

September 2017

## **PSNC Briefing 020/17: PSNC's guidance to contractors on whistleblowing**

**Updated September 2017 (first issued April 2017)**

### **Introduction**

Whistleblowing/speaking up involves raising concerns about, for example, poor clinical practice or other malpractice which may harm patients, failure to safeguard patients, maladministration of medications or dispensing errors, untrained or poorly trained staff, or lack of policies creating a risk of harm. This is an important aspect of patient safety and requires a culture in the organisation that encourages staff to raise concerns, proper written policies so that staff know what to do, making sure concerns are investigated and any lessons are learned, and proactively protecting/supporting staff who raise concerns.

In 2015, Sir Robert Francis reported on whistleblowing in the NHS: [Freedom to Speak Up](#)<sup>1</sup> and identified the need for a better culture within NHS organisations that encourages whistleblowing, improved complaints handling and better measures to support whistleblowing/speaking up. Sir Robert indicated that his recommendations applied to primary care with necessary adaptations. NHS England has considered his recommendations and has provided advice in [Freedom to speak up in Primary Care](#)<sup>2</sup>

Pharmacy contractors are already required to have a written whistleblowing policy with certain matters specified and extra assurances to staff (by the clinical governance provisions in the Terms of Service), but action is required by contractors (if not undertaken already) to comply with the new guidance.

This briefing is set out as (A) Background and the new NHS Guidance and (B) What contractors should do.

### **A. Background and the new NHS Guidance**

#### **Background law**

To protect workers, the Public Interest Disclosure Act 1998<sup>3</sup> sets out what are called 'protected disclosures'. These include a 'qualifying disclosure' made by a worker which tends to show one or more of the following:

- that a criminal offence has been committed, is being committed or is likely to be committed (for example, the supply of a prescription medicine without the authority of a prescription or other authority);

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<sup>1</sup> [http://freedomtospeakup.org.uk/wp-content/uploads/2014/07/F2SU\\_Executive-summary.pdf](http://freedomtospeakup.org.uk/wp-content/uploads/2014/07/F2SU_Executive-summary.pdf)

<sup>2</sup> <https://www.england.nhs.uk/2016/11/support-whistleblowers-pc/>

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/1998/23/contents>

- that person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject (for example, a responsible pharmacist failing to make the appropriate record entry under the responsible pharmacist regulations);
- that a miscarriage of justice has occurred, is occurring or is likely to occur (for example, the wrong pharmacist being forced to take the blame for something he had no part in);
- that the health or safety of any individual has been, is being or is likely to be endangered (the most likely situations to arise in pharmacy; this could include prescribing errors, misdiagnosis, dispensing errors etc.);
- that the environment has been, is being or is likely to be damaged (for example, the guidance about the disposal of waste medicines is not being followed); or
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed (for example, if a person in authority has turned a 'blind eye' to one of the above).

The [Terms of Service](#)<sup>4</sup> provide that contractors must have a written policy for whistleblowing/Freedom to Speak Up as follows:

*28 (2) For these purposes a system of clinical governance is "acceptable" if it is considered acceptable by the NHSCB and comprises the following components...*

*(e) a staffing and staff management programme, which includes....*

*(vi) arrangements (which must include a written policy) for ensuring that all staff and locums who, arising out of their employment with the pharmacist....*

*(aa) make what is a protected disclosure within the meaning given in section 43A of the Employment Rights Act 1996 (meaning of protected disclosure) have the rights afforded in respect of such disclosures by that Act, and*

*(bb) provide information in good faith and not for purposes of personal gain to the General Pharmaceutical Council or to the NHSCB which includes an allegation of a serious nature which they reasonably believe to be substantially true, but disclosure of it is not a protected disclosure within the meaning given in section 43A, have the right not to be subjected to any detriment or to dismissal as a consequence of that act;*

It is important to note that contractors are expected to give the additional protection to staff - including locums - that is set out in paragraph (bb) above, that any concern raised with NHS England or the GPhC that might not be protected under the [Employment Rights Act 1996](#), will still be protected if it includes an allegation of a serious nature, which the staff member reasonably believes to be true, and makes in good faith and not for personal gain.

