

# Guidance on Raising Concerns

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## **About the Pharmaceutical Society of Northern Ireland**

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The Pharmaceutical Society of Northern Ireland is the regulatory body for pharmacists in Northern Ireland.

Our primary purpose is to ensure practising pharmacists in Northern Ireland are fit to practise, keep their skills and knowledge up to date and deliver high quality safe care to patients.

It is the organisation's responsibility to protect and maintain public safety in pharmacy by:

- Setting and promoting standards for pharmacists' admission to the register and for remaining on the register;
- Maintaining a publicly accessible register of pharmacists, and pharmacy premises;
- Handling concerns about the fitness to practise of registrants, acting as a complaints portal and taking action to protect the public; and
- Ensuring high standards of education and training for pharmacists in Northern Ireland.

## About this guidance

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The Code of Ethics sets out the eight mandatory principles of ethical practice that a pharmacist must follow. It provides a framework to aid professional decision-making and it is the pharmacist's responsibility to apply the principles to daily work situations using his professional judgement. The guidance is not meant to be exhaustive, nor can it be.

Principle 8.13 of the Code of Ethics for pharmacists states that a pharmacist must:

***'Make known to relevant persons/bodies any concerns about policies, systems, working conditions, or the actions, professional performance or health of others that are likely to compromise patient care or public safety or are already doing so.'***

If you believe 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.

You must also protect patients from risk of harm posed by another's<sup>1</sup> conduct, performance or health by taking appropriate steps immediately so that the concerns are investigated about inadequate care and patients are protected where necessary.

The pharmacist may become aware of dangerous, illegal or professional activity or conduct that might not otherwise be identified until serious harm has occurred.

It is essential that where a concern exists steps are undertaken to ensure that the matter is reported and a thorough investigation is conducted without delay.

The Public Disclosure Act 1998 protects 'employees' who have disclosed information in the public interest from dismissal and victimisation and to guarantee that staff who raise concerns responsibly and reasonably will be protected against any repercussions.

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<sup>1</sup> This duty applies to the 'deficient performance' of any one of the following: a pharmacy colleague, other healthcare professional or patient carer, such as, a care home worker or a key worker.

## Status of this guidance

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The purpose of this guidance is to:

- reinforce to pharmacists the importance of raising concerns in the appropriate way
- to outline the steps that a pharmacist will need to consider taking in order to raise a concern
- provide guidance on extra support and guidance available to employers
- highlight the importance of keeping up to date with any NHS or employment policies for raising concerns where you work, and
- emphasise to employers and employing organisations that all staff members should be familiar with this guidance and be appropriately trained on how to report a concern about 'seriously deficient performance' or 'a departure from good professional practice.'<sup>2</sup>

While this guidance provides suggestions about what to do and who to approach, it cannot be exhaustive.

As a result, you will need to use your own personal judgement to apply the principles to your particular circumstances. If you are not sure how this guidance applies to your situation, you should get advice from the individuals and bodies suggested in section 7 of this guidance.

You must remember to exercise your professional judgement in the best interests of the patient or public and always be able to justify your actions. Serious or persistent failure to follow this guidance may call into question your registration.

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<sup>2</sup> The Medical (Professional Performance) Act 1995.

## **Section 1 What is 'whistleblowing' or raising concerns?**

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- 1.1 The term 'whistleblowing' can conjure up negative connotations. For this reason, in this guidance, we<sup>3</sup> have used the term 'raising concerns' rather than 'whistleblowing', wherever possible.
- 1.1.2 Raising concerns is defined as the disclosure by an individual to the public, or those in authority, of mismanagement, corruption, illegality, or some other form of wrong-doing in the workplace. If you are employed your employer is likely to have a whistleblowing or raising concerns policy which will explain the steps you should take if you need to take.
- 1.1.3 If you work within the health service and raise a concern about malpractice in an organisation or workplace you are legally protected by the Public Interest Disclosure (Northern Ireland) Order 1998 (see section 4). The Act protects the individual raising the concern against victimisation or dismissal, provided you have behaved responsibly. Often the kinds of concerns you may need to raise within your workplace are not serious. However, many of the principles that apply to the legal protection for those raising a serious concern will apply in equal measure to those who wish to raise a less serious concern within an organisation.
- 1.2 Is raising concern the same as making a complaint or grievance?**
- 1.2.1 It is important to recognise the difference between raising a concern and making a complaint or grievance.
- 1.2.3 Raising concerns have a component of others being affected (e.g. customers, patients, members of the public, or your employer) and the pharmacist raising the concern may not be directly or personally affected by the malpractice or wrongdoing.

