GMC response to NHS England consultation on the draft whistleblowing policy for Primary Care

The General Medical Council (GMC) is an independent organisation that helps to protect patients and improve medical education and practice across the UK.

- We decide which doctors are qualified to work here and we oversee UK medical education and training.
- We set the standards that doctors need to follow, and make sure that they continue to meet these standards throughout their careers.
- We take action to prevent a doctor from putting the safety of patients, or the public's confidence in doctors, at risk.

Every patient should receive a high standard of care. Our role is to help achieve that by working closely with doctors, their employers and patients, to make sure that the trust patients have in their doctors is fully justified.

We agree there is benefit in fostering a culture of openness within the NHS so staff are encouraged to raise concerns and to ensure those concerns are handled appropriately. We support the principles outlined in the draft whistleblowing policy for primary care which reflect the vision for the NHS as outlined in the Freedom to Speak Up review. It is important that all staff feel supported in raising concerns across all settings within the NHS.

Our guidance, *Good Medical Practice* requires doctors to promote and encourage a culture that allows all staff to raise concerns openly and safely (paragraph 24). Also, doctors responsible for clinical governance or who have wider management responsibilities have a duty to help people report concerns and ensure that there are systems and polices in place to allow for full investigation of the concerns (paragraphs 21 and 22 of our guidance, *Raising and acting on concerns about patient safety*).

We are committed to supporting the system wide commitment to promote a more open, honest and transparent culture within the healthcare environment, and to working more closely with others.
In the Freedom to Speak Up review, Sir Robert Francis recommended that:

- There should be coordinated action by national systems and professional regulators to enhance the protection of NHS workers making protected disclosures and of the public interest in the proper handling of concerns.

In response to this, together with concerns raised by the Health Select Committee and in a number of individual cases, in 2014, we commissioned Sir Anthony Hooper to conduct a review on how we handle cases involving doctors who have raised concerns. Sir Anthony made a number of recommendations recognising the need to understand the context of a case whilst meeting our statutory duty to investigate fitness to practise concerns. We have developed an action plan in response to the recommendations and will commence a pilot of a new approach to tackle the concerns raised in the report in July.

We have not addressed each of the questions in the consultation in detail, but have included comments against those questions where we have points to contribute.

**Question 1: Our intention is that this guidance should be used by all primary care organisations in order to review and revise their own policies to support staff in raising concerns.**

Do you agree with this approach and do you feel the guidance is compatible with existing processes in different sectors of primary care, like general practice, dentistry, and ophthalmology and community pharmacy?

Yes

Enhancing guidance and support for staff working in primary care is hugely important for the reasons specified in the draft policy; the difficulty in raising concerns anonymously, greater risk to employment where concerns are raised and lack of access to professional bodies. All members of staff working across different sectors in the NHS should be supported to raise concerns; a culture of openness and honesty should be encouraged within secondary and primary care settings. Due the difference in scale between primary care and secondary care organisations, we recognise that applying principles of openness and transparency will be a significant challenge for the primary care sector.

We agree that a standardised approach with common principles which has room for flexibility within local systems will ensure consistency across primary care organisations whilst allowing for local variation.

We believe the guidance is compatible with existing processes in general practice but are unable to comment on its compatibility with existing processes in other sectors of primary care.
Question 2: The guidance suggests that primary care organisations should appoint Freedom to Speak Up Guardians to encourage and support staff in raising concerns and ensure that organisations are meeting the principles of Freedom to Speak Up.

With the various structures of primary care, we have suggested different ways in which this could be achieved. Do you agree that primary care organisations should be asked to appoint Freedom to Speak Up Guardians?

Yes

We agree that Freedom to Speak Up Guardians should exist within primary care but understand there are a number of practical challenges for primary care organisations to appoint Freedom to Speak Up Guardians, which the service may be best placed to determine solutions for. Extending the role to primary care will be important in establishing consistency across the health and social care environment and enabling a network of guardians to be effective and have presence across both settings. Everyone working within primary care should know who their Freedom to Speak Up Guardian is and know how to contact them. Though we understand that the existing model of Freedom to Speak Up Guardians may not be applicable to all organisations operating within the NHS, creation of Freedom to Speak Up Guardians across all sectors of the NHS has to be sensitive to the issues and challenges faced within varying organisational structures.

We support the proposals in the draft whistleblowing policy for the National Freedom to Speak Up Guardian to build strong local networks across primary care settings as this will be important in ensuring that support and advice is readily available at a local level for staff raising concerns.

Our guidance Raising and acting on concerns about patient safety sets out who to contact in the first instance should a doctor need to raise a concern, including managers, appropriate officers, consultants, clinical and medical directors and partners. The guidance notes that where a concern may arise in a primary care setting, it may be appropriate to raise it outside the practice for example, with the medical director or clinical governance lead responsible for their organisation (paragraph 13). We understand it can be difficult for staff in primary care to raise concerns as currently there are not as many avenues/routes to raise concerns as there are in secondary care. Developing another avenue for staff in primary care to raise concerns such as a network of local Freedom to Speak Up Guardians would help address this difficulty.

Question 3: The guidance suggests using existing mechanisms and duties rather than the use of national contracts to encourage the adoption of new policies in primary care.

Do you agree with this approach?

No comment.
Question 4: What support will primary care organisations need from NHS England in implementing this new guidance? In particular, how might NHS England or eventually the National Freedom to Speak Up Guardian support local Freedom to Speak Up guardians?

As suggested in the draft policy, development of case studies and scenarios to help staff understand what to do if they wish to raise a concern will be necessary to ensure that staff in primary care understand the mechanisms for raising and acting on concerns and how to use them. NHS England could support this by working collaboratively with primary care organisations to develop case studies and deliver a training package for staff. Continued engagement with primary care organisations will also be essential to ensure that the policy is being implemented effectively and that organisations are supporting the development of local freedom to speak up networks.

It will be important for the National Guardian to build strong local networks to ensure that support and advice is readily available at a local level for all staff raising concerns. We understand the need for greater collaboration and co-ordination between organisations to ensure efficient detection of patient safety concerns and we see the National Guardian role as being key to encouraging a culture of openness and intelligence sharing. This can be achieved through working closely with local Freedom to Speak Up Guardians and advising on and sharing good practice.

Question 5: The Freedom to Speak Up review looked at the experiences of vulnerable staff groups (e.g. locums and agency staff, students and trainees, BME groups and staff working in primary care) when raising concerns.

We believe that this guidance will make it easier for all staff to raise concerns, including those who may be more vulnerable. Do you think it achieves this and, if not, what else could be included?

- No, it does not do enough for vulnerable staff to help them raise concerns.

Although the draft policy goes a long way in providing a framework for staff within primary care to raise concerns and encourages leaders to support staff in raising concerns, further guidance could be provided for vulnerable groups such as locums and agency staff. These groups typically work ad-hoc and inconsistent hours across a number of primary care sites, which makes it difficult for them to establish a network of support to discuss potential areas of concern. Enhanced guidance could be provided about who these groups can speak to and the support networks available and we envisage that appointment of Freedom to Speak Up Guardians will ensure that groups such as locums and agency staff have access to a named contact who they can seek advice and guidance from.

More information could be provided about other key organisations which can provide support to staff including Public Concern at Work, a charity which provides free, confidential legal advice to people who are concerned about wrongdoing at work and are not sure whether, or how, to raise their concerns.
We also suggest that the policy should include the suggestion that staff could have an advocate of their choice to assist them in relation to any investigation where concerns are raised. This could potentially be part of the local guardian’s role.

**Question 6: What else could be included in the policy that would add value?**

We have no further comments.