## Raising concerns within the pharmacy

In the community pharmacy setting, the qualifying disclosure would usually be made to the worker's employer, and where it is appropriate members of the pharmacy team should be encouraged to raise concerns internally with the view that the pharmacy employer will then have an opportunity to address the issue.

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<sup>4</sup> See paragraph 28 to Schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

## Raising concerns outside the pharmacy

Most whistleblowing incidents should be handled internally by the pharmacy employer. However, there may be occasions where it is appropriate to disclose concerns to a person/s outside of the pharmacy employer i.e. a “Prescribed Person”. This may arise, for example, if a community pharmacist was raising concerns about another healthcare practitioner, not employed by their employer. Or where the worker does not wish to make the disclosure to their employer, for example, if the failing is by the employer and previous expressions of concern to the employer have been ignored. In this case, disclosure to another party could still be protected if he makes a disclosure in good faith, he reasonably believes that the information disclosed and any allegation contained in it are substantially true, he does not make the disclosure for purposes of personal gain and that in all the circumstances of the case, it is reasonable for him to make the disclosure.

A “Prescribed Person” is an organisation or individual that a worker may approach outside their workplace to report suspected or known wrongdoing. Making a disclosure to a Prescribed Person provides the right for a worker to take a case to an employment tribunal if they are victimised at work or they have lost their job because they have ‘blown the whistle’.

Prescribed persons are identified in law; an [up-to-date list is accessible](#) and guidance is available on the Department for Business, Energy & Industrial Strategy’s website<sup>5</sup>. Those relevant to the NHS include:

- The General Pharmaceutical Council and equivalent healthcare regulators for GPs, optometrists and dentists;
- NHS England; and
- Health Education England.

Protection from detriment only applies if the disclosure is a ‘qualifying disclosure’. Public Concern at Work ([www.pcaw.org.uk](http://www.pcaw.org.uk)) can assist workers with deciding whether to make disclosures and if so, to whom the disclosure should be made.

## NHS England Guidance

On 1st November 2016, NHS England published [Freedom to speak up in Primary Care](#)<sup>6</sup> - guidance to primary care providers on supporting whistleblowing in the NHS. The guidance is for all providers of NHS primary care services including community pharmacies. It details the principles and actions to apply in primary care to support the raising of concerns by staff about the delivery of primary care services to patients and the management of the matter raised.

The key points for primary care were:

- a) all NHS staff working in primary care should be encouraged to raise any concern, at the earliest opportunity;
- b) NHS primary care providers should be proactive in preventing any inappropriate behaviour, such as bullying or harassment, towards staff who raise a concern;
- c) each NHS primary care provider should review and update their local policies and procedures by September 2017, so that they align with this guidance;

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<sup>5</sup> <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

<sup>6</sup> <https://www.england.nhs.uk/2016/11/support-whistleblowers-pc/>

- d) each NHS primary care provider should name an individual who is independent of the line management chain and is not the direct employer as the Freedom to Speak Up Guardian, who can ensure that policies are in place and that staff know who to contact if they have a concern; and
- e) NHS primary care organisations should build on the work of [Being Open](#) by adopting the good practice published in Freedom to Speak Up. NHS England will provide easy access to learning resources and will support a network of Freedom to Speak Up Guardians in primary care [this is awaited].

## Nominating a Freedom to Speak Up Guardian

The NHS England guidance also requires each contractor to name an individual as the Freedom to Speak Up Guardian who can ensure that policies are in place and that staff know who to contact if they have a concern; this person must be independent of management within the pharmacy and not be the direct employer.

