



Meeting: Board Meeting
Meeting date: 26 September 2023
Title: Whistleblowing Annual Report 22/23
Responsible Executive/Non-Executive: Gareth Adkins, Director of People & Culture
Report Author: Gaye Boyd, Deputy Director of People

1 Purpose

This is presented to the Forum for:

- Assurance

This report relates to a:

- Government policy/directive

This report will align to the following NHSScotland quality ambition(s):

Safe, Effective and Person Centred

This report relates to the following Strategic Outcome(s)

Start Well	Thrive Well		Stay Well		Anchor Well	
Grow Well	Listen Well	X	Nurture Well	X	Plan Well	
Care Well	Live Well		Respond Well		Treat Well	
Journey Well	Age Well		End Well		Value Well	
Perform well	Progress well					

2 Report summary

2.1 Situation

Since the introduction of the Whistleblowing Standards NHS Highland have reported quarterly and annually with details of concerns raised to the following: Area Partnership Forum, Staff Governance Committee, Argyll & Bute Integrated Joint Board and the Board. There has also been regular discussion at the Executive Directors Group. This year the Annual Report details the information required by the Independent National

Whistleblowing Officer (INWO) including the 10 mandatory Key Performance Indicators.

2.2 Background

The National Whistleblowing Standards were implemented in April 2021. This is the second annual report that has been developed and presented to the Area Partnership Forum.

2.3 Assessment

The report provides detail on concerns raised through the financial year April 2022 to March 2023. In total 5 concerns were closed in this period all relating to Patient Safety and Quality; 1 was upheld, 2 partially upheld and 2 not upheld. It is important however that as an organisation we continue to learn from all concerns raised

Areas for consideration and improvement within the report include:-

- Refinement of our administration and support processes. This will provide coordination and oversight of all stages of the process and ensure a consistency with our responses and record keeping
- Ensure a robust process is in place for tracking and monitoring actions. This would provide assurance on recommendations and actions being progressed and completed
- Review of routes for concerns to be raised and the role of confidential contacts

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"/>

Comment on the level of assurance

It is proposed this report provides moderate assurance due to the improvements to be progressed

3 Impact Analysis

3.1 Quality/ Patient Care

All concerns raised in this period were in relation to patient safety and quality.

3.2 Workforce

Our workforce has additional protection in place under these standards.

3.3 Financial

None identified

3.4 Risk Assessment/Management

The risks that have been identified are regarding timescales and compliance with the National Standards

3.5 Data Protection

This report does not include personally identifiable information

3.6 Equality and Diversity, including health inequalities

None identified

3.7 Other impacts

None

3.8 Communication, involvement, engagement and consultation

The annual report was presented to the Area Partnership Forum on 18th August 2023 and Staff Governance Committee on 6th September, it will also be brought to the Integrated Joint Board on 27th September.

3.9 Route to the Meeting

The Annual report has been considered by the Executive Directors Group on 14th August.

4 Recommendation

- **Assurance** – To give confidence of compliance with legislation, policy and Board objectives.

4.1 List of appendices

The following appendices are included with this report:

- Appendix 1 – Annual Whistleblowing Report



Annual Whistleblowing Report

1 April 2022 to 31 March 2023

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Executive Summary

NHS Highland is presenting the Annual Whistleblowing Report for the period April 2022 to March 2023. This is the second annual report, since the launch of the Whistleblowing Standards in April 2021 and sets out the mandatory information required by the INWO, including the 10 mandatory KPI's, along with additional context where appropriate.

Significant activity has occurred across the year to promote speaking up, raising concerns and the Whistleblowing Standards across the Board area, including active participation in October's Speak Up week, Guardian Service and Whistleblowing Champion visits along with leadership training, and our new Induction events. We also contributed to the development of new INWO guidance, using our insights and experience to date.

Our Quarterly reports are shared with the Board, the Argyll & Bute IJB, the Area Partnership Forum and the Staff Governance Committee and there is regular focus and discussion in our Executive Directors and Board Development meetings.

Of the cases raised in this period, all of the concerns raised relate to patient safety and quality issues, and in Q4 we updated the categories of reporting to further break this down.

