A “dedicated and hardworking” nurse who blew the whistle about patient safety has won more than £80,000 in compensation after she was unfairly targeted for speaking out by her former employer.

An employment tribunal ruled that Allied Healthcare Group had unfairly dismissed Elaine Fernandez and subjected her to poor treatment, when she raised concerns about service changes affecting the care of a patient.

“When you are not listened to about patient safety concerns it is really hard and you feel a sense of despair”

Elaine Fernandez

The tribunal ruled the company – which provides domiciliary care across the UK – viewed Ms Fernandez as a “troublemaker” and a threat to its commercial interests.

Ms Fernandez was working 48 hours a week for the company in Aberporth in Wales, as part of a team of nurses and healthcare assistants which had been caring for a disabled patient since 2009.

In October 2011 Hywel Dda Health Board, which commissioned the service, made plans to change the care package so that all registered nurses were replaced with healthcare assistants.

Ms Fernandez was concerned about the dilution of skill mix and sent a confidential email to the health board in October 2011 raising concerns that the HCAs did not have the necessary skills to care for the patient. But this was forwarded only hours later to her managers at Allied who threatened her with disciplinary action the next day.

Ms Fernandez continued to note her concerns in the patient’s logbook, prompting further warnings and threats from the company who at one stage suspended her for not attending a meeting organised while she was on holiday.
On another occasion, managers for the company attempted to encourage the patient’s husband to make a complaint about Ms Fernandez after he had voiced fears to the nurse about his wife’s care. When he refused, they sent her a warning letter anyway claiming he had complained.

Ms Fernandez was eventually removed from the care package in September 2012 and offered no further work, despite vacancies being available.

The tribunal ruled that Ms Fernandez was unfairly dismissed and suffered “detriments” due to her whistleblowing. It said her “sole motive” for speaking out was “to protect the safety and welfare” of her patient and described her as a “dedicated and hardworking nurse”. It ordered Allied to pay her £81,608.

Speaking to Nursing Times, Ms Fernandez said: "Whistleblowing is traumatic, but it’s not something you have a choice about. In my case I knew the patient was at risk from staff who were not properly trained.

“When you are not listened to about patient safety concerns it is really hard and you feel a sense of despair about the whole system,” she said. “The whole experience was traumatic.”

“We have new systems to enable our colleagues to raise concerns of any kind”

Allied Healthcare

Following the case, Allied Healthcare said it had changed its processes for implementing service changes to ensure similar incidents do not happen again.

A spokeswoman for company said: "We have new systems to enable our colleagues to raise concerns of any kind, with new processes and protections that we believe are now the best in the sector. We are confident these will ensure this situation could not reoccur.

She added: “Ultimately in this case both parties wanted to make sure the patient got the right care, however the change process could have been made much clearer. We now spend more time explaining change to our workers and helping them through it.”

The government announced last month that Sir Robert Francis QC is to lead a new review into how whistleblowers are treated in the NHS.

The former chair of the Mid Staffordshire Foundation Trust public inquiry has been asked to consider what further action is necessary to protect NHS workers who speak out in the public interest. It follows calls for a public inquiry into whistleblowing by the campaign group Patients First.
Nursing Times launched the **Speak Out Safely campaign** last March to make it easier for staff to raise legitimate concerns about patient safety. One of our goals is for all trusts to pledge their support for the campaign and add specific protection for staff raising concerns to whistleblowing policies.