SCOTTISH PUBLIC SERVICES OMBUDSMAN

People Centred | Improvement Focused

The Draft National Whistleblowing Standards

October 2019

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Introduction to the Standards

1. These Standards set out how the Independent National Whistleblowing Officer (INWO) expects all NHS service providers to handle concerns that are raised with them and which meet the definition of a 'whistleblowing concern'.
2. These Standards are underpinned by a suite of supporting documents, which provide instructions on how the INWO expects concerns to be handled. Together these documents form a framework for the delivery of the National Whistleblowing Standards. A comprehensive list of the documents is provided on page 4 below.
3. The Standards consist of:
    - 3.1. **Whistleblowing Principles**
        - 3.1.1. these underpin the approach that must be taken to handling any concerns raised by staff or those working in NHS services; and
        - 3.1.2. they include definitions of whistleblowing and whistleblower (see Part 1).
    - 3.2. **Procedure Overview**,
        - 3.2.1. this provides definitions and an explanation of what is a whistleblowing concern, who can raise a concern, and a brief description of the procedure for handling these concerns (see Part 2).
    - 3.3. **Supporting information**
        - 3.3.1. this sets out how the INWO expects the procedure to be applied, together with the governance arrangements that must be in place (see Parts 3-10).
4. The aim is to provide a suite of documents and guidance which enable you to refer readily to the parts you most often use. The table of contents on page four of this document gives an overview of what each document contains.
5. These Standards are applicable across **all NHS services**. This means they must be accessible to **anyone** working to deliver an NHS service, whether directly or indirectly. 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. Specific instructions are provided for:
    - 5.1. NHS service providers (both Primary Care Services and contracted services):
        - 5.1.1. Part 7 sets out what the INWO expects of these providers and how this should be achieved.
    - 5.2. Health and Social Care Partnerships (HSCPs):
        - 5.2.1. Part 8 sets out expectations in relation to joint working arrangements between local authority and NHS staff.
    - 5.3. Organisations involved in providing student and trainee placements:
        - 5.3.1. Part 9 sets out expectations relating to students and trainees raising concerns.

5.4. Arrangements for volunteers:

5.4.1. Part 10 sets out how volunteers should be given access to these Standards.

6. To ensure effective leadership and oversight, the INWO has developed governance requirements for Boards, both in relation to their own internal processes (Parts 4 and 5) and in relation to management of their primary care and other contractual services (Part 6).
7. Further information about the INWO and additional resources for implementation of the Standards will be available on the [INWO website].
8. It is anticipated that the Standards will be reviewed three years after implementation, to identify any potential improvements or amendments.
9. Text marked in [square brackets] indicates a link or development that will be available in the final version of the Standards, but which is still currently under development.

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The Draft National Whistleblowing Standards

Part 1

Whistleblowing principles

Whistleblowing principles for the NHS

These principles underpin how NHS services **must** approach concerns that are raised by staff, students and volunteers about health services.

An effective procedure for raising concerns (whistleblowing) is:

1. open;
2. focused on improvement;
3. objective, impartial and fair;
4. accessible;
5. supportive to people who raise a concern and all people involved in the procedure;
6. simple and timely; and
7. thorough, proportionate and consistent.

1. Open

1.1. Handle concerns **openly and transparently** throughout the process. At the same time, recognise and respect that everyone involved has the right to confidentiality.

1.2. Have clear governance arrangements that make sure someone is accountable for putting in place the procedure for raising concerns, and for monitoring and reviewing that procedure.

1.3. Following an investigation, make sure that any **lessons learned are shared** locally and more widely across the organisation. This should include telling people what improvements have been made as a result of the investigation.

2. Focused on improvement

2.1. Actively encourage staff, students and volunteers to report any concerns about patient safety or malpractice. Encourage them to do this as part of their day-to-day work, even before the start of any formal procedure.

2.2. The procedure for raising concerns should reflect and promote excellence in providing services.

2.3. Use the outcomes of concerns to identify and demonstrate **learning and improvement** and share best practice, both in providing services and in the procedure itself.

2.4. Have systems in place to make sure all reported whistleblowing concerns are investigated quickly and appropriately, and to monitor how they are handled.

2.5. Use information from cases where concerns have been raised to:

- guide the organisation's performance, targets and standards; and
- identify trends and highlight problems, with the overall purpose of **continuously improving** the way services are provided and concerns are handled.

3. Objective, impartial and fair

3.1. Procedures for raising concerns should be objective, based on evidence and driven by the facts and circumstances. They should not be based on assumptions. This should be clearly demonstrated.

