

NHS Highland



Meeting: NHS Highland Board
Meeting date: 25 January 2022
Title: Quarterly Whistleblowing Standards Reporting
Responsible Executive/Non-Executive: Fiona Hogg, Director of People & Culture
Report Author: Fiona Hogg, Director of People & Culture

1 Purpose

This is presented to the Committee for:

- Discussion
- Assurance

This report relates to a:

- Legal requirement

This aligns to the following NHS Scotland quality ambition(s):

- Safe
- Effective
- Person Centred

This report relates to the following Corporate Objective(s)

Clinical and Care Excellence <ul style="list-style-type: none"> • Improving health • Keeping you safe • Innovating our care 	X	Partners in Care <ul style="list-style-type: none"> • Working in partnership • Listening and responding • Communicating well 	X X X
A Great Place to Work <ul style="list-style-type: none"> • Growing talent • Leading by example • Being inclusive • Learning from experience • Improving wellbeing 	X X X X X	Safe and Sustainable <ul style="list-style-type: none"> • Protecting our environment • In control • Well run 	X X X

2 Report summaries

2.1 Situation

Attached is the second Quarterly Whistleblowing Standards report for NHS Highland, covering the period 1 July 2021 - 30 September 2021, for review and feedback from the Board. This has been reviewed and updated following presentation to the Staff Governance Committee on 12 January 2022.

2.2 Background

All NHS Scotland organisations are required to follow the National Whistleblowing Principles and Standards with effect from 1 April 2021. Any organisation providing an NHS service should have procedures in place that enable their staff, students, volunteers, and others delivering health services, to access the National Whistleblowing Standards.

As part of these requirements, a report is required to be presented to the Board on a quarterly basis, as per the extract below from the INWO website.

“Monitoring

The number of concerns raised by staff will be reported to a public meeting of the board on a quarterly basis. It is the board’s responsibility to ensure this reporting is on time and accurate. The analysis should highlight issues that may cut across services and those that can inform wider decision-making. Board members should show interest in what this information is saying about issues in service delivery as well as organisational culture. This may mean on occasions that board members challenge the information being presented or seek additional supporting evidence of outcomes and improvements. They should also explore the reasons behind lower than expected numbers of concerns being raised, based on trend analysis and benchmarking data.”

Therefore, NHS Highland will present their monitoring report to the Board on a quarterly basis, following review at the Staff Governance Committee.

2.3 Assessment

The NHS Highland Board plays a critical role in ensuring the Whistleblowing Standards are adhered to in respect of any service delivered on behalf of NHS Highland, including through ensuring quarterly reporting is presented and robust challenge and interrogation of this takes place.

The Guardian Service, as our Whistleblowing Standards confidential contacts carry out the recording and reporting of concerns and possible concerns. Along with the INWO Liaison officer for the Board, Fiona Hogg, the HR Lead, Gaye Boyd and the Whistleblowing Non-Executive Director, Bert Donald, we have compiled the attached report.

It should be noted that as this is only the second period of reporting, and there are only 3 confirmed Whistleblowing Concerns received to date, 2 of which are still being investigated and have not concluded, so it is not possible to include all the detail that will be expected in future reports.

Report Development

We are particularly limited in our ability to report on trends or the outcomes of cases at this time, as a result of small numbers of cases, but this will be built into the report as these cases conclude and additional concerns are investigated.

Ongoing cases

Both active cases are being led by the Interim Chief Officer, Argyll & Bute and being supported and overseen by the Lead Executive, Fiona Hogg. It is important to note that both are complex and rather than a short investigation into a specific situation, are investigating long standing challenges with service design, delivery and management in remote and rural community settings. These have involved multiple stakeholders and significant and ongoing engagement and insights and are making good progress.

The approach that is being taken to these cases will ensure that appropriate learnings are taken by the organisation, which are being acted on as the investigations progresses. The nature of the concerns raised mean that involvement is possible right from the outset, rather than having to wait for the conclusion of the case. There is significant and high level visibility and involvement in the cases across all areas of relevant senior leadership. Once the case is concluded, organisational learnings will be shared across the organisation as well as through the relevant Whistleblowing Standards reports.

Concluded Cases

We had one case which was concluded in Q2. Whilst the complaint was not upheld, did lead to learning recommendations and communication and engagement actions, to ensure colleagues, management and staffside fully understand the systems and processes in place to manage and oversee health and safety and the relative roles and responsibilities within this.

Internal Audit of Implementation of the Standards

During this period, we completed an Internal Audit of the Whistleblowing Standards, to ensure that we understood progress to date and areas of focus for ongoing improvement, which this was reported to Audit Committee in December 2021. The report is attached as Appendix 2 and is a positive report with some agreed actions which we are taking to further improve our systems and processes. These are summarised in the report.

Role of the Whistleblowing Champion

Our Whistleblowing Champion, non-executive director Albert Donald, continues to work with us to promote awareness and understanding of the Whistleblowing Standards and to report back on insights gained from colleagues across the organisation, about their experience working for us. In early November 2021 he visited Oban, Mull, Dunoon and Fort William and in July covered Lochgilphead, Campbeltown, Rothesay and Helensburgh. Further visits across both Highland and Argyll & Bute HSCP areas are planned.

This has been highly valuable and colleagues across the organisation have engaged well with the visits, which has helped our understanding of our strengths and development areas, particularly in our more remote and rural areas.

Our Whistleblowing Standards Implementation Group, chaired by the Deputy Director of People and which our WB Champion is also a member of, continue to meet monthly with a range of internal and external stakeholders to whom the Standards apply. Focus is on increasing awareness of the Standards and promoting them through communication and engagement.

Future reporting timescales

The Q3 report covering the period from October to December will be presented to March 2022 Board. The cycle of reporting is expected to be as follows:

Quarter	Period covered	Staff Governance Committee	Board meeting
Q3 2021/2	1 October - 31 December 2021	9 March 2022	29 March 2022
Q4 2021/2	1 January - 31 March 2022	4 May 2022	24 May 2022
Q1 2022/3	1 April - 30 June 2022	7 September 2022	27 September 2022
Q2 2022/3	1 July - 30 September 2022	9 November 2022	29 November 2022

2.4 Proposed level of Assurance

This report proposes the following level of assurance:

Substantial	<input type="checkbox"/>	Moderate	<input checked="" type="checkbox"/>
Limited	<input type="checkbox"/>	None	<input type="checkbox"/>

This report proposes moderate assurance is taken, progress with the refinement of our processes is making good progress and our audit report was largely positive. Our outstanding cases are substantial and complex but are being taken seriously and we are working with those involved. However, it is recognised that further work is ongoing in order to implement the remaining audit actions and to ensure cases are progressed in a timely manner. This should be complete by end March 2022.

3 Impact Analysis

3.1 Quality/ Patient Care

The Whistleblowing Standards are designed to support timely and appropriate reporting of concerns in relation to Quality and Patient Care and ensure we take action to address and resolve these.

3.2 Workforce

Our workforce has additional protection in place under these standards.

3.3 Financial

The Whistleblowing Standards also offer another route for addressing allegations of a financial nature.

3.4 Risk Assessment/Management

The risks of the implementation have been assessed and included. Consideration is being given to where this would sit on our operational and board level risks.

3.5 Data Protection

No data protection issues identified.

3.6 Equality and Diversity, including health inequalities

No specific impacts

3.7 Other impacts

None

3.8 Communication, involvement, engagement and consultation

Duties to involve and engage external stakeholders are carried out where appropriate:

3.8.1 Route to the Meeting

The report has been reviewed in draft form by Staff Governance Committee and further updates incorporated from their feedback, ahead of this submission to the Board.

