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Misplaced duties

Should there be a professional duty on all doctors and nurses to blow the whistle when they have concerns over the clinical performance of a colleague or where there is a risk to patient safety? Should their professional bodies (the GMC or NMC, respectively) consider failure to whistleblow a professional misconduct issue?

The Health Select Committee (via their reports on the GMC or NMC, respectively), have answered 'yes' to both of these questions and so kicked off a debate about what we expect doctors and nurses to do when faced with this difficult dilemma.
While no one would disagree that doctors and nurses have an important professional obligation to report colleagues whose practice is of concern, we worry that there is maybe too much focus on the individual as opposed to the employer's response to those who have raised concerns.

Recent media coverage of the issue suggests that any doctor or nurse who speaks up will be ignored, suspended or dismissed. Though this is a still too familiar occurrence, this does not correspond with the experience of every professional who calls our Advise Line. Some will raise their concern, suffering no reprisal but their stories are not as likely to be picked up by the media. Health and care professionals will be keenly aware of their professional duties. But sometimes they may be working in an environment where they have seen individuals raise concerns, only to be damaged or ignored.

Raising concerns will never be risk free, and a lot still needs to be done to make raising concerns safer, but surveys have shown that what most stops NHS professionals coming forward isn't fear of reprisal, but a belief that nothing will be done if they do raise their concerns. In the most recent NHS staff survey 74% of respondents said they felt safe raising concerns but only 54% felt confident their employer would deal with the issues raised.

A better way forward would be for the NHS and professional bodies to hold senior doctors, nurses and managers more accountable for failures to deal with concerns raised. Secondly there should be a zero tolerance towards victimisation of a whistleblower: NHS organisations should make this a disciplinary offence and professional bodies should view it as professional misconduct. Thirdly to establish a safer environment for workers to blow the whistle it should be clear what the responsibilities of NHS organisations and the professionals alike are in this regard. On

this last point there has been a lot of work on guidance for NHS organisation to follow to ensure their whistleblowing arrangements meet best practice.

Focussing exclusively on a blanket duty before establishing a safe culture for NHS professionals to come forward with their concerns risks placing too much attention on those who don't speak up, rather than on those who failed to act on the concern itself. This places a heavy burden on professionals for failures in the organisation's culture. The flip side of this is that due to fear of disciplinary action or a professional misconduct charge professionals will over report issues of concern rather than exercise their own good judgement.

The price of bad culture can be seen in the stories unfolding before the public inquiry into Mid Staffordshire NHS Trust and the missed opportunities by management and the regulator, the Care Quality Commission, to deal with the abuse at Winterbourne View. It would be better for the NHS if questions are asked as to why health professionals fail to whistleblow only after it can be shown that an NHS organisation has robust arrangements, and a good track record of both dealing with concerns raised and dealing with the victimisation of genuine whistleblowers.

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