

Royal College of Nursing Response to NHS England Consultation on Draft Whistleblowing Guidance for Primary Care

Introduction

With a membership of around 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

General Comments

The RCN is supportive of the proposals outlined in the guidance, and welcome the Government's continued commitment to implementing the recommendations set out in the Freedom to Speak Up review. We are pleased that many of the concerns and comments raised previously over the course of the review process have been addressed in subsequent documents, including this guidance which addresses the specific needs of primary care organisations.

Responses to Specific Questions

1. Our intention is that this guidance should be used by all primary care organisations in order to review and revise their own policies to support staff in raising concerns. Do you agree with this approach and do you feel the guidance is compatible with existing processes in different sectors of primary care, like general practice, dentistry, ophthalmology and community pharmacy?

The RCN welcomes the acknowledgement that the various structures of primary care operate in a range of unique contexts and as such will have diverse needs with regards to effectively implementing the new guidance. We consider the flexibility of the current design to be an advantage and feel the guidance is compatible across a range of settings.

However, the wider background context, and large variance in settings in which primary care providers function, may pose a challenge for implementation of this guidance. The RCN continues to emphasise the importance of developing consistent training to ensure concerns are identified, responded to, and reported on. The requirement for consistency must be balanced with the need for tailored training based on local needs, interests, and problems faced by primary care providers across a range of functions, sizes, and settings.

As noted previously, the RCN recognises the importance of building upon existing processes and codes of conduct. This guidance for primary care offers both the structure and flexibility necessary to do this. However, this policy's relationship with wider professional codes and reporting requirements may become complex. As such, we emphasise the importance of developing a clear and feasible plan for transparent reporting and monitoring that takes into consideration multiple professional reporting streams.

We welcome the identification of a range of external bodies with whom staff can raise concerns. Offering staff members a choice in bodies with whom they can raise concerns may allow them greater confidence and security that their concerns will be acknowledged and addressed. However, in order for this to function appropriately, all individuals and bodies to whom staff may raise concerns must be prepared to manage and respond to these concerns. Furthermore, staff members may be overwhelmed by the large number of reporting options. The reporting process as outlined in Appendix A, which specifically describes the roles of each body or individual to whom staff members may raise concern, is a useful tool. We recommend that these roles, as well as the process for identifying the appropriate place to direct a concern, be specifically emphasised in trainings provided to staff members.

2. The guidance suggests that primary care organisations should appoint Freedom to Speak Up Guardians to encourage and support staff in raising concerns and ensure that organisations are meeting the principles of Freedom to Speak Up. With the various structures of primary care, we have suggested different ways in which this could be achieved. Do you agree that primary care organisations should be asked to appoint Freedom to Speak Up Guardians?

The RCN welcomes the recognition that the Freedom to Speak Up Guardian role cannot be implemented as a one-size-fits-all position across primary care. Our previous response to the Freedom to Speak Up review also recommended the appointment of specially designated individuals for these roles, rather than expansion of currently existing job duties, and we are pleased to see the Freedom to Speak Up Guardian role described as such in this guidance.

Self-appointment will allow primary care providers the ability to select an individual who is trusted locally and appropriate to the needs of the appointing organisation. However, this must be done with care, particularly with smaller organisations who may have limited options. We believe that helping these providers to identify an appropriate individual to whom the staff can raise a concern will be particularly important, and specific attention will likely need to be devoted to ensuring this process is carried out appropriately.

We continue to emphasise the importance of support and senior management buy-in across every NHS organisation in order for these roles to be successful. It is essential

that individuals in these roles be perceived as objective, credible, and capable of enacting meaningful change.

The RCN supports the inclusion of measures to share best practices among Freedom to Speak Up Guardians and supports the development of both formal and informal knowledge-sharing networks as a means of promoting accountability, effectiveness, and affordability. Furthermore, we continue to recognise the importance of transparency in reporting, monitoring, and maintaining these roles.

3. The guidance suggests using existing mechanisms and duties rather than the use of national contracts to encourage the adoption of new policies in primary care. Do you agree with this approach?

We are supportive of this mechanism so long as it truly does accomplish the objectives at hand. The RCN acknowledges the challenges of incorporating duties into contracts, but continues to recognise the importance of this tool as a persuasive measure to implement effective policies. We therefore remain in favour of a more immediate integration into national contracts to encourage policy adoption. Using existing mechanisms (such as the NHS Constitution) and duties could avoid duplication, but it is essential to ensure that the enforcement mechanisms developed are robust and realistic.