3.2. Gather relevant facts and confirm these in an **objective, confidential and sensitive** way.

3.3. Staff investigating concerns should be **impartial, independent and accountable**. They must not be involved in investigations where they have a conflict of interest, or may be seen to have a conflict of interest.

3.4. Procedures for raising concerns should be **fair** to the person raising the concern, people investigating concerns, and anyone else involved in the investigation.

4. Accessible

4.1. Communicate the procedures for raising concerns **clearly**. The procedures should be **easy to understand and accessible to everyone**.

4.2. Senior staff must welcome concerns and make sure they are handled by people who have the appropriate skills and knowledge to investigate the concern and are authorised to take action.

4.3. Make sure the National Whistleblowing Standards and the organisation's procedures for raising concerns are well-publicised.

4.4. Procedures for raising concerns should be written in plain, clear language. Avoid jargon and technical terminology as far as possible. If you need to use technical terms, make sure they are explained. Procedures should be **clear to all staff** and **there should be no doubt about how whistleblowing and whistleblowers are supported**.

5. Supportive to people who raise a concern and all staff involved in the procedure

5.1. **Offer support and protection** to all staff, students and volunteers who raise a concern or who are directly involved in a concern, at all stages of the process.

5.2. When someone raises a concern, listen to them, support them, treat them with dignity and respect, and be sensitive and professional.

5.3. Offer alternative methods to people who may not want to raise concerns with their line manager. This should include access to a confidential and impartial contact.

5.4. As far as the law allows, respect the **confidentiality** of any person who raises a concern, unless they agree that you do not have to.

5.5. Make staff, students and volunteers aware of all forms of support and guidance that are available to people involved in whistleblowing.

5.6. People who raise a concern must not be victimised or suffer detrimental treatment as a result of raising a concern. This includes bullying and harassment, inappropriate use of policies, breaking the terms of their contract, financial loss and reputational or professional damage.

6. Simple and timely

6.1. Procedures for raising concerns should keep to the National Whistleblowing Standards.

6.2. Timescales should be clearly published and met wherever possible.

6.3. Investigations into a reported concern should be thorough. In particularly complex cases this may mean it is not possible to keep to published timescales. If timescales are not met for a good reason, tell the person who raised the concern (and any other relevant person) the reason, and give them a revised timescale for completing the investigation.

7. Thorough, proportionate and consistent

7.1. Procedures for raising concerns should provide **good-quality outcomes** through a thorough but proportionate investigation.

7.2. There should be detailed, well-publicised quality standards for handling concerns, and these should be supported by a clear explanation of what action will be taken if the standards are not met.

7.3. Investigation methods and approaches to handling concerns should be **thorough and consistent, but proportionate and appropriate** to the circumstances of the case.

7.4. All concerns should be treated seriously.

7.5. Findings and conclusions should be based on analysing evidence and weighing up the facts and circumstances. Decisions should explain your reasons and show clearly how findings and conclusions were used.

7.6. The outcomes of investigations should be appropriate to the findings, and should set out what actions will be taken, or have been taken, to put things right or improve practice.

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Part 2

The Procedure and when to use it

Definitions

What is whistleblowing?

1. **Whistleblowing** is defined in the Public Services Reform (Scottish Public Services Ombudsman) Healthcare Whistleblowing Order 2019 as:

> *when a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the Scottish Public Services Ombudsman Act 2002) raises a concern that relates to speaking up, in the public interest, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing.*

2. This includes an issue that:
    - 2.1. has happened, is happening or is likely to happen; and
    - 2.2. affects the public, other staff or the organisation itself.
3. People also often talk about 'raising concerns' or 'speaking up'. These terms can be interchangeable with whistleblowing. The issue just needs to meet the definition, whatever language is being used to describe it.
4. Risks can relate to wrong-doing, patient safety or malpractice over which the organisation has oversight, responsibility or accountability. In a health setting these concerns could include (this list is not exhaustive):
    - 4.1. patient safety issues;
    - 4.2. patient care issues;
    - 4.3. poor practice;
    - 4.4. unsafe working conditions;
    - 4.5. fraud (theft, corruption, bribery or embezzlement);
    - 4.6. manipulation/falsification of performance information;
    - 4.7. a breach of any legal obligation;
    - 4.8. abuse of authority; or
    - 4.9. a deliberate attempt to cover up any of the above.
5. A whistleblowing concern is different to a grievance. A grievance is typically a personal complaint about an individual's own employment situation. More information is available on raising concerns and bullying and harassment below and in Annex B.
6. Healthcare professionals may have a professional duty to report concerns. Managers and all staff (including students or volunteers delivering health care) must be aware of this, as this can have an impact on how and when concerns

are raised. The processes for handling concerns should, however, be the same as any concern raised.

