

**NHS Highland**



**Meeting:** NHS Highland Board  
**Meeting date:** 28 March 2023  
**Title:** Whistleblowing Standards Report  
**Responsible Executive/Non-Executive:** Fiona Hogg, Director of People and Culture  
**Report Author:** Fiona Hogg, Director of People and Culture

**1 Purpose**

**This is presented to the Board for:**

- Assurance

**This report relates to a:**

- Legal requirement

**This report will align to the following NHS Scotland 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**

Attached is the Whistleblowing Standards Quarter 3 report covering the period October – December 2022.

This is provided to give assurance to the Board of our performance against the Whistleblowing Standards which have been in place since April 2021.

## 2.2 Background

All NHS Scotland organisations including Integrated Joint Boards and Health and Social Care Partnership are required to follow the National Whistleblowing Principles and Standards with effect from 1 April 2021. Any organisation providing an NHS service should have procedures in place that enable their staff, students, volunteers, and others delivering health services, to access the National Whistleblowing Standards.

As part of these requirements, a report is required to be presented to the Board and relevant Committees and IJBs, on an annual basis, in addition to quarterly reports.

## 2.3 Assessment

The Board plays a critical role in ensuring the Whistleblowing Standards are adhered to in respect of any service delivered on behalf of NHS Highland, including through ensuring both quarterly and annual reporting is presented and robust challenge and interrogation of this takes place.

Bert Donald, our Whistleblowing Non-Executive Director has carried out another series of visits, this time to the Inverness, Aviemore and Nairn areas at the end of last year. These visits are well received and give useful feedback on colleague experiences and awareness of the Standards.

We know we have more to do to ensure widespread knowledge of the Standards across our vast board area and how to raise concerns and importantly how to address these quickly and effectively, not just through formal processes, although that is one component, Our NHS Highland Corporate Induction launched in February 2023 and is another opportunity to raise awareness with new colleagues as they join the organisation.

Fiona Hogg has been involved in developing a national toolkit to support colleagues, managers, HR and confidential contacts who may have involvement in Whistleblowing cases. The draft guidance has been created and the final version should be ready in April 2023. NHS Highland will plan training and awareness for managers, HR, staffside and colleagues around the launch date and will then finalise our own process guidance with that material being in place and available.

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 as well as the aims and values of the Argyll & Bute Strategic plan.

In the Q3 Whistleblowing report for the period 1 October to 31 December 2022 we had no new cases raised and 3 cases concluded. We continue to focus on improving our timescales to resolve cases and ensuring the 20 day updates are complied with.

We have started to add some more information on actions and learnings and to see what additional data we can collect and we are looking at further breakdowns of the categories we use, to give more insight to the concerns being raised, however, with no new cases reported this period, we couldn't initiate that element.

The future cycle of reporting is expected to be as follows:

| Quarter             | Period covered               | Staff Governance Committee | NHS Highland Board | Argyll & Bute IJB |
|---------------------|------------------------------|----------------------------|--------------------|-------------------|
| Q4 22-23            | 1 January - 31 March 2023    | 10 May 2023                | 30 May 2023        | 31 May 2023       |
| Annual Report 22-23 | 1 April 2022 - 31 March 2023 | 28 June 2023               | 26 July 2023       | 30 August 2023    |
| Q1 23-24            | 1 April - 30 June 2023       | 6 September 2023           | 27 September 2023  | 30 August 2023    |

**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**

This report proposes moderate assurance is taken, with the refinement of our processes making good progress. Our outstanding cases are substantial and complex but are being taken seriously.

It is recognised that further work is needed to implement the final audit action, continue with promotion of awareness and training as well as enhanced reporting and to continue progress made to ensure cases are progressed in a timely manner and we are targeting giving substantial assurance with the next

report in May 2023, which we are confident can be achieved as the national guidance is available from April.

**3 Impact Analysis**

**3.1 Quality/ Patient Care**

The Whistleblowing Standards are designed to support timely and appropriate reporting of concerns in relation to Quality and Patient Care and ensure we take action to address and resolve these.

**3.2 Workforce**

Our workforce has additional protection in place under these standards.

