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# Handling Concerns about the Performance of Healthcare Professionals: Principles of good practice

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| **For Recipient's Use** | | |

# Handling Concerns about the Performance of Healthcare Professionals: Principles of good practice

# CONTENTS

# FOREWORD FROM CHRISTINE BEASLEY, CHIEF NURSING OFFICER, DEPARTMENT OF HEALTH

## Handling Concerns about the Performance of Healthcare Professionals

Healthcare in England benefits enormously from having a dedicated, committed and highly skilled workforce, focused on offering quality care for patients. However, sometimes things go awry and a healthcare professional may find their practice called into question.

If this happens, while the over-riding concern must be for patient safety, practitioners also need to be handled sensitively and feel they are treated fairly. After all, for the overwhelming majority, an episode of sub-standard performance will not spell the end of their career. With the right intervention, most will continue with their work and maintain their contribution into the future.

This document is the result of the deliberations of a cross-agency, multiprofessional working group, set up to define good practice in handling performance concerns applicable to all professional staff, working in all settings where healthcare is delivered.

This is the first time senior individuals from healthcare professions, regulators, commissioners and patient groups have come together to share good practice in this field, to learn from each other and devise a framework that applies to everyone, whatever their position in the organisation.

The initiative is timely, with the recent publication of the reviews of regulation of medical and non-medical healthcare professions undertaken by the Department of Health. These both point to the need for effective local systems for handling concerns raised about a practitioner's performance.

This document is not intended to replace organisations' own policies and procedures. Rather, it outlines key principles and elements for handling performance concerns which should be helpful for managers and for professionals themselves.

We also hope it will be useful for those working in, or managing, smaller or non-traditional settings where professional human resources support may not be at hand.

While the highest standard of patient care remains the overall goal, organisations are also shaped by their sensitivity towards practitioners, not simply when they perform well, but also when things are difficult.

I hope this document will benefit patients by helping to ensure performance concerns are recognised and dealt with at an early stage. It should also benefit practitioners by helping them to do what they most want: to use their professional skills to care for patients.

C Beasley

September 2006
London

# 1. INTRODUCTION

## The aims of this publication and its intended audience

For the first time this document brings together common principles for handling performance concerns for all healthcare practitioners in England. It demonstrates that a common approach can be applied across all practitioners and in all settings where healthcare is offered. It promotes a constructive and supportive approach wherever possible.

The document aims to:

- Support the timely and effective handing of performance concerns
- Help to share good practice in handling performance difficulties
- Foster a consistent and fair approach across all healthcare practitioners
- Provide clear information for healthcare practitioners whether they have a concern about the performance of one of their colleagues or are themselves the subject of concern
- Provide a benchmark against which performance procedures can be reviewed
- Help healthcare students and newly qualified practitioners to understand how concerns about performance can be raised and handled.

It is for employers and contracting organisations, managers, strategic health authorities, commissioners, healthcare and health professional regulatory bodies, health practitioners and students working in the range of different settings where healthcare is provided. Its focus is on the handling of performance difficulties among registered healthcare practitioners.

In this document:

**Employers and contracting organisations** include all organisations, large and small, that employ or contract with health practitioners, e.g. trusts, primary care trusts (PCTs) and independent sector providers. When the term 'employer' is used it includes any contracting organisation.

**Managers** include the full range of managers from chief executives who have a statutory responsibility for the quality of care provided to patients, to the managers who apply local disciplinary procedures and clinical managers handling possible concerns about performance.

**Health practitioners** cover allied health practitioners, midwives and nurses, healthcare scientists, dentists, pharmacists and doctors.

**Commissioners of health services** mean those with responsibility for commissioning health services, primarily PCTs. While most contracts will be with NHS trusts, increasingly commissioning covers a variety of smaller commissions with providers that could include the independent and voluntary sector.

**Healthcare and health professional regulatory bodies** include bodies such as the Healthcare Commission, the Commission for Social Care Inspection and the eight professional regulatory bodies.

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## How the document was developed

The document draws on the experience of leaders and experts in the field together with material from guidance issued to a range of professional groups. A working group was convened by the Chief Nursing Officer and met on four occasions from September 2005 - January 2006. A list of members is provided at Annex 1.

## What is covered

Section 2 sets out the principles of effective systems for preventing and handling performance concerns; section 3 outlines good practice for managing concerns about individuals; and section 4 covers several additional areas for consideration.

At the end of the document relevant organisations and sources for this paper are listed (Annexes 2 and 3).

## What is not covered

This document is not intended to provide a comprehensive guide on handling concerns about an individual. Detailed local and/or national guidance on performance, disciplinary, capability and regulatory procedures is available for each professional group and should be consulted.

The focus of this paper is on handling concerns about professional performance. However, inevitably, when concerns are raised, there may be a broad range of issues to consider and the response may include the use of procedures to address health, conduct or criminal matters.

If an individual is uncertain about how to proceed with handling a concern, they should seek advice from within their organisation (e.g. from their line manager or Department of Human Resources) or from the regulatory body, or, in the case of doctors and dentists, the National Clinical Assessment Service.

# 2. PRINCIPLES FOR HANDLING PERFORMANCE CONCERNS

This section sets out principles for handling performance concerns, and the way in which some of these may be prevented. NHS bodies commissioning services may wish to ensure that these principles are addressed in the performance procedures of service providers in the NHS, independent or voluntary sector.

Concerns about performance may relate to:

- Low standard of work, for example, frequent mistakes, not following a task through, inability to cope with instructions given
- An inability to handle a reasonable volume of work to a required standard
- Unacceptable attitudes to patients
- Unacceptable attitudes to work or colleagues, for example, unco-operative behaviour, poor communication, inability to acknowledge the contribution of others, poor teamwork, lack of commitment and drive
- Poor punctuality and unexplained absences
- Lack of skills in tasks/methods of work required
- Lack of awareness of required standards
- Consistently failing to achieve agreed objectives
- Acting outside limits of competence
- Poor supervision of the work of others when this is a requirement of the post
- A health problem.