Who can raise a concern?

7. **Anyone** who provides services for the NHS can raise a concern, including 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. A person raising a concern has usually witnessed an event but they may have no direct personal involvement in the issue(s) they are raising.
8. If the person does not want to use this procedure, refer to the section on confidentiality below for further information.
9. More than one person can raise the same concern, either individually or together. Care must be taken to understand who wants to achieve what, and if everyone wants to be kept informed and updated on progress.
10. It is important for everyone involved in this procedure to be aware that some people may feel at greater risk than others from raising a concern. For example:
    - 10.1. employees whose employment status may be less secure, such as agency staff or those with visa requirements;
    - 10.2. students or others who are due to be assessed; or
    - 10.3. those from equalities groups.
11. Some people may consider themselves to be more vulnerable to detriment, particularly if they are in more than one of these groups. It is particularly important to ensure people are aware of the support available through this procedure and that any concerns they raise are treated seriously.
12. If the individual is raising a concern about a service that is not their employer (such as a district nurse working in a GP service, a locum pharmacist working for an agency, or a care assistant working within an HSCP service) then they must be able to raise concerns either directly with their employer or within the service itself, including full access to the Standards.

How to raise a concern

13. The Standards are designed to work with, not duplicate NHS processes and procedures used every day by staff to report what is happening in local areas. These are called “business as usual” in the Standards.

14. People may report or mention issues through those processes which could meet the whistleblowing definition. To avoid duplication and confusion, the procedure set out in the Standards should normally only be used when:
    - 14.1. there is no other procedure or processes being actively used;
    - 14.2. an existing procedure or process has been used but has not resulted in the outcome expected by the person raising the concern; or
    - 14.3. the person requests that the whistleblowing procedure be used.
15. Further information on moving from 'business as usual' into this procedure for raising concerns is provided below.
16. There are timescales for raising concerns: within six months from when the person became aware of the issue of concern. Further information on this is available in Part 3 of the Standards.

Support and protection through the procedure

17. Nobody should be treated unfairly for raising a concern, for having a whistleblowing allegation made against them, or for cooperating with any investigation. The victimisation of staff as a result of any involvement in a whistleblowing case will be treated as a disciplinary matter.

Support for the person raising a concern

18. Raising concerns can be stressful and isolating; but when someone does raise a concern, they are trusting the organisation and giving it an opportunity to resolve wrong-doing or risk. The organisation must reciprocate this trust by making sure the person is protected throughout the process and does not suffer any harm as a result of speaking up.
19. Anyone receiving a concern must:
    - 19.1. thank the person for raising the concern;
    - 19.2. listen to them carefully;
    - 19.3. take the concern seriously; and
    - 19.4. provide reassurance that:
        - 19.4.1. the concern will be handled sensitively;
        - 19.4.2. they have done the right thing by raising the concern; and
        - 19.4.3. they will not be treated badly, even if no risks are identified.
20. In some instances, it will be sufficient to thank the person raising the concern, and provide regular feedback on any resulting investigation. In other cases, they might need to be given more specialist support. Anyone receiving concerns must enquire what support may be needed, and actively explore these

issues with the individual when they first raise the concern. Where these needs are identified, the appropriate resources must be provided wherever practical, and any contact with support providers must be facilitated.

21. The support available may include:
    - 21.1. access to a confidential contact who is able to provide information and advice in relation to the procedure for raising concerns, as well as support during the process;
    - 21.2. counselling or psychological support services for those suffering from stress due to their involvement in this procedure;
    - 21.3. occupational health provision which would take account of the stresses involved in raising a concern; and
    - 21.4. consideration of a range of actions to reduce the impact on the individual, in consultation with them, such as variations in their work or putting in place temporary arrangements to reduce risk.
22. Anyone raising a concern may choose to have someone alongside them to provide support at meetings, or throughout the process. This could be a union representative, friend or colleague. If it is a friend or relative, their role is to support the person raising concerns, rather than to respond on their behalf or advocate for them. Union representatives can take a greater role in discussions, though it is best of the person can openly share the information they have. It is worth nothing that the person providing support may also be exposed to some risks through their involvement in the process, and this should be discussed with them, and support provided as appropriate.