**3.3 Financial**

The Whistleblowing Standards also offer another route for addressing allegations of a financial nature.

**3.4 Risk Assessment/Management**

The risks of the implementation have been assessed and included. Consideration is being given to where this would sit on our operational and board level risks.

**3.5 Data Protection**

The report does not involve personally identifiable information.

**3.6 Equality and Diversity, including health inequalities**

No specific impacts.

**3.7 Other impacts**

None.

**3.8 Communication, involvement, engagement and consultation**

Duties to involve and engage external stakeholders are carried out where appropriate:

### 3.9 Route to the Meeting

This has been previously considered by the following groups 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.

This report has previously been to the Staff Governance Committee on 8 March, and will be seen by the Argyll & Bute IJB on 29 March, and will be seen by the Area Partnership Forum at their April meeting.

## 4 Recommendation

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

The Board is asked to review the report provided and to take **Moderate Assurance** in relation to our compliance with the Whistleblowing Standards.

### 4.1 List of appendices

The following appendices are included with this report:

- Appendix 1- Quarterly WB report October – December 2022



**Whistleblowing Report**  
**Quarter 3 - 1st October 2022 to 31st**  
**December 2022**

**Guardians / Confidential Contacts**  
Julie McAndrew and Derek McIlroy

**INWO Liaison and Lead Executive**  
Fiona Hogg

**Whistleblowing Champion**  
Albert Donald

|   |    |
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## 1. Introduction

The National Whistleblowing Standards came into force in Scotland on the 1st April 2021.

The principles have been approved by the Scottish Parliament and underpin how NHS services must approach any concerns which are raised. Every organisation providing a service on behalf of the NHS must follow the standards.

Reports are produced quarterly; this is Quarter 3 (Q3) report for 2022/23 covering the period from 1 October 2022 to 31 December 2022.

The Quarter 1 report of 2021 provided further detail on legislation, the National Whistleblowing Standards and implementation of these standards in NHS Highland. The Q1 of 2021 report also provides information on the role of the Confidential Contact.

## 2. Roles and Responsibilities for National Whistleblowing Standards

Everyone in the organisation has a responsibility under the Standards and we have set out the Board level roles and responsibilities, as a reminder, within NHS Highland in respect of the Whistleblowing Standards. The others are set out in the Q1 2021 report.

### NHS Highland Board

The Board plays a critical role in ensuring the standards are adhered to.

*Leadership* – Setting the tone to encourage speaking up and ensuring concerns are addressed appropriately

*Monitoring* – through ensuring quarterly reporting is presented and robust challenge and interrogation of this

*Overseeing access* – ensuring HSCP, third party and independent contractors who provide services can raise concerns, as well as students and volunteers.

*Support* – providing support to the Whistleblowing champion and to those who raise concerns.

### **Board Non-Executive Whistleblowing Champion**

This role is taken on by **Albert Donald**, who has been in place since February 2020.

The role monitors and supports the effective delivery of the organisation's whistleblowing policy and is predominantly an assurance role which helps NHS boards comply with their responsibilities in relation to whistleblowing. The whistleblowing champion is also expected to raise any issues of concern with the board as appropriate, either in relation to the implementation of the Standards, patterns in reporting of concerns or in relation to specific cases.

### **INWO Liaison Officer**

This role is taken on by **Fiona Hogg, Director of People & Culture**, in her executive lead role in Culture and Communications. This is the main point of contact between the INWO and the organisation, particularly in relation to any concerns that are raised with the INWO. They have overall responsibility for providing the INWO with whistleblowing concern information in an orderly, structured way within requested timescales. They may also provide comments on factual accuracy on behalf of the organisation in response to INWO investigation reports. They are also expected to confirm and provide evidence that INWO recommendations have been implemented.

## **3. Governance, Decisions and Oversight**

The Standards set out the requirement that the NHS Highland Board plays a critical role in ensuring the Whistleblowing Standards are adhered to, including through ensuring quarterly reporting is presented and robust challenge and interrogation of this takes place. In addition, NHS Highland present this report to the Argyll & Bute Integrated Joint Board meeting and the NHS Highland Staff Governance Committee and other management meetings and committees as appropriate. Further information is set out in Section 2 of this report and more details are in Section 5 of the Q1 report.

