



Meeting: NHS Highland Board
Meeting date: 29 November 2022
Title: Whistleblowing Standards Reports
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 2 report covering the period July - September 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 NHS Highland 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 across Argyll & Bute in October 2022 to promote the Whistleblowing Standards and encourage speaking up and has a further visit to the Inverness area later this 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. We will be continuing to focus on this across the coming year. We've got upskilling for managers that we rolled out to the Executive Directors and Deputies in August 2022 and which is planned to be rolled out further with leadership teams and other groups. Our Corporate Induction events launching in January 2023 will be another opportunity to raise awareness with new colleagues as they join the organisation.

This has been helped by our activities from 3 - 7 October 2022 during Speak Up week. Our Guardians, who act as our Whistleblowing Confidential Contacts, travelled extensively across the Board area promoting Speaking Up and the Whistleblowing Standards. Our INWO liaison held daily sessions and recorded these on key topics such as Speaking Up, Praising and Positive feedback, Listening and Responding to concerns, Quality, Care and Safety concerns and a round up of all the weeks key messages and activity. There was also a series of local and national resources, press releases and social media postings shared.

We had been working on our own internal Whistleblowing policy guidance, as part of the final audit action, but as we are now involved in developing national toolkit to support colleagues, managers and other teams who may have involvement in Whistleblowing cases. Fiona Hogg is part of that small national working group led by the INWO office, so we have paused our local activity to ensure that there is no duplication. The guidance will be ready in April 2023.

Our Whistleblowing Standards Implementation group continues to meet monthly to drive the final actions still outstanding in the action plan around ensuring awareness with partners, contractors and other in scope organisations and individuals and will then oversight will be picked up via the People & Culture Programme board. 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.

In the Q2 Whistleblowing report for the period 1 August 2022 to 31 October 2022 we have seen new cases raised and a number of cases concluded, but we continue to focus on improving our timescales to resolve cases and ensuring the 20 day updates are complied with.

We continue to receive and progress cases and are now considering how we can start to add learnings and trends to the reports now we have had a few more cases to report on and will include this in the Q3 report. We are also looking at further breakdowns of the categories we use, to give more insight to the concerns being raised.

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

Quarter	Period covered	Staff Governance Committee	NHS Highland Board	Argyll & Bute IJB
Q3 22-23	1 October - 31 December 2022	8 March 2023	28 March 2023	29 March 2023
Q4 22-23	1 January - 31 March 2023	10 May 2023	30 May 2023	May 2023
Annual Report 22-23	1 April 2022 - 31 March 2023	28 June 2023	26 July 2023	July 2023
Q1 23-24	1 April - 30 June 2023	6 September 2023	27 September 2023	September 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 which began in August 2022, as well as enhanced reporting now we have more data 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 March 2023.

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.

- Area Partnership Forum on 28 October 2022
- Staff Governance Committee on 9 November 2022
- Argyll & Bute Integrated Joint Board on 23 November 2022

4 Recommendation

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

4.1 List of appendices

The following appendices are included with this report:

- Appendix 1- Quarterly WB report July - September 2022



Whistleblowing Report
Quarter 2 - 1st July 2022 to 30th September
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 2 (Q2) report. 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 \(sps.org.uk\)](#). 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 30th September 2022 for Quarter 2 2022/3.

