

# Managing and Sharing Concerns

## 1. Introduction

In order to ensure the safer management and use of controlled drugs (CDs) in accordance with the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009, and best practice, it may be necessary to share information, including personal information, with other Designated Bodies<sup>1</sup> and Responsible Bodies<sup>2</sup> working within the Local Intelligence Network (LIN). The information or concern that you will consider sharing will have arisen from information received or evidence obtained relating to the management and use of controlled drugs both within and outside your organisation.

## 2. What is a concern?

A concern could be something which has been reported or picked up by, for example:

- Routine monitoring
- Incident reporting systems
- Complaints
- Police intelligence
- Word of mouth
- Email, mail or fax
- Read or heard through the media

Some information can be considered as 'soft' information; "soft" information is a statement of concern about an identifiable healthcare professional which has not been articulated as a formal complaint or as part of a formal process such as the summary record of an appraisal interview.

Health and social care organisations should always take seriously – and act on – any soft information which, if true, implies a threat to patient/client safety. However, it is important that information on 'soft' concerns is properly evaluated. Such assessment will require some level of judgement about the degree of confidence in the information provided and an assessment of 'weight' of the information provided. The evaluation will rely to a certain extent on the skill and experience of the senior health and social care professional to whom the concern is identified. Such information, while not having been obtained through formal routes should, nevertheless, be taken seriously, recorded and thoroughly investigated.

Where this information relates to controlled drugs the Accountable Officer must ensure that robust systems are in place to enable concerns to be raised, to log these concerns, to be alerted where appropriate and to initiate investigations (Regulations 15 and 16).

Wherever possible, established mechanisms for identifying and managing concerns about performance such as clinical governance and performance review, complaints and adverse incident reporting should be used.

## 3. Raising Concerns

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<sup>1</sup> Reg 3 of The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 prescribes the following as Designated Bodies: Regional Board, a HSC Trust, Northern Ireland Ambulance Services and Independent Hospitals

<sup>2</sup> Reg 22 of The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 identifies the following as Responsible Bodies: Designated Bodies, the Department, Regulation and Quality Improvement Authority (RQIA), RBSO, Police and a Regulatory Body

To ensure that the opportunities to raise concerns are optimised organisations should ensure that mechanisms such as those listed below work effectively

- the complaints system - is this sensitive enough to identify and prioritise complaints relating to the performance, conduct or health of individual healthcare professionals?
- confidential arrangements – do these enable healthcare professionals and other colleagues, trainees or employers/employees to raise concerns about the performance, conduct or health of a colleague? Organisations should have a written policy<sup>3</sup> which should include the option of raising concerns with a responsible person outside the normal work setting or line of command.
- systems for reporting patient safety incidents (errors leading to actual patient harm or ‘near misses’) and for analysing their ‘root cause’ in order to draw lessons to minimise the risk of recurrence in the future.
- monitoring routine indicators of service quality – are these adequate to draw attention to any clusters or trends which might give cause for concern?
- arrangements for objective investigation of any complaints or concerns relating to Relevant Persons.

For those individuals who have raised concerns, clear explanation of the processes involved should be provided at the outset and they should be kept informed in broad terms about the progress of the investigation and in particular about its final outcome in accordance with the organisation’s Public Interest Disclosure (Whistleblowing) Policy, e.g. whether the health/social care professional has been referred to the regulatory body or made subject to local restrictions on practice.

Concerns should be treated with due seriousness and appropriately clarified and investigated as with formal complaints. Consideration must be given to informing the Relevant Person of concerns raised in relation to them at an appropriate time.

## **Inspection**

An Accountable Officer may decide to carry out an inspection of premises as part of their monitoring arrangements or as a direct result of a concern. The inspection could be undertaken by any body with the power to inspect the management of controlled drugs: the Designated Body, the Department, Regulation and Quality Improvement Authority (RQIA), police or a combination of the above. The Health Act gives to nominated groups, such as the police and Accountable Officers powers of entry and inspection to examine the arrangements for the safe management of controlled drugs. Information-sharing between organisations will be necessary.