Of the 5 concerns closed in the reporting period, 2 were not upheld, 1 was upheld, and 2 were partially upheld. Where partially upheld, both cases had learning and improvement actions but the main substance of the concern was not upheld. All were Stage 2 concerns and our average time to close was 20 weeks and 3 days.

We continue to learn from all of the concerns raised, whatever the outcome and engage proactively and positively with the INWO to ensure we are handling concerns in the best possible way. There is a growing trend of INWO referral when concerns are not upheld, but the process helps us understand if we could do better and to make improvements.

Timescales for final outcomes are an area for improvement, although progress has been made, further action is still needed in this. Further refinement of our administration and support processes will take place, to ensure that there is oversight of all stages of the process, and a consistency in our responses and recording keeping, as well as central tracking of any actions agreed.

KPI 1: Learnings, Changes and Improvements as a result of considering Whistleblowing concerns

Whilst there are still a small number of cases being raised, there are always learnings, both from the cases that are raised, but also the experience of the process and the opportunities to make change and refinement.

INWO reviews

A number of our cases are currently being reviewed by the INWO and once these have concluded, their observations will be helpful in giving further opportunity for improvement to be made.

In the case that was referred back to NHS Highland following a Stage 1 concern that was closed, this helped us to clarify about the extent to which we should be considering whether someone delivered services on behalf of NHS Highland. Our processes now ensure that careful consideration is given to third party, contractor and support status, which has been useful. In this case it related to third party cleaning, in an external training facility, that was not commissioned by the NHS. The fact that patients attended the facility for NHS Highland treatment and could be impacted by issues, meant that it was potentially in scope, although the concern was not upheld on review.

Administration and support

Further refinement of our administration and support processes for Whistleblowing will take place in the coming months, to ensure that there is central coordination and oversight of all stages of the process, and a consistency in our responses and recording keeping, as well as central tracking of any actions agreed. Our current process includes the contracted Guardian Service as a confidential point of contact for our staff and provides support for onward referral to our whistleblowing process. Staff can also contact staffside representatives to discuss concerns and receive support to refer to our whistleblowing process. We will work in partnership with our staff and with our Guardian Service to review the effectiveness of our approach to providing confidential contacts and the whistleblowing referral process, in order to identify any improvements we can make.

Whilst it is important that individual investigators who we appoint are able to carry their work out in an impartial and appropriate manner, the format and content of the final responses needs to be consistent, compliant with the standards and be written with the appropriate tone and style. That and, Executive oversight of the process is in place to provide this assurance. We will review the training and support available to investigators and report writers and identify any opportunities for 'getting it right first time' and reducing any rework required.

Consideration will also be given to whether sharing draft reports with the Whistleblower and any respondents ahead of the final Stage 2 response would be helpful, allowing them to highlight any confidentiality or accuracy concerns, whilst not impacting the findings or recommendations.

Action tracking

Whilst there has only been one finding fully upheld, it has highlighted that we do need to ensure that actions are centrally tracked and monitored through an agreed governance process with appropriate visibility and escalation options if not progressing. There are two elements required for monitoring and action tracking:

- during the whistleblowing process to conclusion and outcome to ensure a timely and effective process

- following closure of the whistleblowing investigation to ensure any recommendations or actions are followed through and completed.

We kept our longest standing case open after formal closure of the investigation in order to allow ongoing monitoring of the actions resulting from the investigation. We could have formally closed the case shortly after our response if we had chosen to separately track the actions resulting from the outcome of the whistleblowing case. We will review options for adopting a separate tracking approach for subsequent recommendations from whistleblowing cases so there is clarity on the efficiency and effectiveness of the whistleblowing process and we have assurance that actions which may take a period of time to implement are monitored through to completion.

Data

As all of our cases this year have been categorised as related to patient safety and quality we have decided to add further subcategories to provide greater clarity and better understanding of the themes arising from whistleblowing cases. As a result, with effect from the Q4 report, we included 5 subcategories within this category. Our categories are now:

- Patient Safety & Quality
 - Staffing and Resources
 - Poor Practice / Capability
 - Health and Safety
 - Waiting / Treatment Times
 - Behaviours
- Fraud
- Changing or falsifying information
- Breaking Legal Obligation
- Abusing Authority

We will continue to review reporting to ensure it is as robust and insightful as possible, over the coming year.