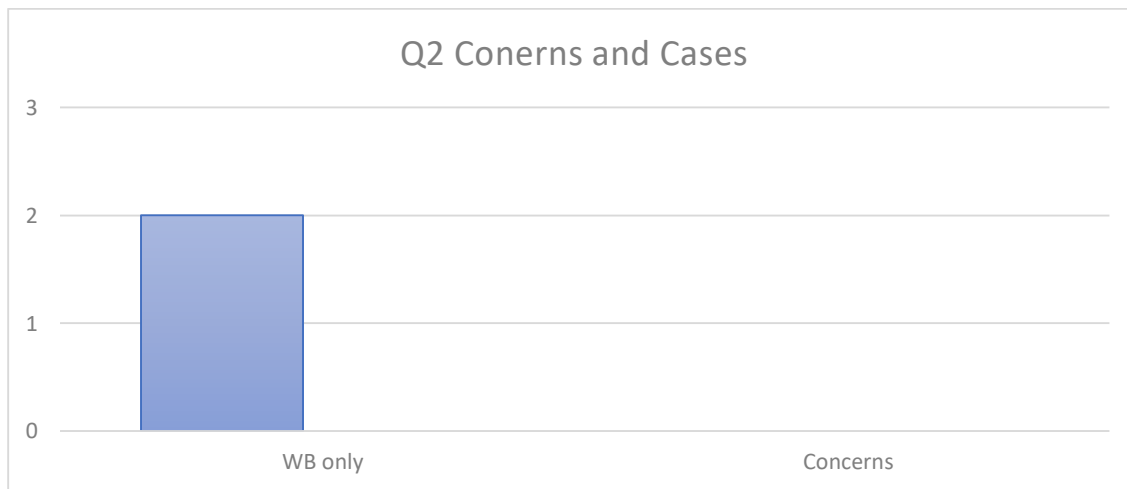
KPI	Qtr. 2		YTD	TOTAL
Concerns Received	2	100%	4	18
Concerns confirmed as WB concerns	2	100%	3	9
OPEN Concerns under investigation	1	100%	5	5
Stage 1 concerns closed in full within 5 working days	0		0	1
Stage 1 concerns closed in full later than 5 working days				
Stage 2 concerns closed in full within 20 working days	0		0	0
Stage 2 concerns closed later than 20 working days	1		1	3
Stage 2 concerns still open from prior reports	3		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				1
% of closed calls partially upheld Stage 2				
% of closed calls not upheld Stage 2	1	50%		2
% 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	0		0	
Number of concerns at stage 2 where an extension was authorised as a percentage of all concerns at stage 2.	1	100%	2	7
Number of concerns which weren't Whistleblowing but were passed to Guardian services for resolution (as a percentage of non-Whistleblowing cases raised)	0		0	1

7. Statistical Graphs

The following graphs relate to the Quarter 2 reporting period 1st July 2022 to 30th September 2022.

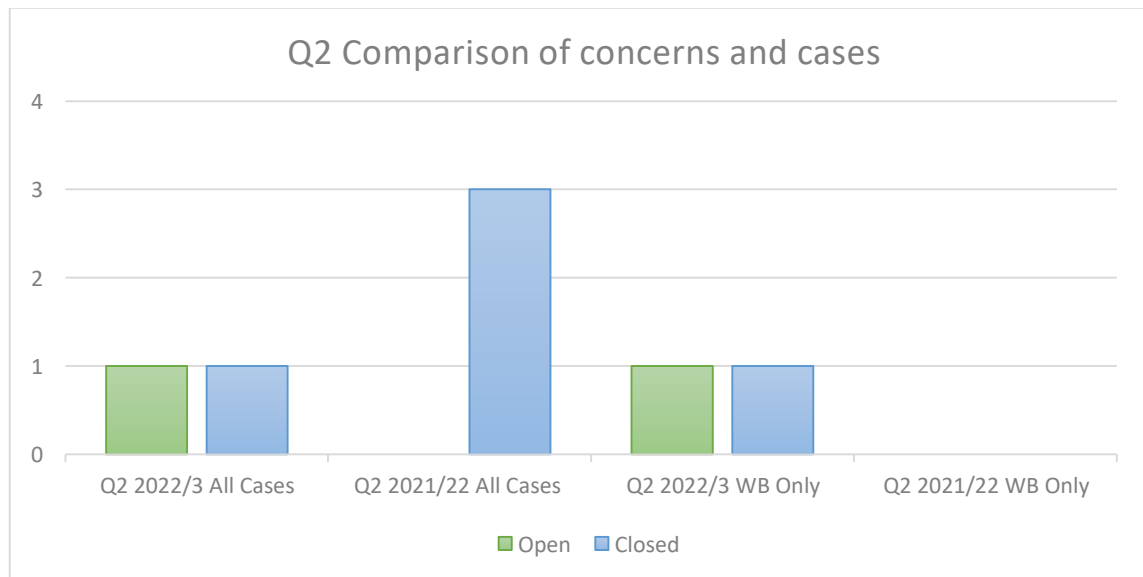
Data has been presented in such a way to ensure that confidentiality is preserved.

