

# Escalation Process & Guidance

Management of concerns  
identified during an Invited  
Review.

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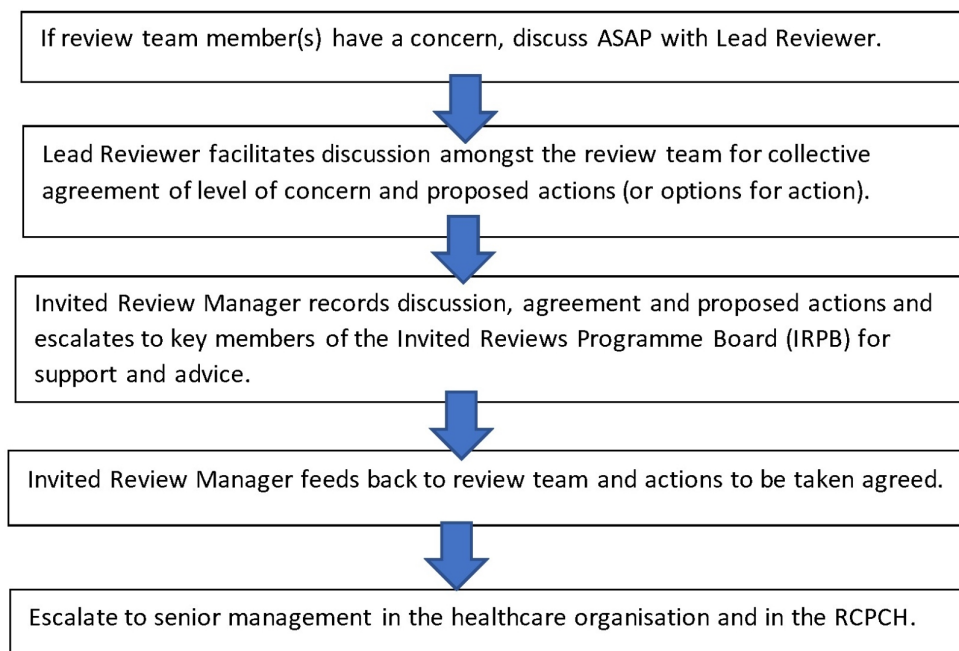
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# 1. Introduction

- 1.1. This document sets out the escalation process and associated guidance for managing concerns identified during a Royal College of Paediatrics and Child Health (RCPCH) invited review. It is designed to assist all members of the Invited Review Team assigned to undertake a RCPCH invited review and, includes potential types of issues which reviewers may encounter during an invited review, outlines responsibilities and provides relevant background information for context.

The diagram below provides a simple overview of the escalation process during a RCPCH invited review if a concern is identified. This diagram provides a context for sections 3, 4, 5 and 6 of this document, which provide more detail and information.



- 1.2. This document is designed to complement other guidance documents published by the RCPCH Invited Reviews Service (IRS), in particular, the *'Information and Guidance Handbook for Reviewers.'* This contains information on the Invited Reviews Programme, its processes and other related matters from the perspective of an invited reviewer, and is available on the Invited Reviewer Hub and on the SharePoint site for the review you are involved in.
- 1.3. The RCPCH in undertaking invited reviews follows the guidance documented in the Academy of Medical Royal Colleges 'Framework of operating principles

for managing invited reviews within healthcare'<sup>1</sup>.

- 1.4. For any questions or queries relating to the content of this document, or any aspect of the RCPCH Invited Reviews Programme, please contact: [invited.reviews@rcpch.ac.uk](mailto:invited.reviews@rcpch.ac.uk).

## 2. Background and context

- 2.1 Invited reviews support healthcare organisations to achieve and sustain the highest standards of health care for children and young people and to improve the safety, effectiveness, and patient experience of clinical services. The invited reviews mechanism is designed to facilitate this and includes specific processes and guidance to support the review team in identifying serious concerns or immediate risk, and in effectively escalating such that appropriate action is taken.
- 2.2 The Invited Reviews Programme Board (IRPB) as part of its governance for RCPCH invited reviews, provides oversight of the escalation process for managing concerns and risks identified during an invited review. Please refer to [section 3.3](#), points 3.3.4 and 3.3.5 for its specific responsibilities.
- 2.3 Healthcare organisation in commissioning the RCPCH to undertake an invited review accepts the terms and conditions set out in the RCPCH '[Process and Guidance Handbook for Healthcare Organisations](#)', which can be found on the RCPCH website. The terms and conditions set out on this handbook include the healthcare organisations specific responsibilities in relation to patient safety, and are mentioned here for context to the escalation process and guidance for reviewers:
- (i) The healthcare organisation commissioning the review remains responsible for patient safety (and any actions required to protect patient safety) within its organisation for the duration of the review process. The RCPCH Invited Reviews Service does not accept any responsibility for patient safety, including the healthcare organisation acting on any of its recommendations to protect patient safety, at any time before, during or after the invited review.
  - (ii) The RCPCH has no statutory authority to require the healthcare organisation commissioning the review to act following an invited review and can only give recommendations and advice, on behalf of the invited review team based upon its findings.
  - (iii) The healthcare organisation commissioning the review is responsible for immediately addressing any urgent patient safety risks identified by the invited review team. It is also responsible for promptly notifying as relevant, the Integrated Care Board (ICB)/other organisation