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**Principle 1** **Patient safety must be the primary consideration**

While good performance procedures will ensure fairness to practitioners, patient safety must be the primary consideration.

**Principle 2** **Healthcare organisations are responsible for developing policies and procedures to recognise performance concerns early and act swiftly to address the concerns**

Healthcare practitioners, managers and ultimately trust boards are accountable for patient safety and for the protection of the public. Effective performance procedures serve to maintain the quality and reputation of the service and to protect the welfare of practitioners.

**Principle 3** **Policies for handling performance concerns should be circulated to all healthcare practitioners**

Policies should provide comprehensive information about how concerns will be handled.

*Policies for handling performance concerns should cover:*

- Roles, duties and responsibilities of individual practitioners, line managers, human resource departments and the wider employing organisation
- The duty of a designated senior manager/executive director to take lead responsibility for managing performance difficulties
- The requirement to keep the board, or other relevant body, informed about formal action being taken to address performance concerns
- How concerns will be handled including providing information and support to the practitioner
- Requirements for meticulous record-keeping of all steps in performance procedures
- Reference to disciplinary and other relevant organisational policies and procedures
- Arrangements for protecting the confidentiality of the individual as far as is appropriate
- Circumstances where referral to the regulatory body will be required
- Lay involvement in procedures, where this has been agreed
- The arrangements for individuals who are concerned about the performance of a colleague ('whistleblowing')
- Arrangements for handling anonymous complaints or instances where a person is not prepared to put a concern in writing
- Provision of resources to support any training requirements identified through the performance procedures
- The requirement to pass to a future potential employer information about unresolved performance issues relating to an individual
- Training and support to be provided for managers handling performance concerns.

**Principle 4** **Avoid unnecessary or inappropriate exclusion of practitioners**

Practitioners should continue to work wherever this is compatible with patient safety and the reputation of the service. Where restriction of duties or exclusion is required, this should be an interim measure while an investigation is carried out or further action by a regulatory body is awaited. The designated senior manager/director should be informed.

**Principle 5** **Separate investigation from decision-making**

In the interest of fairness it is good practice to separate the process of gathering information about a concern from decision-making about the action required. In addition, where possible the decision-maker should not to be the practitioner's immediate line manager.

**Principle 6** **Staff and managers should understand the factors that may contribute to performance concerns**

These may include, for example, personal factors, systems and process issues, the work environment, harassment or education and training. This understanding will help raise awareness of factors that may be putting performance at risk.

**Principle 7** **Performance procedures should contribute to the organisational programme for clinical governance**

Information provided through clinical governance activities may raise concerns about the performance of individuals or teams, and the effective handling of performance difficulties is one component of good clinical governance.

**Principle 8** **Good human resources practice will help prevent performance problems**

Policies should be developed to encourage good human resources practice and so to help prevent performance difficulties.

*Good human resource practices include:*

- Effective recruitment practices that include the requirement for contemporaneous references ahead of a decision to employ, and pre-employment checks that include sight of original certificates, identification, registration status, occupational health assessment and Criminal Records Bureau enhanced disclosure
- Induction for new staff, with special and timely arrangements for staff on temporary or short-term contracts
- Clarity about skills and experience required for the post, and training and support required for any enhanced roles
- Clear definitions of roles and accountabilities
- Procedures to consult and agree any changes in working roles
- Appraisal for all practitioners and effective feedback
- Resources to support agreed education and training requirements
- Training for line managers in effective staff management
- Providing information about how individuals can access the support and advice they need during their employment
- Clear policies for handling concerns about bullying and harassment.

**Principle 9** **Healthcare practitioners who work in isolated settings may need additional support**

Practitioners working in isolated settings may lack peer or managerial support. Providing additional opportunities for peer learning or supervision through links to larger organisations will help maintain standards of care.

**Principle 10** **Individual healthcare practitioners are responsible for maintaining a good standard of practice**

All healthcare practitioners are responsible for demonstrating their competence, and for maintaining satisfactory standards of practice in line with professional guidance and criteria for registration.

**Principle 11** **Commitment to equality and diversity**

Employers, healthcare practitioners and those responsible for delivery of services should be aware of the NHS commitment to equality and the positive recognition of diversity. They should have a clear understanding of how discrimination can occur and how it can be prevented, particularly in relation to raising and handling concerns about performance. This principle applies also to the independent sector offering services to the NHS.

# 3. GOOD PRACTICE IN HANDLING CONCERNS

There are a number of key points to be aware of when handling a concern about performance. This section brings together good practice and provides an outline of the following:

- Receiving information about a concern
- Considering the risk to patient safety
- Informing the practitioner
- Support for the practitioner
- Dealing with a concern informally
- Dealing with a concern formally
- Gathering information – undertaking an investigation
- Deciding what to do
- Understanding contributory factors
- Interventions and remedial action
- Review and supplementary information
- Passing information
- Aftermath and rehabilitation.

The vignettes and good practice examples are intended to provide illustrative examples of the way in which difficulties may be handled.

## Receiving information about a concern

Information about a concern may come from one or more of a variety of sources. These include:

- A review of patient notes
- A concern expressed by a colleague or 'whistleblower'
- Complaints about care from patients or relatives
- Investigation into a serious untoward incident
- A review of performance against agreed objectives/job competencies
- Annual appraisal
- Clinical audit and other quality improvement activities as part of clinical governance
- Information from a regulatory body
- Litigation following allegations of negligence
- Information from the police or coroner
- The practitioner themselves.