Graph 1

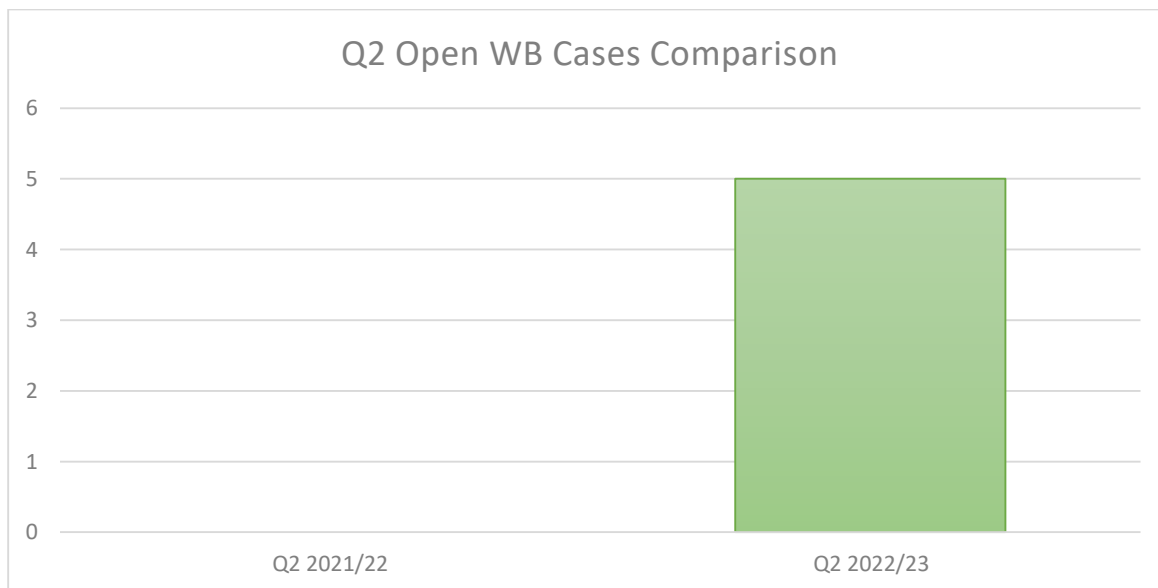


There were 2 concerns raised in Q2, both were investigated under stage 2 of the whistleblowing standards, 1 remains open and 1 was closed within the reporting period.

