



# Whistle down the wind



Chris Dean discusses the new GDC Guidelines encouraging dental professionals to expose each other's errors.

Whistle blowing regarding the health, behaviour or professional performance of colleagues is perhaps one of the most difficult aspects of the new General Dental Council standards to put into practice. Dentistry has traditionally had a strong sense of professional confraternity, with the overwhelming majority of dentists being male and forming a homogenous social and ethnic group.

The protection of the profession and its role, values and position in society was pre-eminent in the past, and gave purpose and shape to the life of the working dentist. This was reflected in the prominence afforded within *Maintaining standards*, the now superseded GDC guidance to dentists on professional and personal conduct.

*Maintaining standards* clarified the position to any dentist who was considering how to act in a matter that could reflect badly on dentists or dentistry if publicised. The directive against undermining confidence in the profession was explicitly coupled with the penalty of serious professional misconduct.

Although the historical GDC guidance did entreat dentists to ensure that 'the safety of patients must come first at all times', and that this 'should over-ride personal and professional loyalties', many dentists noted the subjunctive tense used in relation to balancing of ethics between patient protection and protection of the profession. They also noted the potential professional jeopardy to themselves of 'undermining public confidence'.

The combination of their own feelings of loyalty towards their fellow white, middle-class, male colleagues and the spectre of being judged by their peers to have undermined the very thing that gave value to their lives, ensured that dentists did not act to protect patients by whistle blowing.

## Raising concerns

The new guidance from the GDC radically shifts the regulatory balance in this area, at the same time as the social, ethnic and gender make-up of the dental profession itself is changing dramatically. Additionally and crucially, the GDC is bringing under its wing all dental care professionals (DCPs). This large group of dental professionals encompasses hygienists, therapists, nurses, technicians, clinical technicians and orthodontic therapists, all of whom will be subject to, and bound to act in accordance with, the GDC's regulatory guidance.

The new guidance, *Principles of raising concerns*, makes it absolutely clear that the primary aim of all dental professionals is to put patients' interests first and to act to protect them. It is explicit that the GDC required dentists and DCP's to ensure that patients' interests now over-ride personal and professional loyalties. In section s2.5 there is a clear link made between any failure by a registered dental professional to raise a concern about the health, behaviour or professional performance of others, and the registration of the individual who could raise a concern but does not. Put simply, if any dental professional does not blow the whistle on an employee or colleague, then the non-whistling

individual's registration, and therefore livelihood will be at risk.

### **When must the whistle be blown?**

The GDC indicates that concern must be raised if patients are at risk because of a colleague's or employer's health, behaviour or professional performance, any aspect of the clinical environment, or if the dental professional has been asked to act in a way incompatible with putting patient's interest first.

The GDC makes it clear that concerns must be raised early, the person raising the concern does not have to establish that the concern is proven, and if there is any uncertainty about whether a concern should be raised, the advice of the council, at s5.2 is unequivocal – 'If in doubt always raise the concern'.

### **Who to tell**

The guidance points towards local clinical governance or poor performance schemes, such as Practitioner Advice and Support Schemes for dentists, where there are no immediate risks to public safety.

There are alternative routes for more serious concerns to be directed to the dental professional's employer or manager (but not if that individual is the source of the concern) and then to the local primary care organization or NHS hospital trust.

A concern should be taken direct to the GDC if action at a local level is not practical, if local action has failed, if the problem is 'so severe that we clearly need to be involved' or if there is a genuine fear of 'victimisation' or cover-up. The latter category is particularly interesting as it may be assumed that this is a subjective test, in other words, that it is enough for the concern raiser to have a genuine fear of victimization for this criterion to be fulfilled. The GDC has used the expression 'victimisation' instead of the expression 'detrimental action' which is the expression used in the legislation.

It is helpful to note that, whereas the GDC leaves 'victimisation' undefined, the relevant legislation does provide some examples of 'detrimental action' – denial of promotion or facilities, or the withdrawal or denial of training opportunities. In those

terms it may be perceived that it would be quite reasonable for any employee to have a fear of victimization/detrimental action on the part of an employer if he or she makes a complaint about an employer. In my opinion, therefore, it is likely that concerns of employed dental nurses about their employing dentist, for example, will be raised directly with the GDC, rather than to any other body.

### **Protection**

The GDC points towards the Public Interests Disclosure Act 1998, (PIDA) as providing protection to all employed dental professionals and to self-employed dental professional contracted to administer NHS services. The ambit of the protection is summarized within the *Principles of raising concerns* at s4.

The PIDA states that where an employee has suffered 'detriment' and/or dismissal after making a protected disclosure, the worker may present a complaint to an employment tribunal. The employee may be awarded compensation if the case is upheld. The Act specifically applies to NHS dentists but it is unclear how the remedies under the Act provide protection for self-employed contractors in, for example, the position of many dental hygienists.

In order to take advantage of the protection, the whistleblower must have acted in good faith, honestly and reasonably believed information and allegations were substantially true, and not raised concerns for personal gain.

### **The future**

It is immediately evident that the Council's guidance in the form of *Principles of raising concerns* has changed the balance point between protecting the good name of the profession on the one hand and ensuring the protection of the public on the other. At the same time, the GDC is deliberately empowering dental professionals who have traditionally been relatively powerless to protect dental patients. The impact of these two changes will undoubtedly be immense.

The Council is requiring all registered individuals to act as the patient's champions, as the eyes and ears of the GDC, in a way that has not been previously encountered in dentistry.

Dentists, dental nurses and others can no longer be onlookers, standing in the crowd watching other dental professionals putting the interests of patients at risk. As the Council recognises, it is only by ensuring that patients are protected that public confidence in all dental professionals can be maintained.

Initially Published in The Dentist  
September 2006.