Safe, compassionate care is everyone’s business. Raising and responding to concerns is something that we should all be comfortable to do. But we know that being able to speak out is not always as easy as it sounds. This resource will support you to raise concerns wherever you work – in the NHS or independent sector - and whether you raise a concern as an individual or as part of a group.

“Registered nurses have a duty under the NMC Code to raise concerns when patients are at risk of harm. The RCN Raising Concerns Policy sets out a clear and comprehensive approach on how nurses should raise concerns within the workplace and the support members should expect, both from the RCN and their employer”.

Jennie Stanley
Lead Nurse (UK), Patients First

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Raising Concerns

It can sometimes be hard to know whether a situation should be raised as a concern. You (as an individual or part of a group) should be guided by this question: has the situation caused harm or distress or if you let the situation carry on, is it likely to result in harm or distress?

Your concern must be based on a reasonable belief that you can justify, but you do not need hard evidence that wrongdoing is happening or something has taken place or is likely to happen in the future. If in doubt, raise the concern with your manager or senior colleague as soon as you can.

You may want to have a confidential discussion about any personal risks that may arise if you raise a concern. You can speak to us or to an RCN rep. Also, RCN Member Support Services provides a confidential counselling service if you are emotionally affected by the situation and would prefer to speak to a counsellor.

Remember, you are protected by law if you have made a protected disclosure, even if you do this after the end of your employment - by the Employment Rights Act 1996. If you are subject to harassment, bullying, dismissal or any other detrimental treatment the law applies whether you are a worker, ex-worker or a trainee on a work placement.

If you want any more information on your rights see the Protection and Support section on page 5 or Public Concern at Work’s guide to the law.

Raising concerns or whistle blowing?

Are you raising a concern, speaking up, or are you blowing the whistle? Or are they the same thing? It can often be very difficult to understand. Essentially, they are the same thing which is raising a concern about wrongdoing or harm, either internally with managers or senior managers, or externally with a regulator, an MP or the wider public.

In most cases your concerns will be dealt with internally but if not and you remain concerned, it may be appropriate to disclose your concerns externally to any other prescribed person.

Take advice from us about next steps and whether it would be appropriate to make a disclosure externally or whether it would be better to exhaust your organisation’s relevant internal policies and procedures.
Raising concerns: rights and responsibilities

It is everyone’s responsibility to be aware of the importance of preventing and eliminating wrongdoing at work. You should be watchful for unsafe, illegal or unethical conduct and report anything of this nature. Your employer has a duty to respond, if they do not we can help you escalate your concerns. All employers should have a formal policy for raising concerns, which will usually be known as the ‘Raising concerns’ or ‘Whistle blowing policy’, and you should familiarise yourself with this at an early stage if you wish to raise a concern.

If you work in the NHS in England your organisation is required have a dedicated Freedom to Speak Up Guardian. This provides another route for you to raise a concern. Guardians don’t get involved in investigations or complaints, but help to facilitate the raising concerns process where needed, ensuring organisational policies are followed correctly. NHS Employers have a map of local Freedom to Speak Up Guardians: freedom-to-speak-up-guardian-hub

Nurses and raising concerns

Registered nurses must follow the Nursing and Midwifery Council (NMC) Code of Conduct at all times, but other members of the team should also use it to guide their practice. The NMC has produced its own guidance on raising concerns, including a training toolkit. Search for ‘raising concerns’ on www.nmc-uk.org

Raising and acting on concerns early

Don’t wait for a problem to develop. If you see poor care or feel you are being prevented from providing safe, compassionate care, start discussing it with your manager now. If nobody is acting on your concern, put it in writing. More importantly, ensure you are aware of the approaches you can take to help improve the quality of care and deliver the best clinical practice to prevent a problem emerging in the first place.

For more information about delivering high quality care and to learn more about areas such as dementia and nutrition, see the useful resources section.
Practicalities

How do I raise a concern?