Graph 2

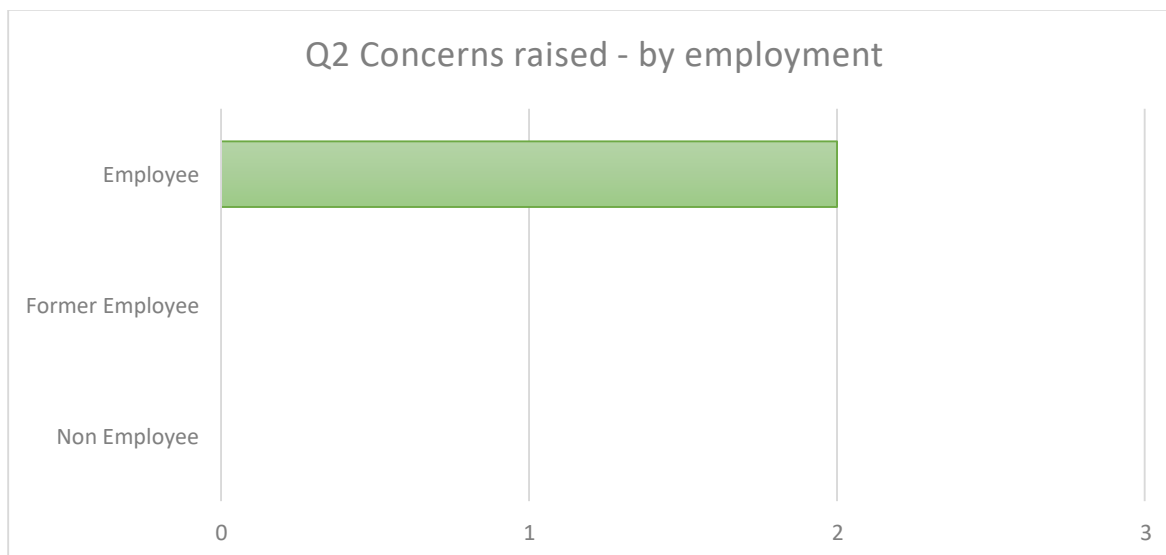


Graph 3



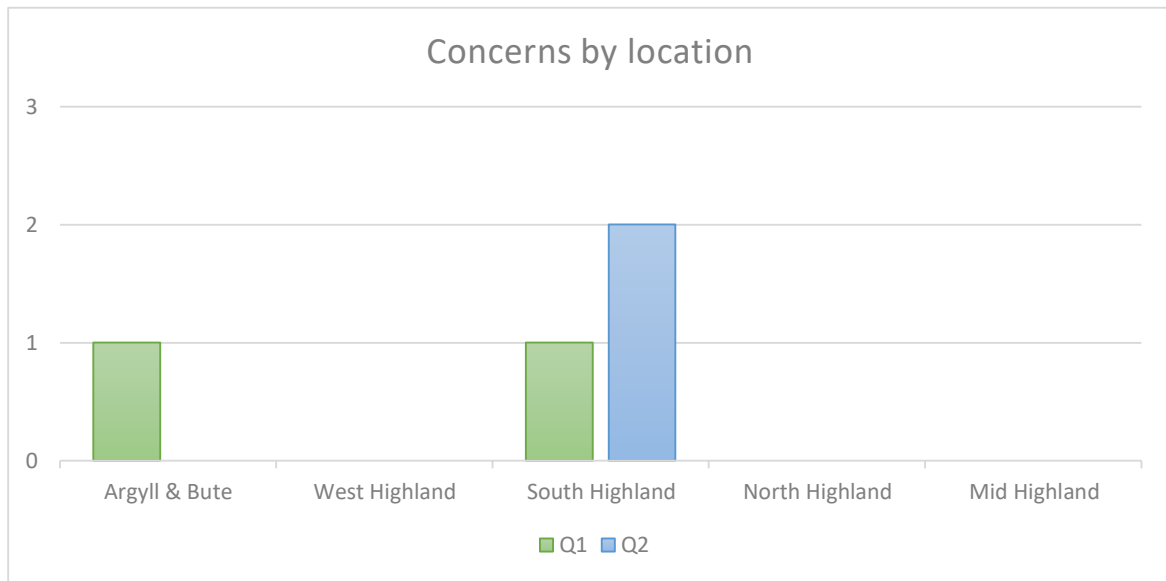
At the end of Q2 there were 5 open cases actively under investigation in accordance with stage 2 of the procedures, including the monitored referral which is a reopened case. All cases have appropriate extensions in place for investigation.