2.4 Recommendation

- **Discussion** – Examine the draft report and consider any additional information or revisions that may be appropriate
- **Assurance** – To give confidence of compliance with legislation, policy, and Board objectives

2.5 Appendices

- Appendix 1 – Whistleblowing Report (Quarter 2 - 1 July 2021 to 30 September 2021)
- Appendix 2 - Internal Audit Report - Whistleblowing Standards



Whistleblowing Report
Quarter 2 - 1st July 2021 to 30th Sept 2021

Guardians / Confidential Contacts
Derek McIlroy and Julie McAndrew

INWO Liaison and Lead Executive
Fiona Hogg

Whistleblowing Champion
Albert Donald

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1. Introduction

The National Whistleblowing Standards came into force in Scotland on the 1st April 2021.

The principles have been approved by the Scottish Parliament and underpin how NHS services must approach any concerns which are raised. Every organisation providing a service on behalf of the NHS must follow the standards.

Reports are produced quarterly; this is Quarter 2 (Q2) report. The Quarter 1 report (Q1) provided further detail on legislation, the National Whistleblowing Standards and implementation of these standards in NHS Highland. The Q1 report also provides information on the role of the Confidential Contact.

2. Roles and Responsibilities for National Whistleblowing Standards

Everyone in the organisation has a responsibility under the Standards We have set out the Board level roles and responsibilities, as a reminder, within NHS Highland in respect of the Whistleblowing Standards. The others are set out in the Q1 report.

NHS Highland Board

The Board plays a critical role in ensuring the standards are adhered to.

Leadership – Setting the tone to encourage speaking up and ensuring concerns are addressed appropriately

Monitoring – through ensuring quarterly reporting is presented and robust challenge and interrogation of this

Overseeing access – ensuring HSCP, third party and independent contractors who provide services can raise concerns, as well as students and volunteers.

Support – providing support to the Whistleblowing champion and to those who raise concerns.

Board Non-Executive Whistleblowing Champion

This role is taken on by **Albert Donald**, who has been in place since February 2020.

The role monitors and supports the effective delivery of the organisation's whistleblowing policy and is predominantly an assurance role which helps NHS boards comply with their responsibilities in relation to whistleblowing. The whistleblowing champion is also expected to raise any issues of concern with the board as appropriate, either in relation to the implementation of the Standards, patterns in reporting of concerns or in relation to specific cases.

INWO Liaison Officer

This role is taken on by **Fiona Hogg, Director of People & Culture**, in her executive lead role in Culture and Communications. This is the main point of contact between the INWO and the organisation, particularly in relation to any concerns that are raised with the INWO. They have overall responsibility for providing the INWO with whistleblowing concern information in an orderly, structured way within requested timescales. They may also provide comments on factual accuracy on behalf of the organisation in response to INWO investigation reports. They are also expected to confirm and provide evidence that INWO recommendations have been implemented.

3. Governance, Decisions and Oversight

The Standards set out the requirement that the NHS Highland Board plays a critical role in ensuring the Whistleblowing Standards are adhered to, including through ensuring quarterly reporting is presented and robust challenge and interrogation of this takes place. In addition, NHS Highland present this report to the Argyll & Bute Integrated Joint Board meeting and the NHS Highland Staff Governance Committee and other management meetings and committees as appropriate. Further information is set out in Section 2 of this report and more details are in Section 5 of the Q1 report.

The Director of People and Culture is the key contact point for oversight of all possible and ongoing Whistleblowing cases for NHS Highland. When the details of a case come through, the Guardian Service, in their role as Confidential Contact (see sections 4 and 5 below and sections 5, 7 and 8 in the Q1 report) contact the Director of People & Culture who reviews the information. NHS Highland have agreed contact points, to input to a decision on whether something is a whistleblowing complaint. This includes senior Operational Leadership (Chief Officers, Senior Management) Professional Leadership (Board Nurse Director, Board Medical Director), Clinical Governance Leads, senior Finance and HR professionals, the Fraud Liaison Officer, Deputy Chief Executive, Chief Executive, and the Head of Occupational Health & Safety. The Guardian Service and Director of People and Culture coordinate this process.

The criteria for the decision are as set out in the National Whistleblowing Standards [Definitions: What is whistleblowing? | INWO \(spsa.org.uk\)](#). If the complaint is not Whistleblowing, a response is drafted with clear reasons why it is not Whistleblowing, this is drafted by the Director of People and Culture and sent to the complainant by the Guardian Service, who keep a record of this. If there is another process or route for their concern, this is signposted. This senior level of oversight of the decision making is critical to ensure consistency, compliance with the standards and visibility of concerns. During Q2, one of our decisions was reviewed by the INWO following an appeal and was found to be in line with the Standards.

If the complaint is Whistleblowing, then the Director of People and Culture liaises with relevant senior leadership and contacts to identify a manager to lead on the complaint. The Guardian Service and Director of People and Culture oversee progress, ensure timelines and communications are maintained. The Director of People and Culture will review the outcome and any follow up actions and learnings needed to ensure these are progressed appropriately., with relevant internal and external individuals, bodies, and committees, as appropriate based on the nature of the complaint.

A summary of every closed case in the period will be included in our reports, including any outcome and action taken or planned. Reporting will be limited during the ongoing investigation of a concern.

4. Raising a Whistleblowing Concerns in NHS Highland

Managers and employees can raise a concern:

- through an existing procedure in NHS Highland,
- by contacting their manager, a colleague, or a trade union representative,
- by contacting the “Confidential Contact” via a dedicated email address or telephone number.

To date, concerns have been raised directly by individuals or by their trade union representative using both the Guardian email address and the dedicated telephone number for whistleblowing concerns.

An essential aspect of the new Whistleblowing standards is that anyone who provides services for the NHS can raise a concern. This includes current (and former) employees, bank and agency workers, contractors (including third sector providers), trainees and students, volunteers, non-executive directors, and anyone working alongside NHS staff, such as those in health and social care partnerships.

5. The Role of the Guardian Service

Our Confidential Contact role is undertaken by the Guardian Service, on behalf of NHS Highland. The Guardian Service already provide NHS Highland with an independent Speak Up service to raise concerns which has been well utilised by colleagues since launching in August 2020. The independent, dedicated Guardians are well placed to also provide the Confidential Contact role.

The Guardian Service will ensure:

- that the right person within the organisation is made aware of the concern
- that a decision is made by the dedicated officers of NHS Highland and recorded about the status and how it is handled
- that the concern is progressed, escalating if it is not being addressed appropriately
- that the person raising the concern is:
 - kept informed as to how the investigation is progressing
 - advised of any extension to timescales
 - advised of outcome/decision made
 - advised of any further route of appeal to the INWO
- that the information recorded will form part of the quarterly and annual board reporting requirements for NHS Highland.

All Whistleblowing Concerns are recorded by the Guardian Service regardless of who has raised the concern. All concerns are logged to show progress and to measure and track information as required for reporting.

6. KPI Table

The KPI data is taken as at 30th September 2021 for Quarter 2.

