

For personal use only. Not to be reproduced without permission of the editor  
(permissions@pharmj.org.uk)



Royal  
Pharmaceutical  
Society  
of Great Britain

# Raising concerns

## Guidance for pharmacists and registered pharmacy technicians

Prepared by the Practice and Quality Improvement Directorate of the Royal Pharmaceutical Society of Great Britain

April 2005

### 1. Introduction

Pharmacists and registered pharmacy technicians come into contact with a variety of health care professionals and carers on a daily basis. At one time or another they may become aware of dangerous, illegal or unprofessional activity that could pose a risk to patient safety or damage the public's trust in the standards of care they receive. It is important that such concerns are reported to an appropriate person at an early stage to enable employers, regulators and other authorities to take necessary corrective action as quickly as possible.

Raising concerns about the conduct or competence of an employer, colleague or other professional can be difficult, especially if the concern is based on a suspicion rather than hard evidence. Inquiries into a number of recent health scandals have revealed instances where people had concerns about the conduct of health professionals but had either been too frightened to raise them, spoken to the wrong person or had their concerns ignored.

The purpose of this guidance is to help pharmacists and registered pharmacy technicians confidently report concerns about possible dangerous, illegal or unprofessional behaviour in the workplace and advise on the legal protection and support available.

***It should be noted that the Shipman Inquiry Fifth Report ("Safeguarding patients: Lessons from the past — proposals for the future") makes a number of recommendations about dealing with concerns and complaints about a health professional's performance or fitness to practise. The Government's response to the recommendations of this report may have implications for the way in which concerns are reported and dealt with. However, in the interim period the Society is keen to ensure that pharmacists and registered pharmacy technicians are advised of current procedures.***

## 2. The importance of raising concerns

The public places great trust in the knowledge, skills and professional judgement of the pharmacy profession. Pharmacists and registered pharmacy technicians are expected to act in the best interests of patients and the public and ensure the provision of high quality patient care. The Code of Ethics for pharmacists and the Code of Ethics for registered pharmacy technicians both require that concerns about a colleague's or other health professional's competence, conduct or health be acted on, stating that pharmacists or registered pharmacy technicians must

*act quickly to protect patients and the public from risk by reporting the matter to an appropriate person, authority or regulatory body if they have good reason to believe that they or a colleague from their own or another profession may not be fit to practise for reasons of health, conduct or competence. The safety of patients and the public must be the prime consideration, overriding any personal, professional or commercial loyalties.*

Pharmacists and registered pharmacy technicians may become aware of dangerous, illegal or unprofessional activity that would not otherwise be identified until serious harm occurred. It is essential that where concern exists steps are taken to ensure a thorough investigation is conducted without delay.

### Failure to report concerns

A pharmacist's or pharmacy technician's failure to act on concerns could constitute a breach of the Code of Ethics and form the basis of a complaint of professional misconduct.

In addition, pharmacists and registered pharmacy technicians must not deter anyone else from raising concerns about them or a colleague and must co-operate fully with any formal inquiry into their own, a colleague's or other health professional's fitness to practise.

Employees who raise concerns in good faith should not be victimised or disciplined if the concerns prove unfounded.

## 3. The difference between raising concerns and making a complaint

It is important to recognise the difference between raising concerns and making a complaint. People who raise concerns about dangers or illegalities that affect others (eg, the public, patients or employers) are not usually directly affected by the misconduct. Consequently they should not be expected to prove the concern is true, although they may be required to act as a witness.

A complainant on the other hand, believes that they or someone they represent (eg, family member) have personally been poorly treated and are seeking redress or justice.

Complaints could involve a breach of employment rights, bullying, personal harm, etc. Complainants have a vested interest in the outcome of the complaint and are expected to be able to prove their case. Pharmacists and registered pharmacy technicians should address any complaints they wish to make through appropriate complaints procedures.

Information about the Society's complaints procedure can be found at [www.rpsgb.org/pdfs/complaintspharmproc.pdf](http://www.rpsgb.org/pdfs/complaintspharmproc.pdf) or by telephoning 020 7572 2321 or 020 7572 2480.

## 4. Protection for people who raise concerns

People can be reluctant to report concerns about the conduct or competence of a colleague, employer or other health professional because they are frightened that they will be disciplined, dismissed or disadvantaged as a result. However, the Public Interest Disclosure Act 1998 (PIDA) provides protection for employees who raise genuine concerns about potentially illegal or dangerous practices in the workplace. The Act promotes responsible reporting of concerns, protects employees who raise genuine concerns from dismissal or victimisation and makes it clear that organisations should not deter or discourage staff from raising concerns about wrongdoing.