The Director of People and Culture is the key contact point for oversight of all possible and ongoing Whistleblowing cases for NHS Highland. When the details of a case come through, the Guardian Service, in their role as Confidential Contact (see sections 4 and 5 below and sections 5, 7 and 8 in the Q1 2021 report) contact the Director of People & Culture who reviews the information. NHS Highland have agreed contact points, to input to a decision on whether something is a whistleblowing complaint. This includes senior Operational Leadership (Chief Officers, Senior Management) Professional Leadership (Board Nurse Director, Board Medical Director), Clinical Governance Leads, senior Finance and HR professionals, the Fraud Liaison Officer, Deputy Chief Executive, Chief Executive, and the Head of Occupational Health & Safety. The Guardian Service and Director of People and Culture coordinate this process.

The criteria for the decision are as set out in the National Whistleblowing Standards [Definitions: What is whistleblowing? | INWO \(spsa.org.uk\)](#). If the complaint is not Whistleblowing, a response is drafted with clear reasons why it is not Whistleblowing, this is drafted by the Director of People and Culture and sent to the complainant by the Guardian Service, who keep a record of this. If there is another process or route for their concern, this is signposted. This senior level of oversight of the decision making is critical to ensure consistency, compliance with the standards and visibility of



concerns. During Q2 in 2021, one of our decisions was reviewed by the INWO following an appeal and was found to be in line with the Standards.

If the complaint is Whistleblowing, then the Director of People and Culture liaises with relevant senior leadership and contacts to identify a manager to lead on the complaint. The Guardian Service and Director of People and Culture oversee progress, ensure timelines and communications are maintained. The Director of People and Culture will review the outcome and any follow up actions and learnings needed to ensure these are progressed appropriately, with relevant internal and external individuals, bodies, and committees, as appropriate based on the nature of the complaint.

A summary of every closed case in the period will be included in our reports, including any outcome and action taken or planned. Reporting will be limited during the ongoing investigation of a concern.

#### **4. Raising a Whistleblowing Concerns in NHS Highland**

Managers and employees can raise a concern:

- through an existing procedure in NHS Highland,
- by contacting their manager, a colleague, or a trade union representative,
- by contacting the “Confidential Contact” via a dedicated email address or telephone number.

To date, concerns have been raised directly by individuals or by their trade union representative using both the Guardian email address and the dedicated telephone number for whistleblowing concerns.

An essential aspect of the new Whistleblowing standards is that anyone who provides services for the NHS can raise a concern. This includes 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, such as those in health and social care partnerships.

#### **5. The Role of the Guardian Service**

Our Confidential Contact role is undertaken by the Guardian Service, on behalf of NHS Highland. The Guardian Service already provide NHS Highland with an independent Speak Up service to raise concerns which has been well utilised by colleagues since launching in August 2020. The independent, dedicated Guardians are well placed to also provide the Confidential Contact role.

The Guardian Service will ensure:

- that the right person within the organisation is made aware of the concern
- that a decision is made by the dedicated officers of NHS Highland and recorded about the status and how it is handled
- that the concern is progressed, escalating if it is not being addressed appropriately
- that the person raising the concern is:
  - kept informed as to how the investigation is progressing
  - advised of any extension to timescales
  - advised of outcome/decision made
  - advised of any further route of appeal to the INWO

- that the information recorded will form part of the quarterly and annual board reporting requirements for NHS Highland.

All Whistleblowing Concerns are recorded by the Guardian Service regardless of who has raised the concern. All concerns are logged to show progress and to measure and track information as required for reporting.