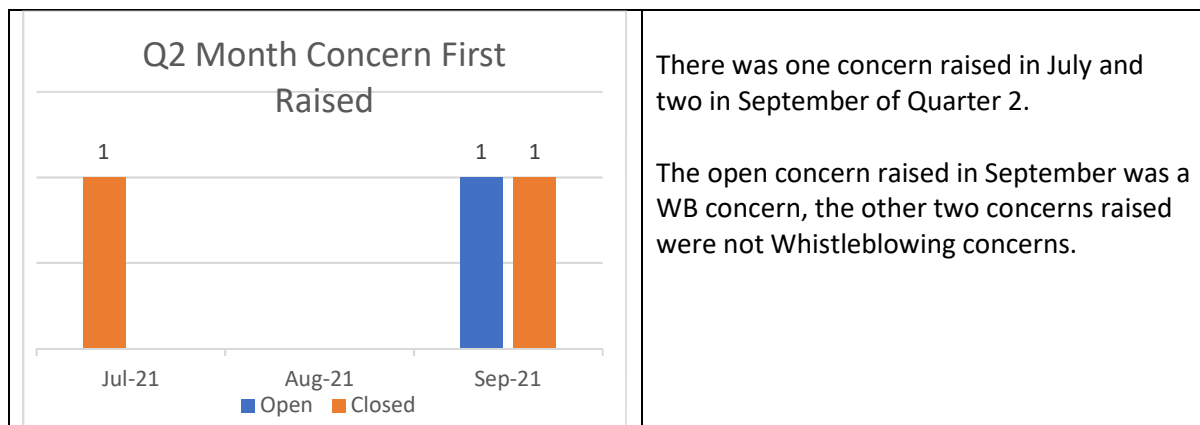
KPI	Qtr. 2		YTD	
Concerns Received	3	100%	12	100%
Concerns confirmed as WB concerns	1	33.3%	3	25%
OPEN Concerns under investigation	1	33.3%	2	66.6%
Stage 1 concerns closed in full within 5 working days	0		0	
Stage 2 concerns closed in full within 20 working days	0		0	
Stage 2 concerns still open from prior report	1	50%	1	50%
% of closed calls upheld Stage 1				
% of closed calls partially upheld Stage 1				
% of closed calls not upheld Stage 1				
% of closed calls upheld Stage 2				
% of closed calls partially upheld Stage 2				
% of closed calls not upheld Stage 2			1	10%
% of closed calls not WB	2	66.6%	6	60%
% of closed calls where Whistleblower chose not to pursue.	0		2	20%
% of closed calls which were for another Board to pursue			1	10%
Number of concerns at stage 1 where an extension was authorised as a percentage of all concerns at stage 1	0		0	
Number of concerns at stage 2 where an extension was authorised as a percentage of all concerns at stage 2.	1	100%	3	100%
Number of concerns which weren't Whistleblowing but were passed to Guardian services for resolution (as a percentage of non-Whistleblowing cases raised)	0		1	11%

7. Statistical Graphs

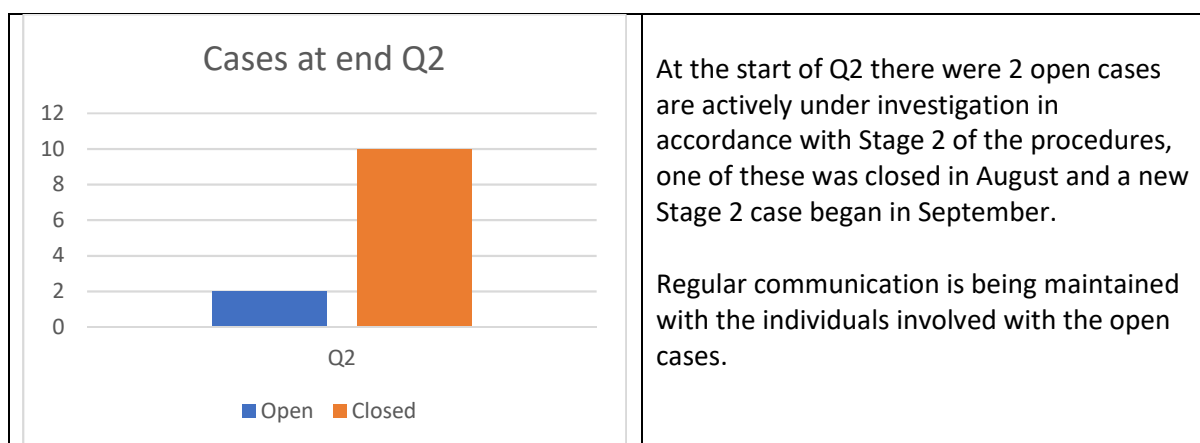
The following graphs relate to the Quarter 2 reporting period 1st July 2021 to 30th September 2021. As this is only the 2nd reporting period and the number of concerns is low, no trend information can be established yet.

Data has been presented in such a way to ensure that confidentiality is preserved.