4. What support will primary care organisations need from NHS England in implementing this new guidance? In particular, how might NHS England or eventually the National Freedom to Speak Up Guardian support local Freedom to Speak Up Guardians?

The RCN acknowledges that primary care providers will need various forms of support in implementing this guidance. In particular, there will need to be sufficient training and support to allow the Freedom to Speak Up Guardians to act with authority and objectivity. This may include robust debriefing and supervision, dependent upon the complexity of the cases that are encountered. Peer support may be a useful tool in strengthening capacity and reducing feelings of isolation. In implementing these measures, the RCN also recognises the importance of consideration for the time burden these measures may place on local networks and we remain concerned that smaller providers may struggle to allocate staff with sufficient time and expertise to investigate disclosures within the stated timeframes.

Support for the Freedom to Speak Up Guardians should also include discussions of financial support. The RCN has previously called for a high level review of how the funding for these roles is to be achieved, with consideration given to the central funding of local positions, in order to avoid funds being pulled away from front-line services. We also note that having a clear plan for funding could significantly strengthen buy-in from providers.

It is also important to emphasise that, on its own, the new guidance and the proposed Freedom to Speak Up Guardians may not be sufficient to encourage staff to raise concerns. Cultural and institutional change, as well as effective implementation, will be key in creating an environment in which raising concerns is not merely permissible or possible but also welcomed, encouraged, and desirable. The RCN suggests that continued NHS England focus on bullying and harassment, staff well-being, and engagement may play a role equal in importance to the guidance itself.

5. The Freedom to Speak Up review looked at the experiences of vulnerable staff groups (e.g. locums and agency staff, students and trainees, BME groups and staff working in primary care) when raising concerns. We believe that this guidance will make it easier for all staff to raise concerns, including those who may be more vulnerable. Do you think it achieves this and, if not, what else could be included?

The RCN welcomes efforts to support vulnerable staff groups, but notes that while this guidance does facilitate the process of raising concerns for all staff members, it does not explicitly address the unique challenges that vulnerable staff groups may face.

The protections established clearly benefit everyone working in primary care but do little to address the specific disadvantages that are faced by vulnerable groups including agency staff, students and BME groups. We are supportive of integrating mechanisms in the organisational policy review process to specifically engage with the appropriate networks and staff to determine what additional and specific steps need to be taken to ensure that the policy does in fact facilitate the ability of all staff to confidently and securely raise concerns.

Until the policy is implemented and staff members see that it is delivering the security and cultural change it sets out to achieve, there may be individuals who will be reluctant to step forward and raise concerns. To this end, the RCN continues to be supportive of training for senior staff members to facilitate this cultural change as well as visible protections for staff members who raise concerns.

We would welcome continued efforts in the future to carefully monitor the ways in which this guidance is or is not beneficial for vulnerable staff groups. Transparency about these findings will be valuable in strengthening the voices of all staff members.

6. What else could be included in the policy that would add value?

Given the stress of raising concerns, the policy could be strengthened by incorporating components to provide independent support, or at least information about where to seek

support, to staff members who raise concerns. This could come from occupational health, unions, or other appropriate services.

We also wish to emphasise the importance of establishing a clear policy for confidential and anonymous reporting. While the draft guidance acknowledges that some individuals may wish to raise their concerns confidentially or anonymously rather than openly, the guidance does not fully describe how the process of raising concerns would differ for those who wish to remain anonymous or confidential. It also does not describe specific safeguards in place to protect anonymous and confidential reporters. The RCN would welcome additional specifications surrounding this process and its safeguards, as well as additional clarification regarding support and protection mechanisms available for those who have faced or may face bullying, harassment, or other harms in violation of this policy as a result of their whistleblowing.

Those conducting investigations, whether fully independent or not, must have the training and time to investigate immediately, rather than integrating investigation with their normal duties. The RCN acknowledges that provision of this sort of designated role may be beyond the capacity or needs of smaller providers, but we are also concerned that if there is not sufficient staff capacity then providers may be forced to choose between investigating raised concerns and providing their essential duties of patient care. This is not a choice that senior management should have to make; both components are vital.

The RCN welcomes the proposal that staff will regularly be asked for their views and concerns, but the policy is unclear as to the mechanism for this, the timing of this, and the context in which this will be done. Such feedback should be requested in an environment where staff feel safe and comfortable to speak up. While the open-ended nature of this guidance allows for flexibility, providing greater clarity on these details could enhance effectiveness and accountability.