## 6. KPI Table

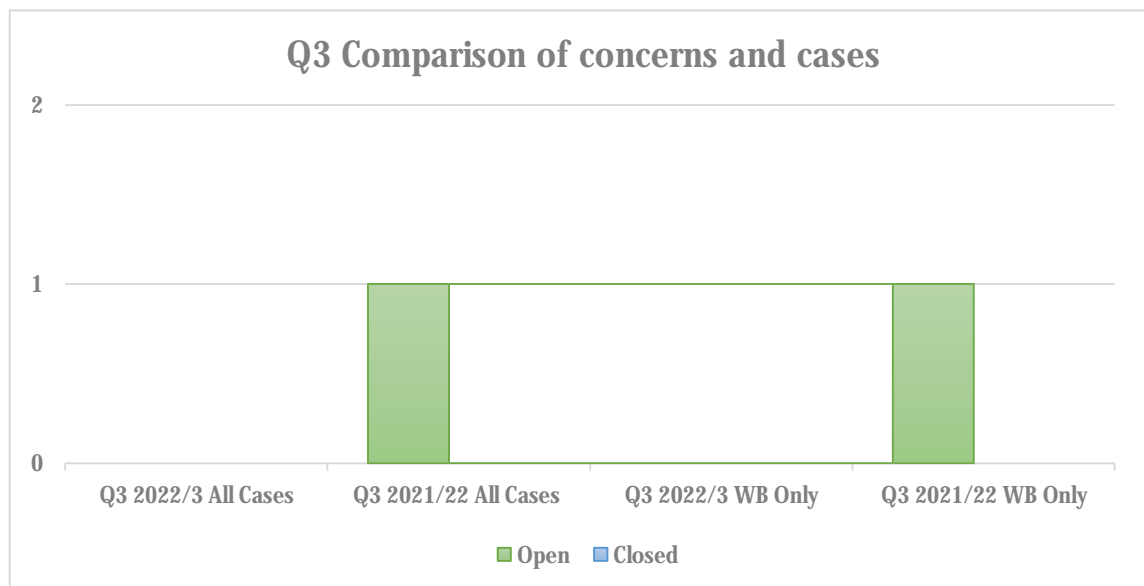
The KPI data is taken as of 31<sup>st</sup> December 2022 for Quarter 3 2022/3.

| KPI  | Qtr. 3 |     |   |    |
|--|--------|-----|---|----|
|  |        |     |   |    |
| Concerns Received  |        |     | 1 | 18 |
| Concerns confirmed as WB concerns  |        |     | 3 | 9  |
| OPEN Concerns under investigation  |        |     | 5 | 5  |
| Stage 1 concerns closed in full within 5 working days  |        |     |   | 1  |
| Stage 1 concerns closed in full later than 5 working days  |        |     |   |    |
| Stage 2 concerns closed in full within 20 working days   |        |     |   |    |
| Stage 2 concerns closed later than 20 working days   | 3      |     | 4 | 6  |
| Stage 2 concerns still open from prior reports   | 2      |     | 3 | 3  |
| % of closed calls upheld Stage 1   |        |     |   |    |
| % of closed calls partially upheld Stage 1   |        |     |   |    |
| % of closed calls not upheld Stage 1   |        |     |   | 1  |
| % of closed calls upheld Stage 2   | 2      | 66% | 1 | 1  |
| % of closed calls partially upheld Stage 2   |        |     |   |    |
| % of closed calls not upheld Stage 2   | 1      | 33% | 1 | 3  |
| % of closed calls not WB   |        |     | 1 | 9  |
| % of closed calls where Whistleblower chose not to pursue.   |        |     |   | 2  |
| % of closed calls which were for another Board to pursue   |        |     | 1 | 2  |
| Number of concerns at stage 1 where an extension was authorised as a percentage of all concerns at stage 1   |        |     |   |    |
| Number of concerns at stage 2 where an extension was authorised as a percentage of all concerns at stage 2.  |        |     | 4 | 8  |
| Number of concerns which weren't Whistleblowing but were passed to Guardian services for resolution (as a percentage of non-Whistleblowing cases raised) |        |     |   | 1  |