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<sup>1</sup> 'Framework of operating principles for managing invited reviews within healthcare. Academy of Medical Royal Colleges, March 2022 ([link here](#))

commissioning the service under review, and the appropriate regulator(s) of the findings, recommendations, and proposed action plan in respect of any urgent patient safety risks identified by the review team. If this does not occur within the stipulated time frame, the RCPCH Invited Reviews Service will refer the concerns identified, in confidence, to the appropriate regulator(s). The Chief Executive of the healthcare organisation commissioning the review would be notified if this was being considered.

- (iv) The healthcare organisation is primarily responsible for sharing information about an invited review and the invited review report becomes its property. Once the RCPCH Invited Reviews Service issues the report to the healthcare organisation which commissioned the review, it becomes the property of that healthcare organisation, which is then primarily responsible for sharing information about the review. This should include: its staff involved in the review, the Integrated Care Board (ICB)/other organisation commissioning the service under review and its regulator.

## 3. Escalation process: responsibilities

### 3.1. The Review Team

3.1.1 Clinical reviewers (including those undertaking a quality assurance role) as registrants of a professional regulatory body, have a professional duty to take prompt action if they believe patient safety is compromised. Where the concern is of a clinical nature, the reviewers' professional opinion will be critical in guiding the review team on the nature and scope of the concern, and the actions that may be necessary to safeguard those who are or may not be affected by the concern and the timeframe for those actions.

3.1.2 All members of the reviewer team have a responsibility to notify the Invited Review Manager and Lead Reviewer at the earliest opportunity during the review process if they identify a serious concern or immediate risk, particularly if they consider that patient safety has, or might be, affected.

**Note:** *it may be necessary for the Invited Review Manager to seek further guidance from the Head of Invited Reviews, the Director of Research & Quality Improvement, and a member of the Invited Reviews Programme Board<sup>2</sup>.*

3.1.3 All members of the reviewer team have a responsibility to notify the Invited Review Manager and Lead Reviewer at the earliest opportunity during the review process if they identify a safeguarding disclosure or similar concern. This will be escalated to the healthcare organisation's designated Safeguarding Lead in line with standard internal procedures.

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<sup>2</sup> This will normally be the Chair of the Invited Reviews Programme Board (IRPB), Vice Chair of the IRPB or Invited Reviews Clinical Lead.

## 3.2. The Invited Review Manager

3.2.1 The Invited Review Manager assigned to the review is responsible for ensuring that the escalation process is enacted if required during a review, and, in circumstances where it is enacted:

- (i) Supporting the review team and facilitating discussion in considering serious concerns and immediate risks and to collectively agree actions.
- (ii) Working in partnership with the Lead Reviewer to coordinate communications and agreed actions.
- (iii) Documenting key discussions, actions, findings, and recommendations.
- (iv) Keeping their line manager, the healthcare organisation and the review team apprised of key developments.

3.2.2 The Invited Review Manager [with support, and guidance from the Head of Invited Reviews, Director of Research & Quality Improvement and/or a member of the Invited Reviews Programme Board (IRPB)<sup>3</sup>] is responsible for:

- (i) Briefing, as required, the IRPB, RCPCH President, RCPCH Chief Executive, and other RCPCH Staff, including the Senior Management Team, Governance and Communications Teams.
- (ii) Ongoing communication with the review team, including consultation and agreement regarding communication with the healthcare organisation and other organisations if required.
- (iii) Ongoing communication with the healthcare organisation, including, where relevant:
  - Concerns identified by the review team, required actions and recommendations, including timeframes.
  - Following up to monitor progress of actions taken.

## 3.3. Shared and other responsibilities

3.3.1 The Lead Reviewer and Invited Review Manager are responsible for facilitating discussion amongst the review team about any concerns identified, utilising the process outlined in figure 1 below.