When you have identified who to approach, your concern must clearly convey what you are concerned about and set out why. You can do this in a letter, a grievance, memo, or verbally. Make sure you are specific and provide the background information to why you are concerned.

However you report your concerns, ensure that you keep records and notes throughout the process of the issues that you are concerned about for future reference. At any stage, whether you are following your employer’s policy or the steps outlined here you can contact the RCN for support and advice.

See our step by step flow chart on page 5 on how to raise a concern.

Contact us

We will support you with raising concerns and speaking out about patient safety, malpractice or the quality of care. If things are becoming difficult and you think you are being victimised, contact us at the earliest opportunity.

We are here to provide you with advice and assistance before and after you have raised a concern and advise you whether the concern you have raised amounts to a qualifying protected disclosure and therefore, whether you would have an Employment Tribunal claim if you are subsequently subject to a detriment or dismissed as a result. However, please note, we are only able to support Employment Tribunal claims that have more than 51% prospects of success.

See step flow chart on page 5 on how to raise a concern.
Raising concerns step-by-step guide

Has the situation caused harm or distress or if you let the situation carry on, is it likely to result in harm or distress?

**Step 1**
Access your local raising concerns or whistle blowing policy. The policy should detail with whom you can raise a concern

**RCN Support**
If there is no policy or if the policy is unreasonable; Call RCN Direct

**Step 2**
Raise your concerns in line with your local policy

**RCN Support**
Unable to do so or if the issue unresolved; Call RCN Direct

**Step 3**
If you are unable to talk to your line manager or if concerns are not addressed: escalate the issue to the next level of management or director of nursing or equivalent or a local Freedom to Speak Up Guardian (in England)

**RCN Support**
need support.

**Step 4**
If your concerns are still not addressed satisfactorily then escalate the issue again to the chief executive (or equivalent) but ensure your director of nursing is aware that you have taken this step. (If there isn’t a CEO and you are not sure who to refer the issue to – CONTACT THE RCN for advice)

**RCN Support**
RCN support.

**Step 5**
If you have exhausted all local workplace policies and procedures, or you feel unable to raise a matter internally, you should consider raising your concerns externally. A list of external bodies to which you can make a disclosure can be found at www.gov.uk enter ‘Blowing the whistle: list of prescribed people and bodies February 2016’

**RCN Support**
RCN support.
On occasion it may be appropriate to jump to step 4 or step 5 especially if you believe your employer will cover up the situation. Always seek advice from us.

Important: going to the media should always be a last resort after exhausting the steps outlined here.

There may be confidentiality issues and employer policies that you need to be aware of. There are also more stringent requirements to be met in terms of a disclosure of this nature and whether it qualifies as a protected disclosure and as such whether you are protected if thereafter you are subjected to a detriment or dismissed. Please contact us for further information.

At each stage ensure that you keep records of your concerns and any steps you have taken to resolve them for future reference.

RCN Direct: 0345 772 6100
NHS national whistle blowing helpline: 0800 072 4725

Can I raise a concern confidentially?

Your employer’s policy should enable you to raise your concern confidentially, which means your name will not be revealed by whoever you raise you concern with without your consent, unless required by law. When you raise your concern, either verbally or in writing, make it clear if you are doing so confidentially.

Can I raise a concern anonymously?

Yes. However your employer’s policy may not encourage anonymous reporting (where you do not tell anyone who you are). If you do raise your concern anonymously, and you are later subject to any detrimental treatment or dismissed as a result, it will be more difficult to prove this was related to you having raised the concern (as the employer may say they did not know it was you).

It can be difficult to speak out but there are risks when concerns are raised anonymously. For example:

- it is harder to investigate the concern if people cannot ask follow-up questions
- it is easier to get protection under the Employment Rights Act 1996 if the concerns are raised openly
- being anonymous does not prevent others from successfully guessing who raised the concern
- it can lead people to focus on who the whistle blower is, possibly suspecting that he or she is raising the concern maliciously.