The person receiving information is responsible for taking the matter forward. This may include informing another relevant person, for example, a line manager, or, if

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the individual receiving information is in a position of authority, initiating the process of resolving the matter. The person taking action should be of appropriate seniority and experience with access to appropriate clinical and human resources advice. They should ensure that any concerns are supported by evidence supplied or taken down in writing as early as possible. Employers should have a procedure for handling instances where concerns are raised anonymously or where the person is not prepared to put the concern in writing. Oral or anonymous allegations should be recorded accurately.

### Considering the risk to patient safety

The lead officer handling the concern must consider whether the nature of the concern suggests that patient safety may be compromised. It may be appropriate to use a specific tool for assessing risk. If the risk is significant and/or concerns are serious, the options available are:

- Providing supervision of practice until the matter is resolved
- Removing the practitioner from some duties
- Excluding the practitioner from the workplace
- Informing the regulatory body
- Reporting to the police or NHS Counter Fraud and Security Management Service, as appropriate.

*VIGNETTE*

**The importance of taking action early**

A nurse was recruited to work in an intensive care unit. During the first few months of his employment there was an occasion when he did not handle controlled drugs appropriately. Soon after this he failed to prepare a ventilator adequately for a patient. His line managers took no action at this point.

Two months later the nurse turned off a patient's ventilator in error.

Exclusion (or suspension) may be appropriate where the concern suggests that a recurrence would put patients at risk and/or the continued presence of the practitioner at the place of work would impede an investigation or intimidate witnesses and/or there may be matters of a criminal nature.

Regulatory bodies differ with regard to the stage at which they wish a case to be referred. If in doubt, contact the relevant regulatory body for advice. For more information about the role of the regulatory bodies please see Section 4, page 20.

Alleged criminal activity or fraud must be reported immediately to the police or NHS Counter Fraud and Security Management Service (NHS CFSMS) respectively. NHS CFSMS will liaise with the police on the conduct of their enquiry. The employer should not normally undertake further investigation of matters relating to possible criminal or fraudulent activity until the police or Counter Fraud Service indicates it is in order for the employer to do so. In both cases the passing of information to third parties should be strictly limited. Crimes and frauds should be reported to the authorities if suspected at any time during the course of the investigation.

### Informing the practitioner

The practitioner should normally be informed immediately about the concern that has been raised (unless fraud or other criminal activity is suspected). An initial meeting will provide an opportunity for the practitioner to hear the concerns and respond; it will help determine what, if any, action needs to be taken.

### Support for the practitioner

At each stage in handling a concern the employer should remind the practitioner that an individual to provide personal support and/or a professional representative may accompany them. If a practitioner is excluded from work during an investigation it is important for the organisation to keep in touch, possibly through a 'buddy' system to focus on their welfare.

### Dealing with a concern informally

For minor concerns about performance an informal approach may be all that is needed. Here, a discussion with the individual concerned, aimed at improving their performance or conduct, may be sufficient to resolve the issue. Dealing with the matter informally provides the opportunity for both parties to agree the way forward without the use of formal disciplinary or other procedures. Even if an informal approach is taken, the outcome of the discussion and agreement reached should be communicated to the practitioner in writing and notes kept of all meetings held.

## GOOD PRACTICE

**The role of practising privileges in the independent sector to prevent poor performance**

The concept of practising privileges in the independent sector safeguards standards expected of doctors.

A consultant urologist had been granted practising privileges in the independent sector since his retirement from the NHS. During this time, concerns were raised about a number of his cases in which patients had experienced complications. An expert nominated by the consultant's professional body investigated the cases and identified poor judgement leading to the complications. The urologist's operating rights were terminated following the report.

## Dealing with a concern formally

Where informal procedures have not resulted in resolution of the concerns, where the concerns suggest patient safety may be compromised, or a breach of acceptable working practice has occurred, a formal approach will be required. All employers should have procedures for handing disciplinary and capability matters; those handling concerns will need to apply their organisation's policies. Most organisations will also have human resource departments that should be approached to offer advice and support. Individuals working in non-organisational settings may get advice on how to proceed from ACAS www.acas.org.uk

## Gathering information – undertaking an investigation

Investigation involves gathering all pertinent facts to help understand the basis of the concern. Information required to clarify the facts should be acquired speedily (normally within four weeks). This may include obtaining written or oral material from staff, patients, users of services and witnesses. It should also include a written or oral statement from the practitioner concerned. Full records should be kept of all information obtained.

Investigation may draw on methods such as root cause analysis and the National Patient Safety Agency incident decision tree.

## Deciding what to do

Once the necessary information has been collected a decision will be required about whether the case needs to be taken forward. This should normally be made by individuals who have not taken part in the investigation.

If the case is not to go forward, then the practitioner should be informed, and if they have been excluded, arrangements made to support a prompt return to work (see section on page 19: Aftermath and rehabilitation).

Where a case needs to be taken forward, the practitioner must be informed, in writing, of the exact nature of the allegation, the procedure that is to be followed, the possible sanctions that may be applied and the likely timescales. They should be supplied with the records of statements of individuals who have provided evidence, relevant disciplinary and grievance policies and should be encouraged to seek representation from their professional body/trade union or defence organisation. An employer should seek advice from an HR specialist within the organisation who may, in complex cases, suggest legal advice is also sought.

## Understanding contributory factors

Where concerns about performance have arisen it may be helpful, at any stage of the process, to consider why this has happened.

## THINK ABOUT:

### The individual's health and other factors

1. Does the individual have a physical or mental illness?
2. Is the individual depressed or suffering other mental illness?
3. Might alcohol or substance misuse be involved?
4. Has there been a recent major life event?