NHS England's guidance notes that there are a range of people that could be a Freedom to Speak Up Guardian, including:

- arrangement with another local primary care provider;
- assigned staff role within a larger provider federation/network;
- arrangement with the local hospital trust Freedom to Speak Up Guardian;
- nominated member of the local Clinical Commissioning Group (CCG);
- nominated member of the Local Professional Network (LPN);
- nominated member of the Local Pharmaceutical Committee (LPC);
- regional manager in larger pharmacy businesses;
- superintendent pharmacist; and
- NHS England Responsible Officers.

## B. What should contractors do?

### Steps for contractors to take

If the contractor has not yet adopted a written whistleblowing policy, then this should be undertaken without delay to comply with the Terms of Service<sup>7</sup>. Contractors with existing formal whistleblowing policies should review and update their whistleblowing policies and procedures.

The steps to be taken are likely to include:

- Expressing the contractor's commitment to whistleblowing; (this will be covered by a statement from the contractor on the importance the contractor gives to their workers feeling confident to raise concerns).  
***It is important that staff know it is safe to raise concerns.***
- Gain buy-in from the senior members of the contractor's team; (other than in single handed pharmacy contractor businesses, the senior staff need to be involved in developing procedures, and need to be supportive, since they will be involved in investigating concerns).  
***The culture of the organisation needs to be such that staff will be thanked for raising concerns.***

<sup>7</sup> See National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Schedule 4, Paragraph 28 (2) (e) (vi)

- Develop a whistleblowing policy and if appropriate, suitable procedures. There is a template whistleblowing policy adapted for community pharmacy (available at Appendix A of this briefing or from [the website](#)) from the draft whistleblowing policy which appears at annex A of [Freedom to speak up in Primary Care](#) guidance<sup>8</sup>, if required. The use of this template is not mandatory and contractors may decide not to follow the template, so long as the requirements of the Terms of Service are complied with. If contractors do use the template, it must be customised by the contractor).

***A written whistleblowing or Freedom to Speak Up policy is a requirement of the Terms of Service and must include information on protected disclosures and give the same protection for staff who raise, in good faith, other concerns of a serious nature with NHS England or the General Pharmaceutical Council (GPhC) (See background legislation earlier in this article).***

- Brief all staff (including locums) on the contractor's policy and procedures and train those within pharmacy teams that may receive concerns. This may be the lengthiest part of the development. As with all policies and procedures, timetable an appropriate review period.

***Involving staff in the development of the whistleblowing policy is recommended – and once complete, it is essential that all staff know about the whistleblowing policy and the name and contact details of the Freedom to Speak Up Guardian.***

- Nominate a Freedom to Speak Up Guardian.

***Additional guidance on nominating a Freedom to Speak Up Guardian and the role of that person are set out below.***

NHS England expects contractors to review and update their whistleblowing policies and procedures by **September 2017**; if this is not possible, contractors are advised to do so as soon as practicable.

## Nominating a Freedom to Speak Up Guardian

Finding or nominating a Freedom to Speak Up Guardian may not be straightforward. The principle is to find somebody who is independent of line management within the organisation and not the employer, and who can ensure that policies are in place and that staff know where to go to raise a concern. The person nominated must have agreed to carry out the role.

[Freedom to speak up in Primary Care](#) recognises that no one model of Freedom to Speak Up Guardian will fit all organisations in primary care. For contractors, the guidance suggests the 'regional manager in larger provider organisations' might be nominated, and for others the 'superintendent pharmacist' might be appropriate. These options may not be suitable for some independent contractors where it may be appropriate to follow the model suggested for dentists (for whom a nominated member of the Local Dental Committee is suggested) and consider a nominated member or officer of the LPC.

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<sup>8</sup> <https://psnc.org.uk/contract-it/essential-service-clinical-governance/raising-concerns-whistle-blowing/>

## Conflict of interest with an LPC member or officer as the Freedom to Speak Up Guardian

As LPCs represent contractors, there is the potential for a conflict of interest because the Freedom to Speak Up Guardian may need to advise a member of staff to report a concern to an appropriate authority, for example, NHS England, which both LPCs and contractors would have to accept.

