

**PE1605/D**

NHS Lothian Letter of 27 September 2016

**Consideration of Petition PE1605 (whistleblowing in the NHS – a safer way to report mismanagement and bullying)**

I write with reference to your letter of 16 September 2016 to Tim Davison.

Having considered the petition I can advise that the view of NHS Lothian is that they would not be supportive of the establishment of an independent national whistleblower hotline for NHS staff to replace the current helpline. The current helpline is very useful for staff and provides a source of advice and guidance which is independent from the NHS Boards. To remove this would not send out a correct message to staff. In addition, the Scottish Government has recently consulted on the establishment of an Independent National Whistleblowing Officer for NHS Scotland which would review the handling of concerns raised by NHS staff where there is cause for believing that this has not been in accordance with good practice, providing advice and guidance to Boards and providing national leadership around whistleblowing issues. The establishment of such a role would address some of the issues raised as part of the petition and the Board believes this is the correct way forward.

In terms of the appointment of a whistleblowing champion, I can confirm that NHS Lothian has appointed one of our Non Executive Board members into this role and they have been in this role since December 2015. The role of the whistleblowing champion was presented to Boards by the Scottish Government in a letter from Paul Gray dated 29/9/15, a copy of which I have attached for your information.

I hope the above is helpful in your consideration of the petition.

Yours sincerely

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Acting Chief Executive

Director-General Health & Social Care and  
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Paul Gray

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NHS Scotland Health Board Chairs

Copy to: Chief Executives  
HR Directors  
Employee Directors

29 September 2015

Dear Colleagues

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

At the Chairs' meeting on 31<sup>st</sup> August, the Cabinet Secretary for Health, Wellbeing and Sport asked Chairs to identify appropriate candidates to undertake the role of non-executive Whistleblowing Champion, and to ensure that these are in place by end October 2015. This process should formally involve the Partnership arrangements in place in your Board.

It will be for each Board to determine who is best placed to undertake the Whistleblowing Champion role. However, it would not be an appropriate role for the Board's Employee Director, given the potential for a conflict of interests.

The role and remit of the Whistleblowing Champion has been developed and agreed by SWAG and is included at Annex A to this letter. We propose to provide training, and to develop guidance in consultation with the Whistleblowing Champions, to support them in their role.

Some of you raised the involvement of the Whistleblowing Champion in the escalation process. The Scottish Workforce and Governance Committee (SWAG) has given a clear view that Whistleblowing Champions should be separate from investigation and escalation of cases. The key purpose of the role is to offer independent assurance, and SWAG are clear that involving the Whistleblowing Champion in the process could compromise that independence.

I would be grateful if you could provide details of your nominated Whistleblowing Champion to Anna Gilbert, Staff Governance Associate [anna.gilbert@gov.scot](mailto:anna.gilbert@gov.scot) by the end of October.

Yours sincerely

**Paul Gray**

## ANNEX

### **Role**

The Whistleblowing Champion is predominantly an assurance role. Health Boards have a responsibility to ensure that:

- Staff are actively encouraged and supported to report any concerns about patient safety or malpractice they may have;
- all reported concerns are investigated in a timely and appropriate way;
- the staff member is supported and updated on progress throughout the process; and,
- the outcome is fed back to the member of staff who raised the concern, and any resultant recommended actions are progressed by the Board.

The Whistleblowing Champion will have a critical oversight and assurance role in making sure that these responsibilities are acted upon effectively, and where not, bring these issues to the attention of the Board.

### **Why?**

This will provide all NHSScotland Boards with an additional level of scrutiny and accountability on all reported concerns of patient safety and malpractice, and, allow where necessary, Boards to be challenged on the progress and handling of those cases. The role is intended to contribute to a more holistic environment within Boards, and demonstrate more widely, an evolving culture to promote whistleblowing and support whistleblowers in NHSScotland.

### **Who?**

Each Health Board should nominate a current non-executive Director for this role. Ultimately, this will be for each Health Board to determine, however, it is suggested that the role would be best-suited to a non-executive Director of each Board's Staff Governance Committee. This would also have the benefit of forming the link between the Whistleblowing Champion and the Board's relevant staff governance structures.

The Whistleblowing Champion should not be the Board's Employee Director, given the function this postholder has. This could potentially result in a conflict of interests.

### **What?**

The Whistleblowing Champion will have a critical role, in ensuring that whistleblowing arrangements are working effectively. The Whistleblowing Champion would be expected to:

- Provide a conduit role, working closely with the named Whistleblowing Policy contact(s); HR; relevant Governance Committees; the Board; and the Independent National Officer (INO) ***n.b. In response to the Freedom to Speak Up Review recommendations, the Cabinet Secretary for Health, Wellbeing and Sport announced the development and establishment of the role of an Independent National Officer, to provide an independent and external level of review on the handling of whistleblowing cases - the detailed proposals will be subject to a full public consultation in Autumn 2015;***

- Be assured that the benefits of raising concerns about patient safety and malpractice are highlighted and widely publicised;
- Be assured that all staff at all levels have access to a range of mechanisms and support to report or discuss any concerns they may have about patient safety or malpractice, including: the local Whistleblowing policy; named contact/ Freedom to Speak Up Guardian; HR; the NHSScotland Confidential Alert Line (NCAL);
- Ensure that the Board is advised of reported whistleblowing cases including patient safety/malpractice concerns, including those reported via NCAL and highlighted in Datix;
- Report and discuss the number of concerns and their nature regularly at the Staff Governance Committee and report to the Board on a quarterly basis;

The Whistleblowing Champion will look for assurance that investigations are being handled fairly and effectively including:

- that reported cases are being investigated;
- that regular updates are provided on the progress of the investigations of reported cases;
- Ensure that staff members who report concerns are being treated and supported appropriately and not victimised;
- members of staff are regularly updated on the progress of the concern they reported and advised of investigation outcomes;
- ensure that any resultant actions are progressed.
- Ensure that relevant Governance Committees; HR; staff representatives and Whistleblowing policy contacts are being updated on the progress and outcomes of cases; and, recommended actions resulting from an investigation.
- Publicise and champion positive outcomes and experiences.

### ***What not?***

The Whistleblowing Champion would not be expected to:

- Be the sole point for staff, or expected to become directly involved in the operation of the whistleblowing policy
- Investigate cases.