### Knowledge, skills and behaviour

5. Is there a difficulty with clinical knowledge and skills?
6. Might a deficiency in education, supervision or continuing professional education be contributing to the problem?
7. Was the practitioner's induction appropriate or sufficient?
8. Does the individual have difficulty understanding the limits of their competence?
9. Is the problem predominantly one of the practitioner's behaviour or attitude?
10. Is this new behaviour or is it an exacerbation of long-standing problems?

### The job

11. Have work factors changed?
12. Is there a problem with technological advances or techniques?

### The work environment

13. Are there team difficulties?
14. Have there been major organisational changes?
15. Could issues relating to equality and diversity be a problem?
16. Could bullying or harassment be a problem?
17. Are there any systems issues that contributed to the performance difficulty?

## Interventions and remedial action

Interventions to improve the practitioner's performance may include the following:

- An educational programme: clinical, personal or organisational skills
- Referral to occupational health with onward referral and follow up of any health problems
- Mentoring by a trusted practitioner
- Supervised practice
- Behavioural coaching
- Modification of duties.

Normally it will be appropriate to consider any or all of these interventions before moving to termination of employment.

In each case it will be important for the employer and the practitioner to agree and record an action plan that includes the objectives of the intervention, success measures and timescale.

All of the above interventions may carry an additional sanction held in the personal file. This may comprise a time-limited warning of further action, including dismissal, if improvement is not achieved.

## *VIGNETTE*

### Planned recovery and support for a pharmacist

An experienced and respected hospital pharmacist working in a high pressure environment was found to have problems with alcohol. She was excluded pending a full investigation.

She was seen by her GP and the occupational health service and eventually acknowledged her problems and accepted help. Her exclusion was changed to sick leave, and a period of rehabilitation began.

A less stressful environment was found for her gradual return to work, which was jointly managed with occupational health using a health plan. The plan enabled occupational health to monitor her with the support of her manager, on an agreed basis. It provided the necessary reassurance that there was no repeat of the problem, and clear guidance for the practitioner.

## *VIGNETTE*

### Addressing a concern

A qualified dental nurse found in her new practice that dental nurses took radiographs of patients but that none were qualified to do so. The required local rules were not on display and there was no audit of radiographs. The dentist brushed her comments aside so she contacted the PCT and informed them of her concerns. The PCT involved their dental practice advisor and the local dental committee and an investigation was carried out. This confirmed that the dentist's practice did not reflect current good practice in this area.

The dentist was co-operative and an action plan and education programme were agreed. She attended an Ionizing Radiation (Medical Exposure) (IRME) radiography course and liaised with the clinical audit adviser and the PCT audit facilitator to incorporate audit within the practice. She agreed to regular visits from the dental practice adviser to help with documentation for radiological procedures and other clinical governance responsibilities.

Where a practitioner has health problems which may have an adverse impact on their performance (for example, alcohol or substance misuse, serious physical or mental illness) steps should be taken to protect patients such as a temporary reassignment of duties and, with their agreement, the practitioner should be referred to occupational health. If they are not willing to co-operate with these steps further action may be needed to protect patients which may ultimately include terminating the practitioner's employment.

In addition the employer should address any team, organisational or wider systems issues that may have been highlighted during the investigation.

## *VIGNETTE*

### Working beyond capacity

A concern was raised about the competence of a senior nurse in relation to her clinical skills, documentation, communication and diary management. Her line manager decided to take an informal approach, held meetings with her, created an action plan and moved her office base so that she was close to her manager.

However the nurse did not meet the agreed timescales and a formal meeting with human resources (HR) and the line manager was arranged. Weekly meetings with her manager were arranged and a mentor was identified.

Documentation and diary management continued to be issues along with two periods of long term sickness. Occupational health (OH) became involved. After a year of meetings, training, and HR and OH involvement it was decided that, despite all the clinical and managerial support offered, the practitioner was still not able to work effectively at a senior level and concerns continued which had patient safety implications. A disciplinary hearing was convened. The practitioner received a final written warning; her responsibilities were reduced and a clinical supervisor was identified for her.

She completed a training package and is now functioning competently in a less senior role.

## *VIGNETTE*

### Informing the regulatory body

An employer had concerns about the ability of a junior physiotherapist in the areas of assessing patients and manual-handling skills. The employer decided to manage this through their capability process. They provided the junior physiotherapist with increased supervision, mentoring and further training.

The registrant resigned half way through the capability procedures. Her employers still had concerns that her practice is unsafe in some areas. They therefore informed the regulator about their concerns.

### Review and supplementary action

The success of the remedial action should be reviewed at an agreed date. If the measures agreed are not achieved, additional intervention may be needed. This may involve further restriction of practice, changing the practitioner's duties, identifying an alternative post or termination of contract.

### Passing information

If an individual's contract of employment is terminated, the regulator should be informed.

If the practitioner leaves their employment during the course of investigation or disciplinary action the employer should:

- Complete the investigations as far as possible to ensure issues of patient and/or staff safety are followed through
- Consider requesting the issue of a professional alert notice (through the strategic health authority)
- Inform the regulator
- Keep a file note on the issue so that future referees inform potential employers that there is an unresolved investigation into the practitioner's performance
- Provide an accurate and fair reference stating that procedures have not been completed, reflecting the current position
- Inform the practitioner concerned, in writing, of action taken.

### Aftermath and rehabilitation

If a practitioner has been away from work because of a performance concern, they will need support on their return. The constructive approach of colleagues and team building initiatives can help the team to manage entry back to work, as can training, mentoring and on-going supervision.

## GOOD PRACTICE

**Clinical Performance Support Unit, Leicestershire, Northamptonshire and Rutland Strategic Health Authority**

The Clinical Performance Support Unit (CPSU) has been established as part of the Healthcare Workforce Deanery to assist with handling performance concerns among the medical workforce in primary and secondary care.