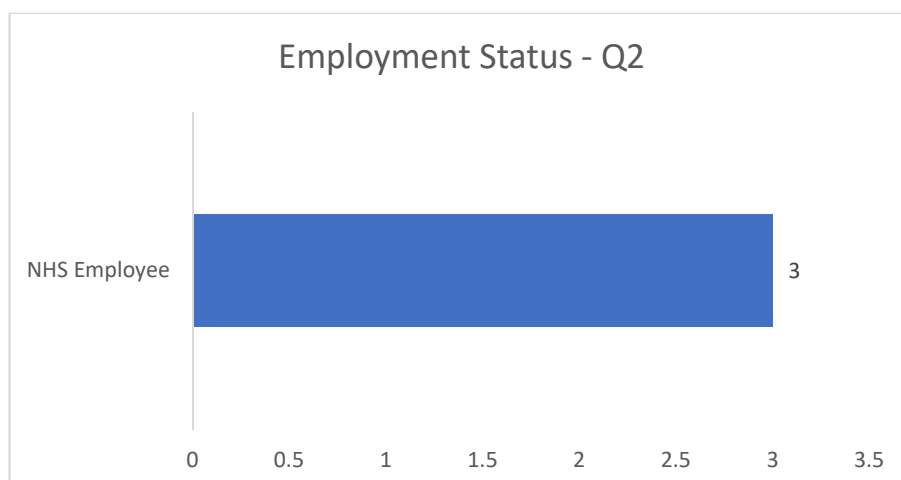
Graph 1



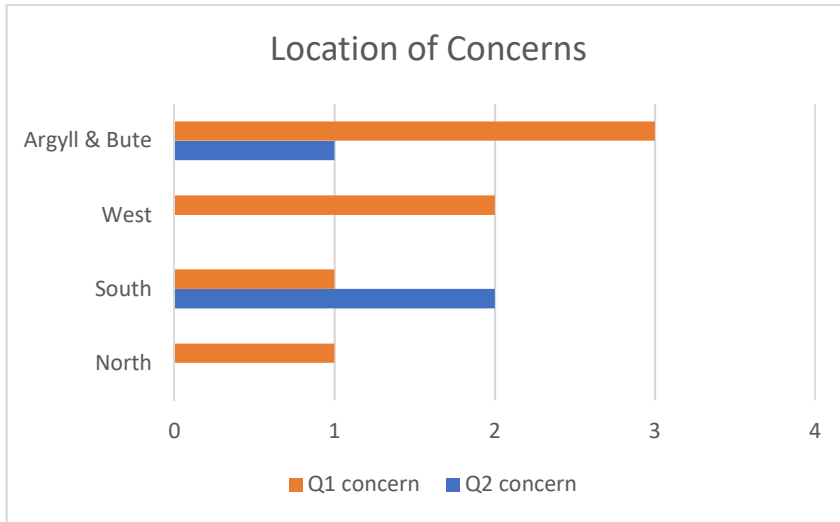
Graph 2



Graph 3

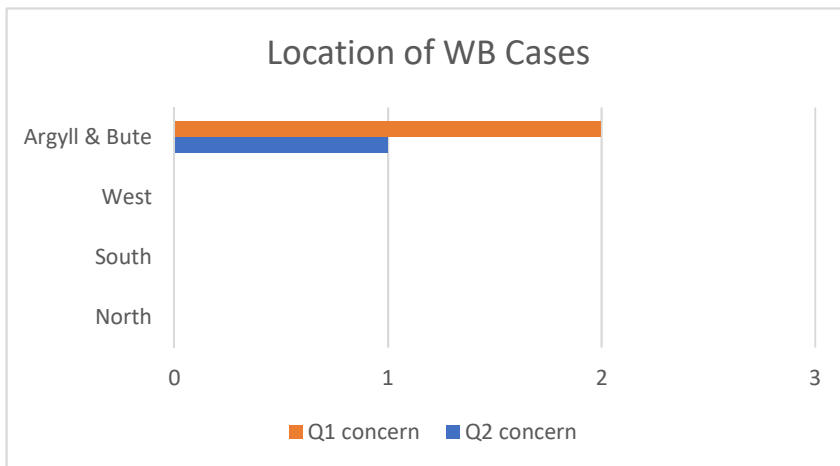


Graph 4

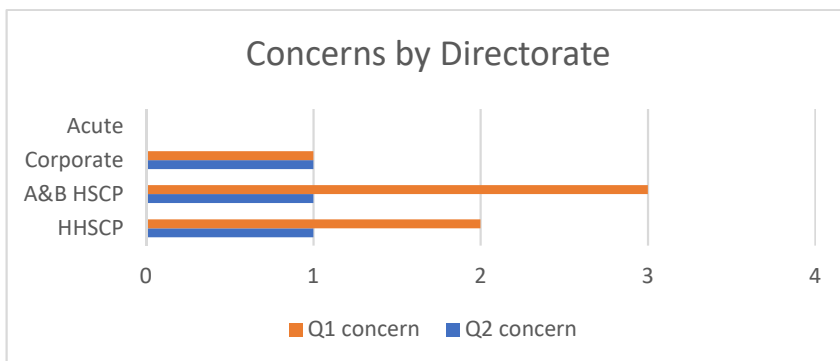


Concerns received from out with the NHS Highland or Argyll & Bute HSCP geographical area have been excluded.

Graph 5



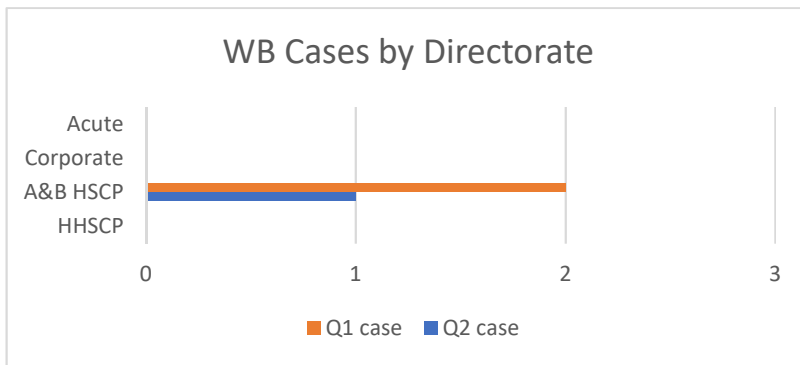
Graph 6



Directorates are used for reporting purposes to preserve the confidentiality of the person raising the concern.

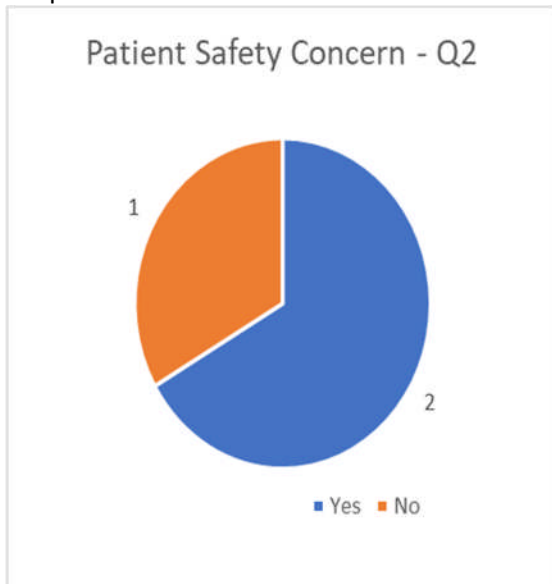
Argyll & Bute is classed as one Directorate due to the lower number of staff and services in the area.

Graph 7



Non-NHS Highland concerns are not included.

Graph 8



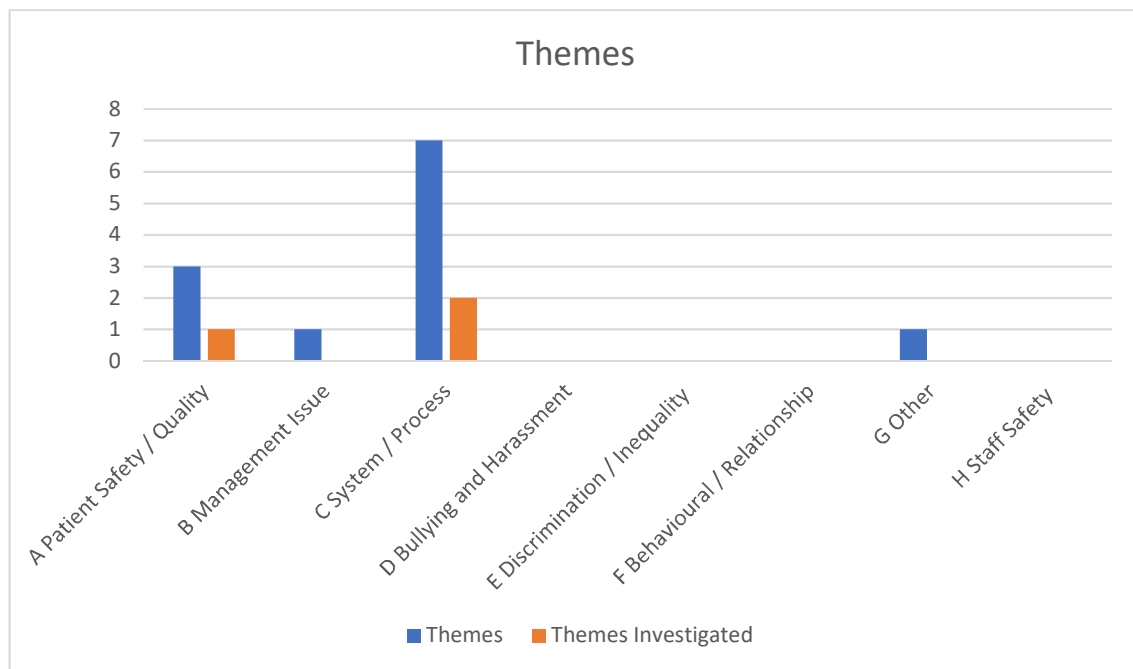
Half of the concerns raised by NHS Highland employees were in relation to Patient Safety.

Graph 9



Whistle blowing concerns cannot be raised anonymously but it is possible for the identity of the individual raising the concern to be withheld from the manager addressing the concern.

Graph 10



The themes presented in the above chart are the same themes used by the Guardian Service when recording concerns which have been raised by NHS Highland and Argyll & Bute HSCP staff. This will allow an easier comparison of data in the future.

8. Detriment as a result of raising a concern.

There is limited data available but at the point of writing there have been no reports where individuals who have raised whistleblowing concerns reported that they suffered a detriment for doing so. Further data will be collated once survey is sent out to staff.

9. Concerns Received - Average time for a full response

Out of the three concerns received under Whistleblowing this month, only one has undergone a full investigation. Due to the low number of Whistleblowing concerns which have been closed to date, it is not possible to provide an average time for a full response, but this will be added in future. It is also important to note that the two ongoing concerns are substantial reviews into service provision, which impacts on the timescales.

