

NHS England South East (Kent Surrey Sussex)

Advice for GPs on raising a concern

All health professionals, particularly doctors, have an important role in drawing attention to both poor standards of care and poor standards of professional practice.

The duty to report concerns about colleagues has been with us for some years (GMC – *Good Medical Practice 2013* – paragraphs 24-27 or see the GMC Ethical Guidance page, Good Practice tab at <https://www.gmc-uk.org/ethical-guidance>)

Cases such as those of Clifford Ayling, Harold Shipman and system failures such as Mid-Staffordshire have led to revision of older guidance and a clearer picture of the duty for all of us to identify and act on concerns.

Barriers to action

Doctors often worry that raising a concern, particularly relating to a colleague, will cause a breakdown in working relationships or lead to them facing action or criticism for defamation of a colleague.

You may worry too that the problem is minor and bringing it to the attention of “the authorities” will result in disproportionate outcomes such as someone being struck off or stopped from working for a long period of time. For all these reasons it can be tempting to do nothing, wait and see or try and deal with it in a low-key way – having a “quiet word” with your colleague.

When the cases of doctors who get into serious professional difficulties are reviewed, some themes emerge:

- Low level concerns had been identified, sometimes years earlier.
- Doctors were over-ready to find a reasonable explanation for a colleague’s behaviour rather than face up to the fact that someone could act in a flagrantly unprofessional manner.
- Everyone thought someone else was doing something about it.
- Incidents are dealt with in isolation – the problem in the out-patient clinic is not shared with the practice partnership; and the complaint about the home visit from the practice is not shared with the Out of Hours service.
- Even if the doctor is confronted, either a plausible explanation is given or there is an angry, defensive or threatening response which discourages further exploration.
- Organisational change means that people and systems move on, there is a loss of trust and familiarity in the new system, or no-one is quite sure who to speak to and what the outcome might be.

Deciding what to do

Support and advice is available for you so that you can decide on the best course of action. There are a number of colleagues that you can speak to including your RO, a member of his team, the Local Medical Committee (LMC), the National Clinical

Assessment Service (NCAS), or your medical defence body. Beyond that initial discussion, you need to bear in mind the following:

- You do not have to be absolutely certain “beyond reasonable doubt” that something is wrong.
- You do not have to conduct any sort of investigation or seek further “evidence” before reporting.
- You must make a clear record of your concerns – date and time of any incident, details of any patient or others affected any steps you have taken to rectify the problem, and any response to the concern made by the person or people concerned.
- You should take whatever steps you can to ensure that patients are protected as far as possible from the results of poor care or poor performance. For example contacting the patient yourself about the mistake on the prescription or the missed test result.

Where you have a concern about patient safety or the quality of care in another care setting, you can raise that through the normal incident reporting mechanisms supported by your CCG.

You can also raise it with the commissioner of the service concerned (usually via your CCG) or contact the Nursing or Medical Directorate of NHS England regarding Primary Care Services. We are well placed to forward any concerns to the right people and to follow-up and ensure that appropriate action is taken.

Your appraisal also gives you an opportunity to discuss and raise any performance, health or conduct issues. If you have a concern about a doctor, you should inform the doctor’s RO at the doctor’s “designated body”, usually the Medical Director at the employing hospital for a secondary care doctor and the local area RO for a GP. If you aren’t sure you can approach your own RO; this is Dr Alison Taylor, Medical Director at NHS England, South East (Kent Surrey Sussex) or one of the Medical Directorate team.

What happens when you raise a concern locally?

Details of your concern will be noted down. We follow an agreed NHS England set of policies and procedures for dealing with concerns about professionals as outlined here: <https://www.england.nhs.uk/medical-revalidation/ro/resp-con/>

In practice, many of the concerns and issues about GPs can be dealt with through informal local measures. This means that anyone reporting concerns can be confident that the action will be nuanced and proportionate to the issues raised.

If an issue is serious or pervasive, under the regulations (<http://www.legislation.gov.uk/uksi/2013/335/made>), the doctor can be suspended from the performers list (stopped from working) during an investigation. However, in the vast majority of cases, an investigation proceeds while the doctor remains at work.

It’s important to note that the principle of “innocent until proven guilty” always applies to the investigation of performance concerns about doctors – thus decisions to

suspend doctors on the performers list or to limit their practice are neutral, non-punitive and taken on the basis of the need to protect patients pending investigation.

The doctor concerned will be contacted and asked to respond to the concerns raised. He or she will be given an opportunity to view any records or evidence, comment on the investigation and correct any material inaccuracies. NHS England's policies and procedures mean that the investigation report is considered by a trained panel and a decision is made on appropriate action. Sometimes the concern raised will warrant a referral to the GMC and if this is the case the doctor is advised accordingly. More information on these governance arrangements can be accessed through the web link provided above.

NHS England will keep records of any concerns or issues relating to GPs on the performers list. We have retained the records previously kept by the PCTs. This means that a concern can be viewed in context to check whether it is part of a pattern or an isolated incident.

At every stage in the process, it's always possible to decide that no further action needs to be taken.

What to do if a response is inadequate

Unless you are the doctor's employer or partner, or the doctor gives consent, we are not usually able to share the outcome with you. However, we can share the detail of our processes. What we will be able to give you is the assurance that you have shared your concern appropriately and that it is now the responsibility of the RO's team to ensure this is progressed.

Your GMC duty and the Francis Report recommendations unfortunately go beyond simply a one off email to your local Medical Director. You have to seek assurance that action is being taken. This is difficult within the necessary constraints of confidentiality under which we operate to give people a fair hearing. If you are unhappy that action has not been taken, you should seek further advice and support from the LMC and your medical defence body.

What to do if there are concerns about your own professional practice

This is always distressing and difficult. You should seek advice from your medical defence body and from the LMC. Both of these bodies are able to offer you a confidential listening ear.

We would advise that someone in your workplace – a partner, manager or colleague, is aware that you are dealing with an issue, although on occasions this may not be possible or advisable. Always respond promptly to requests for information, and you are entitled to have a friend or supporter attend any meetings with you.

If you think that your case is not being handled fairly you can raise your concerns via the LMC or with NHS England.

To find out more

The GMC has an on-line tool which takes you through the process for raising concerns appropriately:

In Summary

- If you have concerns about another healthcare professional or patient safety you must raise them.
- Not raising concerns can put your own career at risk.
- You do not have to be certain that there is a problem with a colleague; a strong suspicion is enough.
- The Medical Director and Responsible Officer (RO) for NHS England South East is Dr Alison Taylor. Dr Taylor is responsible for ensuring concerns about doctors and other health professionals are addressed and ensuring concerns about quality and safety in other health care settings and providers are passed on and dealt with properly.
- A member of the RO's team will always be available to provide help and advice if you need it.
- You can get advice and support confidentially from your medical defence body and the Local Medical Committee (LMC) or the National Clinical Assessment Service (NCAS).
- You may also raise concerns directly with the General Medical Council (GMC).
- Often concerns about doctors can be dealt with locally through a developmental approach whilst allowing the doctor to continue working.
- If concerns are raised about you, you can seek advice and support from the LMC and your medical defence body. You are entitled to be treated fairly and proportionately.

NHS England (Kent, Surrey, Sussex) contacts

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Other useful contacts

Surrey and Sussex LMC
www.sslmc.co.uk
Tel: 01372 389270

Kent LMC
www.kentlmc.org
Tel: 01622 851197

General Medical Council
Email: Practise@gmc-uk.org
Tel: 0161 923 6602

Practitioner Performance Advice
Email: advice@resolution.nhs.uk
Tel: 020 7972 2958/ 2959