3.3.2 The Lead Reviewer and Invited Review Manager are responsible for escalating a serious concern or immediate risk identified to the healthcare organisation and in [parallel, to designated RCPCH staff/representatives.

3.3.3 The Head of Invited Reviews and Director of Research and Quality Improvement in circumstances where Immediate risk(s) is/are identified are responsible for supporting the Invited Review Manager in following the escalation process.

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<sup>3</sup> This will normally be the Chair of the Invited Reviews Programme Board (IRPB), Vice Chair of the IRPB or Invited Reviews Clinical Lead.

- 3.3.4 A clinical member of the Invited Reviews Programme Board<sup>4</sup> in circumstances where immediate risk(s) is/are identified, is responsible for supporting and advising the Lead Reviewer and Invited Review Manager on clinical matters in respect of the escalation process.
- 3.3.5 The Invited Reviews Programme Board's overall purpose and remit includes responsibilities in relation to risk and escalating and managing serious and immediate concerns. In particular:
- (i) Identifying and managing risks within the programme including specific areas of responsibility within an agreed risk register, management framework and escalation policy.
  - (ii) Overseeing the evidence provided by healthcare organisations that any concerns raised have been addressed, to agree thresholds and criteria for referral of concerns to regulatory authorities and information sharing arrangements with them.

## 4. Identifying and assessing concerns

Concerns may be identified by the review team at any stage of the review process. The information in this section is provided to assist reviewers in fulfilling their responsibilities outlined in [section 4.1](#).

### 4.1. Categories of concern

Category	Definition(s)
<b>Concern</b>	An issue that affects the delivery or the quality of the service but <b>does not require immediate action</b> and which can be addressed through the HCOs work programmes. It would usually be listed as a concern or recommendation in the report.
<b>Serious concern</b>	An issue which, while not presenting an immediate risk to patient or staff safety, could seriously compromise the quality or outcome of patient care and <b>requires urgent action to resolve.</b>  <i><b>Note:</b> Multiple serious Concerns in a service might indicate overarching issues and a need for escalation to 'Immediate Risk.'</i>  Examples of serious concerns can be found in <a href="#">Appendix 1</a> .
<b>Immediate risk</b>	Indicates that patients or staff might face <b>imminent danger</b> or that there might be breaches of human rights.  Examples of immediate risks can be found in <a href="#">Appendix 1</a> .

<sup>4</sup> This will normally be the Chair of the Invited Reviews Programme Board (IRPB), Vice Chair of the IRPB or Invited Reviews Clinical Lead.

## 4.2. Assessing concerns

4.2.1 Consideration of the following can be helpful when concern(s), serious concern(s) or immediate risk(s) is/are identified, including:

- (i) It/they may be identified prior to the review visit during review team discussions about the information provided by the healthcare organisation commissioning the review.
- (ii) It/they may or may not relate to the care provided to an individual patient may relate to the care provided to a range of patients which, only when considered together raise an immediate risk about practice or processes.
- (iii) It/they may or may not relate to the service(s) under review and, instead be in relation to the performance, health or conduct of an individual or group, or, in relation to wider service provision, culture, or organisational systems of resources.
- (iv) It/they may or may not necessarily mean that the service and/or an individual's overall performance falls below the standard reasonably expected.
- (v) It/they may prompt the need for urgent advice, follow up and/or patient recall to help safeguard those who are or may be affected by the concern.
- (vi) Judgement of whether a concern (of any type) has arisen will depend on the specific circumstances of each case and discussion amongst the review team will help collective judgement and decisions to be made.
- (vii) "It can often be very challenging and demanding for those working in healthcare to raise concerns about patient care." The approach underpinning invited reviews "support those involved in providing patient care to speak openly about problems and enables concerns to be raised and addressed in a safe space."<sup>5</sup> Please also see section regarding the principles of confidentiality regarding what is reported to the review team during an invited review.

**Note:** [Appendix 3](#) outlines information on whistleblowing (England, Wales and Scotland)

4.2.2 Discussion of concerns amongst the review team enables different factors, and the specific circumstances to be taken into account, and can help to identify further questions to be asked to ascertain the impact, likelihood of occurrence and if any action has been taken to remedy or mitigate the risk.

The risk-scoring matrix shown below in **Figure 1** can help to categorise the level of concern.

