

Responding to whistleblowing concerns

A guide for managers at NHS Education for Scotland (NES)

Introduction

The whistleblowing procedure used in NHS Education for Scotland (NES) is based on the [National Whistleblowing Standards](#) (the Standards) developed by the Independent National Whistleblowing Officer (INWO). We need to listen to our staff who have concerns about patient safety issues and other harms, and to encourage, support and protect staff who speak up. This is a quick reference guide for NHS Education for Scotland managers to use alongside the Standards when responding to concerns.

What is my role?

Managers must be ready, willing and able to receive whistleblowing concerns, in line with the Standards. Your role includes:

- [supporting staff](#) to raise concerns and helping them to overcome any barriers they experience.
- assessing whether concerns [are eligible](#) to be handled under the Standards.
- handling and [recording the details of the concern](#) whilst maintaining confidentiality and managing data protection issues; and
- making decisions on stage 1 concerns that fall under your remit.

[Training is available on Turas Learn](#) to help you familiarise yourself with the Standards and your role.

What should I do if someone approaches me with a concern?

Anyone delivering services on behalf of NHS Education for Scotland can raise a concern, including [contractors](#), [students](#), [trainees](#) and [volunteers](#).

People raising concerns need to have confidence in you, NHS Education for Scotland, and the whistleblowing procedure. You can play your part by:

- thanking the person for raising their concern;
- listening to them carefully;
- taking their concern seriously; and
- reassuring them that:
 - the concern will be handled sensitively;
 - they have done the right thing by raising the concern; and
 - they will not be treated badly, even if no risks are identified.

Confidentiality is likely to be a worry for anyone who speaks up. It is important that you reassure staff that their details will not normally be shared with anyone other than the people they have agreed can know it. Information about your responsibilities regarding [confidentiality](#) and the [employer's duty of care](#) can be found on the INWO website.

Is it a whistleblowing concern?

To be considered [under the Standards](#), a concern has to be:

- ✓ raised by someone working on behalf of the NHS in Scotland (or a previous employee);
- ✓ about a risk of harm or wrongdoing; and
- ✓ in the public interest.

Risks of harm or wrongdoing could include:

- 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

When should I use the procedure in the Standards?

Concerns can often be raised and resolved without going through the Standards using [“business as usual” procedures](#) like a staff handover meeting, or taking action on a Datix report. Being open, proactive and responsive to concerns raised like this can prevent issues gathering momentum and having to be dealt with more formally.

Nevertheless, concerns should be handled under the [whistleblowing procedure outlined in the Standards](#) if business as usual procedures are not effective, or the staff member requests to use it, for instance if they feel they are at risk of detriment.

What checks should I carry out?

Before using the whistleblowing procedure, you should check:

- ✓ **Does the concern fit the definition of whistleblowing?**
- ✓ **Is the concern being handled through a business-as-usual procedure already?** The business-as-usual procedure should normally run its course to avoid unnecessary duplication.
- ✓ **What outcome is the person seeking?** Consider whether another policy might help them to achieve a more appropriate outcome, e.g., the bullying and harassment or grievance policies.
- ✓ **Has the concern been raised in time?** A concern should normally be raised within six months of the person becoming aware of the issue. You can choose to accept a concern outside of these timescales if there is good reason to do so.
- ✓ **Does the person want to use the Standards?** It is their choice.

If someone decides they do not want to use the Standards, make sure that you tell them that you will take action on any critical issues they have raised. You should not record the concern as a whistleblowing concern under the Standards.

If you decide that the concern is not eligible for the Standards you should explain this in writing and provide contact details for the INWO service.

Please note that staff cannot raise an **anonymous concern** under the Standards. You should make sure you [handle anonymous concerns appropriately](#) in line with the information on the INWO website.

What do I need to know about the concern?