10. Lessons learned, changes to service or improvements

It is anticipated that some further information will be available for the Quarter 3 and 4 reports depending on when investigations conclude. The number of Whistleblowing concerns received in Quarter 1 & 2 have been low and most are still under investigation.

11. Staff experience of the Whistleblowing procedures

Proposals of a voluntary staff survey were approved at the implementation group in August. A draft version of the survey is still under review and once approved will go out to individuals who have raised concerns through this process. Feedback from this survey will be collated once this process is in place, which will provide data for detailed commentary on staff experiences for the next reporting quarter.

12. Colleague awareness and training

The implementation group continue to meet and review progress with awareness raising and monitoring uptake of training.

A non-employed partner survey is being carried out in December and January which will include questions to understand awareness of the standards in those who are not employed by NHS Highland but are covered by the Standards.

Our Whistleblowing non-executive Director continues to visit across the Board area and promote his role and speak with colleagues as well as internal and external communications and media. This has been of great value to the Board and has given the Standards good visibility in some of our more remote and rural areas. Reports have been provided on the findings of the visits.

A national review of the training and awareness materials is ongoing and there are proposals to introduce another module for manager awareness. Due to the low number of cases raised, and the senior level these have been managed at, we would expect that those asked to take on an investigation or management role in a case would complete the detailed training ahead of starting their investigation. Promotion of take up of the awareness training to the general manager and colleague population will be the focus.

13. Audit of Whistleblowing Standards Implementation

An internal audit of our implementation of the Whistleblowing Standards was carried out and the report presented to the Audit Committee on 7th December 2022. The report was positive overall and very helpful in focussing our efforts for ongoing improvement.

The recommendations are being implemented and a further update on progress will be provided in the Q3 report. The audit report is attached to this paper. The recommendations are summarised below.

1. Removal of old WB policies and links - Completed
2. Clarification of roles and responsibilities and decision making - Completed Q1 final report
3. Feedback on assurance reporting implemented - Completed Q1 final report
4. Development of Whistleblowing Process document - 31 March 2022
5. Contact details for WB Champion - 31 January 2022
6. Ongoing refinement of Quarterly reporting format and content - 31 March 2022

14. Summary of Whistleblowing Cases

Quarter 2 Case

Case 10 Open – System/Process

This is a stage 2 WB concern where an extension has been authorised beyond 20 days. The concern is actively under investigation with the individual raising the concern kept aware of the investigation process. This complaint relates to provision of services and staffing in a remote location in Argyll & Bute and is being overseen by the Interim Chief Officer for the A&B HSCP, Fiona Davies and the Director of People & Culture, Fiona Hogg. Meetings with the complainant and the local community are ongoing, and a terms of reference for the service review are being finalised. Regular updates are being provided.

Case 11 – Management Issue

This concern was raised by an NHS Highland employee. The issue was already being addressed internally through a different process and it was therefore deemed not to be a whistleblowing concern. The Whistleblower was advised how to refer the matter to the INWO if they were looking for a review of the decision.

Case 12 – System Process

This concern was raised by a non-NHS Highland employee, after review by NHS Highland it was confirmed that the concern did not fall within the scope of the whistleblowing standards as the service was not provided to the NHS. The Whistleblower was referred back to their employer and advised how to refer the matter to the INWO to allow them to review the decision.

Cases ongoing from Quarter 1

Case 1 OPEN – Patient Safety/Quality

This is a Stage 2 WB concern where an extension has been authorised beyond 20 days. This relates to some complex and wide-ranging concerns raised about the management and delivery of GP services in a remote and rural location in Argyll & Bute. The complaint was overseen by the Interim Chief Officer, Fiona Davies, and the Director of People & Culture Fiona Hogg, with regular 20-day updates to the complainant throughout.

A full investigation was carried out by the Head of Primary Care for Highland HSCP and recommendations are being implemented. We have shared the outcomes with the complainant and have continued to update on progress with implementation.

Case 2 CLOSED - System Process

This was a Stage 2 WB complaint regarding concerns about health and safety systems and processes in Argyll & Bute. The case was investigated by Bob Summers, Head of Occupational Health and Safety for NHS Highland and his recommendations were reviewed and accepted by George Morrison, Deputy Chief Officer and the case closed in August 2021 following feedback to the complainant.

The complaint was not upheld, as it was found that appropriate systems, processes, and governance were in place. However, it was clear that awareness and understanding of these systems and processes was not as widespread as it should be and a set of actions to improve this were taken forward locally.



NHS Highland

Internal Audit Report 2021/22

Whistleblowing Arrangements

October 2021



NHS Highland

Internal Audit Report 2021/22

Whistleblowing Arrangements

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Audit Sponsor	Key Contacts	Audit team
<i>Fiona Hogg, Director of People and Culture</i>	<i>Gaye Boyd, Deputy Director of People</i> <i>Albert Donald, Non-Executive Director and Whistleblowing Champion</i> <i>Sarah Compton-Bishop, Non-Executive Director and Chair of Staff Governance Committee</i> <i>Ruth Fry, Head of Communications and Engagement</i> <i>Derek McIlroy, The Guardian Service</i> <i>Julie McAndrews, The Guardian Service</i>	<i>Chris Brown, Partner</i> <i>Stephanie Hume, Senior Audit Manager</i> <i>Lorna Munro, Internal Auditor</i>

Executive Summary

Conclusion

We have confirmed that NHS Highland has a process in place to raise and investigate whistleblowing concerns. However, we found that there was some disparity in the number of concerns classed as whistleblowing, assurance reporting was focussed on a single whistleblowing route and reports lacked detail on emerging issues, risks and trends, such as the high contact level reflecting positively on the communication activity. NHS Highland has recorded nine potential whistleblowing concerns, of which only two have met the criteria and been subject to a Stage 2¹ investigation. Although neither Stage 2 investigation is complete, we found inconsistencies in the approaches taken and non-compliance with timescales to update the whistleblower.

Management have undertaken a range of activities to address the implementation of the National Whistleblowing Standards. We identified further potential improvements to existing arrangements, including clarifying roles and responsibilities and providing supporting materials for Investigation Officers. We also identified a number of areas of activity where work is still at an early stage or has not yet been addressed in plans, including developing communication and training to support wider internal/external population, capturing feedback, and actioning lessons learned.

Background and scope

Through a Whistleblowing² Policy, staff are encouraged to raise any serious concern they may have about malpractice or serious risk and are guaranteed to have their concerns considered. Importantly, it should help to deal with a problem before any damage is done. The Scottish Government requires all NHS Scotland Boards to have a Whistleblowing Policy and in February 2020 they appointed a Whistleblowing Champion at Board level in all Boards.

NHS Highland's independent 'Speak Up' Guardian Service went live in August 2020, offering a 24/7 service for staff to independently discuss their concerns relating to patient care and safety, bullying and harassment, and work grievances, as part of the culture programme. The management and reporting of Whistleblowing concerns and the role of confidential contact for the standards were added as a 9am-5pm Monday to Friday service in April 2021.

The National Whistleblowing Standards and the full Independent National Whistleblowing Officer (INWO) service, covering the whole of NHS Scotland, went live on 1 April 2021. The Standards are designed to be as comprehensive as possible and cover anyone involved in the delivery of an NHS service, such as current and former employees, volunteers, students and contractors.

In accordance with the 2020/21 Internal Audit Plan, we reviewed the whistleblowing processes in NHS Highland.

¹ Stage 1 is for more straightforward concerns that can be responded to within five working days or fewer. Stage 2 concerns tend to be more serious or complex and need a detailed examination before the organisation can provide a response, initially within a 20-working day timescale.