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<sup>5</sup> Principle 9 of the 'framework of operating principles for managing invited reviews within healthcare. Academy of Medical Royal Colleges, March 2022 ([link here](#))



**Figure 1.** Identification of level of concern

Likelihood	Consequence				
	1: Insignificant Reduced quality of patient care	2: Minor Unsatisfactory quality of care	3: Moderate Mismanagement of patient care	4: Major Minor injury to patient or staff	5: Catastrophic Fatal/major injury to patient of staff
1: Rare	1	2	3	4	5
2: Unlikely	2	4	6	8	10
3: Possible	3	6	9	12	15
4: Likely	4	8	12	16	20
5: Almost certain	5	10	15	20	25

Concerns	Serious concerns	Immediate risk
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Please see [Appendix 1](#) for some examples of serious concerns and immediate risks and the flow chart at [Appendix 2](#) to support decision-making regarding level of concern and action.

## 5. Recording concerns

- 5.1 All serious concerns or immediate risks raised during reviews will be recorded and logged appropriately by the Invited Review Manager. This information, if falls within the ToR for the review may be included in the report and to facilitate reporting to the Invited Reviews Programme Board. The reporting of such concerns and risks furthermore aids reporting to the IRPB. The notes made by reviewers will enable them to contribute to these processes.
- 5.2 All documentation will be kept in line with the Invited Reviews data retention policy (available upon request).
- 5.3 The expectations and requirements for reviewers regarding their storing and retention of all notes and evidence relating to reviews are set out in Section 12 (Confidentiality, information handling and deletion) of the 'Information and Guidance Handbook for reviewers', specifically at points 12.1.5 to 12.1.7. This information and guidance is applicable to notes made and evidence gathered in relation to immediate risk, serious concerns and concerns. The handbook can be found on the Invited Reviews Reviewer Hub and the SharePoint site for the review in question.

## 6. How the identification and assessment of concerns fit in with the invited review processes during and after the visit.

The flow chart at [Appendix 2](#) provides an overview of actions to be taken following identification and assessment of concerns. The points below provide the context within the review visit and afterwards.

- 6.1 Should an **immediate risk** be identified during a review visit which indicates that patients or staff might face imminent danger or that there might be breaches of human rights, such that the potential impact is serious to the extent that it would be likely to result in an investigation, it is likely that the review will be adjourned. If this situation were to arise, the escalation process outlined in this document is followed.
- 6.2 At the conclusion of the review visit, taking into account the actions summarised in the three boxes in [Appendix 2](#) ('immediate risk,' 'serious concern,' 'concern'), the following takes place:
  - 6.2.1 The Review Manager and Lead Reviewer provide brief initial feedback verbally to the Medical/Nursing Director, Chief Executive and other agreed representatives. This includes:
    - (i) Advising of any immediate patient safety concerns, serious concerns about the service or in respect of staff health and well-being.
    - (ii) Highlight areas of good practice identified.
    - (iii) Advising of any issues raised which fall outside of the TOR, which the Review Team consider raise significant concerns in relation to patient safety and/or the health, well-being, conduct or probity of healthcare organisation staff involved in the review.
  - 6.2.2 The Invited Review Manager/Lead Reviewer will, on behalf of the review team verbally advise the Medical or Nursing Director/Chief Executive of the healthcare organisation of any issues which arose during the review in relation to patient safety and/or the health, well-being, conduct or probity of healthcare organisation staff involved in the review, which are outside of the Terms of Reference. This is justified on the basis of the responsibilities of the clinical reviewers as registered healthcare practitioners. Where appropriate, the review team may make recommendations for further investigation and/or action. This information will be provided in writing as a letter (separate to the letter referred to above) from the Chair of the Invited Reviews Programme Board, on behalf of the review team, once they have confirmed its contents accurately reflect the feedback given

verbally. It may be necessary and appropriate to request a response from the Medical or Nursing Director/Chief Executive.

**Notes:** *Regarding 6.2.1 and 6.2.2 above*

- (i) Care should be taken regarding who in the healthcare organisation is to be advised of the concerns identified by the review team. Whilst concerns are normally fed back to the Medical/Nursing Director and/or Chief Executive of the healthcare organisation, consideration may need to be given depending on if any individuals are referenced in the context of the concerns raised.
- (ii) Principle 9 of the 'framework of operating principles for managing invited reviews within healthcare<sup>6</sup>,' advises that whilst *"as far as possible, the invited review report will be written in such a way as to avoid identifying individuals. Instead, themes raised from the invited review against the agreed terms of reference will be highlighted,"* it adds that *"there are limits to the confidentiality afforded, for example where an interviewee brings immediate and unresolved patient safety risks to the attention of the review team, or where there are concerns raised about the safety of individual staff. Such instances will be highlighted to the Medical Director or Chief Executive of the healthcare organisation for action. While efforts will be made for this to be anonymised wherever possible there may be exceptional cases where this may not be practical, depending on the circumstances involved and the review team members' responsibility to their professional codes of practice."*
- (iii) The feedback provided verbally at the conclusion of the review is provided in writing as a letter to the Medical/Nursing Director and/or Chief Executive from the Chair of the Invited Reviews Programme Board, on behalf of the review team. Working with the RCPCH Registrar and/or Clinical Lead for Invited Reviews. This letter is normally provided within seven working days after the conclusion of the review once the review team have confirmed its contents accurately reflect the feedback given verbally. If this includes any serious concerns and/or immediate risks identified by the review team, a response will be requested within an agreed stipulated time frame.