## The role of the Freedom to Speak Up Guardian

The Freedom to Speak Up Guardian role envisaged in [Freedom to speak up in Primary Care](#) is to:

- a) Ensure, as appropriate, that the contractor's staff know where to go in order to raise a concern (if contacted by the staff).  
*(In exceptional circumstances, the Freedom to Speak Up Guardian may have a professional obligation to report a concern.)*
- b) Provide independent and impartial advice to the contractor's staff on potential whistleblowing issues (as part of (a) above) on, for example:
  - poor clinical practice or other malpractice which may harm patients;
  - failure to safeguard patients;
  - maladministration of medications or dispensing errors;
  - untrained or poorly trained staff; or
  - lack of policies creating a risk of harm;*(Noting that the first and possibly second lines of advice for the staff should be with the contractor/ within the contractor's organisation); and,*
- c) Ensure the contractor has a whistleblowing policy (under the Terms of Service, the policy must be in writing) and that staff know the name of the Freedom to Speak Up Guardian.  
*(This aspect of the role is covered in the PSNC template nomination form – see below.)*

## A wider role for the Freedom to Speak Up Guardian?

Sir Robert Francis' report envisages a wider role for the Freedom to Speak Up Guardian which has not been followed through in the NHS guidance. This was noted in NHS England's consultation feedback<sup>9</sup>. However, additional responsibilities for the Freedom to Speak Up Guardian are found in the draft whistleblowing policy which appears at annex A of that NHS guidance [Freedom to speak up in Primary Care](#). These are:

- take responsibility to ensure you are not subjected to any detriment for raising your concern;
- ensure you receive timely feedback on how your concern is being dealt with; and
- ensure you have access to personal support since raising your concern may be stressful.

These additional responsibilities are **not** included in the suggested role for the LPC Freedom to Speak Up Guardian, but could be included if LPCs consider that they can fulfil them.

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<sup>9</sup> <https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-conslt-resps.pdf>

Contractors using the template community pharmacy whistleblowing policy should include these additional responsibilities for the Freedom to Speak Up Guardian **only** if appropriate.

## Template nomination form for the LPC Freedom to Speak Up Guardian

A PSNC template nomination form for use by LPCs and contractors is available at Appendix B to this briefing and on the [PSNC website](#). This requires the LPC to nominate an appropriate LPC member or officer to carry out the role, if the LPC wishes to do so. The contractor may then certify that there is a whistleblowing policy in place that complies with the Terms of Service and the Freedom to Speak Up Guardian has been appointed and staff informed. The details are on the PSNC template nomination form. An LPC may choose to nominate a post-holder as the Freedom to Speak Up Guardian, for example 'the LPC Chair', rather than a named individual, but should also state the current holder of the role.

### Further sources of information:

- NHS Employers have a [Raising whistleblowing concerns hub](#) with information, resources and guidance.
- [Public Concern at Work](#) raising concerns guidance – Public Concern at Work is a whistleblowing charity which encourages workplace whistleblowing. The organisation can assist workers with deciding whether to make disclosures and if so, to whom they should be made.
- The [Royal Pharmaceutical Society](#) has guidance on whistleblowing in its document 'Reducing workplace pressure through professional empowerment'. The Society has also produced guidance for its members on raising concerns and speaking up safely in pharmacy.
- The GPhC has created a [guidance leaflet](#) which sets out the responsibilities of pharmacy professionals to take action if they believe patients and the public are at risk.
- The [Whistleblowing Helpline](#) is a free-phone service for employees, and organisations working within the NHS and social care sector.

If you have queries on this PSNC Briefing or you require more information please contact [Gordon Hockey, Director of Operations & Support](#) or [William Goh, Regulations Officer](#).

## Appendix A: Template community pharmacy whistleblowing policy

### **[Insert contractor's name]** whistleblowing policy

#### **Speak up – we will listen**

Speaking up about any concern you have at work is really important. In fact, it is vital because it will help us keep our patients safe and help us to improve our services. You may feel worried about raising a concern, and we understand this. But please don't be put off. **[Insert pharmacy name]** is fully committed to an open and honest culture. We will investigate what you say and you will always have access to the support you need.