What support can I expect?

We understand that raising a concern can be difficult.

In addition to RCN support, whistle blowing legislation provides you with a legal remedy if you are subject to a detriment or dismissed as a result of making a protected disclosure.

It is important the concern is raised appropriately and is a qualifying disclosure according to the legislation. Do not be worried if this sounds technical as the RCN can guide you through it.

If you work for the NHS, all employees have a contractual right and a duty to raise genuine concerns with their employer that they consider to be in the public interest - including malpractice, patient safety, financial impropriety, or any other serious risks. This is set out in section 21 of the NHS Terms and Conditions Handbook.

Additionally:

- in England the NHS Constitution and handbook include a pledge to support staff who wish to raise concerns
- in the NHS in Scotland staff are covered by a nationally agreed Partnership Information Network (PIN) policy on whistle blowing
- in Northern Ireland staff are covered by the Regulation and Quality Improvement Authority whistle blowing guidance
- in Wales the Health Care Inspectorate Wales has produced a document called Concerns and Complaints about Health Services in Wales which covers NHS services and independent health care settings.

What response should I expect when I raise a concern?

When you raise a concern you should be listened to carefully and without fear of detriment. Your employer should investigate your concern thoroughly, promptly and confidentially. Your concerns should be assessed as to:

- how serious and urgent the risk is
- whether the concern is best dealt with under the local whistle blowing or raising concerns policy or another local procedure
- whether assistance is required or if referral to senior managers, or a specialist function, is desirable or necessary.
The issues you raise should be answered in writing, summarising your concerns, noting whether you raised them openly or confidentially and stating the steps that will be taken to resolve the situation.

If you do not receive this the RCN can help you. Contact RCN Direct for advice.

Will there be personal consequences for me if I raise my concerns?
The RCN recognises that raising concerns can sometimes require courage in the face of possible victimisation and we will support those who face difficulties for having taken this step. Most employers take concerns very seriously and respect their moral and legal obligations; however, legislation protects you if you raise concerns.

Protection and support
• You are protected in law from victimisation by your employer (for raising a concern) and your employer should treat any acts of victimisation against you as a disciplinary offence.
• If you are subject to a detriment or dismissed as a result of making a protected disclosure there are legal remedies available and you could pursue an Employment Tribunal (or an industrial Tribunal in Northern Ireland) claim as a result. However, this is a last resort action. Early intervention is best and you will be supported by the RCN to ensure your employer meets their obligation that you do not suffer detriment.
• If you have made a protected disclosure, there is no cap on an award for victimisation or automatic unfair dismissal – the level of any award depends on how badly you’ve been treated. There are strict time limits in making an Employment Tribunal claim. ACAS must be notified of the claim and early conciliation triggered within three months less one day of the relevant event/detriment occurring for example date of dismissal. Depending on the length of the early conciliation period that will then have an impact on the deadline in which to submit the claim to the Employment Tribunal. These are complicated deadlines and if in doubt please contact RCND. Also, please note the early conciliation rules do not apply in Northern Ireland.
• Workers who are not employees cannot claim unfair dismissal as a result of having made a protected disclosure, but they are protected and can claim they have been subjected to a detriment. Accredited RCN representatives who raise a concern on behalf of others or themselves are protected by trade union legislation and the Employment Rights Act.
• An instruction to cover up wrongdoing is a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, you should not agree to remain silent. The NMC identifies a duty of candour for registrants, but this is good practice for all.
• If you raise a concern which you believe to be true, but turns out not to be, you may be protected by the legislation provided you reasonably believed the information.

