

## Public Concern at Work

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### PRESS RELEASE: A Misplaced Whistleblowing Duty

Public Concern at Work responds to comments made by the Health Select Committee in their annual reports on both the General Medical Council (GMC) and the Nursing Midwifery Council (NMC) published on [26/07/11](#). And [media reports](#) of a possible investigation into whistleblowing in the health and care sectors by the same committee.

In particular we would like to draw your attention to the following comments on publication of the report by the Health Select Committee-

"Every practising doctor and nurse knows that in addition to their obligation to care for their patients, they have an obligation as professionals to report to their professional body any concerns they have about the quality of care being delivered by their colleagues as a result of what they know or should have known".

Shonali Routray, Legal Director at [Public Concern at Work](#), the Whistleblowing Advice Line, commented:

*'We are delighted in the renewed debate over whistleblowing in the NHS and look forward to contributing to any future parliamentary inquiry into these important issues. So far the debate has focused on the professional duties of health professionals to raise concerns where they have witnessed poor clinical practice and patient safety dangers. We believe a blanket duty puts unfair pressure on health professionals for failures of either culture in their workplace or failures by management to deal with or escalate concerns raised. The focus should be on managers who fail to respond and address patient safety concerns.'*

In response we have produced a [briefing](#) on this and other whistleblowing issues, below is a summary of some our concerns-

- We have concerns that under the legal protection for whistleblowers (the Public Interest Disclosure Act (PIDA)) all GP's may not be protected by the act. Originally all GP's were protected by being described as 'providing a medical services' but with changes to the GP contract, the later amendments excluded those "performing services" while those "providing services" are protected.
- We believe PIDA should be amended to include health and medical students in its remit. Originally it was intended that PIDA cover medical and health students, but as medical and health education has changed and there is greater involvement of universities, the protection for students has been eroded. Students can be the newest members of a ward

making **whistleblowing** work

and often have “fresh eyes” and may be more worried about established practices. They are also more vulnerable at this point in their careers and we argue that they should be afforded better legal protection and there be clear channels by which they can raise concerns.

- We know of a number of individuals who feel they can not speak up because they feel they have been gagged by their organisation. This is a worrying trend given that PIDA specifically outlaws the use of gagging clauses if it seeks to stop an individual raising concerns that would normally be protected by the act. We have asked the Health Select Committee to consider widening any future inquiry into whistleblowing to cover this important issue.

**Note to editors:**

Public Concern at Work, the whistleblowing advice line, is an independent charity set up in 1993. We give free, confidential advice to those concerned about malpractice or wrongdoing in the workplace. We also help organisations to address risk responsibly. The charity was instrumental in getting the whistleblowing legislation, the Public Interest Disclosure Act 1998, on the statute books. For more information please visit [www.pcaw.org.uk](http://www.pcaw.org.uk).