



Whistleblowing and Enforcement

Annex B



Whistleblowing

Summary



- We aim to assess, prioritise and act appropriately on all information we receive when people speak up.
- In 2018/19, we received **8,906** whistleblowing concerns (using current definitions).
- They provide critical information in support of our regulatory activity helping us to assess risk and target activity.
- Whistleblowing information led to **183** responsive inspections being triggered and **406** inspections being brought forward between September 2018 and August 2019.
- We have a programme of work underway to transform how we handle, respond and provide feedback to people raising concerns with us. We are delivering this with the input and involvement of people who have previously brought whistleblowing concerns to us.

Feedback on care



- Hearing from people who use services, their families and carers as well as people who work in services about their experience is essential to informing our regulatory activity.
- People can give feedback via:
 - Our online form '[Give Feedback on Care](#)'
 - Give feedback on care has gone through substantial user testing to ensure it is user-friendly, and helps us get the information we need to inform our regulatory activity.
 - Our National Customer Service Centre in Newcastle:
 - Telephone: 03000 616161
 - Email: enquiries@cqc.org.uk

People who work in services



- We want to hear from people who have concerns about the services they work, or volunteer for.
- People who work in services, are sometimes called whistleblowers and may be entitled to protections under the law:
 - People's rights are set out in the [Public Interest Disclosure Act](#) (PIDA).
 - Organisations that provide care must have whistleblowing procedures available to their employees. We encourage people to follow these if they have concerns.
- Further information is available on our [website](#).
- We ensure our intelligence (see slide 5) demonstrates information received by whistleblowers and the actions we have taken.

Whistleblowing volume



- In 2018/19 we received 8,906 (an increase of 9% compared to 2017/18). So far we have received 6,188 whistleblowing enquiries (As at end of October). Volumes received in the first two quarters of 2019/20 have increased by 14.5%.
- In the first quarter figures have relatively maintained but quarter two has seen an increase to an average of over 900 per month (October continues this trend with over 1,000 received) in comparison to an average of 742 per month in 2018/19.

Whistleblowing and other information of concern received by CQC

	2018/2019				2019/20		
	Q1	Q2	Q3	Q4	Q1	Q2	Q3
Whistleblowing Enquiries	2,189 (15%)	2,294 (15%)	2,042 (14%)	2,381 (15%)	2,326 (15%)	2,807 (16%)	1,055 (17%)
Other Information of Concern	12,129	13,105	12,933	14,013	13,588	14,897	5,140

Of the 8,906 whistleblowing enquiries we received in 2018/2019:

- **4,652 (52%)**, occasions where information was used to support future inspections (compared to 2,735 (44.2%) so far this year);
- **183 (2%)** responsive inspections were triggered (compared to 95 (1.5%) so far this year);
- **406 (4.6%)** inspections were brought forward (compared to 203 (3.3%) so far this year);
- **2,043 (22.9%)** occasions where the information was referred to a more appropriate organisation, such as a local authority (compared to 21.4% so far this year, volume 1,326)

Actions taken



- The team leading the transformation has recognised that our current definitions and ways of classifying this data do not always make it easy to track through the link between information and action. This is demonstrated by the frequent use of the classification 'used to inform future inspections'
- A programme of work is underway to:
 1. Refresh the definitions used
 2. Increase the usability of the intelligence received
 3. Implement a risk assessment tool to inform the provider risk profiles
 4. Ensure that we can demonstrate action in response to risk
 5. Improve our ability to feedback to the people who have shared their concerns

Case Studies



- NCSC was contacted by a GP receptionist who told us that the practice manager was reviewing and signing repeat prescriptions and making decisions on clinical results without these being seen by a doctor.
- An urgent unannounced inspection took place with 72 hours, the concerns were largely confirmed together with other patient safety concerns. The practice was suspended for 3 months and ultimately the CCG secured a new provider for the practice.
- 16 months later the practice was rated as Good, and this helped ensure a safer service for patients.

Case Study



- An independent doctor undertakes a range of community-based women's and sexual health services.
- The RO (doctor in charge of revalidation for doctors) of the independent doctor shared a number of concerns he had about how this doctor was organising his practice.
- A routine inspection was already planned for 3 months time and the ROs information was used to focus on some key areas of communication and premises, which resulted in two requirement notices being issued.

