



Whistleblowing Annual Report

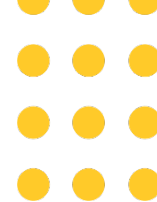


April 2021 to March 2022

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1. Introduction

This is our first annual report on whistleblowing concerns since the new Independent National Whistleblowing Officer (INWO) National Standards came into force on 1 April 2021.

The launch of the new standards provided an opportunity for NHS National Services Scotland (NSS) to review and update internal processes given the low number of concerns previously received. (Between 2015 and 2020, NSS received only four concerns classed as whistleblowing).

NSS supports and encourages an environment where employees, both current and former, bank and agency workers, contractors (including third sector providers), trainees and students, volunteers, non-executive directors, and anyone working alongside NSS staff can raise concerns.

Our aim in this report is to be transparent about how we handle whistleblowing concerns, highlight actions taken and improvements to our services as a result of whistleblowing concerns raised and lessons learned during the first year of implementation of the new INWO standards.

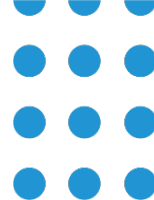
In line with the national standards requirements, details are shared at a level which ensures we protect the whistleblower's identity and to make sure the report does not identify anyone who has contributed to an investigation.

The reporting period includes activity between 1 April 2021 and 31 March 2022.

2. Background

Whistleblowing is an important process to enable a person to speak up about any whistleblowing concerns they may have in the organisation with respect to quality and safety in patient care and our service delivery. The way we respond to whistleblowing concerns raised is important, so that individuals feel that their concerns will be valued and handled appropriately and that the organisation will take on board what they have to say.

In line with the organisation's values, NSS encourages whistleblowing concerns to be dealt with at the earliest opportunity and where possible in real time within the management structures that our staff work in within the organisation. Alternate routes for raising whistleblowing concerns include with more senior managers, trade unions and other staff. In support of providing alternate routes, NSS has recruited Confidential Contacts in the last year as an additional source of support for colleagues to talk about any workplace concerns or issues. NSS also has in place a dedicated whistleblowing telephone and email line. The whistleblowing telephone



line is supported by the Whistleblowing Support Team and monitored daily during office hours.

As part of the process to implement the new National Whistleblowing Standards, NSS established a working group in February 2020 to co-ordinate and support implementation inclusive of: governance reporting, HR policy and process implementation, training and communications. The group established an action plan and delivered on those actions in advance of publication of the INWO standards. Delivery was supported by the Non-Executive Whistleblowing Champion; Chief Executive; whistleblowing named contact in NSS; Employee Director; Director of HR and Workforce Development and other Directors who all played a role in ensuring communication with staff to successfully implement the Standards and raise awareness of the new INWO role.

Throughout, the Executive Management Team, NSS Partnership Forum; Staff Governance Committee and NSS Board were kept fully informed of progress.

The NSS Staff Governance (SG) Committee, together with the NSS Whistleblowing Champion (WBC), who is a member of the Staff Governance Committee, scrutinised this report, including performance against the requirements of the National Whistleblowing Standards, key performance indicators (KPIs) and lessons learned as part of the Board's ongoing work to promote a 'Speak Up' culture. The WBC has been proactive in engaging with the organisation and raising awareness of the Standards and in providing critical oversight of governance mechanisms for reporting on and dealing with whistleblowing concerns, to complement the oversight provided by the Board. The WBC has received assurance on and supported the production of the annual whistleblowing report as well as the Quarterly reports that feed into this and is satisfied that the reports meet the required National Whistleblowing Standards and associated key performance indicators.

3. Concerns Raised

Since 1 April 2021, the Confidential Contact service and the whistleblowing helpline within NSS, has been contacted on 21 occasions, seven of these concerns were raised under the auspices of whistleblowing. Three of these were assessed as not meeting the whistleblowing definition and referred to HR or the complaints process. Of the remaining four, all were from NSS employed staff. There were no reports received from students, trainees volunteers or contractors.

Contractors (both NSS specific and those with national contracts) were all contacted to ensure policies were in place within their organisations for whistleblowing and that quarterly reporting of concerns would be sent by them proactively. No quarterly



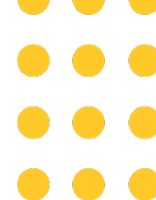
reports were received. NSS has also written to all contractors at year end to confirm the nil return to date.