The unit acts as a single point of contact for trusts and staff, and helps organisations and individuals manage concerns locally and confidentially. The unit provides individually tailored coaching, clinical and educational supervision. It aims to support practitioners to re-build their careers, while ensuring patient safety and maintaining standards of care.

The CPSU is also working with nursing colleagues to look at the possibility of developing a similar service for nursing staff.

# 4. OTHER ISSUES TO CONSIDER

## Role of the regulatory bodies

The role of the UK regulators of health practitioners is to protect the public, set standards for entry to the registers, and take action when health practitioners do not meet these standards. The acts covering the various regulatory bodies give each different powers.

In matters of concern about poor performance the role of the regulatory body is to determine whether the practitioner's fitness to practise is impaired and whether it affects their registration. Where there is serious concern about patient safety, referral to the regulatory body should be considered. In some professions the regulator will only be involved if the situation cannot be managed locally; in others the regulator will expect to be involved in all cases where there is a serious risk to patient safety.

The regulator is the only organisation that can take action which pertains to a healthcare practitioner wherever they practise. If an individual leaves employment before a performance concern has been dealt with, the regulatory body should be informed.

**Questions to ask in considering referral to the regulatory body:**

- Are there concerns about serious risk to patient safety?
- Does that health practitioner offer services elsewhere? Are they, for example, an agency worker who also works for other organisations? Does this raise issues of patient safety?
- Would you have concerns about patient safety if the practitioner left your organisation before your process was completed?

## GOOD PRACTICE

### Training to report a concern

To help raise awareness amongst students of the need to act on concerns about the practice of a colleague, St George's Medical School, University of London, sets the following assignment for first year medical students:

*As a third year medical student you notice that a patient has an adverse reaction because a junior doctor prescribed an excessive dose of a drug. The doctor told the patient that the reaction was due to an allergy to the drug (rather than admit her prescribing error). She did not record the incident in the record and did not report the incident to the consultant.*
*What are the issues and what should you do?*

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### Whistleblowing: raising a concern about a colleague's performance

Healthcare practitioners have a professional responsibility to act to protect patients if they have reason to suspect that a colleague is not fit to practise because of conduct, health or performance problems. The Public Interest Disclosure Act 1998 gives all staff and others such as agency staff, locums, students, carers and advocates virtually automatic protection for raising a genuine concern at a senior level in their organisation. However individuals may be reluctant to report concerns because they are fearful they will be disciplined, dismissed or disadvantaged as a result. In particular, practitioners can be in a difficult position if they wish to raise a concern about their supervisor or employer. Guidance from NHS Employers (2005) at www.nhsemployers.org/practice/whistleblowing.cfm the Department of Health (2003), and NCAS (2006) at www.ncas.npsa.nhs.uk may be helpful.

Employers should publish their whistleblowing policy based on the provisions in the Public Interest Disclosure Act. The policy should cover, for example, the appointment of 'a whistleblower's friend' who needs to be clearly separate from the investigation process. The policy should also cover steps to ensure the concern is dealt with speedily and protects the individual raising the concern, and also the obligations on the whistleblower to protect the organisation against vexatious claims.

### Handling difficulties in teams

Effective team working can help prevent professional isolation and performance difficulties and, where difficulties do arise, members of a uni- or multiprofessional clinical team are often best placed to identify concerns early. Concerns may relate to the performance of individuals and also to the function of a group or team. If concerns relate to the way in which the team functions, or about the service provided by the team, these may be more readily noted by someone outside the team.

*VIGNETTE*

#### Adjusting teamwork to take into account individual needs

A 61 year old surgeon, who did not wish to retire until he was 65, told his clinical director that his dexterity had begun to deteriorate. However, he did not believe his clinical or surgical judgement had deteriorated in any way. He suggested that he should no longer carry out operative procedures but that he should take on an additional outpatient session and administrative activities.

Following agreement with the other team members, one of the recently appointed consultant surgeons increased the number of complex procedures she carried out, and a specialist nurse re-aligned her duties to take over less complex cases. This increased multidisciplinary working and allowed the older surgeon to take the lead for another outpatient clinic and to represent the department on two trust-wide committees. It was agreed that the whole department would review arrangements in six months and make any further adjustment necessary.

The team setting itself may make it difficult for an individual to report because of feelings of loyalty to close colleagues, anxiety about disrupting the functioning of the team or fear of reprisal, particularly if concerns are raised about a more senior colleague. In these circumstances an effective whistleblowing policy will be vital. In addition, those in leadership roles in multiprofessional teams should support the development of an approach which enables each member of the team to feel respected for their skills and able to speak out.

Senior managers will be likely to require training in dealing with matters which may pose barriers to effective multiprofessional working, for example, the different roles and approaches of practitioners, and the range of working methods and professional cultures.

### Using locums, agency and bank staff

Locums, agency and bank staff are often used as temporary support for existing core staff so they may be required at times of crisis because of unexpected absences or higher than anticipated workloads. In such circumstances, there is a risk that permanent staff will have little time to oversee the induction of such staff and monitor their performance. Arrangements to ensure adequate appointment, induction and supervision need to be planned well in advance.

Performance of temporary staff should be reviewed at the end of their contract and the practitioner and agency informed of the conclusions. Employers who fail to act regarding concerns about the performance of a temporary member of staff, or who simply resolve not to use that practitioner in the future, are failing in their duty of care to other patients.

#### Managing locum services

To ensure that temporary staff provide a safe and effective service, employers of locums and commissioners of locum services should:

- Ensure any agency supplying staff meets the necessary standards in terms of taking up references, scrutinising curriculum vitae (CV), checking the practitioner's professional registration, offering training and carrying out pre- employment checks including Criminal Records Bureau checks
- Deal with as few agencies as possible to help organisations develop good relationships with suppliers who understand their needs
- Make sure that a senior member of staff where the temporary member will be working sees their CV wherever possible to verify they have the appropriate skills and competencies for the work
- Plan for appropriate induction and orientation and ensure that all relevant policies and procedures are available
- Arrange appropriate supervision and support
- Include longer term sessional, locum and temporary staff in training programmes to ensure consistency of approach to care.