### Application of the PIDA

The PIDA applies to the public, private and voluntary sectors. The Act protects all employees, trainees, agency staff, contractors, home workers and all self-employed NHS professionals (including proprietor pharmacists contracted to provide NHS pharmacy services). It does not apply to the genuinely self-employed (other than in the NHS), volunteers, the intelligence service, the army or the police.

The PIDA protects employees who raise genuine concerns about

- crime
- breach of a legal obligation
- miscarriage of justice
- danger to health and safety or the environment
- cover-up of any of the above

Employees are not required to prove their concerns, provided that they are made in good faith. The Act applies whether or not the disclosed information is confidential and extends to malpractice occurring overseas. Contractual provisions in employment contracts (eg, a confidentiality clause) and other agreements that clash with the provisions of the Act are void.

The PIDA encourages employees to raise concerns with their employer in the first instance, but disclosure of genuine concerns to regulatory bodies, the police and the media may also be covered by the Act. If an employee or worker is victimised or sacked as a result of a raising genuine concern they can bring a claim to an employment tribunal. Any awards made will be uncapped and based on the loss suffered.

### Protection for pharmacists and registered pharmacy technicians

The PIDA applies to all employed pharmacists and registered pharmacy technicians working within the NHS or private sector, and to self-employed pharmacists and registered pharmacy technicians contracted to provide NHS services (eg, proprietor pharmacists, locum pharmacist/self employed technicians working for NHS trusts).

A pharmacist or pharmacy technician who reports genuine concerns to their employer need only have reasonable suspicion that malpractice has occurred, or is likely to occur, in order to be protected by the Act.

Concerns raised with the Society, other professional regulators (eg, General Medical Council, Nurse and Midwifery Council) or the police will be protected by the Act provided a pharmacist or pharmacy technician:

- is acting in good faith
- honestly and reasonably believes that the information and any allegation contained in it are substantially true
- is not raising concerns principally for the purpose of personal gain
- is not acting maliciously or making false allegations
- has taken steps to raise concerns first with the employing authority (unless they reasonably believe they would be victimised if they did so, they reasonably believe a cover-up is likely or the matter was exceptionally serious).

## 5. Types of concerns pharmacists and registered pharmacy technicians should raise

Pharmacists and registered pharmacy technicians should report any genuine concerns they may have about the practices or behaviour of persons they come into contact with during the course of their work, including other pharmacists or pharmacy technicians, pharmacy owners, managers or employers, other health care professionals or persons responsible for the care of a patient (eg, carers, care home staff or key workers).

Concerns should be raised about issues such as:

- threats to patient safety (eg, irresponsible/illegal prescribing, patient abuse, professional whose health or competence is impairing their fitness to practise)
- breach of a professional code of conduct (eg, the Code of Ethics for pharmacists or registered pharmacy technicians)
- criminal offence (eg, fraud, theft, illegal diversion of drugs)
- breach of a legal duty
- inappropriate behaviour on the part of another employee or employees
- danger to health and safety of the public or staff

- danger to the environment
- cover-up of any of the above.

Pharmacists and registered pharmacy technicians not only have a responsibility to report practices that are blatantly illegal or unprofessional and pose an immediate threat to public safety but also have a duty to identify instances of poor practice in order that they can be addressed before there is a risk to patient safety. Instances of poor practice that should not be ignored include lack of safe systems and potential fraudulent endorsing of prescriptions. Pharmacists and registered pharmacy technicians should raise concerns if they reasonably believe that malpractice has occurred or is likely to occur. When deciding whether to raise a concern pharmacists and registered pharmacy technicians should consider two questions:

- **What would be the consequences of not raising the concern?**
- **If challenged, could you justify why you didn't raise the concern?**

## 6. Who concerns should be raised with

Where possible, pharmacists and registered pharmacy technicians should initially raise concerns with their employer. Potential internal points of contact include line managers, pharmacy owners, a superintendent pharmacist or a chief pharmacist.

For self-employed pharmacists and registered pharmacy technicians contracted to provide NHS services (eg, proprietor pharmacists, locum pharmacists or self-employed registered pharmacy technicians working for NHS trusts) the local primary care organisation or NHS hospital trust is deemed to be the employing authority when raising concerns. NHS trusts and health authorities are required to have clear procedures to help staff raise reasonable concerns about malpractice with the right parties and to protect against victimisation. There should be designated persons within the trust or health authority with whom concerns can be raised, and the person raising concerns should be kept informed of the action that has been taken. Private health care providers should have similar policies in place.