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<sup>3</sup> Please note 'we' or 'our' refers to the Pharmaceutical Society NI.

- 1.2.4 Patients or members of the public who use pharmacy services, their relatives or representatives or others can make complaints about a service, using the pharmacy's complaints procedure. This is not raising concerns.
- 1.2.5 It is also possible for patients or members or the public who use pharmacy services, their relatives or representatives or others, to make complaints about a pharmacist, pharmacy or pharmacy service directly to the Pharmaceutical Society NI.
- 1.2.6 Information on the complaints procedure of the Pharmaceutical Society NI can be found at <http://www.psni.org.uk/about/complaints-2/> or by telephoning 02890 326 927.

## **Section 2 The importance of raising a concern**

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- 2.1 We acknowledge that you may be reluctant to raise a concern for a number of reasons. For instance, you may be concerned that:
- there may be a negative impact on working relationships
  - there may be a negative impact on your career
  - you may face reprisals or be ostracised by your colleagues or the pharmacy establishment
  - you will cause trouble for your colleagues
  - nothing will be done as a result of the concern being raised.
- 2.1.1 Always remember that patients and the public place significant trust in your knowledge, skills and professional judgement as a pharmacist. If you are hesitating about reporting a concern it is important to keep the following foremost in your mind. It is the duty of every pharmacist to:
- put the interests of the patient first;
  - act to protect patients;
  - raise justifiable concerns in an appropriate manner, overriding any personal or professional loyalty.
- 2.1.2 The Public Interest Disclosure Act 1998 (PIDA) provides strong protection to employees within the workplace and all self-employed pharmacists within the health service who raise genuine concerns about malpractice in the workplace.
- 2.1.3 Failure by you to report concerns may constitute a breach of the Code of Ethics and may form the basis of a complaint of professional misconduct. Your fitness to practise may be brought into question. This may lead to referral to the Pharmaceutical Society NI and to the invoking of its disciplinary process. You will be expected to justify any decision you have taken to act outside its terms.

## How to raise a concern

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- 2.2 When raising a concern you must be objective, honest and clear about the reason for your concern. It is important to let the facts speak for themselves and not to make ill-considered allegations.
- 2.2.1 You should acknowledge any personal grievance that may arise from the situation, but focus on the issue of patient safety.
- 2.2.3 In the event you wish to raise or escalate a concern you should follow the following steps:

### **Stage 1: Check your workplace policy**

Your workplace policy will tell you how to raise a concern and give details of the contact person for raising concerns within your organisation. If you cannot find the policy, or it is not clear, you should seek advice from some of the sources listed in section 7.

### **Stage 2: Raise your concern internally**

If your organisation has a whistleblowing or raising concerns policy, you should follow the steps set out within it to raise your concern. Raising your concern internally, at a local level, is usually the most appropriate first response. You should keep an accurate record of your concerns and action taken. Your employer should inform you how they intend to handle your complaint and set a timeline for feeding back to you. This may vary depending on the seriousness or complexity of the concern.

### **Stage 3: Escalating your concern internally**

In some cases it may not be appropriate to raise your concerns directly with an employer or manager, particularly if they are the source of the concern or you are not satisfied with their response. You can escalate your concern to a higher level of management within your organisation, for example, the superintendent pharmacist or chief pharmacist.

### **Stage 4: Escalating your concern to a regulator**

If you have used all the options for raising your concerns internally and you are not satisfied with the response, you may wish to escalate your concern to an external organisation with authority to investigate the issue, for example, the HSC Board or Trust, or the relevant professional regulator. You can find a list of these regulatory organisations in section 8 of this guidance.