6.3 The Invited Review Manager will monitor identified serious concerns and/or immediate risks requiring remedial action to be taken by the healthcare organisation and record updates it provides. This will be communicated to the Head of Invited Reviews, the Director of Research & Quality Improvement and the IRPB.

6.4 If the RCPCH undertakes to refer its findings to the regulator/ICB/organisation commissioning the service under review [as in section 2.3 (iii) above], the Invited Reviews Service will continue to engage with the healthcare

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<sup>6</sup> A 'framework of operating principles for managing invited reviews within healthcare. Academy of Medical Royal Colleges, March 2022 ([link here](#))

organisation to provide support as appropriate. If the review was adjourned, it may or may not be appropriate to continue the review at a later stage, or the review team may produce a summary report based on findings gathered up to the point at which the review was suspended. The case will be reviewed by the Head of Invited Reviews, Director of Research & Quality Improvement, and the IRPB on a fortnightly basis. Any decision to re-start the review process will also involve the Chief Executive and President.

- 6.5 **The invited review report** once collectively agreed by all members of the review team, and it has been through the quality assurance process, is issued to the healthcare organisation. It will include any concerns, serious concerns and immediate risks identified by the review team and raised previously with the healthcare organisation along with any recommendations previously made. It will also document any actions taken to date taken by the healthcare organisation, which it has made the RCPCH aware of. Any concerns raised previously with the healthcare organisation which fall outside of the ToR are not included in the report but are followed up where required separately.
- 6.6 The RCPCH Invited Reviews Service will continue to follow up with the healthcare organisation at intervals agreed with the review team to request updates taken on the recommendations made. This will include continuing to address, where relevant any concerns, serious concerns and immediate risks identified during the review. The updates received will be shared with the review team and its collective feedback provided to the healthcare organisation by the Invited Review Manager.
- 6.7 If during the invited review or follow-up period, the RCPCH and invited review team will consider that the action(s) taken in response to concerns raised or recommendations made is/are inadequate to mitigate safety concerns, the IRPB reserves the right in the public interest, but still in confidence, to authorise further action which may include reporting the findings directly to the appropriate regulatory or commissioning authority. The Chief Executive of the HCO would always be notified if this course of action was being considered.