## **4. Investigating Concerns**

Where concerns are raised they should be investigated in accordance with local policies and procedures. Where these concerns are serious, if for example patient safety is at risk or the professional’s fitness to practise may be impaired, the appropriate Responsible Body should be informed at the earliest opportunity. All decisions must be based on the best available evidence and thorough records must be kept. (Regulation15). Accountable Officers should ensure that there is a clear separation between responsibility for investigation and for decision-making.

## **Well-founded concerns**

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<sup>3</sup> HSC organisations are required to have Whistleblowing policies in place to meet the requirements of the Public Interest Disclosure (Northern Ireland) Order 1998.

Well-founded concerns may come to light, either initially or through further investigation of a minor issue.

Depending on the nature of the well-founded concern, various options should be considered (Regulation 17):

- Appropriate action to protect patients
- Requesting additional advice, support, mentoring or training
- Implementation of a serious adverse incident<sup>4</sup> procedure
- Referral to a regulatory body, police or, if fraud is suspected, Counter Fraud Unit
- Sharing or requesting information from other members of the network
- Requesting an incident panel be convened

Appropriate action may also include invoking the organisation's disciplinary procedure.

### **Action to protect patients**

If patient safety is thought to be at risk, immediate action should be taken. Actions taken may include:

- consideration of suspension or exclusion from the workplace
- where there is a well-founded concern, informing the appropriate LIN members

Designated Bodies should follow their local adverse incident procedures. In addition to this all organisations should consider if, on assessment of the degree of risk, the concern should be referred for the purpose of the issue of an alert letter, where appropriate. Prompt referral to the relevant regulatory body should be considered where there is a well-founded concern about an individual's fitness to practise.

### **Remedial actions: dealing at local level**

Many possible concerns can be rectified at local level. Examples may be a 'false positive' where an apparent prescribing anomaly is shown to be due to the caseload of a particular prescriber. In other cases, a minor lapse may be put right locally, where for example an organisation's storage arrangements for controlled drugs could be improved. If there is a minor concern about a healthcare professional's performance, they may require support or training. Additional visits from a prescribing adviser or clinical governance lead may be sufficient to rectify any minor issues (see Regulation 17(2)).

### **Incident Panels**

It is the responsibility of the employing authority to investigate an incident and for them / professional body to make any findings in relation to a Relevant Person. There is however provision for an Accountable Officer to request the Chair of the LIN to convene an Incident Panel to investigate a concern and make recommendations. It would be anticipated that requests to convene an incident panel would be exceptional and would not result in duplication of the investigative work already taken. The individual membership of the

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<sup>4</sup> The definition of a serious adverse incident in the context of Health and Social Services is: *"any event or circumstance arising during the course of the business of a health and social organisation, special agency or commissioned service that led, or could have led, to serious unintended or unexpected harm, loss or damage"*.

Incident Panel would depend on local circumstances and the nature of the concern but will be drawn from the membership of the LIN. The police would normally expect to be involved at this stage if they have not been previously.

### **Remedial actions: escalating concerns**

However there may be cases where concerns cannot be resolved satisfactorily at local level and need to be formally escalated or passed on to another organisation.

There may well be occasions where a concern should be passed to more than one organisation.

<b>Concern</b>	<b>Refer to:</b>
Criminality suspected (including fraud and theft)	Police and Counter Fraud Unit BSO (where appropriate)
Individual fitness to practise issue	Regulatory body, or Local Supervising Authority Midwifery Officer for midwives
Organisational/systems issue	Regulatory body, HSCB, the Department and RQIA (in case of an HSC Trust or any person registered with RQIA that provides healthcare).

### **Support for healthcare professionals**

Individuals raising concerns should be supported in doing so. Free and confidential advice on how to raise a concern and the protections provided by the Public Interest Disclosure Act can be obtained from Public Concern at Work (an independent organisation on public interest whistleblowing)<sup>5</sup>. Regulatory bodies may also be able to provide advice.

Individuals should also be supported where concerns are raised about them, or where they wish to raise concerns about their own performance.

## **5. Sharing Information**

### **“Tackling Concerns Locally - Report of the working group**

set out some broad principles in respect of sharing information between organisations.. This report can be accessed through the following link:

[http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/@dh/@en/@ps/@sta/@perf/documents/digitalasset/dh\\_110981.pdf](http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/@ps/@sta/@perf/documents/digitalasset/dh_110981.pdf)

## **6. Legal basis for data exchange**

Each organisation must have robust governance systems in place to ensure that the sharing of personal data (as defined by the Data Protection Act 1998), both internally and externally is in compliance with the legislative framework for information sharing.