Investigation resource

With delays in responding and pressures on resources we are also giving consideration to how we assign investigators, so they have both the skills and experience as well as the capacity to address the matter effectively but rapidly.

As outlined above we will also review the processes and support we have in place for coordinating and managing cases so that we make the most efficient use of the time our senior managers and executives contribute to whistleblowing. We also need to ensure that the investigation process is as timely as possible through effective scheduling and tracking of progress.

Confidentiality

We haven't had any issues related to confidentiality with the small number and specific nature of concerns raised to date. Our approach to confidential contacts, including the Guardian Service, has worked well to protect anonymity and encourage staff to raise concerns confidentially. It has also enabled staff to remain anonymous whilst deciding if they wish to formally raise a whistleblowing case, at which point their identity must be disclosed to those involved in the whistleblowing process who are duty bound to protect that confidentiality. This has enabled contacts to be recorded and queries dealt with through alternatives to the whistleblowing process. This is in keeping with the

standards in relation to dealing with issues raised through business as usual processes where possible.

This anonymous data may be useful to the organisation to identify improvements we may need to make in staff knowledge, awareness and understanding of 'business as usual' process they could be accessing as an alternative or in addition to the confidential contacts system.

KPI 2 - Experiences of all those involved in the whistleblowing procedure

Our approach

Our approach to whistleblowing is one where concerns received are welcomed as an opportunity to learn and improve in terms of colleague safety and wellbeing, as well as patient care and patient safety. There is a genuine desire to encourage colleagues to speak up about concerns and for leaders to listen and hear what is being raised and effectively address it. This is a core element of our culture, as well as being embedded in our Together We Care Board strategy and our Annual Delivery Plan.

Of those whose cases were concluded in this period, feedback on the experience of the process was mixed and we continue to learn and improve as a result.

Support for those who wish to raise a concern

NHS Highland has a dedicated whistleblowing support line, which is run by our confidential contacts, the Guardian Service. This ensures that independent support can be given to anyone involved in a Whistleblowing concern and this support has been well received. That support is available to both those who raise concerns and those who are involved as respondents or witnesses.

Timescales

In one case, the length of time to conclude the case was a cause for concern, and learnings have been taken in terms of getting the balance between a thorough investigation led by a senior colleague and getting to the core issues quickly. Their case took 170 days (34 weeks) to conclude and key learnings were taken from this, although their concerns were upheld.

Improving our time to resolve concerns is a key priority, however, we will always balance the need for a thorough and impartial investigation with careful consideration of the concern by someone appropriately skilled and experienced, who is in a position to make findings and recommend actions.

Escalations to INWO

The other main feedback we receive is when the outcome does not uphold a concern, colleagues are unhappy and this leads to an escalation to the INWO. Of the 5 cases closed in this period, 3 of these were cases then raised with the INWO as they were unhappy with the outcome.

Another 1 of the 5 cases was an escalation of a previous case, that was reopened at the request of the INWO, although the outcome of the INWO process was that the claim was not upheld.

Out of the 5 cases closed this period the one that was not escalated to the INWO was the case that was upheld. This may reflect that the whistleblower was satisfied with the response, whilst those escalated to the INWO may reflect those whistleblowers wished a further independent review. It is particularly important for us to learn from any cases that are subsequently upheld by INWO.

We have recognised that we need to support investigating managers to agree clear terms of reference and a format of reporting, without compromising the pace of getting to the root of the issues and coming up with actions to address these.

Support to raise concerns

On a positive note, our Executive Lead for Whistleblowing gave support and advice to a member of staff from another organisation which delivers services on behalf of NHS Highland, after becoming aware of their situation through their union representative.

This advice, support and engagement with the employer was much appreciated, and whilst ultimately the colleague had to go to the INWO to progress things, our willingness to take this seriously and to try to encourage the following of the Standards was appreciated.