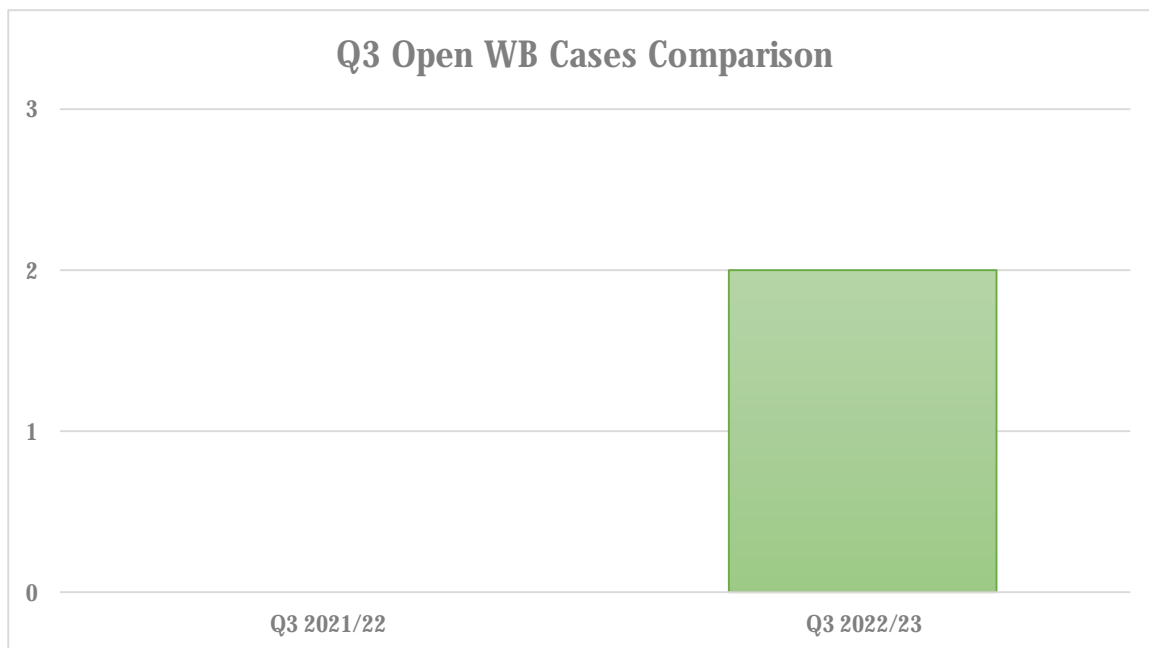
## 7. Statistical Graphs

The following graphs relate to the Quarter 3 reporting period 1<sup>st</sup> October 2022 to 31<sup>st</sup> December 2022.

**Graph 1**



**Graph 2**



At the end of Q3 there were 2 open cases actively under investigation in accordance with stage 2 of the procedures. Both cases have appropriate extensions in place for investigation. 1 case was closed in the quarter on the 30<sup>th</sup> December 2022