Over the relevant reporting period in the year to 31 March 2022, four whistleblowing concerns were investigated; this compares to four in the previous five years. In reviewing this we believe this is because of the raised awareness of the new standards and the introduction of the confidential contact service in NSS. Feedback from our confidential contact service and our analysis of the range of concerns raised in the organisation, indicates that there have been no anonymous concerns raised and staff feel able to speak up in using the confidential contact service, particularly so once they have spoken to their confidential contact. Further, of the seven concerns which came to the whistleblowing service, all staff chose to identify themselves. Only one wished to raise an unnamed concern and then once the protections of the standards were explained, was content to use this protection.

One concern was investigated as a Stage 1 initially and proceeded to Stage 2 and the remaining three concerns were investigated as Stage 2 concerns from the outset due to their complexity. One of the concerns was handled as an unnamed concern as the member of staff raised the concern and then withdrew it, however the organisation decided to investigate the matter, nonetheless. Two of these concerns had been raised with managers under business as usual, but the members of staff raising the concerns had lost trust in the management response and escalated to the whistleblowing helpline therein.

The outcomes from these four concerns were that three concerns were not upheld, and one was partially upheld. In addition to this, recommendations were made in one of cases not upheld, based on findings during the investigation. In both these cases, where there were recommendations, an action plan was created by the NSS Strategic Business Units (SBUs) involved to follow through on the actions arising to improve the service. All these actions were reported on a quarterly basis to the Staff Governance Committee (SGC) and the actions have been completed during this financial year. Key improvements made to services arising from these actions include:

- Continuously improving and expediting planned training process changes in a service
- Ensuring recruitment processes are in line with the policy requirements within a service, inclusive of the development of local escalations processes for when these are challenged;
- Introduction of a management development programme to support best practice covering people management skills to enable issues between employees and the employer to be resolved informally, where at all possible;
- In support of Once for Scotland Policies, e-learning modules developed by Learning and Development (L&D) to bring policies to life and link to systems and processes;



- Ongoing work with Organisational Development (OD) and Communications colleagues on innovative ways to share the NSS values culture.

The details of the Key Performance Indicators (KPIs) associated with the concerns reported in their totality, those which were raised as whistleblowing concerns and those which were investigated as whistleblowing concerns are given in section 4.

4. Key Performance Indicators

| | Q1 | Q2 | Q3 | Q4 | Total |
|---|----|----|----|----|-------|
| Total number of concerns received | 3 | 3 | 4 | 11 | 21 |
| Number of potential whistleblowing concerns | 3 | 3 | 1 | 0 | 7 |
| No. classed as whistleblowing | 2 | 1 | 1 | 0 | 4 |
| No. reviewed at Stage 1 (5 days) | 1* | 0 | 0 | 0 | 1* |
| No. reviewed at Stage 2 (20 days) | 2^ | 1 | 1 | 0 | 4^ |
| No. classed as anonymous/unnamed | 0 | 1 | 0 | 0 | 1 |
| Number not classed as Whistleblowing | 1 | 2 | 3 | 11 | 17 |

*This case was investigated as a stage 1 and proceeded to a stage 2.

^ Includes stage 1 case moved to stage 2

The introduction and promotion of the NSS Confidential Contact service in November 2021, with associated corporate communications, is considered to have positively impacted the number of concerns being raised. In the main, concerns related to Once for Scotland HR policies and other matters beyond the scope of whistleblowing.

The remainder of this report is based on those concerns related to whistleblowing and referred to the whistleblowing service via the confidential contacts or raised with the whistleblowing service directly by the individual raising the concern.



Whistleblowing Internal/External/Contracted Services Cases

| | Q1 | Q2 | Q3 | Q4 | Total |
|---------------------------------------|----|----|----|----|-------|
| No. of concerns – Internal | 2 | 1 | 1 | 0 | 4 |
| No. of concerns – External | 0 | 0 | 0 | 0 | 0 |
| No. of concerns – Contracted Services | 0 | 0 | 0 | 0 | 0 |

Internal refers to NHS National Services Scotland (NSS) staff in NSS Services, and external refers to non-NSS staff in NSS services (e.g. volunteers/students, etc).

Whistleblowing Concerns Closed

| | Q1 | Q2 | Q3 | Q4 |
|-----------------------------|-------------|-------------|-------------|-----------|
| No. and % closed at Stage 1 | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) |
| No. and % closed at Stage 2 | 2 (100%) | 1 (100%) | 1 (100%) | 0 (0%) |

Status of outcome of Investigation

| | Q1 | Q2 | Q3 | Q4 | Total |
|------------------|----------|----------|----------|----------|----------|
| Stage 1 | | | | | |
| Upheld | 0 | 0 | 0 | 0 | 0 |
| Partially Upheld | 0 | 0 | 0 | 0 | 0 |
| Not Upheld | 0 | 0 | 0 | 0 | 0 |
| Stage 2 | | | | | |
| Upheld | 0 | 0 | 0 | 0 | 0 |
| Partially Upheld | 0 | 0 | 1 | 0 | 1 |
| Not Upheld | 2 | 1 | 0 | 0 | 3 |
| TOTAL | 2 | 1 | 1 | 0 | 4 |