## Equality and diversity

Employers of healthcare practitioners should be aware of the NHS commitment to equality and the positive recognition of diversity and understand how discrimination can occur and how it can be prevented.

Diversity involves recognising the particular need and contribution of each individual on account of their gender, ethnicity, country of origin, sexual orientation, disability, working pattern, family status or age. The response to these needs in relation to preventing and addressing performance concerns may include, for example:

- Special arrangements for a practitioner with a physical or mental illness
- Additional induction for someone whose training abroad may not have covered all the aspects of the job required and the structure of services in the UK
- Holding educational meetings at a time when part-time or flexi-time staff are most likely to be on duty.

The safety of patients and the needs of the service must however remain paramount.

Clear procedures for identifying and handling performance concerns, that meet the principles set out in this document, will help ensure that difficulties are managed in a way that is fair and supportive across all the healthcare professions. This involves, for example:

- Good practice in preventing problems (through effective selection and induction procedures)
- Early recognition and a supportive approach, providing information to the practitioner about the difficulties and the procedures to be followed
- Effective collection of evidence (rather than proceeding on hearsay) and clear documentation
- Understanding of why certain groups of healthcare practitioners may get into difficulty.

In addition, an employer should provide continuing training for managers and practitioners in equality and diversity, and implement policies to enable effective action to be taken if there is any evidence of bullying or discrimination.

## Conclusion

This document has brought together the main principles and practice for handling performance concerns among all professional groups working in healthcare. It will help to ensure equity and fairness in the way staff are treated and will form an important strand in the continuing quest for improving quality and safety for patients.

ANNEX 1

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The group was co-chaired by **Maureen Morgan** for the Department of Health and **Rosemary Field** for the National Clinical Assessment Service.

**Jill Rogers** brought together and edited the text of the document.

ANNEX 2

# RELEVANT ORGANISATIONS

**ACAS**
ACAS provides a variety of sources of information and resources about producing disciplinary and grievance procedures. Resources include seven free e-learning programmes to help individuals and businesses on topics such as discipline and grievance, information and consultation. The site is accessible to both employers and employees.
*Contact ACAS at:*
*Telephone helpline: 08457 474747*
*Website: www.acas.org.uk*

**British Dental Association**
The British Dental Association (BDA) is the professional association and trade union for dentists in the UK. The BDA develops policies to represent dentists working in every sphere from general practice, through community and hospital settings, to universities and the armed forces.
*Contact the BDN at:*
*Telephone: 020 7935 0875*
*Email: enquiries@bda.org*
*Website: www.bda-dentistry.org*

**British Medical Association**
The British Medical Association (BMA) represents doctors from all branches of medicine all over the UK. It is a voluntary association, provides services for members, is an independent trade union and a scientific and educational body.
*Contact the BMA at:*
*Telephone: 020 7387 4499*
*Website: www.bma.org.uk*

**The Centre for the Advancement of Interprofessional Education**
The Centre for the Advancement of Interprofessional Education (CAIPE) promotes and develops collaboration between practitioners and organisations across the public services and is a resource for interprofessional education. It offers access to research and information and examples of good practice, conferences and it responds to policy documents.
*Contact CAIPE at:*
*Telephone: 020 7554 8539*
*Email: admin@caipe.org.uk*
*Website: www.caipe.org.uk*

**Council for Healthcare Regulatory Excellence**
The Council for Healthcare Regulatory Excellence (CHRE) is a statutory overarching body, covering all of the United Kingdom and separate from government, established in 2003. It promotes best practice and consistency in the regulation of healthcare professionals.
*Contact the CHRE at:*
*Telephone: 020 7389 8030*
*Email: info@chre.org.uk*
*Website: www.chre.org.uk*

**General Chiropractic Council**
The General Chiropractic Council (GCC) is a UK-wide statutory body with regulatory powers. Its duties are to regulate chiropractors, set standards for education, conduct and practice, and to develop and promote the profession of chiropractic.
*Contact the GCC at:*
*Telephone: 020 7713 5155*
*Email: enquiries@gcc-uk.org*
*Website: www.gcc-uk.org*

**General Dental Council**
The General Dental Council (GDC) is the organisation which regulates dental professionals in the UK.
*Contact the GDC at:*
*Telephone: 020 7887 3800*
*Email: communications@gdc-uk.org*
*Website: www.gdc-uk.org*

**General Medical Council**
The General Medical Council (GMC) registers doctors to practise medicine in the UK. Its purpose is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine.
*Contact the GMC at:*
*Telephone: 0845 357 8001*
*Email: gmc@gmc-uk.org*
*Website: www.gmc-uk.org*

**General Osteopathic Council**
The General Osteopathic Council (GOsC) regulates the profession of osteopathy, sets standards of osteopathic practice and conduct, assures the quality of education, ensures continuing professional education and helps patients with complaints about an osteopath.
*Contact the GOsC at:*
*Telephone: 020 7357 6655*
*Email: info@osteopathy.org.uk*
*Website: www.osteopathy.org.uk*

**General Optical Council**
The General Optical Council (GOC) is the statutory body which regulates dispensing opticians and optometrists and those bodies conducting business as optometrists or dispensing opticians. The GOC's main aims are to protect the public and promote high standards of professional conduct and education among opticians.
*Contact the GOC at:*
*Telephone: 020 7580 3898*
*Email at: goc@optical.org*
*Website: www.optical.org*