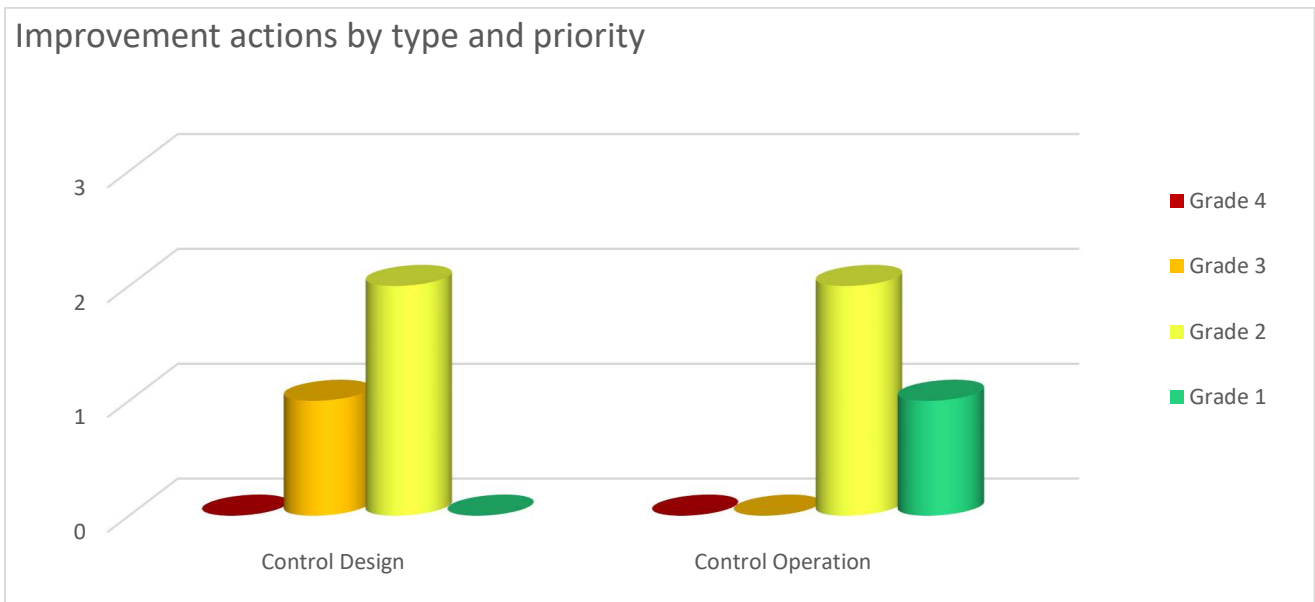
² The Public Interest Disclosure Act 1998 (PIDA) amended the Employment Rights Act 1996.

Control assessment



- 1. The requirements of the national Whistleblowing Standard have been implemented in NHS Highland.
- 2. There are clear roles and responsibilities in place and individual and collective responsibilities clearly identified in line with the requirements of the Whistleblowing Standards.
- 3. Potential issues (i.e. whistleblowing) are assessed recorded and investigated using a consistent methodology by suitably trained staff and employees who file such a report are suitably protected.
- 4. Decisions where cases are not whistleblowing are clearly documented and decisions recorded and reported.
- 5. The outcomes of investigations and whistleblowing activities are reported appropriately to relevant committees, including timely communication of any lessons learned.
- 6. NHS Highland has an ongoing programme of communications, engagement and training to ensure colleagues and wider stakeholders are aware of the Whistleblowing standards and how to report a concern.
- 7. NHS Highland has involved key stakeholders in the development of the Guardian Service and has mechanisms for gathering feedback on the service and for reporting to management.

Improvement actions by type and priority



Six improvement actions have been identified from this review, three of which relate to compliance with existing procedures and three which relate to the design of controls themselves. See Appendix A for definitions of colour coding.

Key findings

Good practice

We have gained assurance that NHS Highland's procedures reflect good practice in a number of areas:

- There is a clearly articulated Whistleblowing Implementation Group action plan in place covering the expectations of the Whistleblowing Standards.
- Staff from key business areas who are members of the Whistleblowing Implementation Group attended a series of targeted workshops to help ensure they had a good understanding of the subject matter and to support effective decision making.
- Implementation of the Whistleblowing Standards is a project within the Culture Programme, helping to ensure alignment with culture related activities and minimise the need for additional governance structures.
- The Whistleblowing Champion attends national whistleblowing related meetings and actively seeks opportunities internally and externally to promote the Whistleblowing Standards.
- A wide range of awareness activities have taken place, including staff engagement sessions 'Ask Me Anything', Board papers and development sessions, internal announcements including all staff emails and manager cascades, posters, social and local media articles.
- TURAS whistleblowing and Once for Scotland Workforce training modules are in place to support the whistleblowing process.
- NHS Highland has used an external independent service to act as a first point of contact for whistleblowing to help build trust in the process.
- We identified that all concerns raised since April 2021 with the Confidential Whistleblowing Service were assessed and the concerns, we sample tested were appropriately handled and the whistleblower contacted to advise how the concern would be dealt with.
- Within our sample we confirmed that Investigation Officers were appointed in both cases where a whistleblowing concern was raised.

Areas for improvement

We have identified a number of areas for improvement which, if addressed, would strengthen NHS Highland's control framework. These include:

- Providing assurance to the Board on whistleblowing activity based on accurate and complete data supported by comprehensive and insightful narratives.
- Documenting and sharing governance and day to day roles and responsibilities for all aspects of the process, building on the information presented to the March 2021 Board update.
- Maintaining oversight of compliance with Whistleblowing Standard timescales and developing further communication and training, to support Investigating Officers and the wider employee population.

- Capturing existing lessons learned and ensuring that comprehensive action plans are developed to support delivery of the Whistleblowing Standards in the longer term.

These are further discussed in the Management Action Plan below.

Impact on risk register

NHS Highland's corporate risk register (dated February 2021) included the following risks relevant to this review:

- Risk 632: HIGH - There is a reputational and workforce risk in relation to the culture of the organisation. This could impact on recruitment, retention, and performance as well as patient confidence in the organisation.

Acknowledgements

We would like to thank all staff consulted during this review for their assistance and co-operation.

Management Action Plan

Control Objective 1: The requirements of the national Whistleblowing Standard have been implemented in NHS Highland.



1.1 Whistleblowing Policy

NHS Highland has not created its own Whistleblowing Policy, instead directing individuals to the National Whistleblowing Standards website. However, in searching for the Whistleblowing Policy, we noted that:

- The NHS Highland internet pages identifies the 2014 NHS Highland Whistleblowing policy, including on the HR connect page.
- The NHS Highland intranet pages identifies old versions of the policy in the first two search items.

Risk

There is a risk that out-of-date policies which are not aligned to the National Whistleblowing Standards are still available to staff, leading to confusion, inconsistency of approach and/or non-compliance with the standards.

Recommendation

NHS Highland should ensure that historical whistleblowing policies are appropriately tagged as such and/or removed from key information sources.

Management Action

Grade 1
(Operation)

This has already been addressed with all old policies removed and hidden, searching for whistleblowing policy on the Intranet now brings up the top search result with a document including details of where to access the national standards and all other relevant information.

Action owner: Deputy Director of People

Due date: Completed

Control Objective 2: There are clear roles and responsibilities in place and individual and collective responsibilities clearly identified in line with the requirements of the Whistleblowing Standards.



Yellow

2.1 Roles and Responsibilities

The NHS Highland Board Paper dated 30 March 2021 confirmed the roles and responsibilities of key staff involved in the whistleblowing process. However, this paper did not identify the roles or responsibilities of the Governance Committees in the process. Both the Staff Governance Committee and Audit Committee have a role in oversight and assurance, however only the Audit Committee Terms of Reference makes clear the role of the committee via the Fraud Policy and Response Plan.