Response timescales

| | Q1 | Q2 | Q3 | Q4 |
|---|---------|----------|----------|--------|
| Stage 1 (5 days) | | | | |
| Average time in working days for responses | 5 | 0 | 0 | 0 |
| No. of cases closed at Stage 1 within timescale (%) | 0 (0%) | 0 (0%) | 0 (0%) | 0 (0%) |
| No. of Stage 1 cases extended | 0 | 0 | 0 | 0 |
| Stage 2 (20 days) | | | | |
| Average time in working days for responses | 22 | 3 | 43* | 0 |
| No. of cases closed at Stage 2 within timescale (%) | 1 (50%) | 1 (100%) | 0 (0%) | 0 (0%) |
| No. of Stage 2 Cases extended (%) | 1 (50%) | 0 (0%) | 1 (100%) | 0 (0%) |

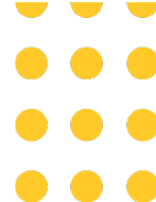
*This concern was received prior to the festive season. With the agreement of the whistleblower, this case went beyond the 20-day timeframe. The whistleblower was kept apprised at all times.

Cases under consideration by INWO

| | Q1 | Q2 | Q3 | Q4 | Total |
|----------------------------------|----|----|----|----|-------|
| Internally raised Cases | 1* | 0 | 0 | 0 | 1 |
| Externally raised Cases | 0 | 0 | 0 | 0 | 0 |
| Contracted Services raised Cases | 0 | 0 | 0 | 0 | 0 |

INWO referred cases referred at

| | Q1 | Q2 | Q3 | Q4 | Total |
|---------|----|----|----|----|-------|
| Stage 1 | 0 | 0 | 0 | 0 | 0 |
| Stage 2 | 1 | 0 | 0 | 0 | 1 |



*As at the end of Q4, INWO continue to review the case from Q1.

These Key Performance Indicators are reviewed by the Staff Governance Committee at each meeting.

5. Key Themes Arising from whistleblowing concerns raised

Key themes arising from the four concerns investigated to date included the importance of managing concerns in the business area they arise in effectively, inclusive of ensuring staff:

- Feel able to speak up within Strategic Business Units
- Know how to speak up and who to speak to in Strategic Business Units
- Early management of concerns by managers in Strategic Business Units

Individual concerns related to the following topic areas which the organisation can consider for ongoing improvement:

- Ensuring managers follow HR policy and use informal processes in the first instance
- Strategic Business Units comply with HR policy and agreed processes
- Management communications with staff on Strategic Business Unit level decisions to allay potential concerns
- Ensuring the NSS Values and behaviours are enacted in all we do in the organisation

6. Lessons Learned

Since the launch of the standards, NSS has undertaken continuous improvement of our processes and the support provided to individuals raising concerns.

Improvements have been made following additional guidance from INWO and learning from other boards via the newly established networks for confidential contacts and those involved in whistleblowing management. This has included:

NSS Process

- Clarifying roles and responsibilities as additional information has been made available from INWO seminars and website content changes. This has included separating out the whistleblowing ambassador role from the executive lead role. Recruitment is underway for supporting roles. The introduction of the NSS confidential contact service, inclusive of connection to whistleblowing processes.

- Updating letter templates content based on INWO information; shared learning from other boards, as well as feedback from those involved in the process in NSS.
- Updating internal Standing Operating Procedures (SOPs) and processes based on learning from investigations undertaken, inclusive of follow up on action plans and Red/Amber/Green (RAG) reporting on those to the NSS Staff Governance Committee.
- Development of processes to manage and monitor contractor requirements internally and on behalf of NHSScotland via National Procurement.

Learning/Feedback/Experience from those Involved in the concerns investigated

Specific lessons learned exercises were undertaken following all Stage 2 investigations, to ensure NSS examined anything more that needed to be done in support of communications and organisational implementation of the policy, and to support the improvement of services.

Feedback was sought from everyone involved in whistleblowing cases, including commissioning managers, investigators, witnesses, and individuals raising concerns. Those who responded expressed a broadly positive experience of the process, with reference to:

- awareness of NSS communications and policy;
- the prompt and professional manner in which the investigations were undertaken;
the administrative support provided to the investigations;
- use of the template letters;
- the investigations were perceived to be undertaken in line with the requirements of the standards of the Independent National Whistleblowing Officer as detailed on the NSS intranet.

