

Meeting:	Board meeting
Meeting date:	3 February 2022
Item Number:	10.2.1
Title:	Whistleblowing Standards Quarter Two – 1 July 2021 to 30 September 2021 Report
Responsible Executive/Non-Executive:	Adam Coldwells, Deputy Chief Executive
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1 Purpose

This is presented to the Board for:

- Assurance

This report relates to a:

- Legal requirement under The National Whistleblowing Standards

This aligns to the following NHSScotland quality ambition(s):

- Safe
- Effective
- Person Centred

This aligns to the NHS Grampian values of:

- Caring
- Listening and
- Improving.

2 Report summary

2.1 Situation

Following the introduction of the National Whistleblowing Standards on 1 April 2021, this is the second quarterly report covering 1 July 2021 to 30 September 2021. NHS Grampian must record and review information in relation to concerns raised about their services on a quarterly basis, reported via the governance structure to the Board. This Report was approved by the 30 November 2021 Staff Governance Committee.

The Report is outlined in Section 2.3 Assessment, for the Board to review and scrutinise and confirm that it provides assurance that the Whistleblowing Standards are being applied appropriately by NHS Grampian.

2.2 Background

Following the Francis report on The Freedom to Speak Up Review, the Cabinet Secretary for Health and Sport announced that an Independent National Whistleblowing Officer (INWO) would be established to provide independent and external review on the handling and outcome of whistleblowing cases.

The Scottish Government had a clear ambition to develop a culture within the NHS that welcomes concerns from staff and others that deliver their services. The role of the INWO is one of the ways they hope to achieve this. The INWO has similar powers for whistleblowing in the NHS to those it currently has for complaints; to set out a model procedure for NHS organisations to use (the Standards), and to be the final review stage for concerns that have already been considered within the NHS.

NHS Organisations are required to follow the National Whistleblowing Principles and Standards.

Alongside this, the Scottish Government revised and promoted the role of Whistleblowing Champion as a formal member of each NHS Board. Their role is to ensure that the systems are in place to enable staff to raise concerns, and that the culture of the organisation supports the full application of these systems, by valuing staff concerns. Mr Bert Donald, NHS Grampian's Whistleblowing Champion commenced in February 2020.

2.3 Assessment

During Quarter One there were two whistleblowing cases raised through the new online whistleblowing form, both of which were also closed in Quarter One. The online form was created internally by NHS Grampian, in addition to the nationally suggested mechanisms, to encourage reporting of concerns. The form is available to staff through a Bit.ly (shortened) Link and QR Codes on posters, a link on intranet and internet pages, and has also been promoted through the Daily Brief. There are also non-digital ways promoted for staff to raise concerns as many of our workforce do not have access to PCs.

In Quarter Two, six whistleblowing concerns were raised, three received through the online form, two by email to a Confidential Contact and one by phone call to a Confidential Contact. Only two of these concerns have concluded during Quarter Two, meaning the learning and actions taken for the four outstanding concerns will be reported in the Quarter Three report.

The two concerns that did conclude included separate themes of team dynamics and staffing levels. Investigation outcomes included creation of an action plan, assurance provided that appropriate risk reducing mitigations were in place and additional support and explanation being offered to reassure and increase understanding.

During 2020/21 we received no concerns raised under the NHS Grampian Whistleblowing Policy, whilst eight whistleblowing concerns have been received 1 April to 30 September 2021. It should be noted when considering the comparison that it is pre and post the implementation of the national standards, effective from 1 April 2021.

Number of concerns closed at stage 1 and stage 2 of the whistleblowing procedure as a percentage of all concerns closed

(For information regarding stage 1 and stage 2 with the Standards please see Appendix 1.)

	Quarter 2	
		% of all concerns closed
Total number of concerns received *	Six	
Concerns closed at stage 1	Zero	0%
Concerns closed at stage 2 +	Two	100%
Concerns raised through Whistleblowing Standards but handled under business as usual	Zero -	Not Applicable
Number of concerns received in Quarter 2 but not concluded in Quarter 2	Four	Not Applicable

* The Standards require four routes being available to staff to raise whistleblowing concerns. Through a line manager, a more senior manager if circumstances mean this is more appropriate, through identified Confidential Contacts and through a dedicated whistleblowing route.

+ Were not handled under Stage 1 first, directly investigated under Stage 2.