If a staff member wants to use the Standards procedure, then you should meet with them and explore:

- **what the concern is about;**
- **who else is involved;**
- **what the whistleblower wants to achieve;**
- **how you will maintain their confidentiality; and**
- **what support they need.**

For further information, contact NES.Whistleblowing@nhs.scot.

[Additional guidance is available on the INWO website.](#)

What do I need to know about stage 1?

- Concerns raised at [stage 1](#) involve little or no investigation and are normally handled by the line manager (unless this is inappropriate).
- Stage 1 isn't appropriate for serious concerns or concerns that need detailed investigation.
- You should log the concern on the NHS Education for Scotland database.
- Your objective is to provide a straightforward solution to the problem, i.e., an explanation and to take any limited action needed to address the issues raised.
- Your response should be in writing unless the staff member has told you that they do not require it.
- You should respond in five working days (or less).
- You must provide details of how to escalate the concern to stage 2 of the procedure.

What do I need to know about stage 2?

- Concerns raised at [stage 2](#) are more likely to be about serious risks or complex issues that need investigation. They may also be escalated stage 1 concerns where the whistleblower is unhappy with the outcome.
- The concern must be acknowledged within three working days and responded to in 20 working days. A senior manager can extend the timescale if this would help to achieve a better quality investigation and outcomes.
- An independent senior manager from another department should be appointed to carry out an investigation.
- The staff member must get a written response, signed off by a director, and an explanation of what action (if any) will be taken on the back of their concern.
- The response should also tell the whistleblower how they can escalate their concern to the INWO service if they remain unhappy with how it has been handled.

Do concerns need to go through both stages of the procedure?

A concern can be considered at stage 2 from the outset (without going through stage 1) if it is sufficiently serious or complex. The whistleblower can also request that the concern is considered at stage 2 if they think there needs to be an investigation into the issue.

For less serious and less complex concerns your main consideration is whether you can respond at stage 1 in five working days or less. If you cannot respond in five days, then you should use stage 2 from the outset.

Who else is involved in the whistleblowing procedure?

The confidential contacts

The confidential contact's role is to provide a safe space for staff to discuss concerns and to ensure action is taken when staff raise concerns with them. Confidential contacts should also promote awareness of the arrangements for speaking up, and work with the whistleblowing champion and senior management to ensure that the Standards are operating successfully at all levels of the organisation. NHS Education for Scotland's confidential contacts are: Karen Wilson (Karen.Wilson@nhs.scot), Graham Paxton (Graham.Paxton@nhs.scot), Pamela Renwick (Pamela.Renwick@nhs.scot), Lindsay Donaldson (Lindsay.Donaldson3@nhs.scot), Kerrie Walters (Kerrie.Walters@nhs.scot) and Keaton Fletcher (Keaton.Fletcher@nhs.scot).

The whistleblowing champion

Each NHS board has a whistleblowing champion who is a non-executive director. The whistleblowing champion monitors and supports the effective delivery of the whistleblowing policy. Their role complements the work of the INWO. The whistleblowing champion ensures managers are responding to whistleblowing concerns appropriately, in accordance with the Standards. They are also expected to raise any issues of concern with the board in relation to the implementation of the Standards, patterns in reporting of concerns or in relation to issues emerging from cases. They do not get involved in individual cases. NHS Education for Scotland's whistleblowing champion is Gillian Mawdsley (Gillian.Mawdsley@nhs.scot).

The Independent Whistleblowing Officer (INWO)

You can contact the INWO at any time for advice.

The INWO will normally only investigate a concern after it has been through both stages of the local procedure. At this point the person should have received a letter which says that they can bring their concern to the INWO, for [independent review](#).

The INWO can consider complaints about:

- any actions taken by your organisation in response to the concern;
- whether your organisation followed the procedure laid out in the Standards;
- how the person was treated during and after raising their concern;
- how the organisation supports a culture of speaking up.

Contact details:

Independent National Whistleblowing Officer
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

FREEPHONE: 0800 008 6112

inwo.spsso.org.uk/contact-form