Employer's duty of care

23. Employers have a duty of care to their employees and must take all reasonable steps to ensure their health, safety and wellbeing. They must do everything that is reasonable in the circumstances to keep their employees safe from harm. They also have a moral and ethical duty not to cause, or fail to prevent, physical or psychological injury.
24. Requirements under an employer's duty of care may include:
    - 24.1. ensuring a safe work environment;
    - 24.2. providing adequate training and feedback on performance;
    - 24.3. ensuring that staff do not work excessive hours;
    - 24.4. ensuring staff are not bullied and harassed by colleagues or others; and
    - 24.5. providing channels for employees to raise concerns.
25. Employees also have responsibilities for their own health and wellbeing at work. For example, they can refuse to do work that would be unsafe for them, without fear of disciplinary action.

26. In the context of raising concerns, this means that the organisation should take active steps to protect those that raise concerns from victimisation.

27. If detriment or victimisation becomes evident or is of concern, action must be taken. This may include informal managerial intervention or formal disciplinary procedures. Removing those raising concerns from a workplace, either through relocation or suspension, is not an appropriate response in most instances, since this reinforces attitudes that raising concerns is risky and indicates a culture that does not support speaking up.

Legal protection for those raising concerns

28. The Public Interest Disclosure Act 1998 (PIDA) is often called the 'whistleblowing law'. It is there to protect 'workers' (as defined in the Employment Rights Act 1996), who have made a 'protected' or 'qualifying' disclosure, from detriment, where this is a result of making the disclosure.

29. There is a legal test which a worker needs to meet for this legislation to apply. They must *reasonably believe* that the disclosure is in the public interest and that the information tends to show that the following has occurred, is occurring or is likely to occur:

    29.1. a criminal offence;

    29.2. an act creating risk to health and safety;

    29.3. an act causing damage to the environment;

    29.4. a miscarriage of justice;

    29.5. a breach of any other legal obligation; or

    29.6. concealment of any of the above.

30. It is important to note that making a 'protected disclosure' (as defined by PIDA) does not set out a route to raise concerns or a process for investigation; it provides legal protection for workers who are victimised *after* raising concerns. If a worker suffers detriment for raising a concern or is unfairly dismissed, they can bring a claim for compensation under PIDA to an Employment Tribunal.

31. PIDA encourages, but does not require, an employee to make the 'protected disclosure' to their employer first, if possible. It is recognised that workers may have good reason for raising a protected disclosure outside their workplace (either before or after reporting the concern to their employer). PIDA sets out requirements for a list of organisations which employees can raise a concern with, beyond their own employer, and still have their employment protected.

32. The INWO [is being added] to the list of designated organisations, so NHS employees [will be] able to raise their concerns directly. The INWO will approach each case on the basis that the organisation involved is best placed to identify the learning and improvements required. However, they [will have] discretion to take concerns directly, if they consider it is not reasonable to