7. Areas of improvement

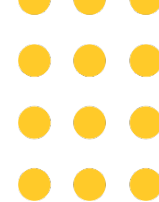
NSS continuously improves the way we do things and the following have been those areas of improvement work following the first year of learning:

- **Clarifying the role of the investigating manager** and where this differs to the national HR policy for investigations. Steps take to address this include:



- sharing the internal whistleblowing SOP and other information with the commissioning managers and investigators to make clear the expected process and timelines.
- Providing feedback on the outcome and next steps in the process to the investigating manager.
- **Clarifying witness involvement in the process and communications with those who need to know**, inclusive of the importance of the confidential nature of witness involvement. NSS decided to strengthen the provision of protection.
 - We have made clear to investigating managers what their role is with respect to witness confidentiality
 - We have changed our approach to lesson learned exercises from a collective witness debrief approach to an individual feedback approach
 - We have stopped using MS teams for this and use individual forms for feedback via email
 - Witness communications about the investigation outcome have been introduced
 - We introduced a letter template for witnesses to receive the outcome of investigation as part of the process
- **Timelines for investigation** - we make clear in all communications that we will endeavour to meet these timelines where possible and communicate when this is not possible with the reasons why.
- **Procurement coordination of contractor services:**
 - Internal oversight and co-ordination of NSS contractors is now carried out. All contractors were written to in this regard with a standard template letter.
- **INWO Independent Review - Stage 3 complaint handling:**
 - we have considered the required internal communications in support of the INWO complaints process based on our experience of the single stage 3 investigation underway. Draft communication templates and a process for this are now available for this.

We will also consider further learning from the outcome of that INWO investigation once available.



8. Training

NSS has actively encouraged staff to undertake the NHS Education for Scotland developed whistleblowing training in TURAS. Since 1 April 2021, 77% of all NSS staff (2,188) and 71% (575) of all managers have completed the training.

| Training | Q1 | Q2 | Q3 | Q4 |
|---|------|------|------|------|
| NSS Employees registered in TURAS* | 3403 | 3446 | 2905 | 2855 |
| NSS Employees who have undertaken employee (whistleblowing) training module | 1483 | 1837 | 1947 | 2186 |
| Compliance (%) | 44% | 53% | 67% | 77% |
| NSS Managers | 769 | 820 | 811 | 806 |
| NSS Managers who have undertaken manager (whistleblowing) training module | 186 | 414 | 510 | 575 |
| Compliance (%) | 24% | 50% | 63% | 71% |

*NSS Employees: this is the headcount from TURAS, which excludes bank staff.

9. Working with Contractors

In preparation for the roll out of the Whistleblowing policy NSS identified current in scope service contracts and communicated whistleblowing requirements to all contracted suppliers. To ensure all future contracts were compliant with the standard NSS revised standard contractual terms and conditions, making it a requirement for suppliers to comply with the policy requirements. NSS undertook this work for NSS contracted services and for national contracts on behalf of NHS Scotland. As part of that process, all relevant suppliers were written to enclosing a copy of the INWO Whistleblowing Policy – Compliance Self-Assessment Checklist for NHS Providers.

NSS collate reports of any concerns reported by the contractors and on an annual basis send all in scope suppliers of contracted services an electronic form, requiring detail of any whistleblowing concerns raised during the financial year, or confirmation of a nil response.

For the 2021-22 reporting year, there were no whistleblowing concerns raised by the identified NSS in-scope suppliers. Furthermore, all in-scope suppliers confirmed that they had whistleblowing policies in place.

To reduce duplication for both suppliers and Health Boards, National Procurement is also supporting the reporting requirement by contacting suppliers who are on national agreements. For these national contracts (n=310), 95% of suppliers have

responded and 88% of those have confirmed that they have whistleblowing policies in place. Seven whistleblowing concerns were raised and resolved in the local setting (e.g. an NHS Board). As a consequence, in the first year of reporting there was some confusion as to whether Contractors should report these concerns through NSS in addition to this local reporting. This has been clarified and Procurement colleagues will work with national contract suppliers in 2022 to ensure that reporting is carried out quarterly/annually through NSS for the reporting period 2022-23 onwards.

10. Communications

A Whistleblowing communications strategy was put in place to promote the new National Standards within NSS.

The strategy was devised to inform all 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:

- The importance of the policy and how it affects everyone within NSS
- How to access and use the policy.
- Who to contact if they have a concern to be raised.
- What happens when a concern is raised, and that it will be treated with the utmost seriousness, assessed and when required thoroughly investigated.
- How to complete the eLearning programme from NHS Education for Scotland.
- How NSS will learn from all the feedback provided, to improve the way we do things.

