

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

1 April 2022 – 31 March 2023

1. Introduction

The National Guardian's Office (NGO)¹ provides guidance, training and support for Freedom to Speak Up Guardians, supporting 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 2017².

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 1996⁴. The meaning of 'qualifying disclosures' is described further below.

This report relates to the disclosures the NGO received between 1 April 2022 to 31 March 2023. 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.

The information provided in this report is in accordance with guidelines and advice provided by the Department of Business, Energy and Industrial Strategy⁵. The guidance sets out the purpose of the prescribed person's duty to report:

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

² The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017. Available at: The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017 (legislation.gov.uk) (Accessed: September 6th, 2023)

³ Whistleblowing: list of prescribed people and bodies, Department of Business, Energy and Industrial Strategy. Available at: Whistleblowing: list of prescribed people and bodies - GOV.UK (www.gov.uk) (Accessed: September 6th, 2023)

⁴ Employment Rights Act 1996, c.18. Available at: legislation.gov.uk/ukpga/1996/18/section/43B (Accessed: September 6th, 2023)

⁵ Whistleblowing: prescribed persons guidance, Department of Business, Energy and Industrial Strategy. Available at:

“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 Act⁶. 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 employer⁷.

Workers

When deciding whether someone is a ‘worker’, the NGO takes account of the statutory definition⁸. It takes the meaning further to ensure it supports as many individuals as possible working in an organisation to speak up.

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.

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/604935/whistleblowing-prescribed-persons-guidance.pdf (Accessed: September 6th, 2023)

⁶ Ibid., 4

⁷ Employment Rights Act 1996, c.18. Available at: [Employment Rights Act 1996 \(legislation.gov.uk\)](https://legislation.gov.uk) (Accessed: September 6th, 2023)

⁸ Employment Rights Act 1996 Section 230, Available at: legislation.gov.uk/ukpga/1996/18/section/230 (Accessed: September 6th, 2023)

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’s is an independent, non-statutory body that provides:

- Guidance, training and support to Freedom to Speak Up Guardians.
- Learning and improvement through speaking 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 32 qualifying disclosures between 1 April 2022 and 31 March 2023. 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	12
Provided information or guidance to a Freedom to Speak Up Guardian to help them to support workers to speak up	7
Logged a Qualifying Disclosure as part of an HM Courts & Tribunals Service claim form	1
Contacted the enquirer to obtain further information	5
Signposted the worker to other sources of advice or guidance, or to an appropriate regulator, authority or body	23
Contacted an organisation to seek clarification and assurance about their speaking up arrangements	5
Raised a safeguarding alert with the relevant authorities and bodies	2

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
- Speaking up reviews and research.