However, it may not always be appropriate or possible to raise concerns with an employer — for example, if the employer is the source of concern or the employer fails to act on concerns raised. Concerns should be reported to the relevant regulatory body or the police if pharmacists or registered pharmacy technicians find any of the following:

- internal procedures are not appropriate
- no local systems are in place
- concerns are not addressed
- there is a genuine fear or a cover-up.

When raising concerns with regulatory bodies or the police, pharmacists and registered pharmacy technicians must do so in good faith and must reasonably believe the information and any allegation contained in it are substantially true. For protection under the PIDA, disclosures to regulatory bodies or the police must not be made for personal gain.

A pharmacist or pharmacy technician who maliciously raises false concerns could face allegations of professional misconduct and/or be subject to internal disciplinary proceedings.

### When concerns should be referred to the Society

Concerns about a pharmacist or registered pharmacy technician should be referred to the Society without delay if:

- local action would not be practical
- local action has failed
- the problem is so severe that the Society clearly needs to be involved — eg, threat to patient safety, drug or alcohol dependency, mental health illness, persistent poor performance, etc.

## 7. How to raise concerns

Concerns can be raised either verbally or in writing. Pharmacists and registered pharmacy technicians are advised to keep records of important facts and details of correspondence. It is important to let the facts speak for themselves and not to make ill-considered allegations. Pharmacists and registered pharmacy technicians should be satisfied that any concerns raised are being dealt with appropriately. The body or authority investigating the concern should have procedures in place to keep the person raising concern informed of the outcome. It is advisable to ask about these procedures and about the likely time scales for feedback.

### Anonymous concerns

Although every situation is different, it is generally not recommended that concerns be raised anonymously. It is

difficult to investigate concerns that are not raised openly and those who raise concerns anonymously may not be afforded the same protection under the Public Interest Disclosure Act.

Pharmacists or registered pharmacy technicians who are concerned about revealing their identity could consider raising their concerns in confidence, requesting that their name is not revealed without consent.

### Concerns that prove to be unfounded

Provided concerns are raised honestly and in good faith, disciplinary action will not be taken against a pharmacist or registered pharmacy technician who raises genuine concerns that prove to be unfounded.

## 8. Locum pharmacists and registered pharmacy technicians

There is evidence of a reluctance to report concerns about locums. It is not acceptable simply to decide not to employ the locum again since any problems will remain unresolved and the pharmacist or pharmacy technician may pose a threat to patient safety elsewhere.

Similarly, locum pharmacists and registered pharmacy technicians also have a duty to report any concerns about practices that they witness, rather than ignoring the problem and deciding not to return to the pharmacy.

## 9. Dealing with concerns

A pharmacist or registered pharmacy technician may be the person to whom concerns about an employee, colleague or other health professional are expressed. Pharmacists and registered pharmacy technicians have a duty to act on any concerns that are brought to their attention and take steps to ensure appropriate investigation by them, by the employing organisation, by an NHS body, by a relevant regulatory body or by the police. Failure to take appropriate action could result in professional and/or internal disciplinary proceedings and potentially civil action.

When dealing with concerns, the best course of action will depend on the type and severity of concern. For example, local clinical governance arrangements or poor performance schemes

could help support a pharmacist or other health professional whose performance does not pose a direct risk to public safety. However, a health professional whose conduct or fitness to practise may present a risk to public safety should immediately be brought to the attention of the Society or other regulatory body. Concerns about potential NHS fraud should initially be raised with the primary care organisation.

Detailed guidance on recognising and dealing with poor performance can be found in the Society's interim guidance "Identifying and remedying poor performance in England and Wales" (available through the Society's website at [www.rpsgb.org/pdfs/pharmpoorperf0501.pdf](http://www.rpsgb.org/pdfs/pharmpoorperf0501.pdf) or by telephoning 020 7572 2208).

## 10. Sources of help and advice

There may be times when a pharmacist or registered pharmacy technician is unsure whether to raise concerns about practices or behaviour that they have witnessed. There are a number of sources of help for pharmacists and registered pharmacy technicians including

- an impartial colleague
- superintendent pharmacist or chief pharmacist
- indemnity insurance provider or defence union
- a professional association (such as the National

- Pharmaceutical Association, the Association of Pharmacy Technicians UK of the Guild of Healthcare Pharmacists)
- Royal Pharmaceutical Society
- Public Concern at Work

Public Concern at Work is an independent authority that provides free confidential advice to people who are unsure whether, or how, to raise concern about practices that they have witnessed at work. The helpline can be contacted by telephone on 020 7404 6609 or by e-mailing [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk).