Can we contact people?



- It is important that people feel comfortable sharing their name and contact details with us, so we can follow up with any clarifications and feedback to them on actions taken.
- It also makes it more likely we can take action on the information shared.
- Our new “Give Feedback on Care” online tool aims to make clear:
 - Why it is helpful for us to have contact information.
 - Whether people who work for services are protected by the law (including PIDA).
 - A commitment to only using contact details to ask about feedback.

Maintaining anonymity



- We aim to deal with all information and concerns in confidence.
- However, if we act on this information, it may be obvious to the employer who has raised this. Whilst this is problematic, CQC has a responsibility to act on information of concern where there may be a risk of harm.
- Good services should have an open culture where people who work there, feel confident to raise concerns. However we know this isn't always the case.
- Therefore we try to take reasonable steps to uphold anonymity where we can, for example building the concern into a wider inspection, so it isn't immediately obvious to the employer.
- We will talk to people who have given feedback if we think there is a risk they may be identified.

Strengthening our approach to whistleblowing



- A review carried out last year found that overall:
 - Information is handled in line with our policies and procedures.
 - Colleagues are assessing, prioritising and acting appropriately when information is shared.
- We are committed to strengthening and improving in three key areas:
 - We will be more transparent in our inspection reports and other communications to demonstrate when we are acting on information received, while taking care to protect anonymity.
 - We will provide better feedback to those who do raise concerns with us, on how their information has been used.
 - We will ensure that we assess and improve the 'customer experience' for those coming forward to us.

Strengthening our approach to whistleblowing (2)



- We are piloting changes in the way that we record and act on information shared with CQC including:
 - Redesigning our current pathway for receiving information by increasing the quality of information we obtain at first point of contact.
 - Developing standard policy and guidance across health and social care regulators, where the person is identified as a potential whistleblower to ensure a co-ordinated support offer including signposting to third sector organisations.
 - Implementing an improved regulatory risk assessment tool so that the significance of each piece of data can be identified and coded into our intelligence system. This will supported by specialist expertise that will advise and support inspections to take immediate action where necessary. This will also enable us to track impact on regulatory risk in a more systematic way.

Strengthening our approach to whistleblowing (3)



- A new coding system will be developed that will effectively lead to a significant reduction in the use of the 'to be considered at next inspection' term and the development of more stratified reporting to inform regulatory risk reduction.



Enforcement

Summary



- We have used the full breadth of our enforcement powers over the last 12 months, with a rise in prosecutions. Part of this increase is attributable to our earliest cases, from when we gained our prosecution powers in 2015, reaching the limitation date.
- All concluded prosecutions of the last year have been successful to date.
- Enforcement activity is supported and delivered with the right expertise to achieve successful outcomes for people who use services.
- Increasingly we are working collaboratively with partner agencies to share intelligence and evidence; to reduce duplication, and to achieve the desired outcome.

- If we find that a registered provider or manager is in breach of the regulations, we take action to make sure they improve.
- The action we take will be proportionate to the impact and/or risk that the breach has to people who use the service and how serious it is.
- Our approach to enforcement is set out in our [Enforcement policy](#) and our [Enforcement Decision Tree](#).
- When considering criminal enforcement we follow the two-stage test set out in the Code for Crown Prosecutors. This two-stage test requires the decision-maker to consider:
 - The sufficiency of evidence gathered
 - The public interest to be served in taking criminal enforcement action.

Using our enforcement powers



Purpose: Protecting people who use services by **requiring** improvement

- Requirement Notices (formerly known as 'compliance actions')
- Warning Notices
- Section 29A Warning Notices*

Purpose: Protecting people who use services by **forcing** improvement

Civil enforcement powers

- Imposing, varying or removing conditions of registration
- Suspending registration
- Cancelling registration
- Urgent procedures

Special measures

- Time-limited approach ensures inadequate care is not allowed to continue
- Coordination with other oversight bodies