**Health Professions Council**
The Health Professions Council (HPC) regulates 13 professions: art therapists, biomedical scientists, chiropodists and podiatrists, clinical scientists, dietitians, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, prosthetists and orthotists, radiographers, and speech and language therapists. The HPC sets standards covering health professionals' education and training, behaviour, professional skills, and their health.
*Contact the HPC at:*
*Telephone: 020 7582 0866*
*Email: policy@hcp-uk.org*
*Website: www.hpc-uk.org*

**Independent Healthcare Advisory Services**
The Independent Healthcare Advisory Services (IHAS) is a subscription-based service for independent healthcare providers which manages the independent sector complaints adjudication service and oversees the effective resolution of complaints.
*Contact the IHAS at:*
*Telephone: 020 7379 7721*
*Email: sallytaber@independenthealthcare.org.uk*
*Website: www.independenthealthcare.org.uk*

**National Clinical Assessment Service**
The National Clinical Assessment Service (NCAS) is a division of the National Patient Safety Agency. Its aim is to assist the NHS in handling concerns about the performance of doctors and dentists. NCAS:

- Helps organisations manage concerns about the performance of individual doctors and dentists
- Promotes the development of local and national procedures for preventing, identifying and resolving concerns
- Assesses individual doctors and dentists in order to make recommendations about ways in which their performance should be improved.

*Contact the NCAS at:*
*Telephone: 020 7084 3850*
*Email: ncas@ncas.npsa.nhs.uk*
*Website: www.ncas.npsa.nhs.uk*

**National Patient Safety Agency**
The National Patient Safety Agency (NPSA) co-ordinates the efforts of the whole country to report and learn from mistakes and problems that affect patient safety. The NPSA promotes an open and fair culture in the NHS, encouraging all staff to report incidents without undue fear of personal reprimand.
NPSA produces a range of publications including:

- Incident decision tree
- Root cause analysis toolkit and training
- Being open: communicating patient safety incidents with patients and their carers
- Seven steps to patient safety: guide to safer patient care.

*Contact the NPSA at:*
*Telephone: 020 7927 9500*
*Email: enquiries@npsa.nhs.uk*
*Website: www.npsa.nhs.uk*

**NHS Employers**
NHS Employers is the employers' organisation for the NHS in England giving employers throughout the NHS an independent voice on workforce and employment matters. NHS Employers offers a range of events, publications and information.
*Contact NHS Employers at:*
*Telephone: 0113 306 3000*
*Email: enquiries@nhsemployers.org*
*Website: www.nhsemployers.org*

**Nursing and Midwifery Council**
The Nursing and Midwifery Council (NMC) has been set up to protect the public by ensuring that nurses and midwives provide high standards of care to their patients and clients. The NMC:

- Maintains a register of qualified nurses, midwives and specialist community public health nurses
- Sets standards for conduct, performance and ethics
- Provides advice for nurses and midwives
- Considers allegations of misconduct, lack of competence or unfitness to practise due to ill health.

*Contact the NMC at:*
*Telephone: 020 7637 7181*
*Email: communications@nmc-uk.org*
*Website: www.nmc-uk.org*

**Royal College of Midwives**
The Royal College of Midwives (RCM) Is a trade union and professional organisation run by midwives for midwives. It provides leadership in midwifery, education and representation for members.
*Contact the RCM at:*
*Telephone: 020 7312 3535*
*Email: info@rcm.org.uk*
*Website: www.rcm.org.uk*

**Royal College of Nursing**
The Royal College of Nursing (RCN) represents nurses and nursing, promotes excellence in practice and shapes health policies. It supports and protects nurses and nursing staff, represents their interests professionally, and protects their terms and conditions of employment in all employment sectors.
*Contact the RCN at:*
*Telephone: 020 7409 3333*
*Website: www.rcn.org.uk*

**Royal Pharmaceutical Society of Great Britain**
The Royal Pharmaceutical Society of Great Britain (RPSGB) is the professional and regulatory body for pharmacists in England, Scotland and Wales. It also regulates pharmacy technicians on a voluntary basis. The primary objectives of the Society are to lead, regulate, develop and represent the profession of pharmacy.
*Contact the RPSGB at:*
*Telephone: 020 7735 9141*
*Email: enquiries@rpsgb.org*
*Website: www.rpsgb.org.uk*

**Public Concern at Work**
Since 1993 Public Concern at Work (PCaW) has been influencing the law and practice on whistleblowing at home and abroad. Recognised as an authority by governments, employers, unions and international bodies, Public Concern at Work provides advice on whistleblowing to individuals, organisations and communities.
*Contact PCaW at:*
*Telephone: 020 7404 6609*
*Email: whistle@pcaw.co.uk*
*Website: www.pcaw.co.uk*

**UNISON**
UNISON is Britain's biggest trade union. Members are people working in the public sector, for private contractors providing public services and in utilities. UNISON provides members with legal and welfare advice and employment representation. It is also a campaigning organisation.
*Contact UNISON at:*
*Telephone: 0845 355 0845*
*Website: www.unison.org.uk*

# ANNEX 3

# SOURCES CONSULTED IN THE PREPARATION OF THIS PUBLICATION

College of Occupational Therapists (2005) ***Code of Ethics and Professional Conduct***. London: COT.

*Includes client autonomy and welfare, services to clients, personal and professional integrity and professional competence and standards.*

Department of Health (2003) ***Code of Practice for NHS Employers Involved in the International Recruitment of Healthcare Professionals***. London: DH.