In addition, we noted feedback from those involved in oversight and implementation of the investigation process that:

- They did not believe a concern should have been handled under the whistleblowing process and we noted some confusion over who made the decision to do so. Following completion of fieldwork it was clarified for staff that decisions about whether or not a case is to be handled as Whistleblowing is coordinated by the Director of People and Culture, as INWO Liaison Officer, involving relevant opinions and views as required.
- Expectations of greater HR involvement and support during the whistleblowing investigation process. While management have confirmed this is not a HR process, it was acknowledged that all parties need to be clear on responsibilities and this should be documented.

Risk

There is a risk that roles and responsibilities are not clear, as these have not been fully defined or made available, resulting in whistleblowing activity not being appropriately resolved, lessons not being learned, and increasing the likelihood of reputational damage.

Recommendation

Management should confirm:

- The complete governance structure in relation to whistleblowing, along with updating the relevant terms of reference and workplans as appropriate.
- The roles, responsibilities and decision-making assessment methodology for concerns.
- The support for managers assigned cases and those investigating concerns is clearly documented and communicated to investigating officers.

Grade 2
(Design)

Management Action

Further clarification of the process to be followed and the relevant roles and responsibilities and governance was included in the first Whistleblowing report to the board in September 2021. This information along with the support available, will form an NHS Highland Whistleblowing Management process document to be available on the Intranet and via the Guardian Service which will ensure everyone is able to access this.

Action owner: Director of People and Culture

Due date: 31 March 2022

2.2 Whistleblowing Champion Contact Details

NHS Highland has a non-executive Whistleblowing Champion, whose role is to provide assurance over both the implementation of the whistleblowing standards and that concerns are being effectively managed and addressed. This role is as identified on the NHS Highland website, however the contact details provided are to a generic board email address.

Risk

Whistleblowers may be deterred from making contact if they are concerned the email is not sent directly to the Whistleblowing Champion and/or the communication is not sufficiently confidential. This impairs opportunity to identify, learn from and improve practices to which the concern(s) relate.

Recommendation

Management should provide contact information for the Whistleblowing Champion and/or the Whistleblowing Service (providing by the Guardian Service) against the relevant biographical statement on the NHS Highland website, ensuring the route for raising concerns is via the Guardian Service.

Management Action

Grade 2
(Operation)

Contact information for the Whistleblowing service is widely shared, but an additional action to include direct email address for the Whistleblowing Champion as part of the board information and to use the opportunity to add the Whistleblowing concern email and phone line as well.

Action owner: Board Secretary

Due date: 31 January 2022

Control Objective 3: Potential issues (i.e. whistleblowing) are assessed recorded and investigated using a consistent methodology by suitably trained staff and employees who file such a report are suitably protected.



Yellow

3.1 Compliance and Investigation Processes

We reviewed two Stage 2 investigations as part of fieldwork and confirmed that the Whistleblowing Standards state that the whistleblower should be advised if their concern cannot be responded to within 20 working days. They are entitled to an update every 20 working days thereafter. Our testing identified that in one of the two investigations the whistleblower was not provided with ongoing formal updates every 20 days (though we note that there was ongoing communication with them and their union representative in terms of evidence gathering).

The Whistleblowing Standards also provide guidance for the Investigating Officer on the process to be followed. However, NHS Highland has determined this should be supplemented with the Once for Scotland Workforce Policy on Investigations, as the use of standard templates/methodology ensures consistency of approach. Neither Investigating Officer had been referred to the Workforce Investigation information and they did not use the expected templates, with only one Investigating Officer having agreed a terms of reference for the work.

We also noted that, although experienced, neither Investigating Officer had undertaken the TURAS whistleblowing training or the Once for Scotland Workforce Investigation training. Indeed, more generally, there was low completion of the TURAS training, with only 53 staff having completed the whistleblowing overview course and only 15 having completed the manager whistleblowing course. These are not considered mandatory training.

Risk

There is a risk that investigations are not conducted in line with standards and associated policies, as training, communication and oversight has not been sufficiently robust. This could impair results and outcomes, reducing morale and risking disengagement by those with concerns.

Recommendation

Management should:

- Ensure there is sufficient management oversight of all ongoing whistleblowing investigations to affirm compliance with the Whistleblowing Standards, such as the 20-day response time.
- Provide all Investigating Officers a link to appropriate guidance and templates, including those related to the Whistleblowing Standards and the Once for Scotland Workforce Investigation process.
- Determine the level of training required by officers investigating under the Whistleblowing Standards and taking appropriate action as a result.
- Consider additional activities to improve uptake of whistleblowing training within NHS Highland and its service providers.

Grade 2
(Operation)

Management Action

There is now a robust oversight in place of all ongoing Whistleblowing concerns, with timescales and responses being actively managed. Given the low level of concerns raised and the potential seriousness of those progressed, this is all personally overseen by the Director of People and Culture, as INWO Liaison Officer to ensure consistency and appropriate seniority and expertise of investigating managers.

As part of the NHS Highland Whistleblowing Management Process (set out above under 2.1) signposting to relevant support, documents and training will be included.

Action owner: Director of People and Culture

Due date: 31 March 2022

Control Objective 4: Decisions where cases are not whistleblowing are clearly documented and decisions recorded and reported.



No reportable weaknesses identified

We confirmed that since April 2021 seven concerns raised were assessed and not taken forward as whistleblowing investigations. We tested two and confirmed that the decision was clearly documented and the person raising the concern was advised of the outcome and reasons for the assessment. Where appropriate individuals are advised that they were entitled to appeal via the Independent National Whistleblowing Officer.

Neither of the concerns tested required to be addressed through other business routes, such as the complaints process.

Control Objective 5: The outcomes of investigations and whistleblowing activities are reported appropriately to relevant committees, including timely communication of any lessons learned.

A yellow circle containing the word "Amber" in white text, indicating the risk level of the control objective.

5.1 Recording Whistleblowing Concerns and Assurance

We were initially advised by the Confidential Whistleblowing Contact Service that there had been 10 potential concerns raised since April 2021, seven of which related to whistleblowing and three which did not. During testing we confirmed that these numbers were incorrect and appeared to stem from a different interpretation of the classifications used when recording concerns. It was noted that this was early on in the implementation of the standards and has been highlighted in the first quarterly report as a resolved issue. Management confirmed in the quarterly assurance report that only nine potential concerns were raised, of which two met the criteria for whistleblowing investigations.

Although the Confidential Whistleblowing Contact Service is the central point for recording and reporting all whistleblowing concerns, we were unable to confirm that all relevant concerns had been recorded this way, as there are other routes available for staff to raise concerns (e.g. management hierarchy, trade unions, Counter Fraud Services and Datix). It is expected that potential whistleblowing concerns raised via these routes will be identified as whistleblowing and subsequently recorded with the Confidential Whistleblowing Contact Service, but there is a risk that this may not happen if the person receiving the concern is not aware of the process. Although mitigated by internal and external communications from the Guardian Service, the Whistleblowing Champion, the Whistleblowing Implementation Group and others, e.g. Senior Leadership, there remains a risk that the information being provided may not be complete and the correct process may not be followed in some cases. Management have advised that the majority of the cases raised to date as potential Whistleblowing concerns have been from staffside, and this suggests that the process is well known.

We reviewed the draft of the first quarterly assurance report, to the Staff Governance Committee, covering the areas and metrics required by the Whistleblowing Standards and found it was lacking in insight such as emerging trends, issues and risks and did not capture the activity that has already been undertaken in the implementation of the Standards.

Risk

There is a risk that assurance is not accurate, sufficient or complete. It may impair scrutiny and challenge by those overseeing the arrangements and could result in non-compliance with the Whistleblowing Standards and increased likelihood of reputational damage.