Each Responsible Body should be able to identify their lawful basis to exchange this data. This lawful basis may come from common law, statute or legal precedent, which may be supported by Home Office or other professional guidance. This will enable Responsible

<sup>5</sup> <http://www.pcaw.co.uk/> or telephone 020 7404 6609

Bodies to defend a challenge with regard to the Data Protection Act 1998 and/or the Human Rights Act 1998.

**Relevant laws governing & enabling the sharing of personal data under this agreement. Please note that this is not a definitive list - See also Appendix 1**

<b>Legislation</b>	<b>Relevant Section</b>	<b>Relevance</b>
Data Protection Act 1998	s.35(1)	Personal data can be shared where an enactment requires disclosure. Regulation 25(8) of the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 provides the discretion to disclose personal data to certain specified bodies <sup>6</sup> for the safer management of controlled drugs.
Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009	Reg. 25	Discretion to co-operate by disclosing information as regards Relevant Persons for the safer management of controlled drugs
The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009	Reg. 26	Power to request additional information from other Responsible Bodies for the safer management of controlled drugs
The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009	Reg. 30	Discretion to make recommendations as to actions relating to the management of controlled drugs for the protection of patient safety or the safety of general public
Common Law Duty of Confidentiality	Public Interest	The public interest criteria includes (but is not limited to): <ul style="list-style-type: none"> <li>• the administration of justice;</li> <li>• maintaining public safety;</li> <li>• the apprehension of offenders;</li> <li>• the prevention of Crime and Disorder;</li> <li>• the detection of Crime; and the protection of vulnerable members of the community.</li> </ul>

**7. Purposes for which data is shared**

Under Regulation 25 Responsible Bodies may share identifiable personal data for the purposes of:

- Identifying cases in which action may need to be taken in respect of matters arising in relation to the management or use of controlled drugs by a Relevant Person
- Considering of issues relating to the taking of action in respect of such matters
- Taking action in respect of such matters

<sup>6</sup> The specified bodies include a designated body, Department, RQIA, RBSO, police and a regulatory body.

## **8. Information to be shared**

Identifiable personal data of, and other information relating to, 'Relevant Persons' (as defined below) may be shared with appropriate members of the LIN for the purposes identified above and in accordance with Regulations 25 and 26 of the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009.

It is the Accountable Officer's responsibility to determine whether and when the name of a Relevant Person should be shared with the LIN. Organisations should carry out a risk assessment when making a determination to disclose a name and the Accountable Officer should undertake this where possible/appropriate, in conjunction with the relevant professional lead and Human Resources or, where no HR Department exists, other relevant team in their organisation obtaining specific legal advice where appropriate. Such disclosures will be made where it has been established that the concern has been well-founded.

The following information is the identifiable personal data of 'Relevant Persons' that should be disclosed by an organisation with the appropriate members of the LIN for the purposes identified above:

- Full name
- Profession
- Professional Registration number (if applicable)
- National Insurance number
- Controlled Drugs at centre of concern
- Employer(s) (to include both the main employer and any other organisation where the relevant person is employed)

Details shared should be sufficient to enable other Accountable Officers to take measures within their own organisation for the purpose of protecting patients or members of the public.

When a decision has been taken to disclose a name at the LIN, the Designated Body should write to the Relevant Person advising them of the disclosure and subsequent review arrangements. The Relevant Person should also be advised of any Human Resources (HR) or equivalent flagging<sup>7</sup> arrangements which would result in consideration being given at the time of application to the relevance of the concern to the post for which they are applying and thus their suitability for the job

## **9. Disclosure of information to another Responsible Body**

Responsible Bodies must also keep a record (either paper or electronic) of any requests received from another Responsible Body to disclose information, details of the nature of the information disclosed, details of the Responsible Body to which the information was disclosed and any other details considered to be relevant (Regulation 28).

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<sup>7</sup> **Flagging:** The making of a record by the Human Resources Department (or equivalent) that a concern exists concerning the management and use of controlled drugs by a Relevant Person.