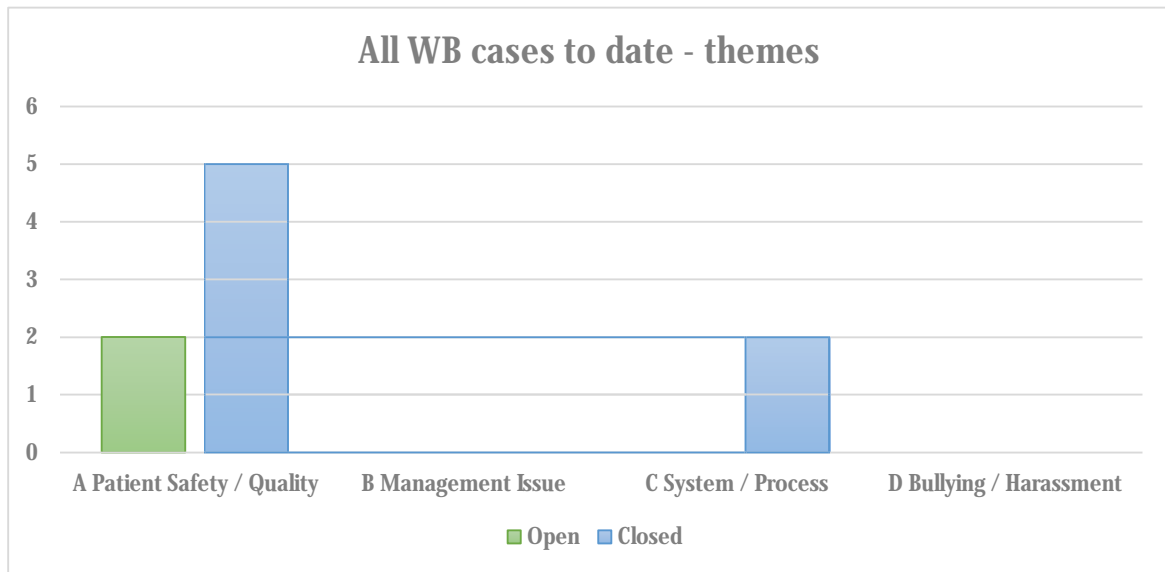
**Graph 3**



**Graph 4**



**Graph 5**



The themes presented in the graph 5 are the same themes used by the Guardian Service when recording concerns which have been raised by NHS Highland and Argyll & Bute HSCP staff. This will allow an easier comparison of data in the future.

#### **8. Detriment as a result of raising a concern.**

No concerns have been raised to date with NHS Highland, the Confidential Contact or the INWO. Any concern will be taken seriously and addressed and reported through our future reports.

#### **9. Concerns Received - Average time for a full response**

No data for quarter 3 on average time as no new concerns received. Further data on timescales will be provided for all concerns in the Q4 report when more data becomes available.

#### **10. Lessons learned, changes to service or improvements**

Learnings from the previous year are detailed in the NHS Highland Annual Whistleblowing Report.

In respect of the cases concluded in Q3, there have been specific learnings identified and passed to management for Action.

In Case 14, the Head of Operations for Medical will take forward recommendations and a summary of progress will be included in the Annual report for 2022/3.

In Case 16, the Head of Operations for Clinical Support will take forward recommendations and a summary of progress will be included in the Annual report for 2022/3.

There were no learnings specifically identified from Case 17, although the complainant has made a referral to the INWO which is being progressed and any actions or finding will be shared in future reports.

The Director of People and Culture has been part of a national group, working with the INWO, to develop additional resources to support the process, including specific guidance for HR teams, individuals, managers and colleagues. These will be available from April onwards.

## **11. Colleague and manager experience of the Whistleblowing procedures**

The Confidential Contacts make contact with all individuals who have completed the WB process and offer to meet with them to talk about their experience. The Director of People and Culture also collates feedback from those who engage in the process, both colleagues and managers, and this is used to ensure the process works as well as possible.

The WB Champion has also been meeting with senior managers who have had involvement in the process and highlighted that there is a need for further engagement and awareness raising about how the process should work and who is responsible.

We have to date had senior managers running the investigations, to ensure these were given proper attention, but this may not be the best approach going forward as the capacity leads to delays in moving forward. There has also been variability in the approach and quality of the investigating and reporting, and now we have run several cases, some anonymised templates and approaches will be shared in future cases.

There is also need for awareness raising with managers and leaders that they must own the process, it is not owned by the confidential contacts or the liaison, they are providing oversight and assurance and reporting, as well as advice and guidance.

A session will be developed and run in the coming months to pick all of this up and will be combined with the launch of the new guidance and a focus on raising and handling all concerns, not just Whistleblowing.

## **12. Colleague awareness and training**

Our Guardians and Whistleblowing non-executive Director continues to visit across the Board area and promote their roles and speak with colleagues as well as internal and external communications and media.

This has been of great value to the Board and has given the Standards good visibility in some of our more remote and rural areas. Reports have been provided on the findings of the visits. Details of the extent of the visits is also included in the annual report from the WB and Guardians.

There is an opportunity to run further awareness sessions as set out above, aligned to the launch of the new support materials nationally and also our own local guidance.

## **13. Audit of Whistleblowing Standards Implementation**

There is still one action, regarding the documentation of the process, which has been paused until the national guidance is issued in April 2023.

## **14. Annual report**

The first annual Whistleblowing Standards report for NHS Highland was presented to the Board on 26 September 2022 and can be accessed here.

[Microsoft PowerPoint - Annual report 2021 2022 Final Draft.pptx \(scot.nhs.uk\)](#)

This report was circulated, including in a summary form, and was sent to the INWO following the Board meeting. The report was also widely referenced during Speak Up Week, from 3<sup>rd</sup> to 7<sup>th</sup> October 2022.