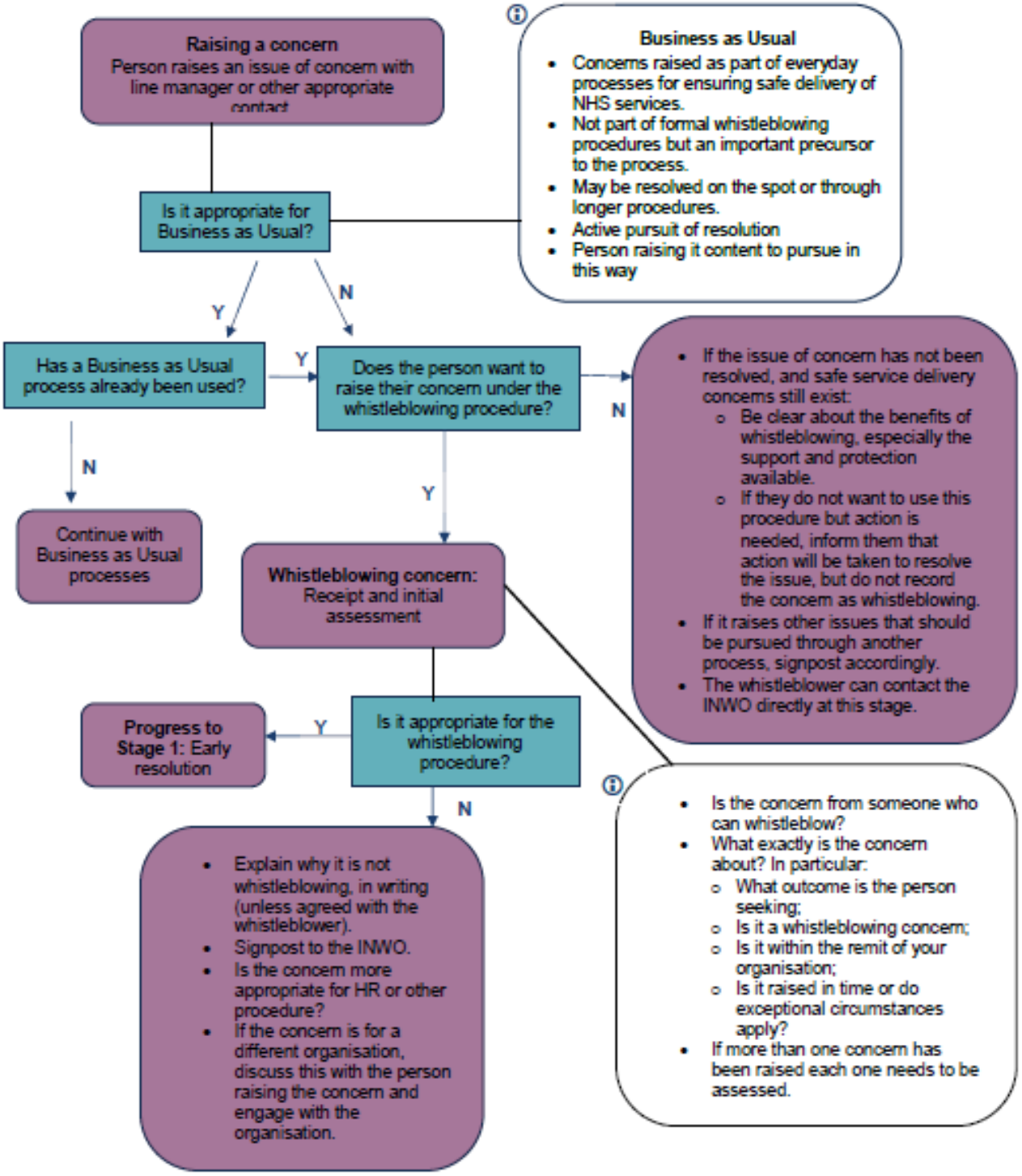
expect the person to use the employer's whistleblowing procedure. Such decisions will be made on a case by case basis but could take into account, for example, if the organisation is very small or the issue involves very senior staff. In limited circumstances the INWO may be able to assist in ensuring concerns are appropriately progressed, including monitoring the progress of an investigation.

Overview of the procedure for raising concerns

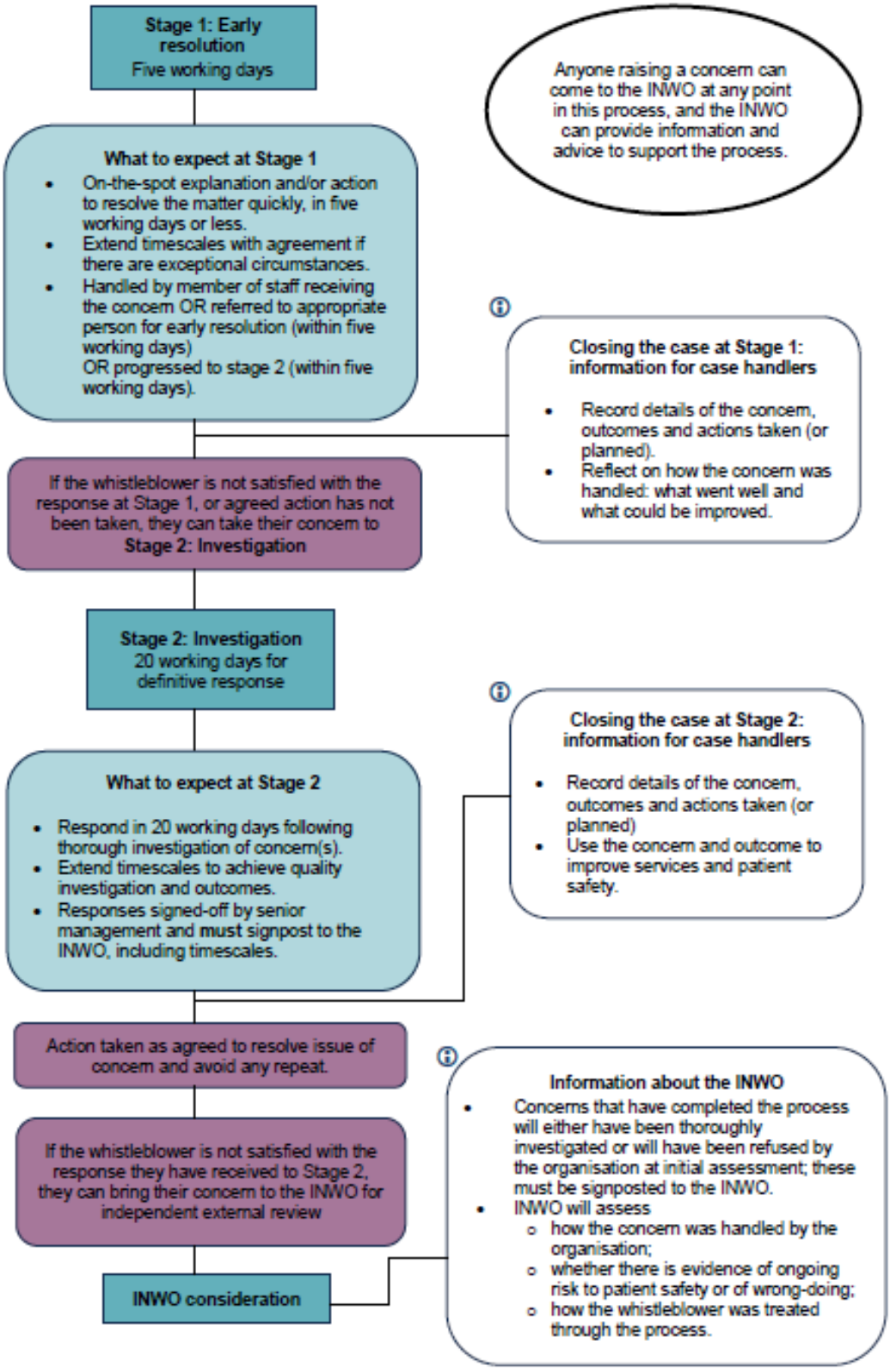
33. The procedure for raising concerns aims to provide a quick, simple and streamlined process for resolving concerns early and locally by capable, well-trained staff. It also incorporates actions to ensure support is provided, so that the process creates a safe space for sharing information.