# Appendix 1: Framework for considering concerns and risks

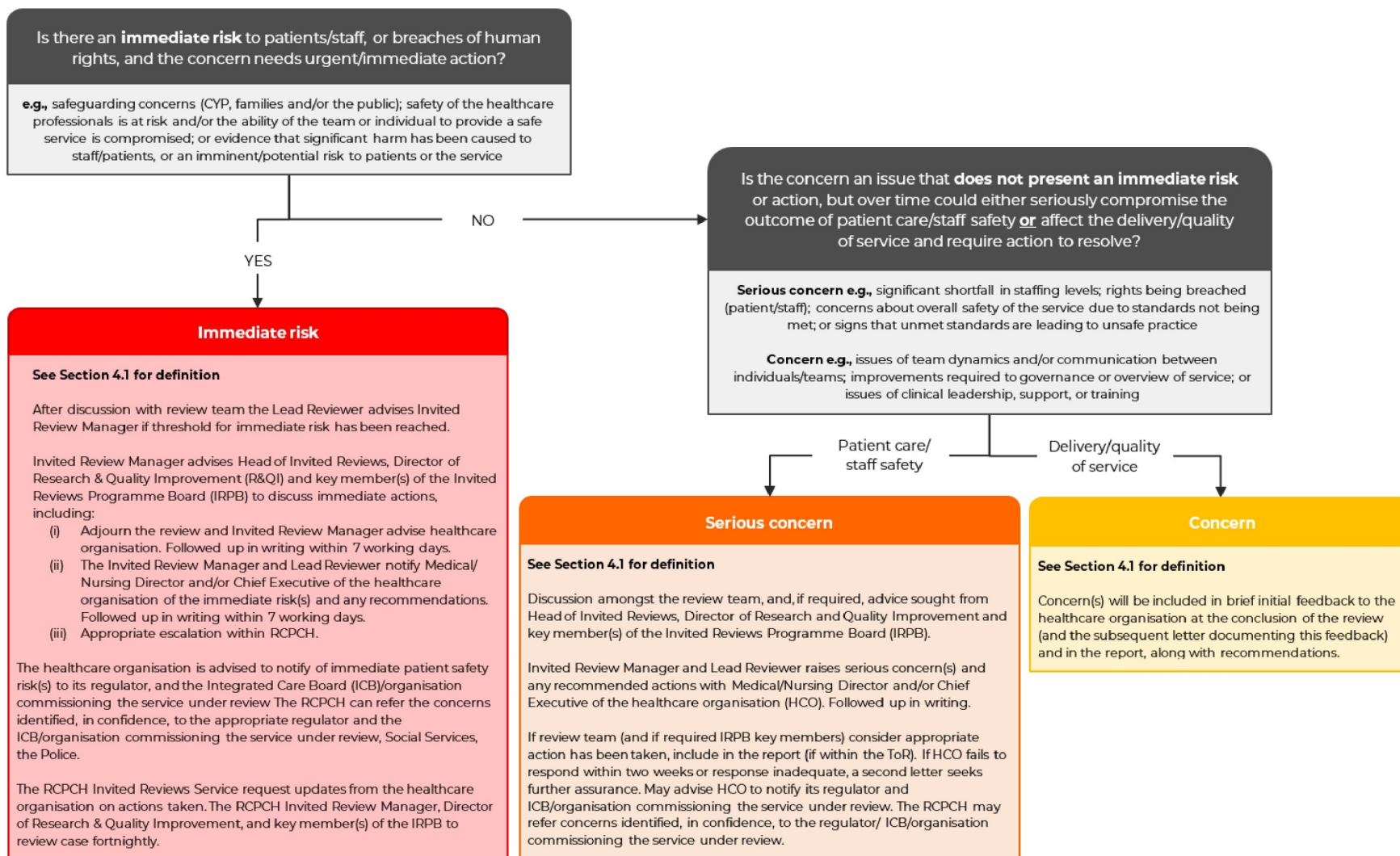
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5: Almost certain	5	10	15	20	25

Concerns	Serious concerns	Immediate risk
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Examples of Serious Concern issues	
Issues	Examples
Significant shortfall in staffing levels	Gaps in provision of core team functions mean lack of access for patients
Signs that patient rights are being breached	Parents feedback indicates that they are not included in their child's treatment decisions
Signs that staff rights are being breached	Staff feedback that some team members are experiencing bullying behaviour
Signs that a group of unmet standards are leading to potentially unsafe practice	Staffing issues indicate that certain staff members are covering the shortfall within the team by doing jobs above and beyond their banding

Examples of Immediate Risk issues	
Issues	Examples
Significant safeguarding concerns	Concerns about the safety of patients and quality of safeguarding awareness/action
Serious concerns about a member of staff's fitness to practise	A member of the review team considers that a member of staff is not fit to practise
Concerns about the safety of an individual	A staff member has alluded to being at risk of suicide due to stress
Patient safety is at risk	Staff shortages within the service mean that the level of treatment provided to patients presents an immediate risk to their health

# Appendix 2: Identifying level of concern and action



# Appendix 3: Whistleblowing (England, Wales, and Scotland<sup>7</sup>)

## Jurisdictions

This Section focusses on the law as it applies in England, Wales and Scotland, where the applicable legislation relating to whistleblowing is the Public Interest Disclosure Act 1998 and the Employment Rights Act 1996. Guidance from the UK Government covers these jurisdictions only.<sup>8</sup>

In Northern Ireland, the applicable legislation is the Public Interest Disclosure (Northern Ireland) Order 1998 and the Employment Rights (Northern Ireland) Order 1996 (as amended). Protected disclosures are covered in articles 67A – 67L of the Employment Rights (Northern Ireland) Order 1996. Guidance in relation to Northern Ireland can be found on the website of NI Direct<sup>9</sup>. [Section 8.8](#) provides high-level guidance for the position in Northern Ireland.

## What is whistleblowing?

Whistleblowing is the term used when someone who works for an employer raises a concern about certain types of wrongdoing. This would usually, although not always, relate to something observed at work. The disclosure must be in the public interest.

