

National Guardian's Office Prescribed Persons report

1. Introduction

This is a report made by the National Guardian's Office¹ in accordance with the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017.²

As required by those regulations, the report sets out the number of disclosures of information from workers made to the National Guardian's Office (NGO) that it reasonably believes are qualifying disclosures, as defined by section 43B of the Employment Rights Act 1996.³

The report also summarises how the NGO has responded to those disclosures and how they have affected the NGO's ability to perform its functions and meet its objectives.

This report relates to those relevant disclosures received by the NGO between 1st April 2017 and 31st March 2018.

The information provided in this report is set out in accordance with guidelines and advice provided by the Department of Business, Energy and Industrial Strategy.⁴

2. Definitions

Qualifying disclosures

A 'qualifying disclosure' is a term defined under the Employment Rights Act. It describes situations where a worker, who discloses information about a matter relating to their employment, may be eligible for a legal remedy if they suffered detriment for doing so.

¹ <https://www.cgc.org.uk/national-guardians-office/content/national-guardians-office>

² <https://www.legislation.gov.uk/ukdsi/2017/9780111154359/contents>

³ <https://www.legislation.gov.uk/ukpga/1996/18/section/43B>

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf

For a worker to make a disclosure that may qualify for such legal protection specific circumstances must apply. These include that the worker must believe that their disclosure is in the public interest and they reasonably believe that a 'relevant failure' (such as a criminal offence, or breach of a legal obligation) is taking place, or may take place where they work.

A disclosure does not have to be made by a specific method of communication. Therefore, the number of disclosures reported below includes those received by email, phone and in person, either directly to the NGO, as well as by NGO staff working externally from the office.

For the purpose of this report 'qualifying disclosure' has been interpreted widely and includes any enquiry received by the NGO from anyone who is, or appears to be, an NHS worker, about any matter related to the functions and objectives of the NGO. This includes enquiries that appear to suggest matters of misconduct or malpractice in any form, but does not include enquiries of a general nature, factual requests for information, or requests for advice about, or guidance on, the role of Freedom to Speak Up Guardians.

Prescribed Persons

The role of a prescribed person is to provide workers with a mechanism to make their public interest disclosure to an independent body, rather than directly to their employer.

A worker will potentially qualify for the same employment rights as if they had made a disclosure to their employer if they report to a prescribed person.

The NGO is listed as a prescribed body.⁵

3. Functions and Objectives of the National Guardian's Office

The National Guardian's Office is an independent, non-statutory body, and is responsible for:

- establishing, guiding, supporting and leading a network of Freedom to Speak Up Guardians
- reviewing the way that trusts have handled speaking up matters
- supporting and advising trusts - describing and disseminating best practice in relation to speaking up
- supporting and challenging the healthcare system on all matters related to speaking up

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

This report summarises how workers' disclosures received by the NGO have impacted upon the office's ability to perform its functions and meet its objectives.

The NGO is funded by, but operationally independent of, the Care Quality Commission, NHS England and NHS Improvement.

4. Number of qualifying disclosures received and actions taken

4.1 Number of qualifying disclosures received

The number of qualifying disclosures, as defined, the NGO received between 1st April 2017 and 31st March 2018 was⁶ 85. The NGO took action in response to each of the 85 disclosures. The types of action we took are summarised below.

Where the NGO received multiple communications from the same individual about the same disclosure of information, the NGO has counted that as one disclosure.

4.2 Actions taken in response to disclosures received

The NGO took a range of actions in response to the qualifying disclosures received, including:

- signposted a worker to the Freedom to Speak Up Guardian at their organisation, so that the worker could contact them for support to raise matters relating to their disclosure
- provided information, advice or guidance to a Freedom to Speak Up Guardian to help them to support workers to speak up
- initiated a case review, providing information on how a referral for a case review could be made, or explaining the case review process
- contacted the enquirer to obtain further information
- signposted the worker to other sources of advice or guidance, or to an appropriate regulator, authority or body
- contacted a trust to seek clarification and assurance about their speaking up arrangements
- raised a safeguarding alert with the relevant authorities and bodies

⁶ Where the NGO received multiple communications from the same individual about the same disclosure of information, the NGO has counted that as one disclosure.

5. How disclosures have affected NGO's ability to perform its functions and meet its objectives

The enquiries referred to in this report have been used to:

- enhance the NGO's understanding of freedom to speak up culture, and matters affecting it, across the NHS
- inform and refine the guidance, training and support offered to Freedom to Speak Up Guardians
- form the basis of the case reviews carried out by the NGO to date, and help provide learning during the pilot phase of the case review process