#### **This policy**

This policy was a recommendation of the review by Sir Robert Francis into whistleblowing in the NHS, which identified awful experiences of people being met with obstruction, defensiveness and hostility when they tried to raise concerns at work. This policy has been adapted from the standard integrated policy produced by Monitor, the Trust Development Authority and NHS England for hospitals. This policy is being adopted by NHS primary care providers in England to help ensure a consistent approach to raising concerns.

Our local process **[include hyperlink/annex]** adheres to the principles of this policy and provides more detail about how we will look into a concern.

#### **What concerns can I raise?**

You can raise a concern about **anything** you think is harming the service we deliver. Just a few examples of this might include (but are by no means restricted to):

- concerns about unsafe patient care
- unsafe working conditions
- inadequate induction or training for staff
- a bullying culture

#### ***If in doubt, please raise it***

Don't wait for proof. We would like you to raise the matter while it is still a concern. It doesn't matter if you turn out to be mistaken as long as you are genuinely troubled. If your concern is a personal complaint about your own employment situation, rather than a concern about malpractice or wrongdoing that affects others, then you may wish to raise a grievance using our grievance policy **[either available upon request or insert link to pharmacy's grievance policy]**



## Feel safe to raise your concern

If you raise a genuine concern under this policy, you will not be at risk of losing your job or suffering any form of reprisal as a result. We will not tolerate the harassment or victimisation of anyone raising a concern. Nor will we tolerate any attempt to bully you into not raising any such concern. Any such behaviour is a breach of our values as a pharmacy and, if upheld following investigation, could result in disciplinary action.

Provided you are acting in good faith (effectively this means honestly), it does not matter if you are mistaken or if there is an innocent explanation for your concerns. Of course we do not extend this assurance to someone who may maliciously raise a matter they know is untrue.

## Confidentiality

We hope you will feel comfortable raising your concern openly, but we also appreciate that you may want to raise it confidentially. Therefore, we will keep your identity confidential, if that is what you want, unless required to disclose it by law. You can choose to raise your concern anonymously, but that may make it more difficult for us to investigate thoroughly and give you feedback on the outcome.

## Who can raise concerns?

Anyone who works in providing NHS primary care services, including agency workers, temporary workers, locums, students and volunteers, can raise concerns.

## Who should I raise my concern with?

In the first instance, you may feel comfortable raising your concern informally with your immediate supervisor / manager, who we hope will be able to resolve it for you.

If this does not resolve matters, or you feel it isn't possible to raise your concerns this way you can raise it formally by contacting one of the following people<sup>1</sup>:

Designated lead person for handling concerns *[insert name and direct contact details]*

The owner of [insert pharmacy name] *[insert name and direct contact details]*

Or

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<sup>1</sup> Appendix 1 sets out an example of how a local process might work – to show how the concern might be escalate

The Freedom to Speak Up Guardian [\[insert name\(s\) and contacts details\]](#) – this is an important role identified in the Freedom to Speak Up review to act as an independent and impartial source of advice to staff, with access to anyone in the pharmacy, or if necessary outside the pharmacy.

All these people have been/will be trained in receiving concerns and will give you information about where you can go for more support.

You can also raise concerns formally with the external bodies, listed on page 4.

### **Advice and support**

Details on the local support available to you can be found here [\[link to location of further support\]](#). However, you can also contact the [NHS Whistleblowing Helpline](#) or your union representative (if you have one).

### **How should I raise my concern?**

You can raise your concerns with any of the people listed above in person, by phone or in writing (including email).

Whichever route you choose, please be ready to explain as fully as you can, the information and circumstances that gave rise to your concern.

### **What will we do?**

We are committed to listening to our staff, learning lessons and improving patient care. On receipt the concern will be recorded and you will receive an acknowledgement within two working days. The central record will record the date the concern was received, whether you have requested confidentiality, a summary of the concerns and dates when we have given you updates or feedback.

