



Whistleblowing Annual Report 2021/2022

1. Summary

1.1 In the period 01 April 2021 to 31 March 2022, NHS Borders has had one case of whistleblowing taken forward by an employee and a number of matters attended to as business as usual interventions.

1.2 In the same timeframe, a Whistleblowing Governance Group has been established and its' terms of reference agreed. The group is chaired by a Non-Executive Director of the Board, operating in the Whistleblowing Champion role.

1.3 In the same timeframe, a network of Whistleblowing Confidential Contacts has been established and appropriate training delivered.

1.4 During 2022/2023, NHS Borders will engage in further work to publicise the role of the Confidential Contacts and strive to make sure that more managers, supervisors, staff, students and volunteers understand what whistleblowing is and how concerns are taken forward. There will be further engagement with different parts of the independent contractor landscape to embed the INWO Standards.

2. Background

2.1 The new role of Independent National Whistleblowing Officer (INWO), which is to be undertaken by the Scottish Public Services Ombudsman came into effect on 01 April 2021. This provides a mechanism for external review of how a Health Board, primary care or independent provider has handled a whistleblowing concern. On the same date the National Whistleblowing Standards were formally published, and the "Once for Scotland" Whistleblowing Policy went live.

2.2 The National Whistleblowing Standards (the Standards) set out how all NHS service providers in Scotland must handle concerns that have been raised with them about risks to patient safety and effective service delivery. They apply to all services provided by or on behalf of NHS Scotland and must be accessible to all those working in these services, whether they are directly employed by the NHS or a contracted organisation.

2.3 The Standards specify high level principles plus a detailed process for investigating concerns which all NHS organisations in Scotland must follow. Health Boards have particular responsibilities regarding the implementation of the Standards:

- ensuring that their own whistleblowing procedures and governance arrangements are fully compliant with the Standards.
- ensuring there are systems in place for primary care providers in their area to report performance data on handling concerns.
- working with higher education institutions and voluntary organisations to ensure that anyone working to deliver NHS Scotland services (including students, trainees and volunteers) has access to the Standards and knows how to use them to raise concerns.

2.4 To comply with the whistleblowing principles for the NHS as defined by the Standards, an effective procedure for raising whistleblowing concerns needs to be: *‘open, focused on improvement, objective, impartial and fair, accessible, supportive to people who raise a concern and all people involved in the procedure, simple and timely, thorough, proportionate and consistent.’*

2.5 A staged process has been developed by the INWO. There are two stages of the process which are for NHS Borders to deliver, and the INWO can act as a final, independent review stage, if required.

- **Stage 1: Early resolution** – for simple and straightforward concerns that involve little or no investigation and can be handled by providing an explanation or taking limited action – 5 working days.
- **Stage 2: Investigation** – for concerns which tend to be serious or complex and need a detailed examination before the organisation can provide a response – 20 working days.

2.6 The Standards require all NHS Boards to report quarterly and annually on a set of key performance indicators (KPIs) and detailed information on three key statements:

- Learning, changes or improvements to services or procedures as a result of consideration of whistleblowing concerns
- The experience of all those involved in the whistleblowing procedure
- Staff perceptions, awareness, and training

3. Areas Covered by this Report

3.1 Since the go-live of the Standards in April 2021, processes have been put in place in NHS Borders to gather whistleblowing information raised across all NHS services to which the Standards apply.

3.2 Within NHS Borders and the Health and Social Care Partnership (HSCP) any concerns raised about the delivery of a health service by the HSCP should be reported and recorded using the same reporting mechanism which is in place for those staff employed by NHS Borders. The Chief Officer for Borders Health & Social Care Partnership has specific responsibilities for concerns raised within and about primary care service provision. Mechanisms are in place to gather information from our primary care contractors and those local contractors who are not part of wider National Procurement contracts managed by NHS National Services Scotland.

4. Implementation & Raising Awareness

4.1 NHS Borders formed a working party to implement the Standards. The group started meeting at the end of 2020 and included representatives from Communications, HR, Occupational Health & Safety, University sector, Volunteering and Clinical Governance. The group was chaired by the Director of Workforce and stood down once the Standards were in place.

4.2 NHS Borders began raising awareness of the Standards with staff from March 2021 via Staff Involvement, Staff Share, All Line Manager emails and by attendance at significant staff meetings e.g. Medical Staff Forum.