However, you also have a duty of honesty:
• if you deliberately make a false allegation it may be a disciplinary offence. Also, if you make an allegation in bad faith that may have an impact on any future Employment Tribunal award.
• If you make an allegation which you believe to be true, but turns out not to be, you may be protected by the legislation provided you had a reasonable belief at the relevant time.
• committing an act of misconduct and/or breaching your employer’s disciplinary procedures (for example by disclosing patient/confidential records to third parties, unauthorised access to confidential records) could justify your employer taking disciplinary action against you. If in doubt, seek advice from the RCN.

We understand that raising concerns can be stressful. If you feel under pressure, the RCN can provide an opportunity to discuss your situation confidentially.

Call RCND for advice on 0345 772 6100.

How should managers act on a concern?
If you are in a management position, creating an environment of openness is paramount. You should model openness and transparency in your own approach and should foster a culture in which all members of staff feel able to raise concerns without fear. As a manager you should escalate any concerns you may have appropriately, according to local policies.

NHS guidance published by the Social Partnership Forum and Public Concern at Work for England outlines how to achieve this type of culture and why it is important. This guidance also includes practical tips for NHS managers in handling concerns including: responding to concerns; communicating the importance of raising concerns; and auditing, refreshing and reviewing existing approaches. NHS Employers also provide
guidance and signposting if someone comes to you with concerns.

Similar whistle blowing guidance is provided by the Regulation and Quality Improvement Authority in Northern Ireland, and PIN policies in Scotland. The Health Care Inspectorate Wales has produced a document called *Concerns and complaints about health services in Wales*. This covers both NHS services and independent health care settings. See our resources page. **At any time, you can call RCND for advice 0345 772 6100.**

RCN Resources

**RCN Direct** 0345 772 6100
- **Dementia:** [www.rcn.org.uk/dementia](http://www.rcn.org.uk/dementia)
- **Dignity:** [www.rcn.org.uk/dignity](http://www.rcn.org.uk/dignity)
- **Nutrition and hydration:** [www.rcn.org.uk/clinical-topics/nutrition-and-hydration](http://www.rcn.org.uk/clinical-topics/nutrition-and-hydration)
- **Older people:** [www.rcn.org.uk/clinical-topics/older-people](http://www.rcn.org.uk/clinical-topics/older-people)
- **Safeguarding:** [https://www.rcn.org.uk/clinical-topics/safeguarding](https://www.rcn.org.uk/clinical-topics/safeguarding)
- **Principles of Nursing Practice:** [www.rcn.org.uk/professional-development/principles-of-nursing-practice](http://www.rcn.org.uk/professional-development/principles-of-nursing-practice)
- **RCN (2012) Mandatory nurse staffing levels**

Whistle blowing guidance

**CQC guidance:** [www.cqc.org.uk/content/whistleblowing-quick-guide-raising-concern-cqc](http://www.cqc.org.uk/content/whistleblowing-quick-guide-raising-concern-cqc)

**Health Care Inspectorate Wales - Concerns and Complaints about Health Services in Wales:** [www.hiw.org.uk/sitesplus/documents/1047/Concerns%20%26%20Complaints%20about%20health%20Services%20in%20Wales%20%28E%291.pdf](http://www.hiw.org.uk/sitesplus/documents/1047/Concerns%20%26%20Complaints%20about%20health%20Services%20in%20Wales%20%28E%291.pdf)


**NHS Speaking up charter:** [www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-workwhistleblowing/speaking-up-charter](http://www.nhsemployers.org/your-workforce/retain-and-improve/raising-concerns-at-workwhistleblowing/speaking-up-charter)

A commitment by NHS employers and other organisations to work together to support those who raise concerns in the public interest.


**Public concern at work:** [www.pcaw.org.uk](http://www.pcaw.org.uk)

An independent charity that advises individuals, supports organisations with their whistle blowing arrangements and informs public policy.

**Regulation and Quality Improvement Authority whistleblowing guidance Northern Ireland:** [www.rqia.org.uk/contact_us/complaints_and_feedback/whistleblowing.cfm](http://www.rqia.org.uk/contact_us/complaints_and_feedback/whistleblowing.cfm)