### **Stage 5: Raising or escalating a concern externally – going public**

Only in very serious circumstances should you consider going public with a concern. In this situation you should seek advice from the organisations listed in section 7 before taking action

## **Section 3 Your role in raising concerns**

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- 3.1 As a pharmacist registered with the Pharmaceutical Society NI you have a professional and ethical duty to raise any concerns in your place of work, which puts the safety of patients or the public at risk.
- 3.1.1 You have this responsibility whether you are an employer, employee, a locum or a temporary member of staff. Failing to report concerns and doing nothing is unacceptable and may bring your fitness to practise under investigation and may endanger your registration.
- 3.1.2 You have a duty to report:
- any practices that are blatantly illegal or unprofessional and pose an immediate threat to public safety, without delay
  - any genuine concerns about the behaviour of a colleague or anyone else with whom you come into contact during the course of your work.  
Examples include:
    - another pharmacist e.g. pharmacy owner/superintendent pharmacist, manager/employer,
    - other healthcare professional,
    - person responsible for the care of a patient (e.g. carers, care home staff or key workers).
  - issues related to the care environment in the broadest sense, such as, the resources, people, products, staffing or organisation-wide concerns
  - issues related to the health of a colleague or anyone else you come into contact during your work which may affect their ability to practise safely
  - financial malpractice, including criminal acts and fraud
  - misuse or unavailability of clinical equipment, including lack of appropriate training.
- 3.1.3 If you witness or suspect there is a risk to the safety of patients or the public, you should report your concerns without delay to the appropriate person or authority following the steps outlined in section 2.2.

## **3.2 Giving information anonymously or in confidence**

- 3.2.1 If you give information anonymously to the Pharmaceutical Society NI we cannot give you any feedback about what action we took and we cannot contact you to discuss your concern or gather further information, or tell you what we have done about your concern.
- 3.2.2 If you provide information in confidence we will always make every effort to avoid disclosing your identity. However, there may be circumstances when we might have to disclose information that could identify you, for example:
- to protect patients or the public from harm;
  - to ensure that essential standards of care are met; or,
  - if we suspect that a serious criminal offence may have been committed.
- 3.2.3 We may make this disclosure to the police or another official body, or if required to do so by a court. We will let you know if we are making a disclosure that will identify you to another body.

## **3.3 Taking action on concerns**

- 3.3.1 There are a number of ways we may respond, depending on what you tell us, and how serious the matter is. In the first place, we need to decide if:
- the concern is within the scope of our regulatory duties;
  - we are the right organisation to investigate the concern;
  - another organisation is best placed to deal with the concern instead of, or as well as us. For example, the General Medical Council (GMC) will look at the fitness to practise of a doctor.

## Section 4 Legal Protection for a Pharmacist who raises concerns

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- 4.1 The **Public Interest Disclosure Act 1998 (PIDA)** and the **Public Interest Disclosure (Northern Ireland) Order 1998** sets out a step-by-step approach to raising and escalating your concern. It provides strong protection for you if you raise a concern.
- 4.1.1 The Order has a tiered approach to disclosures which most easily gives workers protection for raising concerns internally within their organisation.
- 4.1.2 Protection is also available for disclosures to regulatory bodies, and in exceptional circumstances, wider disclosures (for example to an MLA or the media) may also be protected.
- 4.1.3 However, before following these routes, we strongly recommend that you seek advice (see section 7). The Order can be found at [www.legislation.gov.uk/nisi/1998/1763/article/3](http://www.legislation.gov.uk/nisi/1998/1763/article/3)
- 4.1.4 If you are unsure how this guidance applies to your situation, or if you want some confidential advice before you proceed or at any stage during the process, we recommend that you seek advice from the Pharmaceutical Society NI or the independent whistleblowing charity, Public Concern at Work (PCaW).
- 4.1.5 PCaW provides confidential information to employees who witness wrongdoing or malpractice in the workplace and who are unsure whether or how to raise their concern.

**The PIDA and the Public Interest Disclosure (Northern Ireland) Order 1998 protects you if you are an employee working within the Health Service and contracted to provide pharmacy services (this includes community pharmacists).**

**It does not cover self-employed locum pharmacists who do not have an ongoing or continuing relationship with an employer.**

**4.2 The PIDA and the Public Interest Disclosure (Northern Ireland) Order 1998:**

- sets out a framework for public interest whistle-blowing;
- promotes responsible reporting of concerns;
- protects employees from reprisal;
- aims to deter and facilitate the early detection of malpractice;
- makes it clear that organisations should not deter or discourage staff from raising concerns about wrongdoing;
- is part of employment legislation and requires the attention of every employer in the UK;
- improves the governance and accountability arrangements within organisations.