Graph 4

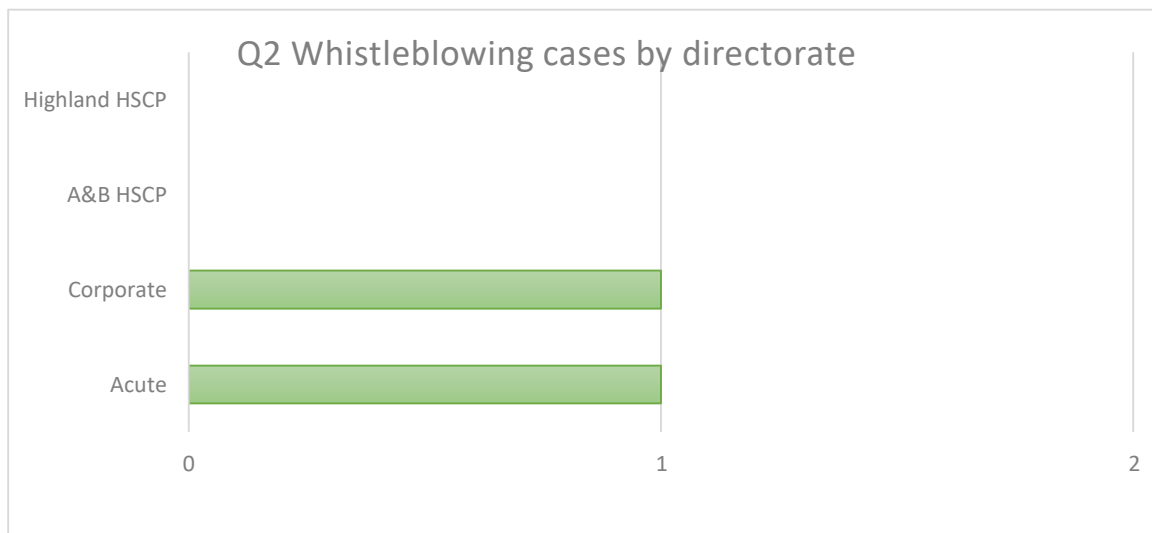


Both concerns were raised by NHS Highland employees.

