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1st Edition

Guidance

for UKPHR registrants about whistle blowing and the professional Duty of Candour

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Introduction

Whistleblowing

'Whistleblowing' is when a worker provides certain types of information which have come to their attention, usually to the employer or a regulator, to raise a concern about danger or illegality that affects others. The disclosure may be about the alleged wrongful conduct of the employer, a colleague, client, or any third party. Typically, the whistleblower is not directly, personally affected by the danger or illegality, although they may be.

In the UK, the *Public Interest Disclosure Act 1998* is a key piece of legislation protecting individuals who 'blow the whistle' in the public interest. Examples of the situations covered include financial malpractice, criminal offences, risks to health and safety, failure to comply with a legal obligation, a miscarriage of justice and environmental damage.

Workers who make a 'protected disclosure' can make a claim to an employment tribunal if they're treated badly or dismissed. For a disclosure to be protected, it must meet the test for being in the public interest and the worker must follow the procedures set out in the legislation.

As a regulator, UKPHR has a clear interest in receiving information about quality of public health practice and potential harm to the public and therefore strongly supports this legal protection for whistle blowers. We also support registrants who, in the exercise of their professional duties, believe that they need to make a disclosure in the public interest.

Duty of candour

"Duty of candour" is a statutory (legal) duty to be open and honest with patients and service users, or their families, when something goes wrong that appears to have caused or could lead to significant harm in the future. It applies to all registered health and social care organisations and registered healthcare professionals in England.

In Scotland, the *organisational* duty of candour procedure is a legal duty which sets out how organisations should tell those affected that an unintended or unexpected incident appears to have caused harm or death. They are required to apologise and to meaningfully involve them in a review of what happened.

A similar organisational duty of candour has been legislated for in Wales.

At UKPHR we take seriously our responsibility for encouraging candour in registrants as part of improving quality of service on public health practice.

Good Public Health Practice Framework 2016 and the *Code of Conduct* for registrants both speak to both whistleblowing and duty of candour and places appropriate duties on all registrants in respect of them.

This guidance sets out UKPHR's expectations and signposts relevant guidance produced by other organisations to assist registrants to understand whistle blowing and the Duty of Candour.

Duties of registrants

As well as legislation and case law on this subject, you must, as registrants, keep up to date with, and follow, the relevant laws, codes of practice and guidance, including our advice in *Good Public Health Practice Framework 2016* and the requirements set out in the *Code of Conduct* for registrants as a condition of maintaining your registration.

If you are unsure how to act in a situation, you should always seek advice and assistance from an experienced and appropriately qualified colleagues or a professional organisation

Registrants who make decisions based on the principles in this guidance will be able to justify your decisions and actions if we receive a complaint about your practice in relation to the decisions you made.

Good Public Health Practice Framework 2016

This updated publication by UK Faculty of Public Health and UKPHR sets out the standards which apply to the public health practice of all UKPHR's registrants.

It was developed in order to provide guidance for multidisciplinary public health practice, for example, where there is a need for population-based interventions.

Good Public Health Practice Framework 2016 provides registrants with guidance on good professional practice. By extension, the framework can be consulted by UKPHR's workforce for guidance.

The following provisions are relevant in relation to **whistleblowing**:

A. KNOWLEDGE, SKILLS AND PERFORMANCE

3. *You must practise within ethical, legal and regulatory limits that apply to your area of public health practice. Where aspects of public health practice are governed by law or regulated by other statutory codes of practice, you are expected to observe these and keep up to date with changes that may affect your practice.*

B. SAFETY AND QUALITY

14. *You must make sure that you and other professionals are able to be professional and ethical in your and their public health practice. You must take part in systems of quality assurance and quality improvement to promote safe systems and improved quality of your work. If you have management responsibilities, you should ensure that mechanisms are in place through which colleagues and partners can raise, in confidence, concerns about risks to the public. You must contribute to adverse event recognition and reporting systems. Those public health professionals with additional professional registrations should also pay due regard to relevant codes of conduct.*

D. MAINTAINING PUBLIC TRUST

27. *You must ensure at all times that your standards of practice justify the public's trust in your work, and in the work of the wider public health profession. Probity is the cornerstone of good public health practice. The components of probity are:*
 - *Integrity: Put your service obligations above your personal interests*
 - *Honesty: Be truthful and open*
 - *Objectivity: Base advice and decisions on rigorous analysis of evidence*
 - *Impartiality: Act solely according to the merits of a case without prejudice.*

The following provisions are relevant in relation to **duty of candour** and they apply to all registrants wherever they practice in the UK, not just in England:

A. **KNOWLEDGE, SKILLS AND PERFORMANCE**

3. *You must practise within ethical, legal and regulatory limits that apply to your area of public health practice. Where aspects of public health practice are governed by law or regulated by other statutory codes of practice, you are expected to observe these and keep up to date with changes that may affect your practice.*