- We are not aware of any concerns being raised through the Whistleblowing Standards this quarter which were dealt with by business as usual. We are continuing to look for ways to make it easier for whistleblowers and management to let us know if they have raised or responded to concerns as business as usual or early resolution if they meet the whistleblowing criteria. To support this we are creating a whistleblowing section on Datix, and now have a Whistleblowing Co-ordinator role, who is able to record centrally on Datix any whistleblowing concerns raised if they are made aware of them through gram.whistleblowing@nhs.scot, which supports reporting of concerns where staff have no access to Datix.

Outcome at each stage of the whistleblowing procedure as a percentage of all concerns closed in full at each stage

Stage 1	Quarter 2	
		% of all concerns closed
Concerns upheld	Not applicable	Not applicable
partially upheld	Not applicable	Not applicable
not upheld	Not applicable	Not applicable

Stage 2	Quarter 2	
		% of all concerns closed
Concerns upheld	One	50%
partially upheld	Zero	0%
not upheld	One *	50%

* Support and an explanation was offered to the concern raiser to allow them to better understand and be assured why their concerns had not been upheld.

Average time in working days for a full response to concerns at each stage of the whistleblowing procedure

	Quarter 2
Stage 1	Not applicable
Stage 2	Currently unknown as four cases still open *

* Whistleblowing concerns should be responded to in 20 working days where possible. Where this is not possible the whistleblower should be kept informed of progress and when to expect a response, which has happened in all of these cases. Due to the nature and complexity of whistleblowing cases, it can take longer to tease out and establish the key areas of concerns which can be investigated under the Standards, and to seek out an appropriately knowledgeable, independent and conflict free investigator.

Number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days

	Quarter 2	
	Stage 1	Stage 2
Closed within 5 working days	Not applicable	Zero
Closed within 20 working days	Not applicable	One

Number of concerns closed where an extension was authorised as a percentage of all concerns

	Quarter 2	
		% of all concerns closed
Stage 1	Not applicable	Not applicable
Stage 2	One	50%

Number Grievance and Bullying and/or Harassment cases

	Quarter 2
Grievance	One x post-employment, concluded Two x early resolution, concluded Three x early resolution, ongoing
Bullying and/or harassment	Two

Concerns of staff can be raised by following a number of organisational policies, for example, through the Bullying and Harassment policy or the Grievance policy. The data for these two policies, for quarter one, has been added to this report in the interest of transparency and to provide further assurance to the Board that the organisation has a culture in which people feel confident and able to raise their concerns.

Statement outlining learning, changes or improvements to services or procedures as a result of consideration of whistleblowing concerns.

The learning and action that has been taken as a result of the two concluded concerns are:

- Additional support offered.
- Staff meetings took place to discuss situation and actions needed.
- Team reflection and dynamics support put in place.
- Action plan agreed and to be reviewed.

Statement to report the experiences of all those involved in the whistleblowing procedure (where this can be provided without compromising confidentiality).

Through feedback received by Confidential Contacts so far, concern raisers are reporting to have been well supported and well informed through-out the process. There is on average four meetings taking place with each concern raisers, including:

- Initially when the concern is raised.
- To discuss and agree the main areas to be investigated and what outcome is hoped for.
- An interim meeting at 20 working days to apologise if there has been a delay, to update on progress, feedback what was known at that point and let them know the likely timescale to conclude the investigation.
- Finally a meeting takes place to feedback the outcome, to find out how they felt about the outcomes and what their experience had been.

Concern raisers so far have reported feeling satisfied that they had been listened to, action taken as needed, and importantly that they felt their concerns had been taken seriously.

Statement to report on levels of staff perceptions, awareness and training.

A review of our Turas system after Quarter One had shown that only 17 managers have completed the Management Whistleblowing module, and 41 staff members had completed the Staff Whistleblowing module. A review carried out on 24 November shows that now 32 managers and 270 staff have completed the relevant training modules. The increase of 244 trained staff in just over four months is very impressive, given the continued pressures felt by staff and the system over the last 20 months.

A further reminder of the Standards and the training available will be re-promoted across the health and social care partnerships, primary care and NHS Grampian during December 2021. This will be the fourth promotion of the Standards and training since 1 April 2021, and we will continue to promote both and encourage staff to undertake training into 2022.

2.3.1 Quality/Patient Care

Whistleblowing principles for the NHS underpin how NHS services must approach concerns that are raised by staff, students and volunteers about health services. One of the principles is focused on improvement which will have a positive impact on the quality of care and services. NHS Grampian must actively encourage staff, students and volunteers to report any concerns about patient safety or malpractice, as part of their day-to-day work, even before the start of any formal procedure. The procedure for raising concerns should reflect and promote excellence in providing services. Use the outcomes of concerns to identify and demonstrate learning and improvement and share best practice, both in providing services and in the procedure itself.