34. This overview summarises the main points, with further explanatory information available on each stage.

Accessing the Standards:



Stage 1 and 2 overview:



35. NHS boards and other employers are required to have governance arrangements in place that ensure the organisation supports the person raising the concern, takes all appropriate actions, and records and reports on these concerns on a regular basis. They must also demonstrate learning from the concerns that have been raised through service improvements, and share this learning with their staff and stakeholders.

Initial actions

36. All concerns are important to the organisation, and must be acted on to ensure safe and effective care and treatment.

37. The Accessing the Standards flow diagram above helps to identify whether a concern is appropriate for this procedure. Additional information is provided here in relation to some aspects of this decision process.

Raising concerns through existing processes ('business as usual')

38. Individuals regularly identify risks or harm, and speak up to get them addressed. In the main this is done with great success and no personal repercussions for the individual raising the concern. This is 'business as usual' and describes everyday processes or actions that address an issue or concern, including formal processes for identifying and improving patient safety. Some examples would be:

    38.1. reporting short staffing on DATIX (or any other digital referral process), with the expectation that this will be noted and action taken;

    38.2. an issue raised during a team meeting or hand-over, including any subsequent investigation or action to address the issue; or

    38.3. an issue that is being investigated through an existing safe practice review or audit.

39. For the Standards to apply to every action taken through this 'business as usual' would be overly burdensome to both the individual and the organisation. As such, the Standards only apply when the individual has requested that their concerns be handled under this procedure.

40. However, this should not be contingent on the individual who has raised the concern necessarily being aware of the Standards themselves. Managers should actively identify issues which would be appropriate to handle under the Standards, and inform the individual of the procedure. This might be in instances where the individual is worried about their concern not being acted on, or where they have fears about victimisation from colleagues/ management.

41. Organisations should have service standards in place for their various 'business as usual' processes. There is an expectation that, whatever the issue and however it is raised, the organisation will respond appropriately to concerns and victimisation of those who raise concerns will not be tolerated. How the individual is treated through such a process, and the organisation's response to the concern, can form a part of any subsequent investigation by the INWO.