## What counts as whistleblowing?

There are very specific criteria that need to be met for an individual to be covered by whistleblowing law when they raise a concern (to be able to claim the protection that accompanies it), but broadly speaking this includes concerns involving where the individual has a reasonable belief that:

- a criminal offence, for example fraud
- someone's health and safety is in danger (e.g., the safety of patients or people who use services, the failure of a provider to comply with national standards of quality and safety)
- a risk or actual damage to the environment
- a miscarriage of justice has occurred
- the organisation breaking the law (e.g., does not have the right insurance)
- suspicion or evidence someone is covering up wrongdoing.

In each case, it is not necessary for someone to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The wrongdoing can be past, present, prospective or merely alleged, provided there is reasonable belief.

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<sup>7</sup> Northern Ireland has a separate whistleblowing process, which is covered in detail online so not duplicated here. See [www.nidirect.gov.uk/articles/blowing-whistle-workplace-wrongdoing](http://www.nidirect.gov.uk/articles/blowing-whistle-workplace-wrongdoing)

<sup>8</sup> MyGov.Scot: <https://www.mygov.scot/whistleblowing>; Gov.UK: <https://www.gov.uk/whistleblowing>

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## What does not count as whistleblowing?

Whistleblowing is different from a complaint or a grievance and usually refers to situations where a worker raises a concern about something they have witnessed at their workplace.

People who use services, their relatives or representatives, or others, can make complaints about a service using the service's complaints procedure. This is not whistleblowing. The Patient Advice and Liaison Service (PALS)<sup>10</sup> can help patients and families make a complaint.

Personal grievances (e.g., bullying, harassment, discrimination) are not covered by whistleblowing law, unless the case is in the public interest. Good employment practice includes providing a grievance procedure for staff to use in respect of their employment rights and conditions of service. Staff should be encouraged to follow the process set out in the organisation's grievance process<sup>11</sup>, or failing that support can be provided by the Advisory, Conciliation and Arbitration Service (ACAS)<sup>12</sup>.

## Where should whistleblowing concerns be raised?

Ideally and in the first instance, such concerns should be dealt with by the employer. However, if the management have not dealt with those concerns by responding appropriately to them, perhaps by using the employer's own whistleblowing policy, or the worker does not feel confident that the management will deal with those concerns properly, they can instead make a disclosure to a 'prescribed body'. It is worth noting that most regulators, including the Care Quality Commission (CQC), are prescribed bodies. Workers should, in the first instance, review their employer's whistleblowing policy, which is likely to include an escalation procedure and information about which prescribed body to blow the whistle to. There may also be details about a whistleblowing hotlines.

If a worker is concerned that vulnerable adults or children using a service are not being cared for in a way that keeps them safe, they can **also** raise their concern with the local authority (local council) under their safeguarding procedures. They can do this **as well** as whistleblowing to a 'prescribed body' or another body such as the police.

## Legal protections for whistle-blowers

In order to be protected by law, the whistleblowing complaint must meet a specific set of criteria<sup>13</sup> and must either be made to the organisation it relates to, or to a 'prescribed body'

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<sup>10</sup> What is PALS (Patient Advice and Liaison Service)? <https://www.nhs.uk/common-health-questions/nhs-services-and-treatments/what-is-pals-patient-advice-and-liaison-service/>

<sup>11</sup> Solve a workplace dispute <https://www.gov.uk/solve-workplace-dispute>

<sup>12</sup> Pay and work rights helpline and complaints <https://www.gov.uk/pay-and-work-rights>

<sup>13</sup> Whistleblowing: Guidance for providers who are registered with the Care Quality Commission (see section 13 and appendix) <https://speakup.direct/assets/Uploads/20131107-100495-v5-00-whistleblowing-guidance-for-providers-registered-with-cqc.pdf>; see also: <https://www.gov.uk/whistleblowing> for more general guidance on whistleblowing for employees.



as set out in national guidance<sup>14</sup>. RCPCH is not a 'prescribed body'; as such, anyone making a complaint will not receive these protections and must be made aware of this.

The Public Interest Disclosure Act 1998 (PIDA)<sup>15</sup> provides protection for workers reporting malpractices by their employers or third parties against victimisation or dismissal.

## Response to someone wanting to blow the whistle

If someone tells us explicitly, they would like to 'blow the whistle' at any point during the review process, it is important to first advise them that the RCPCH and the Invited Reviews Programme is not a 'prescribed body' and therefore legal protections to whistle-blowers will not apply.

If the Review Team are uncertain whether someone is/wants to blow the whistle, reviewers are encouraged to ask this directly. Reviewers should note that there is provision for wider disclosure protection (in limited circumstances), which should be considered if someone does seek to blow the whistle. In such circumstances legal advice should be sought by RCPCH as to whether the wider disclosure provisions may apply in the relevant circumstances.

