

## Raising a Concern - Professional Guidance

Working within the sphere of modern pharmacy practice, you frequently come across references to 'raising concerns'. But what does this really mean to us and how does it or should it affect our day-to-day work? There is an expectation that pharmacists are proactive in raising concerns where appropriate about another Health Care Professional (HCP). Raising a concern is a form of governance in that it helps to ensure that unlawful or unsafe practice can be picked up and addressed sooner rather than later.

As HCPs, pharmacists are employed in a variety of different roles, and whilst the roles of a pharmacist can vary, in general pharmacists play a key role in providing quality healthcare and must always ensure patients' needs are met in a safe setting.

Whilst it is acknowledged that this is potentially a difficult issue to deal with, failing to act may call into question our own fitness to practice. Given the range of sanctions available to the Scrutiny Committee, it follows that complacency regarding witnessing unsafe, unlawful or fraudulent activity also carries a degree of risk in itself.

This document is intended to support the Pharmaceutical Society of Northern Ireland's (PSNI) '[Guidance on Raising Concerns](#)', following the publication of the report into the inquiry into practices within the Mid-Staffordshire NHS Foundation Trust (the [Francis Report](#)) in February 2013. It found that up to 1200 patients died due to neglectful care, and dozens of employees corroborated this during the inquiry. However there had been only three documented cases of 'whistleblowing' prior to this. Following the tragic human cost of inaction in this case, more than ever the expectation is that health professionals do not allow unsafe practice to continue unchecked.

Even taking all of the above into consideration, this is still an area which can be difficult to face into, as working relationships may be jeopardised or even business adversely affected. It is therefore, worth considering how you might actually go about raising a concern, the consequences of not doing so and how our actions could affect our own professional future.

In addition to looking outside our profession we also need to ensure that our own house is in order. In some ways this can be more difficult, depending on your relationship with the person about whom you have a concern e.g. if it was a line manager. A direct conversation may alleviate concerns, or alternatively you may be able to speak with another pharmacist or in larger chains an area manager. In all cases there should be a named person within the organisation who can assist you.

## **I have a potential issue – how do I know whether I really need to raise a concern?**

It would be impossible to exactly define which circumstances should warrant further investigation; this is for each individual's professional judgement. However it may be helpful to consider the scenario from an outsider's perspective. A good analogy is a well-known test of dishonesty utilised in the courts, known as the Ghosh Test, which consists of two questions:

1. The objective test: would the act be considered dishonest by a reasonable person?
2. The subjective test: at the time of the act, did the person know that he/she was dishonest.

In other words, if you are witnessing what you believe to be an unsafe or fraudulent activity, do you believe that the other person knows that what they are doing is wrong? If they don't then perhaps to point this out may be all that is needed for the time being. This will also alert them to the fact that you have noticed and are neither ignoring nor condoning their actions.

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### ***Example One– Locum Pharmacist raising a concern about a Pharmacist\****

***A locum pharmacist suspected the regular pharmacist of dispensing medication for a nursing home without always having an up to date prescription to authorise the supply and was concerned that a patient could potentially be harmed. Given both the patient safety and legal issues associated with this, the locum pharmacist raised a concern regarding this with the regulator. Following the subsequent investigation into this allegation, the regular pharmacist was removed from the register.***

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## **I don't want to raise a concern formally at this stage – what else can I do?**

You could consider alternative options, especially in the early stages or if you are still unsure as to whether you actually have a viable concern. For instance if you had some concerns regarding a GP's prescribing:

- You could discuss the issue directly with the GP.
- You could discuss the issue with another GP at the same practice, who may be able to shed some light on the matter.
- Contact a member of staff at the Health and Social Care Board to discuss your concerns e.g. a medicines management adviser or a medical adviser.
- The pharmacy inspectors of the medicines regulatory group may be able to advise and/or carry out an investigation of their own.

If you had a concern involving a nursing home, residential home, domiciliary care agency, day care setting, children's home, independent hospital/clinics and private dentists consider discussing this in the first instance with the Regulation and Quality Improvement Authority (RQIA). There are a number of options open to the RQIA, including carrying out an unannounced inspection.

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### ***Example Two– GP raising a concern about a pharmacist\****

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***A GP raised a concern about a pharmacy because a patient had received a bottle of Oramorph® Oral Solution, with a dispensing label for a different patient on the bottle. There was a concern that either a dispensing error had occurred, or that the pharmacy was re-dispensing medications that had been returned. In fact it turned out that the bottle had been labelled for another patient who had passed away before it was picked up. The pharmacist had amended the original prescription to reflect the actual amount dispensed, and the bottle was returned to stock. The pharmacy team had not removed the dispensing label resulting in an inadvertent breach of patient confidentiality and nothing more. This example illustrates how raising concerns can and should cross professional boundaries.***

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### **How can I safeguard myself?**

If you find yourself in a situation where you suspect unsafe or dishonest activity, then you need to take some steps to safeguard yourself in the event of a subsequent investigation. One of the most important things you can do is also one of the simplest. You need to keep a contemporaneous record of any interventions you have made, or discussions you have had. For instance if you speak with a prescriber about a specific issue then you need to document that e.g. in a simple diary, or by inserting a note in the relevant patient medication record. This will help you keep track of what was said and when, which becomes important if you need to speak with an individual again about the same issue. If it is a patient safety issue that seems to be on-going and you can see this clearly from your own records, then that may affect how you choose to move forward.