### **Investigation**

We will investigate all concerns – using someone suitably independent (usually from a different part of the organisation) and properly trained – and we will reach a conclusion within a reasonable timescale (which we will notify you of). The investigation will be objective and evidence-based, and will produce a report that focuses on learning lessons to prevent problems recurring.

We may decide that your concern would be better looked at under another process. For example, our process for dealing with bullying and harassment. If so, we will discuss that with you. Reports of fraud should be made to the local counter-fraud team [\[insert contact details\]](#).

Any employment issues identified during the investigation will be kept separate.

## ***Communicating with you***

We will treat you with respect at all times, and will thank you for raising your concerns. We will discuss your concerns with you – to ensure we understand exactly what you are worried about. We will tell you how long we expect the investigation to take and keep you up to date with its progress. Wherever possible, we will share the full investigation report with you (while respecting the confidentiality of others).

## ***How will we learn from your concern?***

The focus of the investigation will be on improving the service we provide for patients. Where it identifies improvements that can be made, we will track them to ensure necessary changes are made, and are working effectively. Lessons will be shared across the pharmacy, or more widely, as appropriate.

## ***Senior management oversight***

The senior management will be informed of all concerns raised by our staff and what we are doing to address any problems. The senior management support staff raising concerns and wants you to feel free to speak up.

## **Raising your concern with an outside body**

Alternatively, you can raise your concern outside the pharmacy with:

[NHS Improvement](#) - for concerns about:

- NHS foundation trusts
- other [providers licensed by NHS Improvement](#)
- NHS procurement, choice and competition
- the national tariff

[NHS Trust Development Authority](#) (about non-foundation NHS trusts)

[Care Quality Commission](#) (for quality and safety concerns)

[NHS England](#) - for concerns about:

- primary medical services (general practice)
- primary dental services

- primary ophthalmic services
- local pharmaceutical services

[Health Education England](#) (education and training in the NHS)

Any other relevant prescribed person – you can find a list [here](#) which includes professional regulators:

[General Dental Council](#)

[General Medical Council](#)

[General Optical Council](#)

[General Pharmaceutical Council](#)

[Health and Care Professions Council](#)

[Nursing and Midwifery Council](#)

Another professional body, such as:

- [Association of British Dispensing Opticians](#)
- [Association of Optometrists](#)
- [Federation of Opticians](#).

## **Making a ‘protected disclosure’**

To be covered by whistleblowing law when you raise your concern (to be able to claim the protection that accompanies it) you must reasonably believe two things:

- you are acting in the public interest (so your concern needs to be more than a personal grievance); and
- your disclosure shows past, present or future wrongdoing that falls into one or more of the following categories:

criminal offence  
failure to comply with a legal obligation  
a miscarriage of justice  
danger to the health or safety of any individual  
damage to the environment and/or

covering up the wrongdoing in the above categories

You can find more information on the law on whistleblowing and the associated legal protection [here](#).

**[Insert contractor's name]** also agrees that you may provide information to the General Pharmaceutical Council or to NHS England which includes an allegation of a serious nature which you reasonably believe to be substantially true, but disclosure of it is not a “protected disclosure” within the meaning given in section 43A of the Employment Rights Act, provided that you do so in good faith and not for purposes of personal gain. If you do **[Insert contractor's name]** undertakes to protect your right not to be subjected to any detriment or to dismissal as a consequence of that act

Appendix 1

## Example process for raising and escalating a concern

### Step one

If you have a concern about a risk, malpractice or wrongdoing at work, we hope you will feel able to raise it first with your immediate supervisor. This may be done face to face, over the phone or in writing.