Who to raise a concern with

42. There should always be several options for raising concerns, at least:
    - 42.1. the person's line manager or team leader;
    - 42.2. a more senior manager if circumstances mean this is more appropriate;
    - 42.3. a confidential contact for raising concerns (in some places there may also be speak up ambassadors or advocates);
    - 42.4. large organisations should also provide a single phone number and email address for raising concerns.
43. Whoever receives it, the concern must be taken equally seriously and handled in line with the requirements of the Standards.
44. Any organisation that provides NHS services in Scotland must provide access to a confidential contact. This could be a contact within the board, with another service provider, or through a contracted independent service.
45. Each board must have clear arrangements in place for who to approach with concerns about senior management and board members (see Part 4). These must be agreed with the Whistleblowing Champion, and must be available to staff, including through their confidential contact.
46. Anyone wanting to raise a concern about senior management must be able to discuss the most appropriate course of action with the board's confidential contact or other speak up representative. They will be able to suggest an appropriate course of action, or pass on the concern, based on what their assessment of the situation and the person's preferred approach.
47. The arrangements within primary care (see Part 7), and for students (see Part 9) and volunteers (see Part 10) may be slightly different.
48. Concerns about fraud within the NHS can be directed to NHS Counter Fraud services if this is the preferred route. More information about this service is available at https://cfs.scot.nhs.uk/.

Getting information or advice

49. Information and advice about what options are available, whether a concern is appropriate for this procedure, or what to expect, can be obtained from:
    - 49.1. National Alert Line – 0800 008 6112 or alertline@protect-advice.org.uk;
    - 49.2. the board's confidential contact for raising concerns, or other confidential speak up contact;
    - 49.3. the INWO can provide information and advice about how a concern should be handled, and can provide support through the process;
    - 49.4. union representatives;
    - 49.5. professional bodies;
    - 49.6. university representatives (for students); and
    - 49.7. NHS Education Scotland (for trainee doctors and dentists).
50. Other organisations may also be able to provide support for anyone raising a concern, such as:
    - 50.1. employer's occupational health service;
    - 50.2. employer's support;
    - 50.3. chaplaincy services; and
    - 50.4. Whistleblowers UK.
51. Contact details for several relevant agencies are provided in Annex A below.

Initial discussion

52. Once a concern has been raised (and however it is received – in writing, in person or by phone), there needs to be some discussion around whether the concern is suitable for this procedure. This should include:
    - 52.1. consideration of whether the issue fits with the definition of a concern for this procedure;
    - 52.2. whether the issue is being actively progressed through '*business as usual*';
    - 52.3. consideration of whether the person **wants** to pursue the issue through this procedure, including discussion of the support and protection available through it;
    - 52.4. signposting to any other appropriate additional procedures (e.g. HR procedures);
    - 52.5. consideration of issues around confidentiality; and
    - 52.6. consideration of what support would be helpful for the individual.

53. If the person does not want to use this procedure, see the section on anonymous concerns below for further information. The organisation can choose how to investigate the concern, but good practice would be to follow the Principles and investigate in line with the Standards, particularly if existing business as usual procedures have been unsuccessful in resolving the issue.

54. If a decision is taken not to accept a concern through this procedure (for some or all of the issues raised), even when this route has been requested by the person raising the concern, this decision must be recorded. This must include signposting to the INWO. There must be agreement on both sides about whether a written response is needed, and this agreement must also be recorded. Where possible, the person raising concerns should be informed face-to-face or on the telephone. It is important to record full and accurate details of the decision not to consider the concern through this procedure, and to ensure that the person understands this outcome. If there is information that cannot be shared, the manager should explain why.

55. If the issue raised is not within the remit of the organisation, the person receiving the concern should signpost to the appropriate organisation, or actively engage with this organisation to ensure the concern is passed on and appropriately acted on. Remember that confidentiality for the individual still applies.

Immediate threat to safety

56. If someone raises a concern that needs immediate action, to avoid any further risk to patient safety, **action must be taken**. This is likely to be through a referral to an appropriate senior manager, but it will depend on the situation. The person raising the concern must also be told that this will happen, and why. Any confidentiality concerns must be taken into account and discussions should cover all the same issues as the initial discussion (above).

Confidentiality and anonymity

57. **Confidentiality** refers to the need to limit the sharing of personal information about who raised the concern.

58. **Anonymity** refers to a situation when nobody knows the identity of the member of staff who raised the concern.

Confidentiality

59. Confidentiality *must* be maintained as far as possible in all aspects of the procedure for raising concerns. Staff need to have confidence that their identity will not be shared beyond what is agreed. **The name of the person raising the concern must not be routinely or automatically shared at any point of the investigation or during the implementation of any subsequent recommendations.** There are, however, times when information about the person raising a concern will become apparent, or when it will be necessary to share this information in order to put things right or progress with an investigation.