To implement the plan there were several channels used to keep stakeholders informed.

HR Connect was updated with the following information

- NSS Confidential Contacts Information
- Raising Whistleblowing Concerns – a guide for NSS
- Whistleblowing Guide to accessing eLearning through TURAS
- Equality and Faire Scotland Duty Assessment of Whistleblowing
- Whistleblowing Raising a Concern Flowchart
- Whistleblowing Process Overview Flowchart



Regular staff messaging (via all staff emails and Stay Connected newsletter including

- Video from Professor Langa, Non-Executive Director and Whistleblowing Champion
- Video from Mary Morgan, Chief Executive
- Seven updates throughout the year to remind staff about the Standards and where to find them
- Six updates issued reminding staff about the eLearning programme and how to access it
- Promotion of the recruitment of confidential contacts and updates of the service
- Promotion of the INWO website and INWO bulletin. Staff actively encouraged to sign up to receive the bulletin

The NHS NSS website updated to include details

Initially the website did not enable searching for whistleblowing, however this was amended.

Proactive communications

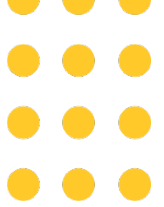
that Strategic Business Units could use with contractors and providers (to raise awareness of the policy).

We are also currently:

1. Updating the homepage of geNSS (staff intranet site) to encourage staff to find the section in HR Connect quicker.
2. Looking at producing case studies to raise more awareness of the different types of Whistleblowing cases.
3. Continuing to send out messaging via Stay Connected reminding staff to complete training and to visit the INWO website/HR Connect.

This annual report will be published on the NSS website.

For alternative formats please contact NSS.EqualityDiversity@nhs.scot



11. Confidential Contacts

With the introduction of the Once for Scotland policies in March 2020 and the Whistleblowing Standards in April 2021, all health boards across Scotland were to implement a confidential contacts or similar service to the workplace for all employees to have access to. Following agreement by the NSS Workforce Policy Terms and Conditions (WPTC) Group and NSS Partnership Forum in March 2021, this service was developed and implemented in NSS. Our confidential contacts listen, support and signpost options under the relevant policies to staff who wish to raise concerns. Five staff were identified through our recruitment exercise to carry out the role of confidential contact as a pilot within NSS. This was voluntary in addition to their substantive role.

The confidential contacts received training on the role of the confidential contact, HR policies, whistleblowing and listening skills. They also attended meetings with the NSS whistleblowing lead, NHS Lothian whistleblowing ambassador service and HR in advance of the launch of the confidential contact service to all staff on 24th November 2021. Confidential contacts utilise an electronic recording form to enable anonymous recording of contacts being made.

The WPTC will be undertaking a review and lessons learned of the pilot in June 2022. This will help to identify any improvements and inform our future approach.

As detailed at section 4, the introduction and promotion of the Confidential Contact service in November 2021, is considered to have positively impacted the number of concerns being raised and NSS welcomes the opportunity to learn and improve from this feedback.

Our confidential contacts are members of the INWO Practitioners Forum and our whistleblowing support team are members of the Practitioners Forum.

Feedback from confidential contacts included:

“Becoming a confidential contact has been a unique and enlightening experience.”

“As a team we have worked well together, despite working in different parts of the organisation.”

12. Our services

NSS is a national NHS Board operating right at the heart of NHS Scotland. Through our services we provide invaluable support and advice through our Strategic Business Units and Corporate functions. A role that is also extended to the wider public sector. Our services include:



Covid-19 response

Overview, supply and distribution, manufacturing and sourcing, covid-19 testing, convalescent plasma, digital, screening and blood donation. The implementation of the National Contact Centre (NCC).



Specialist healthcare

Providing specialist clinical services, population screening, national network management services.



National Procurement

Strategic sourcing, commercial services, procurement services, terms and conditions, warehouse operations, supply chain, distribution, fleet management and ward product management.



Programme management

Portfolio management, programme and project delivery, programme assurance and programme management office.



Facilities

Capital projects, estate asset management, equipping services, engineering, environment and decontamination, facilities management.



Legal

Litigation, employment, commercial property and commercial contracts.



Digital and Security

Portfolio management, programme and project delivery, programme assurance and programme management office.



Blood, tissues and cells

Blood tissues and cells, clinical services, research, development and innovation, training, testing, quality assurance and regulatory compliance.



Practitioner

Pharmacy, medical dental and ophthalmic



Counter fraud

Fraud prevention, fraud detection, fraud investigation and more.

