If you have raised a concern with your line manager or with the designated person within your organisation, but feel they have not dealt with it properly, you should raise your concern with someone more senior within your organisation. For example, in the NHS you could take your concern to your department manager, head of midwifery, director of nursing or chief executive. You may also choose to do this from the start if, for whatever reason, you feel unable to raise your concern with the internal staff mentioned in stages 1 and 2.

Stage 4: Taking your concern to a regulatory organisation or a helpline

27 If you have raised your concern internally but feel it has not been dealt with properly, or if you feel unable to raise your concern at any level in your organisation, you may want to get help from outside your place of work. For example, if you are a clinical leader, you may choose to do this if you feel your concerns have not been dealt with adequately within your organisation.

28 So that your concern can be investigated and for your own protection under current legislation, you should use a recognised organisation that is responsible for investigating the issue. This could be a regulator of health or social care services, if your concern is about a health or care setting. If it is about individual professionals, then it could be a regulator of health or social care professionals.

- 29 For example, if you are working in England you may choose to raise your concerns directly with the Care Quality Commission (CQC), using the helpline they have set up to help staff raise concerns about the health or social care provider they work for. All information is treated in confidence and you don't have to give your name. The CQC provides detailed guidance for workers and service providers on their website, www.cqc.org.uk/contact-us.
- 30 Registrants in England can raise their concerns through the NHS Whistleblowing Helpline. People working in the NHS and social care sector can use this helpline to report concerns about malpractice, wrongdoing, fraud or any other issues that could undermine public confidence and threaten patient safety. The service also provides advice and guidance for those who don't know what to do about their concerns, and can be used by employees, employers and professional or trade bodies through a free telephone hotline service, email or online forms. You can get more information on the Whistleblowing Helpline at www.wbhelpline.org.uk.
- 31 Before reporting your concerns to any regulatory organisation or hotline, we recommend that you get advice. This will help you to receive appropriate support and guidance in these difficult circumstances. We also suggest you tell your employer what action you are taking.

Raising your concern with the NMC

- 32 We have a page on our website dedicated to whistleblowing, www.nmc.org.uk/whistleblowing.
- 33 If you wish to raise a concern with us directly, please use our dedicated email address, whistleblowing@nmc-uk.org, or telephone us on 020 7637 7181 for advice.

Raising your concern externally

- 34 You should only consider this if you have tried all of the above procedures and your concern has not been dealt with properly. Raising your concern externally (for example to the media or an MP) without clear evidence of first raising the concern internally or with a regulatory organisation, would only be considered appropriate and give you protection under PIDA in the most extreme circumstances and if it could clearly be shown that you were acting in the public interest. For more details of PIDA, see the section 'What legislation is in place to protect me?'.
- 35 If you are thinking of raising your concern externally, you should always get advice from your professional body, trade union or PCaW.

The role of clinical leaders

- 36 We recognise the important role that clinical leaders play in raising concerns, particularly those who are nurses and midwives. Promoting an open work environment in which staff are accountable and encouraged to raise concerns about the safety of people in their care will help identify and prevent more problems, and will protect the public.
- 37 If you are a clinical leader or hold a position where others may bring their concerns to you, you should do the following.
- 37.1 Make sure appropriate systems for raising concerns are in place and that all staff can access them. Consider whether staff can gain access confidentially to your organisation's whistleblowing or raising concerns policy.
- 37.2 Make sure staff can see all concerns are taken seriously, even if they are later seen to be unfounded.

- 37.3 Tell the employee who raised the concern how you propose to handle it in line with your employer's policies, and give a timeframe in which you will get back to them, both verbally and in writing.
 - 37.4 Investigate concerns promptly and include a full and objective assessment.
 - 37.5 Keep the employee who raised the concern up to date with what's happening. This will give them and others confidence in the system.
 - 37.6 Take action to deal with the concern and, record and monitor this action.
 - 37.7 Make sure staff who raise concerns are protected from unjustified criticism or actions.
 - 37.8 Have processes in place to support employees raising concerns. This support may need to be offered confidentially from outside the organisation.
 - 37.9 If harm has already been caused to a person in your care, explain fully and promptly what has happened and the likely outcomes. This duty is clearly supported by the Code.
- 38 We recognise that nurses and midwives in leadership positions, or managers of nurses and midwives, are not always in a position to deal with the concerns raised to them, or may themselves feel that senior managers have not done enough to sort out the matter. Clinical leaders can get support and advice at all levels from professional bodies, trade unions or PCaW. Also, guidance for employers on putting whistleblowing arrangements in place, *Speak up for a healthy NHS* (NHS, 2010), has been produced by the Social Partnership Forum.