## **10. Limitations to sharing / disclosing information**

Accountable Officers will need to consider whether, in any individual case, it is strictly necessary to disclose to all members of the LIN or whether disclosure to some members only is sufficient to address the risks identified in the specific case. Disclosure should not go any wider than necessary.

Disclosures must only be made by or to the Accountable Officer or by or to a designated person in the Accountable Officer's staff.

No information should be shared where disclosure of the information would:

- prejudice or would be likely to prejudice an investigation being conducted by a Responsible Body, or
- prejudice or would be likely to prejudice any civil or criminal proceedings, or
- involve disproportionate cost.

### ***Patient information***

Any information or data that relates to or can identify a patient will be removed where that information is not required for the purposes of identifying cases in which action may need to be taken in respect of matters arising in relation to the management or use of controlled drugs by a relevant person, or for considering or taking action in such a case.

### ***Consent to disclose patient information***

Where a Responsible Body is unable to remove any information or data that relates to or can identify a patient, or where it considers it necessary to disclose information which contains the confidential information that relates to and can identify a patient, where practicable, the consent of the patient must be sought.

Patient information should **not** be included for the purpose of sharing a concern about a relevant person within the LIN unless the Accountable Officer has satisfied him/herself that there is a justified purpose for doing so.

## **11. Processing of information**

In accordance with the legislation Accountable Officers submit Occurrence Reports quarterly to the Chair of the Local Intelligence Network. The Local Intelligence Network is currently chaired by the Department. Occurrence Reports and details of Relevant Persons supplied to the Department are held securely by the Department and the Department is the Data Controller for this information for the purposes detailed above.

Two weeks after the submission date the Local Intelligence Network meets and, with the exception of those with nil returns, Occurrence Reports are shared with Responsible Bodies at this meeting and through minutes of that meeting. It is anticipated that the arrangements for submitting Occurrence Reports, disclosing, updating and removing names will be changed on development of a secure database.

In addition to the submission of Occurrence Reports Accountable Officers will share concerns that require a rapid response, as appropriate, outside of the quarterly cycle.

Accountable Officers must ensure that appropriate arrangements are in place within their organisation to:

- refer concerns that relate to controlled drug matters to a regulatory body

- refer concerns that relate to controlled drug matters to police
- in a case of possible fraud, refer the concerns to the Counter Fraud Unit of the Business Services Organisation.
- ensuring that information shared within the Local Intelligence Network is appropriately managed within their organisation

Accountable Officers are responsible for developing secure arrangements for forwarding names to the Human Resources or, where no HR Department exists, other relevant team within their organisation as appropriate. Each Accountable Officer should establish an organisational procedure for this purpose clarifying roles, responsibilities and arrangements for flagging and for removing names from such a list.

(See The Code of Practice on Protecting the Confidentiality of Service User Information <http://www.dhsspsni.gov.uk/confidentiality-code-of-practice0109.pdf>)

## **12. Updating and Reviewing**

Accountable Officers must ensure that in respect of concerns raised by them information which comes to light, such as the outcome of proceedings by the police, the civil courts, regulatory body, or disciplinary proceedings, is shared with the relevant Responsible Bodies and the Chair of the LIN.

Accountable Officers should review all names disclosed by their Designated Body to the LIN at regular intervals to determine the continued need for the name to be flagged. The review frequency for each individual should be determined on an individual basis when the initial risk assessment to share the name is carried out. All Relevant Persons should be made aware of the Accountable Officer review arrangements.

Decisions to remove the name of a relevant person from a list of flagged individuals should be made on a case by case and risk assessed basis using accurate and up-to-date information. This decision may be reached as a result of a review or through information received independent of a review.

Any decision to remove a name from the list must be shared with all relevant LIN<sup>8</sup> members and each Responsible Body must ensure that these decisions are appropriately implemented within their own organisation

## **13. Retracting names shared**

Names should only be shared where well-founded concerns have been established. In the event that a name has been shared pending full investigation and where the concern is subsequently not substantiated, the Accountable Officer must retract the name shared and ensure internal records are updated to reflect this and advise other Responsible Bodies do likewise. Each organisation is responsible for ensuring that records of concerns are retracted appropriately from within their organisation. Consideration should be given to contacting the

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<sup>8</sup> It is the responsibility of each Accountable Officer or nominated representative of a Responsible Body to obtain details of a disclosure, update or removal if absent at the time of the disclosure, update or removal to the LIN or where advised electronically through database arrangements.

other Responsible Bodies outside of the quarterly LIN meetings to ensure the name is retracted as soon as possible.