As a result we need to ensure we continue to work with partners, suppliers and contractors to ensure they know their responsibilities under the Standards and where to seek further support and guidance, as well as to report any concerns they deal with, to NHS Highland.

KPI 3: Levels of staff perceptions, awareness and training

Induction

In February 2023, NHS Highland launched its Welcome to NHS Highland Induction event, a half day online session where all new colleagues are updated on a range of information about NHS Highland, our services, our strategy, our values and our leadership. Colleagues who have not previously had a corporate induction, who have changed role or who wish to find out more can also attend.

The first hour of the session is hosted by one of the NHS Highland Executive Team. Within the key information discussed, support channels, how to raise concerns, Speaking up, the Guardian Service and the Whistleblowing Standards are all covered, to ensure from the start of their career with us, colleagues know how to have their concerns heard and addressed.

As part of the wider induction process, we signpost colleagues to the Whistleblowing training modules available on Turas.

Involvement, Training and Engagement

In August 2022, the Executive Lead for Whistleblowing held a workshop for our executives and senior managers, to remind them of the details of the Whistleblowing Standards and the requirements they place upon the organisation, as well as the processes, support and guidance that is available to support them in managing concerns. We shared learnings and case studies and tested their understanding of the standards, as well as ensuring that key contacts and resources were shared. There was excellent engagement from the senior leadership and the slides were made available for them to share with their teams.

We continue to signpost the online learning to colleagues, that is available on TURAS whenever we are talking about Speaking Up and Whistleblowing. We also signpost investigating managers to this, at the start of any new concern, to ensure they are up to date.

The promotion and ongoing development of our whistleblowing, listening and speak up services is a core element of the Together We Care Strategy and Annual Delivery Plan.

INWO engagement

We also promote and recommend colleagues and managers make themselves familiar with the INWO webpages and resources, which have recently been added to, as these are hugely valuable sources of information.

The Executive Lead for Whistleblowing was part of the national group developing additional guides and resources with the INWO, which went live on 1 April 2023. This has allowed us to share our insights and learning from some complex cases, to ensure lessons are learned and continuous improvement is a focus.

As part of this work, we've paid particular attention to working with our People team, in understanding how Whistleblowing cases can interact with our Once for Scotland processes and to ensure that the appropriate considerations are given on how to best proceed, to ensure the most appropriate route is used and the concern is addressed as rapidly as possible.

Speak Up Week

From the 3rd to the 7th October 2023, NHS Highland actively participated in the National Speak Up Week, led by the INWO.

Our Guardians, who act as our Whistleblowing Confidential Contacts, travelled extensively across the Board area promoting Speaking Up and the Whistleblowing Standards. Our Executive Lead held daily sessions and recorded these as well as sharing live, on key topics such as Speaking Up, Praising and Positive feedback, Listening and Responding to concerns, Quality, Care and Safety concerns and a round up of all the weeks key messages and activity. There was also a series of local and national resources, press releases and social media postings shared.

Non-Executive Whistleblowing Champion visits

In addition to the Speak Up week events, our Non-Executive Whistleblowing Champion carries out regular visits throughout the year to key locations and sites across the Board area and carried out around 21 days of visits in this year, listening to colleagues and reporting back on his experiences and insights.

KPI 4: The total number of concerns received

During the period April 2022 to March 2023, NHS Highland received 5 Whistleblowing Concerns. Of these 2 were raised in Q1, 2 in Q2 and 1 in Q4.

There was 1 further Whistleblowing concern raised in Q1 in relation to our activity, but it was raised through NHS Education Scotland (NES) who carried out the investigation and will report on the

concern. This is because it related to medical trainees, who are overseen by NES. However, NHS Highland management are fully engaged with the actions agreed to address the concern, but are not reporting the outcome of the concern, as it will be reported by NES.

This means 5 Whistleblowing concerns were received in this year.

One of these 5 cases was a previous case, which the INWO asked us to reopen, following our initial decision that the majority of the concern was not within the scope of the standards. Following investigation under Stage 2, the concern was not upheld.