The role of employers

- 39 Employers have a key role to play in the whistleblowing process. In particular, NHS Employers supports NHS organisations to encourage openness at work so all staff can feel free to raise concerns in a reasonable and responsible way, without fear of being victimised.
- 40 NHS Employers is an organisation which provides guidance for employers in England. It helps them to put in place and develop policies and procedures that are targeted at helping NHS staff to report concerns about patient safety, or other issues, appropriately. It works closely with the national Whistleblowing Helpline which was launched in December 2011 to provide free, independent advice and support to NHS staff. It was later extended to cover all staff and employers working in the wider social care sector.
- 41 NHS Employers recognises the importance of understanding and being aware of the legislation to protect those who raise concerns. A whole section of its website provides guidance and resources to help employers to establish and develop systems which encourage early intervention. This also allows staff to feel confident enough to raise concerns and for all members of staff to recognise this as good professional practice.
- 42 The website directs employers to guidance, legislation, communication tools and frequently asked questions. It also provides guidance and further support for staff when they are considering whether to raise a concern.
- 43 For more information, please see the Whistleblowing: Raising concerns at work section on the NHS Employers' website, **www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-work-and-whistleblowing**.

44 Employers can also refer to our publication *Advice and Information for employers of nurses and midwives* (NMC, 2012), www.nmc-uk.org/Publications/Information-for-employers.

What legislation is in place to protect me?

- 45 The Public Interest Disclosure Act (1998) (PIDA) was introduced to protect people who raise genuine concerns about wrongdoing or malpractice in the workplace, when they do so in good faith, are acting in the public interest and are victimised or dismissed (or both) for doing so. The act has a tiered approach to disclosures (whistleblowing) which gives workers protection for raising a concern internally.
- 46 Section 17 of the Enterprise and Regulatory Reform Act 2013 makes it clear that whistleblowing must be ‘in the public interest’ if the Act is to offer protection.
- 47 Also, there is protection for disclosures to all health and social care regulatory bodies as set out in the Public Interest Disclosure (Prescribed Persons) Order 2014. Disclosures to the NMC under these provisions may be made on:
- “Matters relating to:
- (a) the registration or regulation of a member of a profession regulated by the Council; and
 - (b) any activities not covered by (a) in relation to which the Council exercises its functions.”
- 48 From 6 April 2015 whistleblower protection was extended to students on an NMC-approved training course if they make a ‘qualifying disclosure’ to us. This is under the Protected Disclosures (Extension of Meaning of Worker) Order 2015.

49 From 6 June 2014 under Schedule 1 of the Public Interest Disclosure (Prescribed Persons) (Amendment) Order (Northern Ireland) 2014, employees in Northern Ireland will be protected from their employer if they make a 'protected disclosure' to a designated body. As we are listed as a designated body in Northern Ireland, employees there are protected from action by their employer if they disclose to us:

"Matters relating to:

(a) the registration and fitness to practise of a member of a profession regulated by the Council; and

(b) any activities not covered by (a) in relation to which the Council has functions."

50 In exceptional circumstances, wider disclosures (for example to an MP or the media) may also be protected. However, before following these routes, we strongly recommend that you get advice.

51 You can find more information about relevant legislation at www.pcaw.co.uk/law/uklegislation.htm.

Where can I get help or advice?