#### **14. Access, Storage, Retention and Security of Personal information**

Information must be shared in a secure manner whether in person, by telephone, email, post or fax. Information must not be shared with persons who are not required to be in possession of it.

Organisations receiving shared information must:

- ensure that their employees are able to access only the shared information necessary for their role
- ensure that their employees are appropriately trained so that they understand their responsibilities for confidentiality and privacy
- protect the physical security of the shared information

Within the Department, LIN related electronic records are stored on a secure records management system which has access controls in place. Secure storage provision is also made for paper records. The Department will host a database facilitating secure and timely communication between Responsible Bodies.

##### **Retention of Records**

The Chair of the LIN will retain records in accordance with Good Management Good Records<sup>9</sup>. Accountable Officers can find further guidance on record retention and disposal timeframes at the following link:

<http://www.dhsspsni.gov.uk/index/gmgr/gmgr-disposal-schedule/gmgr-schedule-j.htm#j30>

##### **Storage and Security**

When information is disclosed it must be stored securely at all times by the recipient and destroyed when it is no longer required for the purpose for which it was provided

Each Responsible Body will ensure that they have mechanisms in place to enable them to address the issues of physical security of data, as well as undertaking training and raising staff awareness.

##### **Off site working**

Information, which is taken off site, must be protected in a secure manner according to the requirements and good practice guidelines of each Responsible Body.

#### **15. Closure of cases**

Cases considered by an Accountable Officer or a Responsible Body should be recorded with a clear account of the findings and any action taken (Regulation 28). Each organisation is responsible for ensuring that records of concern are retracted or removed appropriately from within their organisation and that all Responsible Bodies with which the information was shared are notified accordingly.

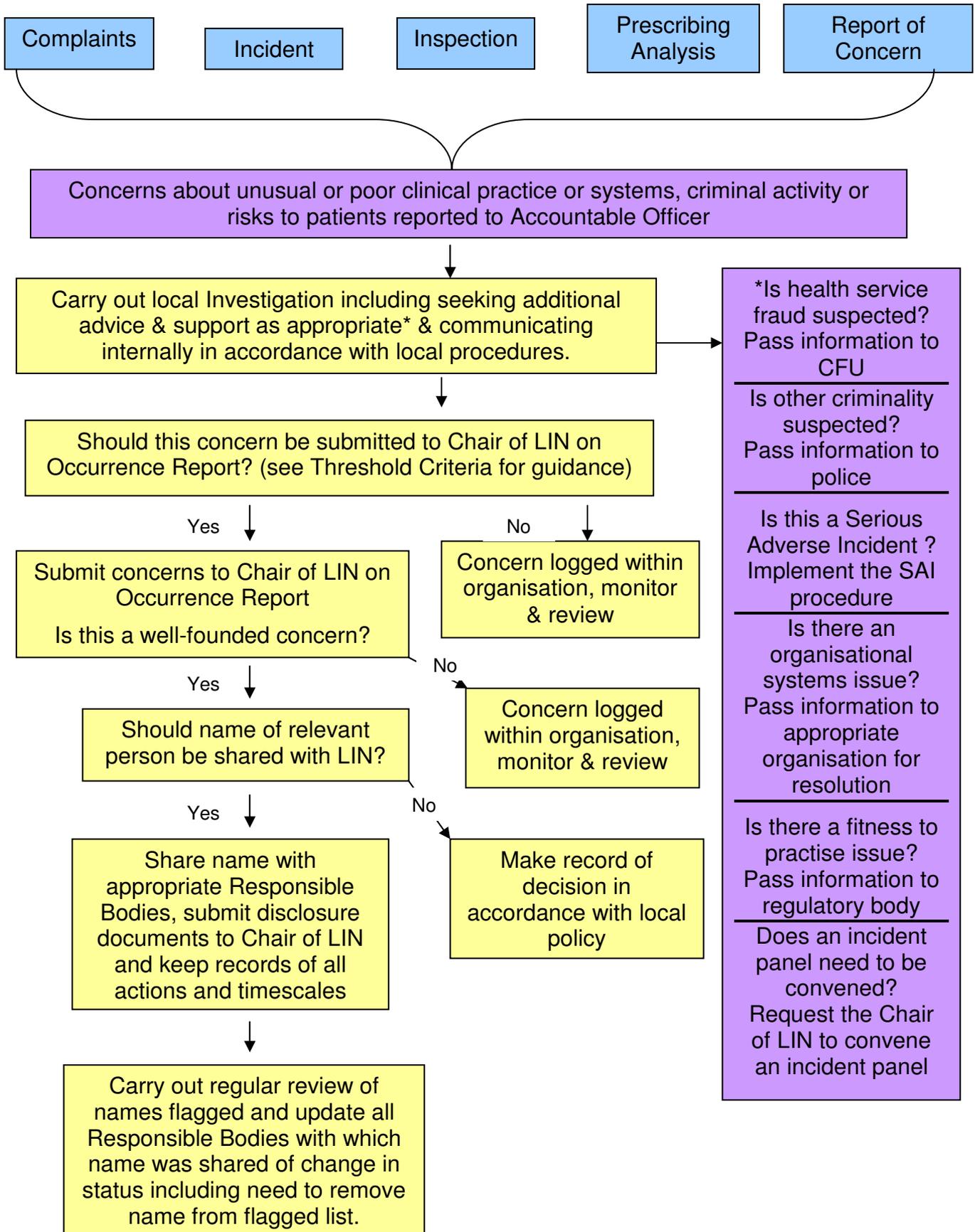
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<sup>9</sup> <http://www.dhsspsni.gov.uk/index/gmgr/gmgr-disposal-schedule/gmgr-schedule-m.htm>

