

National Guardian's Office Prescribed Persons report

1. Introduction

The National Guardian's Office¹ (NGO) makes this report in accordance with the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017.²

Under those regulations, the NGO is a 'prescribed person'³. As such, the office has a duty to record the 'qualifying disclosures' workers have made to it within a specified period.

These disclosures are defined by section 43B of the Employment Rights Act 1996.⁴

The meaning of 'qualifying disclosures' is also described further below.

The report summarises the number of disclosures the NGO has received. It also states how the NGO has responded to them and how they have affected the NGO's ability to perform its functions and meet its objectives.

This report relates to the disclosures the NGO received between 1st April 2018 and 31st March 2019.

This is the second report the office has published under the reporting regulations.

The information provided in this report is in accordance with guidelines and advice provided by the Department of Business, Energy and Industrial Strategy.⁵

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

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

³ <http://www.legislation.gov.uk/ukpga/1996/18/section/43F>

⁴ <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

The guidance sets out the purpose of the prescribed person's duty to report:

“The aim of this duty is to increase transparency in the way that whistleblowing disclosures are dealt with and to raise confidence among whistle-blowers that their disclosures are taken seriously.

Producing reports highlighting the number of qualifying disclosures received and how they were taken forward will go some way to assure individuals who blow the whistle that action is taken in respect of their disclosures.”

2. Definitions

Qualifying disclosures

A 'qualifying disclosure' is a term defined under the Employment Rights Act.⁶ It describes the circumstances where a worker, reasonably believing they are acting in the public interest, discloses information about a relevant failure.

Such 'relevant failures' include a breach of a legal obligation and a criminal offence.

A worker does not have to make a disclosure using a specific method of communication. Therefore, the number of disclosures reported below includes those the NGO has received by email, phone and directly to its staff in person.

The office determines a qualifying disclosure to be where the person speaking up is a worker and their disclosure relates to the office's work.

Prescribed Persons

Prescribed persons provide workers with a mechanism to make their public interest disclosure to an external body, rather than directly to their employer.

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

The NGO one of over 60 organisations listed as a prescribed body.⁷

⁶ <http://www.legislation.gov.uk/ukpga/1996/18/section/43B>

⁷ <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

Workers

When deciding whether someone is a 'worker', the NGO takes account of the statutory definition.⁸ It also takes the meaning further, to ensure that it supports as many individuals as possible working in an organisation to speak up.

The NGO definition of a 'worker' includes:

- An individual who has entered into, or works under a contract of employment
- An agency worker
- A non-employee undergoing training, or working experience
- Student healthcare workers
- Self-employed persons
- Volunteers

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

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 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 NHS trusts - describing and disseminating best practice in relation to speaking up
- supporting and challenging the healthcare system on all matters related to speaking up

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

⁸ <https://www.legislation.gov.uk/ukpga/1996/18/section/230>

4. Number of qualifying disclosures received and actions taken

4.1 Number of qualifying disclosures received

The number of qualifying disclosures the NGO received between 1st April 2018 and 31st March 2019 was 39. The NGO acted in response to each of them. 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, it 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 it received. The frequency of those actions is listed below. In some cases, the NGO took more than one action in response to a single disclosure:

Action in response to a referral	Frequency of action
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	17
Provided information, advice or guidance to a Freedom to Speak Up Guardian to help them to support workers to speak up	3
Initiated a case review, providing information on how a referral for a case review could be made, or explaining the case review process	12
Contacted the enquirer to obtain further information	9
Signposted the worker to other sources of advice or guidance, or to an appropriate regulator, authority or body	10
Contacted a trust to seek clarification and assurance about their speaking up arrangements	1
Raised a safeguarding alert with the relevant authorities and bodies	1

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

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

- improve the NGO's understanding of freedom to speak up culture, and matters affecting it, across the NHS
- inform and develop the guidance, training and support the NGO provides for Freedom to Speak Up Guardians
- form the basis of the case reviews carried out by the NGO
- deliver case review recommendations for improvement and learning in relation to speaking up cultures and processes, across NHS trusts and beyond