Graph 5

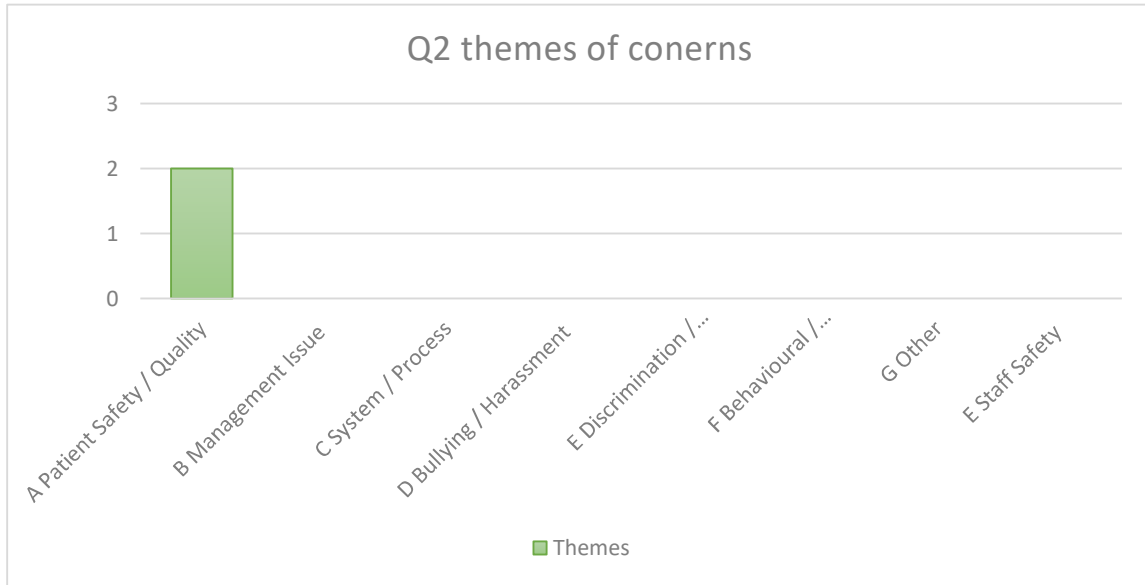


Graph 6

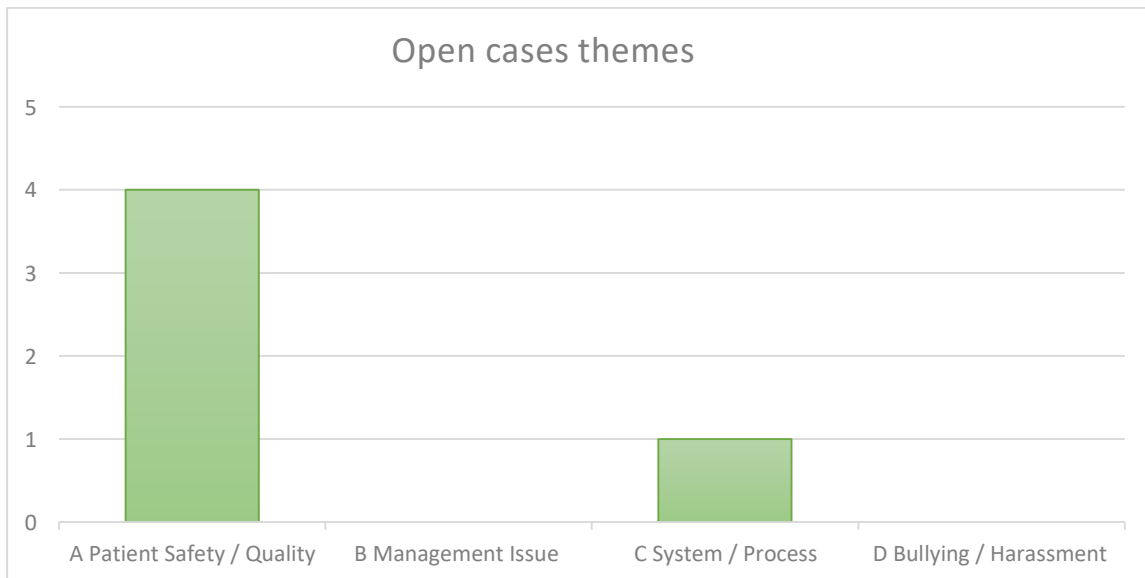


Directorates are used for reporting purposes to preserve the confidentiality of the person raising the concern. All concerns received in Q2 were WB concerns.

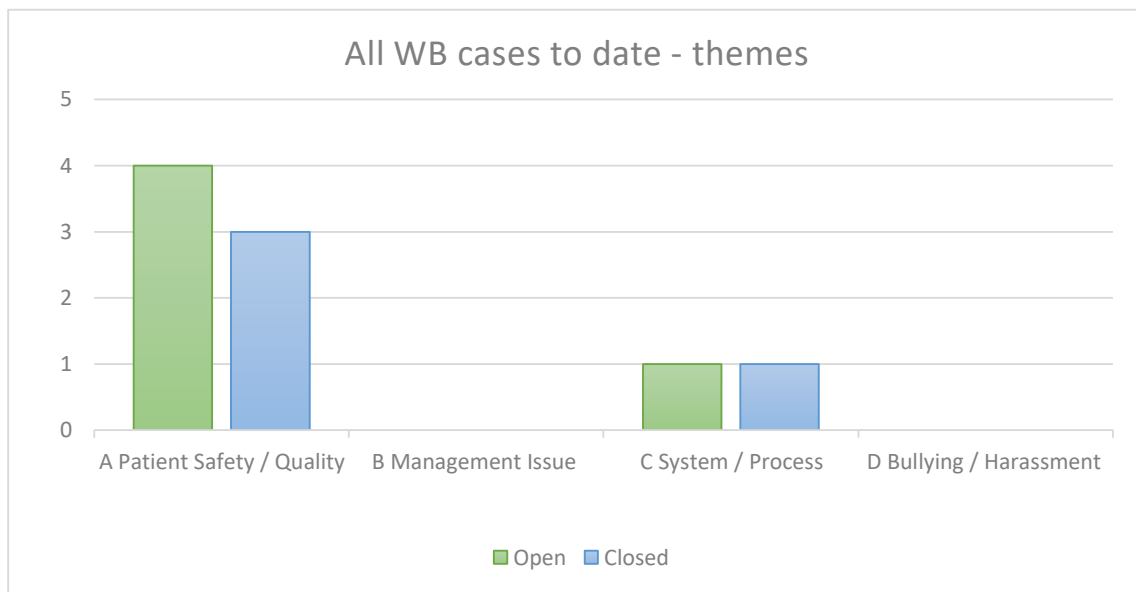
Graph 7



Graph 8



Graph 9



The themes presented in the above chart 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.