Whilst unable to provide guidance, advice or recommendations to any individual or group as to whether they should blow the whistle or not, we can signpost to services who can support people to make these choices (see [Support and advice for whistle-blowers](#)).

If they wish to proceed and share their concerns, the reviewer(s) should reiterate the extent of the confidentiality that can be guaranteed through the Invited Reviews programme and explain prior to the disclosure being made what they will do with the information shared (in line with this escalation policy). See Section 12 in the '[Process and Guidance Handbook for Healthcare Organisations](#)', which can be found on the RCPCH website, for further information on confidentiality.

Whether someone does wish to share their concerns or not, reviewers would usually be expected to explore with the individual what attempts they have already made to raise these concerns within the organisation, or to a 'prescribed body'. It may also be helpful to consider any perceived barriers to reporting concerns, which should be reported through the review process.

## Northern Ireland

To be protected, the disclosure made must be a 'qualifying disclosure', which is defined as any disclosure of information which, in the reasonable belief of the worker making the disclosure, is made in the public interest and tends to show one or more of the following:

- a criminal offence has been committed, is being committed or is likely to be committed

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<sup>14</sup> Blowing the whistle to a prescribed person: List of prescribed persons and bodies <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>

<sup>15</sup> Public Interest Disclosure Act 1998 [www.legislation.gov.uk/ukpga/1998/23/contents](http://www.legislation.gov.uk/ukpga/1998/23/contents)

- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject
- a miscarriage of justice has occurred, is occurring or is likely to occur;
- the health or safety of any individual has been, is being or is likely to be endangered
- the environment has been, is being or is likely to be damaged, or
- information tending to show any matter falling within any one of the preceding points has been, is being or is likely to be deliberately concealed.<sup>16</sup>

To be protected disclosures must be made to a 'prescribed person'<sup>17</sup> or through the correct process set out by the worker's employer. RCPCH should follow the position set out above if someone covered under the law of Northern Ireland seeks to blow the whistle.

The NI Direct website sets out (in detail) whistleblowing guidance applicable to Northern Ireland and so it has not been reproduced here<sup>18</sup>.

## Support and advice

Individuals may wish to seek advice prior to blowing the whistle, and to determine whether they meet the criteria for legal protection.

There are several support and advice avenues to consider, including:

- Speak Up Helpline: 08000 724 725 (see also <https://speakup.direct/for-employees/>) – England and Wales only
- GMC Confidential Helpline: 0161 923 6399 (see also <http://www.bma.org.uk/advice-and-support/complaints-and-concerns/raising-concerns-and-whistleblowing/raising-a-concern-guide-for-doctors>)
- Nursing and Midwifery Council general enquiries and fitness to practise: 020 7637 7181 (see also <http://www.nmc.org.uk/standards/guidance/raising-concerns-guidance-for-nurses-and-midwives/whistleblowing/>)
- Health and Care Professionals Council general enquires: 0845 500 6184 (see also <http://www.hcpc-uk.org/news-and-events/news/2019/we-have-launched-our-new-whistleblowing-policy/>)
- NHS Confidential Advice and Information Line (Scotland): <https://www.gov.scot/collections/nhs-confidential-advice-and-information-line/>
- Public Interest Disclosure Guidance (NI): <https://www.economy-ni.gov.uk/publications/public-interest-disclosure-guidance>
- Labour Relations Agency (NI): <https://www.nidirect.gov.uk/contacts/contacts-a-labour-relations-agency>

## Further reading

<sup>16</sup> Employment Rights (Northern Ireland) Order 1996/1919 art. 67B Disclosures qualifying for protection.

<sup>17</sup> For a list of prescribed persons in Northern Ireland, please see latest guidance available here: <https://www.nidirect.gov.uk/articles/blowing-whistle-workplace-wrongdoing>

<sup>18</sup> Please see: <https://www.nidirect.gov.uk/articles/blowing-whistle-workplace-wrongdoing>

- Blowing the whistle to a prescribed person: List of prescribed persons and bodies (<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>)
- Raising a concern: Guide for doctors (<http://www.bma.org.uk/advice-and-support/complaints-and-concerns/raising-concerns-and-whistleblowing/raising-a-concern-guide-for-doctors>)
- Whistleblowing for employees (<http://www.gov.uk/whistleblowing>)
- Whistleblowing: Guidance for providers who are registered with the Care Quality Commission (<https://www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff>)