Purpose: Holding providers and individuals to account for failure

Criminal powers

- Simple cautions
- Penalty notices
- Prosecution

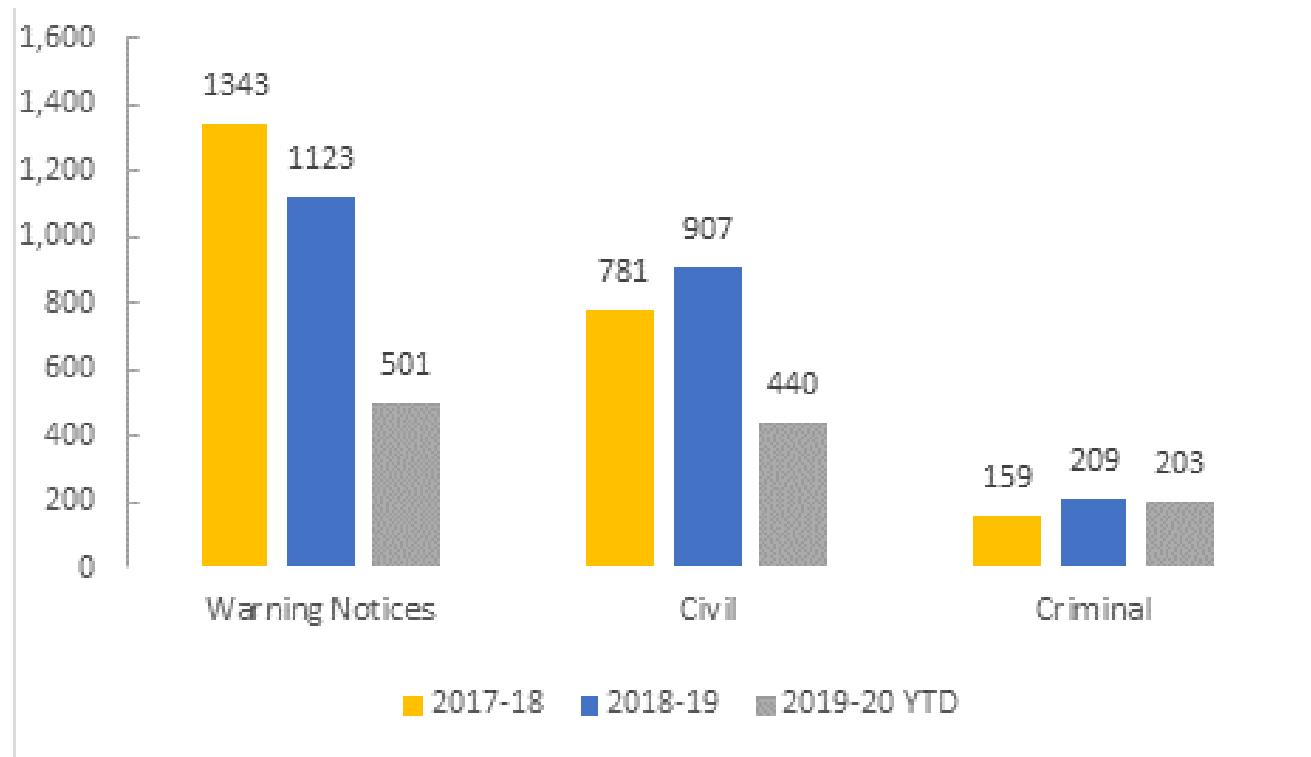
Holding individuals to account

- Fit and proper person requirement
- Prosecution of individuals

Enforcement actions issued



Enforcement actions issued 2017/18, 2018/19 and 2019-20 YTD (end of October 2019):



Case Study



- We rated a care home as inadequate in October 2017 after finding the provider to be in breach of three different regulations, including for providing safe care and treatment.
- Our inspection team had a number of serious concerns, including:
 - incorrect storage and logging of controlled drugs
 - inadequate fire safety checking and testing
 - inadequate systems in place to manage the risk of falls from windows
 - poor governance and oversight from the provider and the registered manager.
- We were very concerned for the health and safety of the residents and issued Warning Notices. After finding these had not been addressed we imposed urgent conditions on the provider's registration.

Case Study



- After the inspection, the provider developed an action plan.
- Prompted by the enforcement action, the situation at the home changed very quickly and they met the conditions of registration.
- We returned to the home to check on progress and rated it as requires improvement in May 2018.
- By April 2019 the home had turned around its approach to risk, health and safety and we were able to rate it as good.