**4.3 The PIDA and the Public Interest Disclosure (Northern Ireland) Order 1998 protects you if you raise concerns about:**

- a danger to the health or safety of an individual (for example, irresponsible or illegal prescribing, patient abuse, or a professional whose health or fitness to practise may be impaired);
- a crime;
- a civil offence (for example, fraud, theft, or the illegal diversion of drugs);
- a miscarriage of justice;
- damage to the environment;
- a cover-up of information about any of the above.

**4.4 Concerns raised with the Pharmaceutical Society NI, other professional regulators (e.g. General Medical Council, General Dental Council etc) or the police will be protected by the Act provided a pharmacist:**

- is acting in good faith;
- honestly and reasonably believes that the information and any allegation contained in it are substantially true;
- is not raising concerns principally for the purpose of personal gain;
- is not acting maliciously or making false allegations;
- has taken appropriate steps to raise concerns with the employing authority, unless he reasonably believes: he would be victimised if he did so; a cover-up is likely; or, the matter was extremely grave.

4.5 This list is not exhaustive. Section 7 gives contact details for other sources of advice and information you can contact should you have a concern and you are unsure about how to act.

**A self-employed locum pharmacist has a professional and ethical duty to report any concerns about practices that you witness.**

## **Section 5 Raising concerns where a duty of confidence exists**

- 5.1 During the course of professional practice you may have a patient who is a healthcare professional and in this capacity you may acquire or have knowledge of confidential information relating to the healthcare professional's health, conduct or competence.
- 5.1.1 The legal requirements for handling confidential patient information are set out in the Data Protection Act 1998, the Human Rights Act 1998 and the common law duty of confidence must be observed.
- 5.1.2 Ethical guidance for pharmacists is provided in *Professional Guidance and Standards on Patient Confidentiality*.
- 5.1.3 Where a duty of confidence exists, the principles of confidentiality require that patient specific information is not disclosed without consent, other than in exceptional circumstances such as:
- where disclosure is necessary to prevent serious injury or damage to the health professional himself, the health of a patient or to the public.
- 5.1.4 More detailed information can be found in the Department of Health, Social Services and Public Safety guidance entitled *Code of Practice on Protecting Confidentiality of Service User Information*<sup>4</sup>.
- 5.1.5 In your professional practice, it is appropriate for you to recommend or signpost a healthcare professional, about whom you have concerns, to seek appropriate help or support to prevent his/her problems escalating to a point where his/her fitness to practise may be compromised.

**Good practice recommends that a timely record be made of any referral(s)/ intervention(s).**

<sup>4</sup> <http://www.dhsspsni.gov.uk/confidentiality-code-of-practice0109.pdf>

## **Section 6    Extra Guidance for employers (or those with management responsibility)**

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6.1    If you are an employer all concerns you receive should be treated with equal importance regardless of how they are submitted.

6.1.1    You should encourage and support a culture in which your staff:

- can speak openly and freely about their concerns;
- can be reassured that whatever they say will be treated with appropriate confidence and sensitivity;
- will be treated courteously and sympathetically and where possible involved in decisions about how the concern is handled and considered.

6.1.2    You must make sure that:

- there are policies and procedures to manage concerns that are raised with you which are accessible to all staff;
- you encourage all staff, including temporary staff to raise concerns about the safety of patients, including risks posed by colleagues;
- all concerns raised with you are taken seriously and the person who has raised them is not victimised;
- all concerns are properly investigated and that all staff, including temporary staff and locums, are kept informed of progress;
- any staff who raise a concern are protected from unfair criticism or reprisals, including any detriment or dismissal;
- systems are in place to support pharmacy professionals who are the subject of a concern, whether it is due to their poor performance, health or behaviour;
- you do not stop anyone from raising a concern.