4.3 Managers, supervisors, staff, students & volunteers were encouraged to complete the Turas training modules.

4.4 NHS Borders HR intranet pages have been updated to reflect the requirements of the new Standards, and include a staff guide to raising concerns.

5. Our Plans for 2022/2023

5.1 NHS Borders has transitioned from a policy known as 'Whistleblowing Arrangements' to the 'Guide for Staff on Raising Whistleblowing Concerns.' The former policy offered the Employee Director and Director of Workforce as the two main points of contact for significant whistleblowing cases. Whilst NHS Borders is not one of the larger Health Boards, with more than 3,000 staff and students, it was considered sensible to create a network of Confidential Contacts. Fourteen members of staff have stepped forward to be trained as Contacts. They represent a range of different job families and are based in different locations throughout the Health Board. There will be ongoing training & development of this network throughout 2022/2023.

5.2 NHS Borders intends to use the Speak Up Week in October 2022 to further raise the profile of whistleblowing, to publicise the Confidential Contact role & how to get in touch with them, and how to access training/information materials.

5.3 The Whistleblowing Governance Group (comprising Non-Executives, Directors, trades unions and Confidential Contact representatives) will continue to meet throughout 2022/2023 and intends to hear from Service Areas on how they have implemented the Standards, publicised the Standards and how they have handled any cases they may have had. Whilst there has been little whistleblowing activity within NHS Borders, the Health Board will better establish its quarterly reporting infrastructure; both to the Board locally and to INWO.

6. Whistleblowing Activity 2021/2022

6.1 There has been a single case of whistleblowing lodged during 2022/2022. The broad theme of the original whistleblowing concern was patient confidentiality. This led to a Stage Two investigation. The contact was made in early September 2021 and the final responses/letters from the organisation were issued to the parties in early November 2021. The parties were notified that it was not possible to adhere to

the INWO Standards timeframes (concluded in 20 working days) and this was due to the intensity of COVID workload at the time and lack of availability of an investigator. Following investigation, the whistleblowing concerns were not upheld. There was insufficient evidence to uphold the whistleblower's concerns. There has subsequently been a complaint made by one of the parties on how the case was handled. At time of writing, INWO are investigating this complaint.

6.2 There have been a number of concerns expressed by different parties which can be classified as business as usual. They were serious matters raised by staff which were attended to by members of the Borders Executive Team (BET). This included concerns expressed by a number of Senior Charge Nurses in the Borders General Hospital, senior Emergency Department staff, staff employed in the Medical Assessment Unit (MAU) and staff employed within Palliative Care. A combination of the Chief Executive, Medical Director, Director of Nursing & Midwifery and AHPs and Director of HR met colleagues involved, addressed the concerns and relayed what work was ongoing to resolve matters. Most matters revolved around the way services were configured during the COVID waves, work intensity and available resources. There is a paper trail linked to all of these engagements.

6.3 There was one concern expressed during 2021 which started through the whistleblowing route and then was channelled into the HR Policy framework. It considered the way one worker was engaging with another worker and was more appropriately handled through the Grievance Policy.

6.4 No anonymous concerns were received during 2022/2023. Anonymous concerns cannot be raised under the Standards and cannot be investigated by INWO.

7. Learning, Changes or Improvements to Services or Procedures

7.1 There was some organisational learning from the single whistleblowing case. It is not possible to expand further as there is a risk of identifying the parties involved in an organisation of NHS Borders scale.

7.2 There will surely be learning from the complaint which the INWO is handling.

8. Conclusions

8.1 NHS Borders is on an improvement journey around Whistleblowing and will be investing significant effort in developing the Confidential Contact Network further and providing an appropriate forum for those staff to share their experiences in a safe and confidential manner. Some Confidential Contacts have expressed an interest in developing skills in workplace mediation; skills deployed when workers experience difficult working relationships in an attempt to resolve differences of opinion.

8.2 Moving forwards, the co-ordination of whistleblowing activity may be moved from within the HR and OH&S Directorate to another directorate. HR are often involved in investigating matters and advising panels on a range of remedial actions, where things have been found to be in need of a management response. HR staff do

not wish to be compromised in this process and wish to retain a neutral position and facilitate good whistleblowing practice.

8.3 NHS Borders will explore the viability of commissioning whistleblowing investigating work from external parties including commercial bodies, charitable organisations or neighbouring Health & Social Care employers.