*A code to promote high standards in recruitment and employment of healthcare professionals from abroad. The code is concerned with the protection of developing countries and promotes structured exchange of healthcare personnel for the mutual benefit of the NHS and healthcare systems around the world.*

Department of Health (2003) ***Equalities and Diversity: Strategy and delivery plan to support the NHS***. London: DH.
www.dh.gov.uk/PublicationsAndStatistics/Publications/PublicationsPolicyAndGuidance/PublicationsPolicyAndGuidanceArticle/fs/en?CONTENT_ID=4069546&chk=R3IOE8

Department of Health (2003) ***Maintaining High Professional Standards in the Modern NHS: A framework for the initial handling of concerns about doctors and dentists in the NHS***. London: DH.

*Sets out a framework for handling concerns about the conduct and performance of medical and dental employees. Agreed by the DH, NHS Confederation, BMA and the BDA. Applies to England.*

Department of Health (2005) ***Providing Assurance on Clinical Governance: A practical guide***. London: DH.

*Provides an outline approach for internal auditors to follow when carrying out reviews of clinical departments and in areas of clinical activity.*

General Optical Council (2005) ***Opticians' Handbook.*** London: *GOC.*

*Includes code of conduct for individual registrants and business registrants, fitness to practise, proceedings and appeals and Rules.*

General Dental Council (2005) ***Standards Guidance***. London: GDC.

*Standards for dentists.*

Healthcare Commission (2005) ***Assessment for Improvement: Our approach. Consultation document.*** London: Healthcare Commission.

*A proposed approach to assessing the performance of healthcare organisations.*

Hunt, G. (1995) ***Whistleblowing in the Health Service: Accountability, law and professional practice***, London: Edward Arnold.

*Compares UK experience with that of the US, explores the core issues of accountability and legal rights from the managerial, clinical and public perspectives.*

Independent Healthcare Advisory Services (2006) ***Practising Privileges: Model policy and letter.*** London: IHAS.

*The IHAS has examples of letters of agreement, and a model policy on practising privileges.*

Independent Healthcare Advisory Services (2006) ***Good Medical Practice in Cosmetic Surgery Procedures***. London: IHAS.

*Complements the GMC publication 'Good Medical Practice' with particular reference to cosmetic surgery.*

National Audit Office (2003) ***The Management of Suspensions of Clinical Staff in NHS Hospital and Ambulance Trusts in England***. London: NAO.

*A review and recommendations about managing suspensions from clinical service.*

NHS Employers (2005) ***Briefing: Safer Recruitment. A guide for NHS employers***. London: NHS Employers.

*Guidance that covers all pre- and post-appointment checks that employers are required to make before appointing anyone to a position in the NHS.*

Nursing and Midwifery Council (2004) ***Reporting Lack of Competence: A guide for employers and managers. Guidance 05 04***. London: NMC.

*Describes what lack of competence is, and when to report it. Tells practitioners what evidence to send to support their complaint.*

Nursing and Midwifery Council (2004) ***The NMC Code of Professional Conduct. Standards for conduct, performance and ethics.*** London: NMC.

*Essential code for nurses and midwives.*

NHS Employers/Public Concern at Work (2005) ***Whistleblowing for a Healthy Practice: Whistleblowing: guidance for GPs.*** London: NHS Employers.

*Practical advice to give confidence and ability for professionals to demonstrate high standards of clinical care and governance.*

NHS Employers (2005) ***The NHS as an Employer of Excellence***. London: NHS Employers.

*Outlines the work of the NHS Employers organisation.*

National Clinical Assessment Authority (2004) ***Understanding Performance Difficulties in Doctors.*** London: NCAA.

*Helps those who deal with performance difficulties among doctors and dentists to make decisions about them.*

National Clinical Assessment Authority (2002) ***Handbook for Prototype Phase: General practice in England.*** London: NCAA.

*Material developed by a working group and gives an overview of the NCAA GP assessment framework and provides information about effective GP performance procedures.*

National Clinical Assessment Service (National Patient Safety Agency) (2005) ***Back on Track, Restoring Doctors and Dentists to Safe Professional Practice: Consultation and framework document.*** London: NCAS.

*The result of a collaboration between professional staff, lay groups and educationalists. It aims to address the challenge of restoring doctors and dentists to safe practice after there have been concerns about their performance.*

National Clinical Assessment Service (National Patient Safety Agency) (2006) ***Local GP Performance Procedures***. London: NPSA.

*Information about local procedures for handling concerns about the performance of GPs.*

National Clinical Assessment Service (National Patient Safety Agency) (2005) ***NCASPlus: How NCAS services can help local managers deal with concerns around the performance of doctors and dentists*** (leaflet). London: NPSA.

National Clinical Assessment Service (2006) ***Concerned about the Performance of a Colleague?*** London: NCAS.

*Useful guidance for practitioners about whistleblowing.*

Partnership Information Service (2003) ***Management Employee Capability Guideline.*** Edinburgh: Scottish Executive, Health Department.

*Guidance for staff throughout Scotland to ensure fair and consistent treatment. All organisations within NHSScotland must meet or exceed the guidelines.*

Royal Pharmaceutical Society of Great Britain (2005) ***Raising Concerns: Guidance for pharmacists and registered pharmacy technicians***. London: RPSGB.

*Information for pharmacists and pharmacy technicians to help them if they have concerns about a colleague's performance.*

Royal Pharmaceutical Society of Great Britain (2005) ***Identifying and Remedying Pharmacist Poor Performance in England and Wales***. London: RPSGB.
Available at: http://www.rpsgb.org.uk/pdfs/pharmpoorperf0501.pdf

Scottish Audit of Surgical Mortality (2005) ***Qualified Confidentiality, Patient Safety and Freedom of Information. Discussion paper.*** Edinburgh: Scottish Audit of Surgical Mortality.

The College of Radiographers (2004) ***Radiography: Statements of professional conduct***. London: The Society of Radiographers.

*Gives advice and guidance to all practising members of the College and those studying to gain qualifications in radiography.*

NHS
National Patient Safety Agency

DH Department of Health

National Clinical
Assessment Service



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