Learning points following investigations should be shared with other responsible bodies at the LIN. All Learning Points will be assessed for regional application and those that meet the criteria will be forwarded to the Chair of the Medicines Safety Sub-Group for consideration and dissemination as appropriate by that group. Where learning points are applicable to other administrations, these should be shared through the Cross Border Group.

It is understood that reports containing information about the storage and movement of controlled drugs should not normally be disclosable under Freedom of Information legislation as they could aid criminal activity and so would come within the "law enforcement" exemption. However, each individual request under the FOI Act must be reviewed to determine whether this or any other exemption is applicable.

## Managing and sharing CD Concerns



## **Guidance on threshold criteria for reporting concerns on an Occurrence Report**

Regulation 29 of the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 requires all Accountable Officers to submit a quarterly Occurrence Report to the chair of the Local Intelligence Network (LIN).

The legislation however does not prescribe the type of concern or the level of detail that should be included in the Occurrence Report (OR).

This guidance has been prepared following a review of the concerns that have been recorded on ORs relating to the period from 1 October 2009 to 30 April 2010. The purpose of this guidance is to support Accountable Officers in deciding whether a concern should be written in an Occurrence Report and shared at the LIN.

**It must be emphasised that this document is for guidance only and it is for each Accountable Officer to decide whether or not a concern is reported in an OR and subsequently shared at the LIN.**

The Accountable Officer has responsibility within their Designated Body for the safer management and use of controlled drugs which includes reporting concerns. It may be that an Accountable Officer elects to err on the side of caution and reports matters which fall into the "No suspicion at present" and this is their prerogative.

As part of the review of the ORs, it was noted that some concerns are described with little detail and insufficient information to form a clear understanding of the exact nature of the concern. As Occurrence Reports are now attached to the Minutes, it is important that each OR is comprehensively and unambiguously completed to facilitate other Accountable Officers and Responsible Bodies to understand the concern.

### Three categories of concern have been developed

- No suspicion at present
- Suspicion - not confirmed
- Suspicion – confirmed

### No suspicion at present (not reported)

These would be matters that have either been successfully resolved or where incidents have been noted that appear to be one off matters, with no other associated concerns. All incidents in this section should be kept under review by the Accountable Officer, and if further concerns are raised regarding a similar matter, the situation should be reviewed and where appropriate reported in the next quarterly occurrence report.

There may however be important learning points from these incidents which would be useful to other LIN attendees. These learning points should be included on the OR.