Whistleblowing is defined in the Public Services Reform (the Scottish Public Services Ombudsman) (Healthcare Whistleblowing) Order 2020 as:

- When a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the Scottish Public Services Ombudsman Act 2002) raises a concern that relates to speaking up, in the public interest, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing.

This includes an issue that:

- Has happened, is happening or is likely to happen; and
- Affects the public, other staff or the NHS provider (the organisation) itself.
- People also often talk about ‘raising concerns’ or ‘speaking up’. These terms can also refer to whistleblowing.

Risks can relate to a wrongdoing, patient safety or malpractice which the organisation oversees or is responsible or accountable for. In a health setting, these concerns could include the following. The concern and outcome would be used to improve services and patient safety

- patient-safety issues
- patient-care issues
- poor practice
- unsafe working conditions
- fraud (theft, corruption, bribery or embezzlement)
- changing or falsifying information about performance
- breaking any legal obligation
- abusing authority;
- deliberately trying to cover up any of the above

2.3.2 Workforce

Whistleblowing gives staff a route which enables employees to raise confidentially those concerns they feel may be in the public interest. This assists NHS Grampian in being able to identify, respond to, and learn from workforce concerns.

Another of the Whistleblowing principles is focused on being supportive to people who raise a concern and all staff involved in the procedure. This would include offering support and protection to all staff, students and volunteers who raise a concern or who are directly involved in a concern, at all stages of the process. When someone raises a concern, listen to them, support them, treat them with dignity and respect, and be sensitive and professional. Offer alternative methods to people who may not want to raise concerns with their line manager. Make staff, students and volunteers aware of all forms of support and guidance that are available to people involved in whistleblowing,

2.3.7 Route to the Meeting

This has been previously been considered at the 30 November 2021 Staff Governance Committee, as part of its development. The groups have either supported the content, or their feedback has informed the development of the content presented in this report.

2.4 Recommendation

- **Assurance** –review and scrutinise the information provided in this paper and confirm that it provides assurance that the Whistleblowing Standards are being applied appropriately by NHS Grampian.
- **Future reporting** – a quarterly report and annual report are required to be submitted to the Board. A schedule will be provided in the next quarterly report taking into account the Board and Staff Governance Committee meeting frequency.

3 List of appendices

The following appendix is included with this report:

Appendix 1 – Information on Stage 1 and 2 within the Whistleblowing Standards

Appendix 1

Stage 1: Early resolution

Stage 1 is for simple and straightforward concerns that can be responded to within five working days or less. These concerns will involve little or no investigation, and can be handled by providing an explanation or taking limited action. The line manager should be involved in resolving the situation, where appropriate. Issues that are more complex, and will clearly take more than five working days to address, should move straight to stage 2.

Organisations must make sure that staff have access to an impartial, confidential contact who they can contact by email or phone, or talk to in person. People can raise their concerns with their line manager, the confidential contact or another representative such as a senior manager (more information on NHS board and staff responsibilities is available under Governance).

Ideally, the person raising the concern will have a face-to-face discussion about the situation. However, if the concern is straightforward and has been raised with someone who is able to take appropriate action, this may be enough to resolve the issue. The person raising the concern must be updated with what has been done.

More information about Stage 1 can be accessed [here](#).

Stage 2: Investigation

Concerns handled at stage 2 of the whistleblowing procedure tend to be serious or complex, and need a detailed examination before the organisation can provide a response. Concerns can move straight to stage 2 if they include issues which are too complex to handle at stage 1, which means a full investigation is needed from the start.

An investigation aims to establish all the facts relating to the points raised in the whistleblowing concern. It should be thorough, in proportion to the seriousness of the concern and impartial, so that the organisation can identify any problems and consider what improvements can be made. This may include action to put things right in the short term, or an action plan for future changes. It is also very important to give the person raising the concern a full response that is based on evidence and sets out the organisation's final position.

If a concern which is appropriate for stage 2 is raised with someone who was involved in the situation, or was involved in a decision at stage 1, the organisation should do all it can to make sure the person can discuss the situation and their concern with an appropriate person who has not been involved in the situation. This may be a confidential contact or an impartial manager.

More information on Stage 2 can be accessed [here](#). The full Whistleblowing Standards can be accessed [here](#).