**[Immediate supervisor or owner of [insert pharmacy name]].**

### Step two (If applicable)

If you feel unable to raise the matter with your immediate supervisor, for whatever reason, please raise the matter with the **[Designated lead person, or owner of [insert pharmacy name]].**

### Step three

If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact the local Freedom to Speak Up Guardian:

**[Name]**

**[Contact details]**

This person has been given special responsibility and training in dealing with whistleblowing concerns. They will:

- treat your concern confidentially unless otherwise agreed
- ensure you receive timely support to progress your concern

[The following additional responsibilities should only be included if the Freedom to Speak Up Guardian has agreed to undertake them

- take responsibility to ensure you are not subjected to any detriment for raising your concern
- ensure you receive timely feedback on how your concern is being dealt with
- ensure you have access to personal support since raising your concern may be stressful]

If you want to raise the matter in confidence, please say so at the outset so that appropriate arrangements can be made.

## Appendix B: Template Freedom to Speak Up Guardian LPC Agreement

### Template Freedom to Speak Up Guardian LPC Agreement

*This agreement should be reproduced on the LPC's headed notepaper, photocopied/scanned electronically and signed by the contractor.*

#### Freedom to Speak Up Guardian LPC Agreement

##### For the LPC

1. [INSERT LPC] agrees that [INSERT NAME OR POSITION OF LPC MEMBER / OFFICER] is nominated as Freedom to Speak Up Guardian available for [INSERT LPC AREA] contractors.
2. If the Freedom to Speak Up Guardian is a post-holder, the name of the current post-holder and therefore current Freedom to Speak Up Guardian is [INSERT].
3. The LPC may at its discretion withdraw the provision of a Freedom to Speak Up Guardian.

##### For the Contractor

[INSERT NAME OF CONTRACTOR] (The contractor)

##### The Contractor certifies that:

4. A written whistleblowing policy complying with the Terms of Service is in place.

The terms of service (paragraph 28 of schedule 4 of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013) state:

*28 (2) For these purposes a system of clinical governance is "acceptable" if it is considered acceptable by the NHSCB and comprises the following components...*

*(e) a staffing and staff management programme, which includes...*

*(vi) arrangements (which must include a written policy) for ensuring that all staff and locums who, arising out of their employment with the pharmacist...*

*(aa) make what is a protected disclosure within the meaning given in section 43A of the Employment Rights Act 1996 (meaning of protected disclosure) have the rights afforded in respect of such disclosures by that Act, and*

*(bb) provide information in good faith and not for purposes of personal gain to the General Pharmaceutical Council or to the NHSCB which includes an allegation of a serious nature which they reasonably believe to be*

*substantially true, but disclosure of it is not a protected disclosure within the meaning given in section 43A, have the right not to be subjected to any detriment or to dismissal as a consequence of that act;*

5. The person or post-holder stated in paragraph 2 has been appointed as the contractor’s Freedom to Speak Up Guardian.
6. The contractor’s staff (including locums) have been informed, as appropriate, of the name of the Freedom to Speak Up Guardian.

**The Contractor undertakes to:**

7. Regularly review the LPC website to check the member or officer of the LPC who is nominated as the Freedom to Speak Up Guardian.
8. Update the name of the Freedom to Speak Up Guardian in the written whistleblowing policy, as necessary and inform all staff of any change.

**The Contractor consents to the Freedom to Speak Up Guardian:**

9. Ensuring, as appropriate, that the contractor’s staff know where to go in order to raise a concern (if contacted by the staff).

*(In exceptional circumstances, the Freedom to Speak Up Guardian may have a professional obligation to report a concern.)*

10. Providing independent and impartial advice to the contractor’s staff on potential whistleblowing issues (as part of paragraph 9 above) on, for example:
  - Poor clinical practice or other malpractice which may harm patients;
  - Failure to safeguard patients;
  - Maladministration of medications or dispensing errors;
  - Untrained or poorly trained staff;
  - Lack of policies creating a risk of harm;

*(noting that the first line and possibly second lines of advice for the staff should be with the contractor/within the contractor’s organisation) and,*

11. Seeking advice on any concerns raised by the contractor’s staff from members and officers of the LPC and the PSNC, as appropriate.

**The contractor signs below to certify, undertake and consent as above.**

Signature (contractor or representative) .....

Name (printed) .....

Date .....