If there are ways of working in your locality that are inherently potentially unsafe e.g. receptionists telephoning prescriptions through before they are signed, or even giving advice on what is to be dispensed, then you need to think about how this would reflect on you if for instance a dispensing error occurred. Would you be happy for one of your own family's medication to be handled in this way? If not then you need to voice that concern so that a more robust, safer way of working can be agreed going forward. Patient safety issues will always override any justification/excuses for unsafe practice.

Every situation will be unique, but if you are worried you need to ask yourself 'what would a reasonable person have done?', as this is exactly what the regulator will consider, should your own action - or inaction - be called into question.

If it was a case of suspected abuse of medication, you would not hesitate to tackle this with a patient, and you should not be reticent about doing the same with another HCP. If another HCP is receiving more of a drug than you think they are likely to be using within their practice, then you need to do something about it.

\*To highlight learning we have used examples which are loosely based on actual cases.

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### **Example Three – Pharmacist raising a concern about a Nurse\***

A pharmacist voiced concerns over a nurse who had been collecting prescriptions for various patients from a nursing home, all for the same item (tramadol), whilst all other items for the home were dispensed elsewhere. After investigation it was found that the nurse had been obtaining the prescriptions fraudulently and the patients did not receive the medication as she had been diverting the supplies for her own use. She was dismissed from her post and received a suspended sentence in court.

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Another point worth noting is that concerns need not necessarily be clinical or relating to patient safety, but could instead involve fraudulent activity.

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### **Example Four – Probity\***

The Counter Fraud Unit have investigated a pharmacy which was suspected of dispensing generics and coding for proprietary brands against prescriptions written for the proprietary items, in the absence of any local generic substitution arrangement. Invoices were recalled and prescriptions were examined against drugs coded for. The pharmacist was later prosecuted for fraud.

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### **So...what do we need to know?**

Full guidance can be found in the PSNI document 'Guidance on Raising Concerns', which can be downloaded from [www.psn.org.uk](http://www.psn.org.uk).

### **What legal protection will I have?**

The Public Interest Disclosure Act (NI) Order 1998 (PIDA) provides protection to all employees when raising genuine concerns. Essentially this means that if someone who has raised a concern is subsequently victimised or dismissed as a direct consequence of doing so, they have the right to bring a claim to an employment tribunal. As of April 2013, it also covers co-workers who victimise whistleblowers, in that employers can then be held vicariously liable unless they can show that they took reasonable steps to prevent victimisation. In practice, it provides a degree of protection from raising a concern resulting in a negative impact on an individual's employment.

Public Concern at Work (PCaW) is a whistleblowing charity that can provide advice on an individual basis, and can be contacted on **020 7404 6609**

If you require advice on your employment rights you can contact the Labour Relations Agency's Advisory Services.

<http://www.lra.org.uk/index/advisory-services.htm>

### **What is the difference between raising a concern and raising a grievance?**

When an individual raises a concern, he/she is highlighting unsafe or unlawful practice that affects other people, rather than themselves directly. This means they generally have nothing to gain personally but are speaking up in the interests of public/patient safety. With a grievance, the individual concerned is saying that they personally have been unfairly treated, and this is a matter for the employer to deal with.

\*To highlight learning we have used examples which are loosely based on actual cases.

## **I am an employer...what do I need to do?**

You need to make sure that you have a transparent and robust procedure in place to facilitate an employee who wishes to raise a concern. You must also make sure that all of your employees know about it. Some employers display their procedure somewhere on the premises, and cover this with new employees as part of their induction.

It is in your own interests to have an effective 'whistleblowing' procedure. This will allow you to hear about issues that require your intervention before a serious incident occurs. In addition, being seen to listen and respond will decrease the likelihood of a public disclosure being covered by PIDA – the employee would not be protected if he/she had raised their concerns internally and if you the employer were already taking appropriate action.

## **Conclusion**

The PSNI) Code of Ethics details eight mandatory principles and obligations that explain the required standards of professional behaviour. 'Make the safety and welfare of your patients your prime concern' and 'Act with honesty and integrity' are two of these principles which all pharmacists are expected to abide to. Making a decision to raise a concern where this is felt to be appropriate is a very important part of carrying this out in practice, and maintaining public confidence in what we do.