Trade unions

Royal College of Nursing (RCN)

0345 772 6100

www.rcn.org.uk

Royal College of Midwives (RCM)

0300 303 0444

www.rcm.org.uk

UNISON

0800 084 7847

www.unison.org.uk

CPHVA/Unite

020 7611 2500

www.unitetheunion.org

Independent organisations

Public Concern at Work (PCaW)

020 7404 6609

www.pcaw.co.uk

Whistleblowing Helpline (England only)

08000 724 725

www.wbhelpline.org.uk

Medical Defence Union

0800 716 646

www.the-mdu.com

Medical and Dental Defence Union of Scotland

0333 043 4444

www.mddus.com

Regulatory organisations

Regulators of healthcare professionals

The Nursing and Midwifery Council

020 7637 7181

www.nmc.org.uk

whistleblowing@nmc-uk.org

General Medical Council

Regulator for medical doctors throughout the UK in all healthcare sectors

0161 923 6602

www.gmc-uk.org

Health and Care Professions Council

Regulator for the allied health professions and social workers in England

0300 500 6184

www.hpc-uk.org

Regulators of health and social care services

These organisations regulate healthcare systems and work settings.

England

Care Quality Commission

03000 616 161

www.cqc.org.uk

Ofsted

Regulator of education, early years and children's social care

0300 123 1231

www.ofsted.gov.uk

Department of Health (England)
020 7210 4850
www.dh.gov.uk

Professional Standards Authority for Health and Social Care
020 7389 8030
www.professionalstandards.org.uk

NHS Improvement
0300 123 2257
www.improvement.nhs.uk

Wales

Care and Social Services Inspectorate Wales
Responsible for social services and care homes.
0300 7900 126
www.cssiw.org.uk

Health Inspectorate Wales
Responsible for all NHS-funded care (including independent hospitals).
0300 062 8163
www.hiw.org.uk

Department for Health and Social Services (Wales)
English 0845 010 3300
Welsh 0845 010 4400
www.wales.gov.uk

Scotland

Care Inspectorate
0345 600 9527
www.careinspectorate.com

Healthcare Improvement Scotland
Edinburgh 0131 623 4300
Glasgow 0141 225 6999
www.healthcareimprovementscotland.org

The Scottish Government
0300 244 4000
www.gov.scot/health

Northern Ireland

Regulation and Quality Improvement Authority Northern Ireland
028 9051 7500
www.rqia.org.uk

Department of Health (Northern Ireland)
028 9052 0500
www.health-ni.gov.uk

Crown dependencies

Jersey

States of Jersey, Health and Social Services Department
01534 442 000
www.gov.je

Guernsey

States of Guernsey, Health and Social Services Department
01481 725 241
www.gov.gg

Isle of Man

Isle of Man Government, Department of Health and Social Care
01624 642 608
www.gov.im

Further reading

You should read this guidance together with the following.

NMC publications

- The Code: Professional standards of practice and behaviour for nurses and midwives (2015).
- Advice and information for employers of nurses and midwives (2014, updated 2016).

External publications

- Being open: communicating patient safety incidents with patients, their families and carers (2009) National Patient Safety Organisation.
- Confidentiality: NHS Code of Practice (2003) and supplementary code of practice on public interest disclosures (2010) Department of Health.
- NHS Constitution (2015) Department of Health.
- Care and support statutory guidance (2014, updated 2017) issued by the Department of Health under the Care Act 2014.
- Safeguarding adults: a national framework of standards for good practice and outcomes in adult protection work (2005) Association of Directors of Social Services (Northern Ireland, Wales and England).
- Speak up for a healthy NHS (2010) Department of Health, the Social Partnership Forum and Public Concern at Work.
- Bridging the Gap Summary Report (2013) Whistleblowing Helpline.
- Freedom to speak up: raising concerns policy for the NHS (2016) NHS Improvement.
- Raising concerns: a guide for RCN members (2015) Royal College of Nurses.

NMC Nursing &
Midwifery
Council

23 Portland Place, London W1B 1PZ
T +44 20 7637 7181 F +44 20 7436 2924
www.nmc-uk.org

The nursing and midwifery regulator for England,
Wales, Scotland, Northern Ireland and the Islands

Registered charity in England and Wales (1091434) and in Scotland (SC038362)

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Clarity approved by
Plain English Campaign