## Section 7 Help and advice

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7.1 Additional advice and information on any aspect of raising a concern may be obtained from the following sources:

- Health and Social Care Board
- Health and Social Care Trust
- Public Concern at Work<sup>5</sup> (PCAW);
- senior members of staff in your organisation;
- the accountable officer, if the concern is about controlled drugs;
- indemnity insurance provider/defence organisation;
- a professional association (such as, the Ulster Chemist Association (UCA), National Pharmacy Association (NPA), the Guild of Healthcare Pharmacists);
- the Pharmaceutical Society NI or, if your concern is about a colleague in another healthcare profession, the appropriate regulatory body;
- the Regulation and Quality Improvement Agency (RQIA);
- the charity Pharmacy Advice and Support Service (PASS);
- National Patient Safety Agency (NPSA) for pharmacists;
- an independent legal advisor;
- your union.

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<sup>5</sup> **Public Concern at Work** is an independent authority who provides free confidential advice to people who are unsure of whether, or how, to raise a concern about practices that they have witnessed at work. The helpline can be contacted on 020 7404 6609 or by emailing [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

## **Section 8 Useful contacts**

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### **Advice and help**

Public Concern at Work  
Suite 301, 16 Baldwins Gardens,  
London EC1N 7RJ  
Website: [www.pcaw.co.uk](http://www.pcaw.co.uk)  
Phone: 020 7404 6609

### **Guild of Healthcare Pharmacists**

Health Sector, Unite the Union,  
Unite House, 126 Theobald's Road,  
London, WC1X 8TN  
Website: [www.ghp.org.uk](http://www.ghp.org.uk)  
Phone: 0203 371 2009

### **National Pharmacy Association**

Mallinson House, 38-42 St Peter's Street,  
St Albans AL1 3NP  
Website: [www.npa.co.uk](http://www.npa.co.uk)  
Phone: 01727 858687

### **National Whistleblowing Helpline**

Phone: 08000 724 725

### **Pharmacist Advice and Support Service (PASS)**

Phone: 02890 326 927

## **REGULATORY AND INVESTIGATORY BODIES**

### **Professional regulatory bodies**

#### **General Chiropractic Council**

Website: [www.gcc-uk.org](http://www.gcc-uk.org)  
Phone: 020 7713 5155

#### **General Dental Council**

Website: [www.gdc-uk.org](http://www.gdc-uk.org)  
Phone: 020 7887 3800

#### **General Medical Council**

Website: [www.gmc-uk.org](http://www.gmc-uk.org)  
Phone: 0161 923 6602

#### **General Optical Council**

Website: [www.optical.org](http://www.optical.org)  
Phone: 020 7580 3898

**General Osteopathic Council**

Website: [www.osteopathy.org.uk](http://www.osteopathy.org.uk)

Phone: 020 7357 6655

**General Pharmaceutical Council**

Website: [www.pharmacyregulation.org](http://www.pharmacyregulation.org)

Phone: 020 3365 3400

**Pharmaceutical Society of Northern Ireland**

Website: [www.psni.org.uk](http://www.psni.org.uk)

Phone: 02890 32 6927

**Health Professions Council**

Website: [www.hpc-uk.org](http://www.hpc-uk.org)

Phone: 020 7582 0866

**Nursing and Midwifery Council**

Website: [www.nmc-uk.org](http://www.nmc-uk.org)

Phone: 020 7637 7181

**Other regulatory and investigatory bodies**

**Care Quality Commission**

Website: [www.cqc.org.uk](http://www.cqc.org.uk)

Phone: 03000 616161

**National Patient Safety Agency**

Website: [www.npsa.nhs.uk](http://www.npsa.nhs.uk)

Phone: 020 7027 9500

**Council for Healthcare Regulatory Excellence**

Website: [www.chre.org.uk](http://www.chre.org.uk)

Phone: 020 7389 8030

**Northern Ireland**

**Regulation and Quality Improvement Authority (RQIA) in Northern Ireland**

Website: [www.rqia.org.uk](http://www.rqia.org.uk)

Phone: 02890 51 7500

**Scotland**

**The Care Inspectorate**

Website: [www.scswis.com](http://www.scswis.com)

Phone: 0845 600 9527

**Healthcare Improvement Scotland**

Website: [www.healthcareimprovementscotland.org](http://www.healthcareimprovementscotland.org)

Phone: 0131 623 4300

**Wales**

**Healthcare Inspectorate Wales**

Website: [www.hiw.org.uk](http://www.hiw.org.uk)

Phone: 029 2092 8850