### Suspicion - not confirmed (to be reported on OR)

These would be matters where concerns have been raised but the investigation is still ongoing/ the quantities are substantial but no individual has been identified.

### Suspicion – confirmed (to be reported on OR)

These would be matters where concerns have been raised and a individual has been identified following investigation.

### Examples of categories

<b>No suspicion at present (not reported)</b>
Any concern about a controlled drug where, in the opinion of the Accountable Officer, there was no intent on the part of the relevant person to mislead/misuse controlled drugs e.g. a single incident of a nurse independent prescriber prescribing outside her scope of practice, a controlled drug being delivered to the incorrect patient address, failure to record the administration of a controlled drug, incorrect storage of a controlled drug.
Discrepancy of a small quantity of controlled drug in a ward register. One off incident.
Isolated overage/underage of controlled drug liquid where no other concerns or suspicions have been raised.
Loss of CD keys where it is a single occurrence and no other concerns are raised regarding individuals or system weaknesses and the stock is untouched/correct
<b>Suspicion - not confirmed (to be reported on OR)</b>
Missing quantities of controlled drugs on four separate wards where patterns or trends have been noted which give rise to concerns. Investigation ongoing but no definite outcome.
Loss of one box of fentanyl injection where a patient was transferred from hospital to their home and the community pharmacist contacted the hospital the next day to say that the patient had been discharged with insufficient fentanyl injections.
Ordering of controlled drugs by a nurse on a ward requisition over a period of time where the ward does not use the ordered controlled drug. Investigation ongoing as nurse on sick leave.
Any unexplained high use of a controlled drug. Even if usage has reduced, the reduction may be as a result of the concern being brought to the attention of staff members.
<b>Suspicion – confirmed (to be reported on OR)</b>
Where a member of staff had admitted misusing controlled drugs (includes theft and abuse).
Where a member of staff is under supervision or prescribing restrictions in relation to controlled drugs.

## **Appendix 1**

### **Data Protection Act 1998**

One purpose of the Act is to prevent personal information being used for purposes other than that for which it has been collected. Personal data can, however, be shared where an enactment requires or permits disclosure. Regulation 25(8) of the Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 provides a statutory requirement to disclose personal data to certain specified bodies<sup>10</sup> for the safer management of controlled drugs.

### **Human Rights Act 1998**

Under the European Convention of Human Rights, every individual has the right to respect for his private and family life, his home and his correspondence. (Article 8). There should be no interference with this right by a public authority unless it is in accordance with the law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

### **Common Law Duty of Confidentiality**

Patients' personal data are protected by the common law duty of confidentiality. This duty requires that confidential data may only be disclosed:

- with the consent of the individual to whom the information relates; OR
- if it is a legal requirement (eg required by a court order or legislation ); OR
- if it is in the public interest (ie where the public interest in the specific circumstances of a case outweighs the individual's right to privacy).

The common law requires that information may not lawfully be disclosed when given in certain circumstances of confidentiality.

Disclosure may breach confidentiality where the information:-

- has a 'quality of confidence' ie should not already be in the public domain and has sensitivity and value
- is given in circumstances given rise to an 'obligation of confidence' on the part of the person to whom the information has been given eg the clinician
- is used in a way that was not authorised.

The duty of confidentiality is not absolute and should not be a bar to information sharing.

### Principal Exemption

Disclosure can be justified if:-

- the information was not confidential in nature
- the person to whom the duty is owed has consented to the disclosure
- there is an overriding public interest in disclosing
- disclosure is required by a court order or other legal obligation.

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<sup>10</sup> The specified bodies include a Designated Body, Department, RQIA, RBSO, police and a regulatory body.

Information held in confidence can still be disclosed without the individual's consent, where it can be demonstrated that:

- it needs to be shared by law
- it is needed to prevent, detect or prosecute crime
- there is a public interest
- there is a risk of death or harm
- there is a public health interest
- it is in the interests of the person's health
- it is in the interests of the person concerned

### **The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009**

The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 provides Responsible Bodies (as defined in the regulations) with the discretion to co-operate by disclosing information as regards relevant persons (as defined in the regulations).

**This guidance shall be reviewed at least every 2 years.**

**Review Date: September 2015**