## 11. Recommended action

Pharmacists, registered pharmacy technicians and other staff should know to whom to turn if they have concerns. There must be no delay in taking action if problems come to light.

Self-employed pharmacists or registered pharmacy technicians providing NHS services are advised to enquire about local NHS policies. Employed or contracted pharmacists and registered pharmacy technicians should investigate any procedure or policies that their employer has in place. Pharmacy

owners, superintendent pharmacists and pharmacist managers should ensure that all staff, including temporary staff and locums, are aware of the importance of raising concerns and are clear how to do so.

Some pharmacy owners and employers may wish to develop their own procedures to encourage staff to raise concerns. Further guidance on developing can be obtained from Public Concern at Work ([www.pcaw.co.uk](http://www.pcaw.co.uk)).

## 12. Useful contact numbers and sources of information

Further guidance can be obtained by contacting one of the following sources of information:

### 1. Public Concern at Work

Suite 306  
16 Baldwins Gardens  
London EC1N 7RN  
Tel 020 7404 6609  
E-mail enquiries [whistle@pcaw.co.uk](mailto:whistle@pcaw.co.uk)  
E-mail helpline [helpline@pcaw.co.uk](mailto:helpline@pcaw.co.uk)

SCOTTISH OFFICE

### Public Concern at Work

The Nerv Centre  
80 Johnstone Ave  
Hillington Business Park  
Glasgow G52 4NZ  
Tel 0141 883 6761  
E-mail [ht@pcaw.co.uk](mailto:ht@pcaw.co.uk)

### 2. RPSGB Advisory Service

1 Lambeth High Street  
London, SE1 7N  
Tel 020 7572 2308  
E-mail [FTP@rpsgb.org](mailto:FTP@rpsgb.org)

### 3. "Identifying and remedying poor performance in England and Wales"

(interim guidance from the Society)  
[www.rpsgb.org/pdfs/pharmpoorperf0501.pdf](http://www.rpsgb.org/pdfs/pharmpoorperf0501.pdf)

### 4. "Complaints against pharmacists/ pharmacy owners"

[www.rpsgb.org/pdfs/complaintspharmproc.pdf](http://www.rpsgb.org/pdfs/complaintspharmproc.pdf)

Or contact:

### Fitness to Practise and Legal Affairs

Royal Pharmaceutical Society of GB  
1 Lambeth High Street, London SE1 7JN  
Fax 020 7572 2510  
E-mail [complaintsaboutpharmacists@rpsgb.org](mailto:complaintsaboutpharmacists@rpsgb.org)

**For further details contact:**

**Directorate Administrator, Practice and Quality Improvement Directorate,  
Royal Pharmaceutical Society, 1 Lambeth High Street, London SE1 7JN  
Tel 020 7572 2208; e-mail [qualityimprovement@rpsgb.org](mailto:qualityimprovement@rpsgb.org)**

*New section for insertion in Society's guidance on "Raising concerns" (see p173)*

## 9. Raising concerns where a duty of confidence exists

During the course of professional practice, or when undertaking volunteer work, pharmacists and pharmacy technicians may have a patient or client who is a health care professional. As part of this they may acquire confidential information relating to the health care professional's health, conduct or competence. Pharmacists and registered pharmacy technicians are expected to respect and protect the confidentiality of information obtained in the course of their professional activities. Where a duty of confidence exists, the principles of confidentiality require that patient- or client-specific information is not disclosed without consent, other than in exceptional circumstances. An example of such exceptional circumstances is where disclosure is necessary to prevent serious injury or damage to the health of a patient, a third party or to the public.

At times pharmacists and registered pharmacy technicians may be required to balance their duty to respect and protect

confidentiality with their duty to protect patients and the public from risk, if there is good reason to believe that the health care professional may not be fit to practise. In these circumstances pharmacists and registered pharmacy technicians will be required to use their professional judgement to determine whether, based on the information they have, they believe that the health care professional may pose a serious risk to the safety of themselves, other patients or the public. If so, pharmacists and registered pharmacy technicians must act quickly to inform an appropriate person, authority or regulatory body.

In circumstances where the health care professional's health, conduct or competence is not considered to pose an immediate danger to patient or public safety, confidentiality should be respected. Pharmacists and registered pharmacy technicians should, however, endeavour to encourage the health care professional to seek appropriate help or support to try to prevent