C. **COMMUNICATION, PARTNERSHIP AND TEAMWORK**

21. *You must make sure that relevant information is shared. This includes a duty of candour: you must ensure that information is not withheld, where it may affect a decision or course of action that would have an impact of health. When working with communities, information should be shared and sought in ways that is truthful and meaningful. Appropriate steps should be taken to ensure that all communities (including marginalised and minority groups) are able to: contribute to the design of services and interventions; co-produce interventions and services where appropriate; assist in identifying and utilising community assets effectively; and help monitor outcomes so as to protect health and improve health and wellbeing. It is a key principle of public health practice that you should work with and mobilise communities and individuals to facilitate and support them to develop solutions to address their health and wellbeing needs (including advocating for them where necessary) through community development models of practice.*

D. **MAINTAINING PUBLIC TRUST**

27. *You must ensure at all times that your standards of practice justify the public's trust in your work, and in the work of the wider public health profession. Probity is the cornerstone of good public health practice. The components of probity are:*
 - *Integrity: Put your service obligations above your personal interests*
 - *Honesty: Be truthful and open*
 - *Objectivity: Base advice and decisions on rigorous analysis of evidence*
 - *Impartiality: Act solely according to the merits of a case without prejudice.*
28. *You must disclose professionally facts which may have a bearing on your professional performance. You must always be honest about your experience, qualifications and position, particularly when applying for posts. You must inform your regulator and professional body without delay if, anywhere in the world: you have accepted a caution; been charged with or found guilty of a criminal offence; or if another professional body has made a finding against your registration as a result of fitness to practise procedures. If you are suspended from a post (or have restrictions placed upon your practice) because of concerns about your standard of practice, performance or conduct, you must inform any other organisations for whom you undertake similar work. Independently of such organisations, you must also inform individuals, communities or populations that you work with, if the advice or services you provide are within the area of concern relating to the suspension or restriction.*

UKPHR's Code of Conduct 2nd Edition March 2014

UKPHR expects all its registrants to practice public health in accordance with UKPHR's Code of Conduct.

The Code of Conduct occupies a central role in the core public health workforce's practice and encourages registrants to consider how it applies in your everyday practice.

If we receive information or a complaint which raises questions relating to a registrant's conduct and fitness to practise, we will refer to the Code of Conduct in determining whether or not there is any issue we need to consider.

Key content of the Code in relation to **whistleblowing** is as follows:

- 1. Make the health and protection of the public your prime concern**
 - 1.1 *The interests of the public are paramount: put them before your own interests and those of any colleague or organisation*
- 3. Be honest and trustworthy**
 - 3.1 *Be honest and fair in all your dealings*
 - ...
 - 3.3 *Maintain your integrity and justify the trust the public, employers and colleagues have in you and your profession*
- 6. Know the limits of your competence and act within them**
 - 6.5 *Find out about, understand and comply with, laws and regulations which affect your work*

Key content of the Code in relation to **duty of candour** is as follows:

- 1. Make the health and protection of the public your prime concern**
 - 1.1 *The interests of the public are paramount: put them before your own interests and those of any colleague or organisation*
 - 1.2 *Provide prompt, clear and accurate information and advice to the public, employers and colleagues, exercising leadership in the promotion of public health*
 - 1.3 *Take swift action and speak with candour if you become aware that your health, behaviour or professional performance, or those of a colleague, or the policy or practice of an organisation, may pose a risk to the health of the public, or of particular individuals or groups*
- 3. Be honest and trustworthy**
 - 3.1 *Be honest and fair in all your dealings*
 - ...
 - 3.3 *Maintain your integrity and justify the trust the public, employers and colleagues have in you and your profession*
 - 3.4 *Do not knowingly mislead anyone*
- 6. Know the limits of your competence and act within them**
 - 6.5 *Find out about, understand and comply with, laws and regulations which affect your work*
- 7. Cooperate with the teams with which you work and interact**
 - 7.9 *Act promptly and be open, truthful and transparent if something goes wrong; cooperate fully with those investigating or adjudicating upon a complaint*

Guidance provided by others

There are many good sources of guidance already in existence. In this section, we reference some that we believe might be relevant at some point for registrants and members of UKPHR's workforce who may have a need for assistance with a specific issue or challenge.

UK-WIDE

General Medical Council:

[Raising and acting on concerns about patient safety](#)

[Openness and honesty when things go wrong: The professional duty of candour](#)

Professional Standards Authority

[Candour, disclosure and openness: Learning from academic research to support advice to the Secretary of State October 2013](#)

Protect

Protect is the UK's whistleblowing charity (formerly Public Concern at Work)

[Free, confidential whistleblowing advice](#)

Social Care Institute for Excellence (SCIE):

[Whistleblowing: improving organisational practice](#)

ENGLAND

Government:

[Whistleblowing: guidance and code of practice for employers](#)

[Whistleblowing for employees](#)

[Statutory duty of candour for health and adult social care providers](#)

Northern Ireland

Department of Health:

[The Public Interest Disclosure \(Northern Ireland\) Order 1998](#)

Scotland

Scottish Government:

The Independent National Whistleblowing Officer and the Draft National Whistleblowing Standards October 2019

Organisational duty of candour: guidance

Wales

Wales Audit Office:

Whistleblowing in the public sector: A good practice guide for workers and employers

At UKPHR we cannot offer legal advice and guidance about whistleblowing and duty of candour, but registrants are welcome to get in touch to discuss issues and challenges relating to either or both. At UKPHR we will always do our best to support you in getting help with your enquiry.

For further information, please CONTACT:

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