There is limited data available but at the point of writing there have been no reports where individuals who have raised whistleblowing concerns reported that they suffered a detriment for doing so. Further data will be collated once the Confidential Contacts meet with individuals and the survey is sent out.

9. Concerns Received - Average time for a full response

The Whistleblowing concerns in Q2 were received in July and September. The July concern was closed at the end of September. The September concern is still open and full investigations are still underway. Further data on timescales will be provided in future reports.

10. Lessons learned, changes to service or improvements

Learnings from the previous year are detailed in the NHS Highland Annual Whistleblowing Report. Further improvements or changes to service will be considered as cases conclude and additional data gathered.

11. Staff experience of the Whistleblowing procedures

Proposals of a voluntary colleague survey were approved at the implementation group and a draft version of the survey is still under review. The Confidential Contacts will make contact with all individuals who have completed the WB process and offer to meet with them to talk about their

experience. Once approved the survey will also go out to all individuals who have raised concerns through this process including WB. Feedback from this survey will be collated once this process is in place, which will provide data for detailed commentary on staff experiences for the next reporting quarter.

12. Colleague awareness and training

The implementation group continue to meet and review progress with awareness raising and monitoring uptake of training.

A non-employed partner survey was carried out in December and January which included questions to understand awareness of the standards in those who are not employed by NHS Highland but are covered by the Standards. This showed that awareness was good amongst respondents, and the details are in the Annual Report.

Our Whistleblowing non-executive Director continues to visit across the Board area and promote his role 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.

The National Speak Up Week took place from 3rd - 7th October 2022 and a programme of visits by the Guardian Service was completed successfully and a range of webinars and online events about Speaking Up and responding to concerns also took place. Q3 report will have further detail on whether or not speak up week had an impact on the number of concerns raised.

13. Audit of Whistleblowing Standards Implementation

An internal audit of our implementation of the Whistleblowing Standards was carried out and the report presented to the Audit Committee on 7th December 2021. The report was positive overall and very helpful in focussing our efforts for ongoing improvement.

The recommendations are summarised below.

1. Removal of old WB policies and links - Completed
2. Clarification of roles and responsibilities and decision making - Completed Q1 final report
3. Feedback on assurance reporting implemented - Completed Q1 final report
4. Development of Whistleblowing Process document - to be completed by end November 2022
5. Contact details for WB Champion - Completed January 2022
6. Ongoing refinement of Quarterly reporting format and content - Completed Q3 final report.

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.

<https://www.nhshighland.scot.nhs.uk/Meetings/BoardsMeetings/Documents/September%202022/Item%2012%20Annual%20Report%202021%202022%20Final%20for%20board.pdf>

This report will be widely circulated, including in a summary form, and will be sent to the INWO following the Board meeting. The report was also widely referenced during Speak Up Week, which is from 3rd to 7th 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 OPEN

This is a stage 2 WB concern raised in June 2022 where an extension has been authorised beyond 20 days. The concern is actively under investigation, with the individual who raised it kept aware of the investigation process. The complaint refers to the clinical practice and management of an AHP service in an acute hospital. This is being 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 final report is expected in October. Regular updates are being provided to the complainant.

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.

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 will require an extension to the 20-day stage 2 period in Q3.

Cases ongoing from 2021-2022

Case 12 REOPENED - 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 3rd 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.

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 OPEN – Patient Safety

This is a stage 2 WB concern opened in February 2022 where an extension has been authorised beyond 20 days. The concern is actively under investigation, with the individual who raised it is kept aware of the investigation process. The complaint relates 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 is being overseen by Dr Robert Cargill, Deputy Medical Director and Kate Patience-Quate, Deputy Nursing Director. Interviews have been completed and a report is being prepared and is expected by early October. Regular updates are being provided.