## Summary of Whistleblowing Cases

### Quarter 1 Cases

#### Case 15 CLOSED

This was a case that was raised not with NHS Highland but with NHS Education for Scotland (NES) as the Board responsible for education and employment of medical trainees. Therefore, it is not being dealt with as a Whistleblowing case in NHS Highland, although the matters are being addressed. It is an anonymous concern so we cannot respond to the complainant, but an action plan is in place and changes have been made, overseen by the Director of Medical Education and Chief Officer for A&B HSCP and NES have been kept fully updated and will report back directly to the complainant about the actions taken to address the concerns.

#### Case 16 CLOSED

This is a stage 2 WB concern raised in June 2022 where an extension was authorised beyond 20 days, and was closed on 30 December 2022, being partially upheld. The complaint refers to the clinical practice and management of an AHP service in an acute hospital. This was overseen by Tracey Gervais, Head of Operations Women and Children's Directorate and Jo McBain Director of Allied Health Professionals and an investigation has taken place. The main substance of the complaint against an individual and their practice and conduct was not upheld, but a number of recommendations to improve the service provided, relationships and capacity are being taken forward by management.

### Quarter 2 Cases

#### Case 17 CLOSED

This is a stage 2 WB concern raised in July 2022 and was closed in the same reporting period. The concern refers to the CAMHS outpatient waiting and treatment time performance data which was collected and reported for North Highland by NHS Highland to the Scottish Government. This was investigated by Stephen Whiston, Head of Strategic Planning, Performance and Technology. The final report was submitted on the 27/09/22 and the case was not upheld. The complainant was informed of the outcome and provided with the INWO details should they wish to progress the case further. We have been notified of an INWO referral and have provided data on this.

#### Case 18 OPEN

This is a stage 2 WB concern raised in September 2022 and is actively under investigation. The complaint relates to the clinical practices and management of processes within the Occupational Health department in NHS Highland. This is being overseen by Diane Fraser, V&A Prevention Manager. An Occupational Health Nurse Lead from another health board is also providing external OH advice to the investigation. Regular updates are being provided to the complainant and the case required an extension to the 20-day stage 2 period due to ill health from the complainant and workload pressures of the investigation manager, but is on track to conclude in Q4.

### Cases ongoing from 2021-2022

#### Case 12 CLOSED - Systems / Processes

This is a monitored referral from the INWO, who asked that we review our decision that the original complaint was not in scope. We agreed to review the case and a manager is now investigating the 3<sup>rd</sup> party cleaning arrangements and training specifically in relation to a dental facility, as a Level 2 concern. The case was extended beyond 20 days and regular updates provided. The final report was



submitted on the 12/10/22 and the case was not upheld. The complainant was informed of the outcome and provided with the INWO details should they wish to progress the case further.

**Case 13 OPEN - Patient Safety**

This is a stage 2 WB concern opened in October 2021 where an extension has been authorised beyond 20 days. The concern is actively under investigation with the individual raising the concern kept aware of the investigation process. This complaint relates to provision of services and staffing in a remote location in Argyll & Bute and is being overseen by the Chief Officer for the A&B HSCP, Fiona Davies and the Director of People & Culture, Fiona Hogg. Significant progress has been made and regular meetings and engagement are in place, addressing service provision, governance, and relationship concerns, with a final close down of the WB complaint expected soon, although there is ongoing service redesign activity. Regular updates are being provided.

**Case 14 CLOSED – Patient Safety**

This is a stage 2 WB concern opened in February 2022 where an extension has been authorised beyond 20 days. The complaint related to the impact of poor patient flow on cardiac patient care in an acute hospital. The concerns focused on the lack of available beds resulting in limited access to early specialist care for high-risk cardiac patients. This was overseen by Dr Robert Cargill, Deputy Medical Director and Kate Patience-Quate, Deputy Nursing Director. The final report was submitted on the 10/10/22 and the case was partially upheld with actions being passed to the Head of Operational for Medical to take forward, in terms of how concerns are addressed, how clinicians are engaged and involved and how decisions are made and communicated. The complainant was informed of the outcome and provided with the INWO details should they wish to progress the case further.