



The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 - Annual Report

1 April 2020 – 31 March 2021

1. Introduction

The National Guardian's Office (NGO)¹ provides guidance, training and support for Freedom to Speak Up Guardians. The NGO provides support to the healthcare system in England on speaking up.

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

The NGO is a 'prescribed person'.³ As such, under the Prescribed Persons (Reports on Disclosures of Information) Regulations 2017, the office has a duty to annually report on the 'qualifying disclosures' workers have made to it. These disclosures are defined by section 43B of the Employment Rights Act 1996.⁴ The meaning of 'qualifying disclosures' is described further below.

This report relates to the disclosures the NGO received between 1 April 2020 to 31 March 2021. The report summarises:

- the number of disclosures received
- how the NGO has responded to the disclosures
- how the disclosures have affected the NGO's ability to perform its functions and meet its objectives

¹ National Guardian's Office, <https://www.nationalguardian.org.uk/>

² The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017. Available at: legislation.gov.uk/ukdsi/2017/9780111154359/contents (Accessed: September 24th, 2020)

³ Whistleblowing: list of prescribed people and bodies, Department of Business, Energy and Industrial Strategy. Available at: gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies (Accessed: September 24th, 2020)

⁴ Employment Rights Act 1996, c.18. Available at: legislation.gov.uk/ukpga/1996/18/section/43B (Accessed: September 24th, 2020)

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

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 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 or a criminal offence.

A worker may make a disclosure using various communication methods. 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.⁷

Workers

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

⁵ Whistleblowing: prescribed persons guidance, Department of Business, Energy and Industrial Strategy. Available at: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf (Accessed: September 24th, 2020)

⁶ Ibid., 4.

⁷ Employment Rights Act 1996, c.18. Available at: legislation.gov.uk/ukpga/1996/18/section/43F (Accessed: September 24th, 2020)

⁸ Employment Rights Act 1996 Section 230, Available at: legislation.gov.uk/ukpga/1996/18/section/230 (Accessed: September 24th, 2020)

The NGO's definition of a 'worker' includes:

- An individual who has entered into, or works under a contract of employment
- An agency worker
- A non-employee undertaking 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 disclosures received by the NGO have affected the office's ability to perform its functions and meet its objectives.

The NGO is an independent, non-statutory body that provides:

- guidance, training and support to Freedom to Speak Up Guardians
- learning and improvement through speak up reviews and research
- support for the healthcare system in England on speaking up

4. Number of qualifying disclosures received, and actions taken

4.1 Number of qualifying disclosures received

The NGO received 82 qualifying disclosures between 1 April 2020 and 31 March 2021. The NGO acted in response to each of them.

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 disclosure.

Table 1 (below) provides a breakdown of the actions undertaken in response to the qualifying disclosures received by the NGO.

Table 1

Action in response to a disclosure	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	28
Provided information or guidance to a Freedom to Speak Up Guardian to help them to support workers to speak up	9

Initiated a case review, providing information on how a referral for a case review could be made, or explaining the case review process	19
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	56
Contacted an organisation to seek clarification and assurance about their speaking up arrangements	3
Raised a safeguarding alert with the relevant authorities and bodies	3

5. How disclosures have affected the National Guardian's Office's ability to perform its functions and meet its objectives

The disclosures referred to in this report have been used to inform, develop and improve:

- understanding of the freedom to speak up culture, and matters affecting it, across the healthcare sector in England
- guidance, training and support the NGO provides for Freedom to Speak Up Guardians
- case reviews and research