Another point to note, as it raised some interesting questions, was the concern raised towards the end of Q4, as it related to a complaint about an organisation which is funded to deliver services on behalf of NHS . Their employee felt they were not addressing their complaint in line with the Standards. This was a complex case and NHS Highland through the Exec Lead attempted to support the organisation to understand and work with the Standards, however, this was challenging.

The employee was given advice and support by the Exec Lead and o the Confidential contacts. Advice was taken from the INWO as to whether NHS Highland should take on the investigation. INWO confirmed that the colleague should contact them directly with concerns and this is now with the INWO. We will ensure appropriate reporting of the outcome is shared with NHS Highland.

There were also 2 active Whistleblowing concerns which were received in the previous year and had not concluded by the end of March 2022, 1 of these was resolved in October 2022 the other remained open to allow ongoing long term actions with management, colleagues and the community around service planning and monitoring of relationships to continue.

KPI 5: Concerns closed at stage 1 and stage 2 of the whistleblowing procedure as a percentage of all concerns closed

In the period April 2022 to March 2023, there were 5 concerns closed, 4 from this year and 1 from the previous year.

Of these, all 5 concerns were at Stage 2, i.e 100% of all concerns closed were Stage 2 concerns.

KPI 6: Concerns upheld, partially upheld, and not upheld at each stage of the whistleblowing procedure as a percentage of all concerns closed in full at each stage

Of the 5 concerns closed in this period, 2 were not upheld (40%), 2 were partially upheld (40%) and 1 was upheld (20%).

For both those concerns partially upheld, the main substance of the concern was not upheld, but improvements to some related practices and processes were recommended in the investigation report.

KPI 7: The average time in working days for a full response to concerns at each stage of the whistleblowing procedure

All of the concerns were Stage 2 concerns.

In terms of the 5 concerns that were closed in this period. They took 57 days, 69 days, 82 days, 129 days and 170 days respectively.

This gave an average of 102 days, or 20 weeks and 3 days for each Stage 2 concern to be closed.

KPI 8: The number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days

There were no Stage 1 concerns raised in this period.

There were 5 Stage 2 concerns raised in this period, and none were closed within the 20 days (4 week) deadline.

KPI 9: The number of concerns at stage 1 where an extension was authorised as a percentage of all concerns at stage 1

There were no Stage 1 concerns raised in this period.

KPI 10: The number of concerns at stage 2 where an extension was authorised as a percentage of all concerns at stage 2

There were 5 concerns resolved at Stage 2 in this period, 100% of these had extensions authorised beyond the initial 20 days / 4 weeks.

Reporting processes

Quarterly Reporting

NHS Highland Executive WB Lead presents the quarterly Whistleblowing reports to the following formal governance committees:

- NHS Highland Board

- Argyll & Bute Integrated Joint Board
- NHS Highland Staff Governance Committee
- NHS Highland Area Partnership Forum

The reports are also discussed at the Executive Directors Group and Senior Leadership Teams.

All efforts are made to ensure that reporting is timely and prompt, however, it has to be noted that meetings of governance committees are bi-monthly and so often there will be some lag. However, all committees are given time and space to scrutinise the reports and discuss.

In addition, there is dynamic discussion and reporting via the Executive Lead into the Executive Directors Group as well as to specific leaders, to ensure the any urgent matters are rapidly addressed.

2022 / 2023 reporting

Quarter	Period covered	Area Partnership Forum	Staff Governance Committee	NHS Highland Board	Argyll & Bute IJB
Q1 22-23	1 April – 30 June 2022	28 Oct 2022	9 November 2022	27 Sept 2022	24 Nov 2022
Q2 22-23	1 July – 30 September 2022	28 Oct 2022	9 November 2022	29 Nov 2022	24 Nov 2022
Q3 22-23	1 October – 31 December 2022	21 April 2023	8 March 2023	28 March 2023	29 March 2023
Q4 22-23	1 January - 31 March 2023	18 Aug 2023	28 June 2023	27 September 2023	30 August 2023
Annual Report 22-23	1 April 2022 - 31 March 2023	18 Aug 2023	6 September 2023	27 Sept 2023	30 September 2023