Recommendation

Management should:

- Ensure the concern assessment process is clearly documented and agreed with the contact service, providing clarity on the classification of concerns raised.
- Ensure ongoing communication and engagement with key stakeholders so that all parties understand how to route Whistleblowing concerns to the correct process. Consider implementation of a co-ordinated assurance report for areas such as whistleblowing, complaints, frauds etc,

- Provide adequate insight and narrative on activity to implement the Whistleblowing Standards with assurance reports.

Management Action

Grade 3
(Design)

Further work on the assurance report was completed ahead of it being submitted to Board and it addressed the majority of the issues identified above. Feedback will be used to improve the insights and assurance and this will be an ongoing review as data is gathered and further analysis is possible, particularly in relation to trends, issues and risks.

A further communication and engagement plan around the standards and whistleblowing is underway, which will cover visits by the Whistleblowing Champion across the board area, a stakeholder survey carried out in January 2022 to establish how well known the standards are to non-employed colleagues as well as promotion of the training and the publication of the Q2 report in January 2022, and the Q3 report in March 2022.

Action owner: Director of People and Culture

Due date: 31 March 2022

Control Objective 6 & 7: NHS Highland has an ongoing programme of communications, engagement and training to ensure colleagues and wider stakeholders are aware of the Whistleblowing standards and how to report a concern and has involved key stakeholders in the development of the Guardian Service with mechanisms for gathering feedback on the service and for reporting to management.



Yellow

6.1 Planning

Whilst activity to implement the Whistleblowing Standards has progressed sufficiently to allow concerns to be raised and investigated, there are several areas of work still at an early stage of development or not yet included within any formalised and documented action plans. These include:

- Engaging with volunteers, students, contractors and other service providers on the standards and their rights (in development through the Implementation group).
- Obtaining feedback on Confidential Whistleblowing Contact Service (in development).
- Assessing future needs for the Confidential Whistleblowing Contact role (not yet commenced, anticipated Q2 2022).
- Lessons learned from investigations, the implementation of the standards and associated processes (to commence in Q2 2022).
- Once for Scotland training, including investigations (already available).
- Developing awareness and sources of support, e.g. whistleblowing being covered during induction (in development).

Risk

There is a risk that the remaining work is not included or associated with clear timescales in the implementation plans resulting in slow or no progress to improve engagement/compliance with the Whistleblowing Standards.

Recommendation

Management should ensure that the above areas of work are included within implementation plans and, where appropriate developing medium to longer term plans for review/refresh of whistleblowing as needed.

Management Action

The Implementation Group continue to work through the communication and engagement plans and have good engagement from a range of internal and external stakeholders.

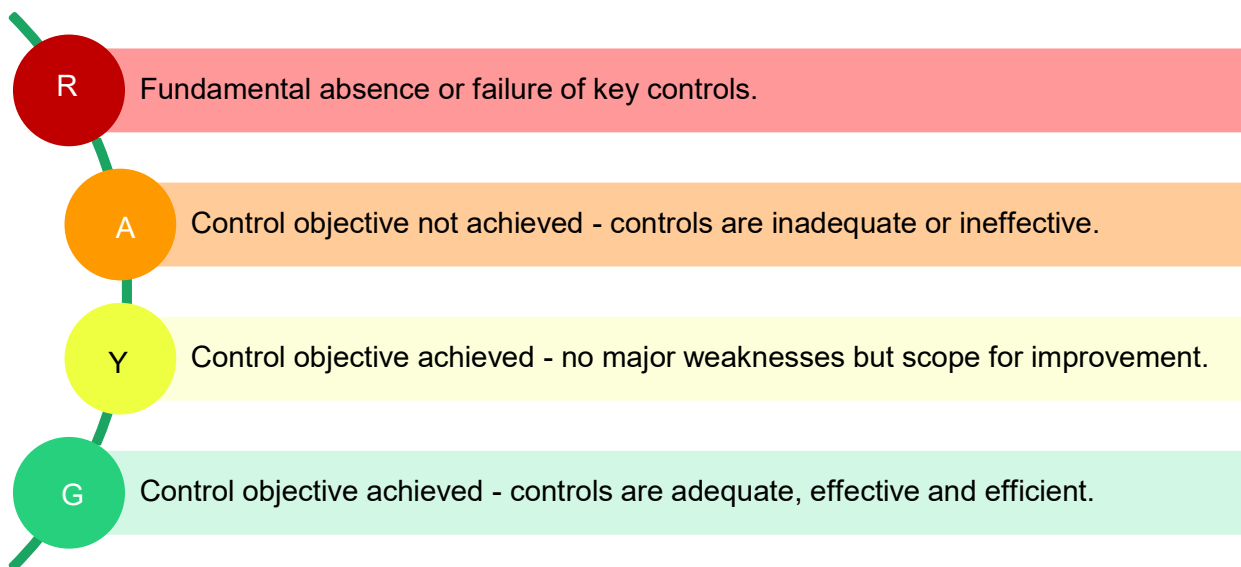
It has been agreed that any lessons learned, themes or follow up actions which need wider organisational oversight, either from reviews of the cases to date or from the group activity, will be captured as part of the Culture Oversight Group action tracking, which is reported to Staff Governance Committee and Board. This will ensure themes and learnings from independent review panel of the Healing Process, which may have overlap, can be joined up with these outcomes where appropriate.

Action owner: Director of People and Culture

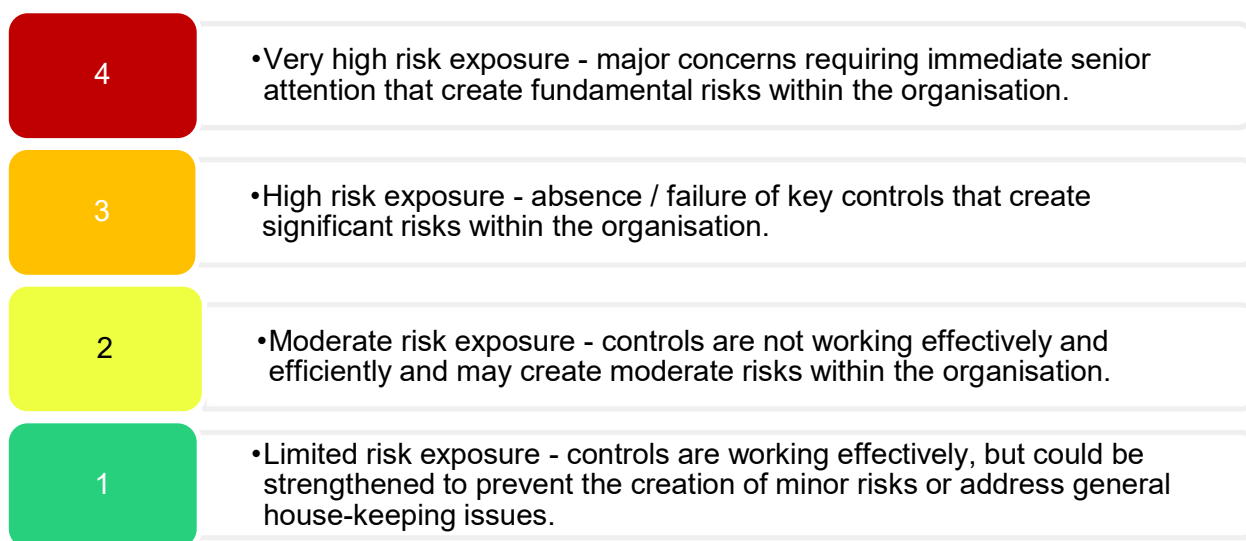
Due date: 31 March 2022

Appendix A – Definitions

Control assessments



Management action grades



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