60. It is important that all aspects of confidentiality are discussed at the outset; not doing so may lead to violations of data protection legislation. This should include:

    60.1. recording of the concern, and who will have access to this information;

    60.2. who will the concern be shared with and why;

    60.3. who are they happy for their identity to be shared with, and under what circumstances;

    60.4. who else might need to be informed of their identity and why;

    60.5. where it appears inevitable that their identity will become apparent, are there ways of ensuring this does not happen;

    60.6. what action could be taken to limit the number of people who are made aware of the concern, while still taking appropriate action.

61. It is important that all of the issues raised in the investigation are treated confidentially unless there is a legitimate reason for sharing information with other parties.

62. To protect the identity of the person raising the concern, managers and clinical leads should explore ways of investigating the concern which will not arouse the suspicion of others. For example, making the investigation appear like conducting business as usual or conducting a random spot check.

63. The organisation must take full account of data protection legislation in the way it holds and processes information both in relation to the person raising the concern and in relation to other staff involved. This includes:

    63.1. storing data securely, so only those with a legitimate interest in the investigation have access; and

    63.2. careful assessment of any reference to raising concerns in personnel records, and only if it directly relates to other HR related issues.

Anonymous concerns

64. An anonymous concern is one that has been shared with the organisation in such a way that **nobody** knows who provided this information.

65. Alternatively, someone may raise a concern directly with the organisation, for example, by approaching the confidential contact, but are not willing for their name or personal details to be recorded. This is known as an 'unnamed concern'.

66. While such a request must be respected, it must also be made clear at this stage that, by not recording their name, the person cannot access the full Standards or the INWO.

67. It should be made clear to all staff that raising a concern anonymously (or 'unnamed') does not give them the same protections as when their details are shared and recorded confidentially. It limits:

    67.1. the legal protections available to the person raising the concern;

    67.2. the ability to provide feedback and offer support; and

    67.3. the ability to ask the INWO to consider a matter.

68. In other words, the protections provided by these Standards *cannot* be invoked, so the supportive environment they provide cannot be ensured. If staff guess the identity of the person raising concerns, that person may be at risk of detriment, without access to protection or support.

69. Raising a concern anonymously (or 'unnamed') may also have an impact on how well the concern can be investigated and ultimately resolved, as there may be significant gaps in the information needed for the investigation.

70. If a concern is raised anonymously (or 'unnamed') managers should ensure as much information as possible is recorded and an appropriate investigation is undertaken. The organisation can choose how to investigate the concern, and sometimes immediate action will be necessary to reduce risks. It is important to bear in mind that good practice would be to follow the Principles and investigate in line with the Standards, particularly if existing business as usual procedures have already been attempted. However, there is no **requirement** to apply the Standards.

The difference between a grievance and a concern

71. A person raising a concern is usually a witness and may have no direct personal involvement in the issue(s) they are raising. They are simply trying to alert management to the risk(s) they have identified. These concerns usually have wider implications; they are not *only* about the personal impact on the individual.

72. When a person raises a grievance or makes an allegation about bullying or harassment, they are raising issues about their own employment situation, employment rights or how they have been *personally* treated.

73. Examples of grievance issues include:

    73.1. dissatisfaction with pay and working conditions;

    73.2. disagreements about terms of employment and workplace rules;

    73.3. allegations of unfair treatment at work;

    73.4. individual claims of bullying and/or harassment; and/or

    73.5. disagreement between co-workers.

74. Examples of whistleblowing as opposed to grievance or bullying and harassment are available in Annex B.

75. Sometimes the person may raise issues which contain elements of both whistleblowing and grievance concerns. These need to be dealt with *separately* through the appropriate policies/ procedures.

76. If someone raises a combination of grievance and whistleblowing issues, all their concerns must be discussed, and the person must be appropriately signposted to all the options available to them, including support options and services.

77. If an issue of public interest or patient safety emerges through a grievance procedure, the person must be asked if they want the concern to be raised through the Standards, with the protection that they provide.

78. Issues relating to employment rights may also have a wider public interest; for example, if poor working conditions are having a detrimental effect on service delivery. If it is not clear whether an issue is a grievance or a whistleblowing concern, the manager (or confidential contact) should explore what the individual wants to achieve, i.e. resolution for the individual, or resolution for the patient/organisation or wider public. It may be that, in the interests of safe service delivery, the public interest issue needs to be considered and investigated, whatever the individual's desired outcome is. However, it must not be recorded as whistleblowing if the individual does not want it to be.

Claims of detriment

79. If someone raises a concern and at the same time claims they have suffered detriment as a result of raising this concern through business as usual, the initial discussion must identify what outcomes they would like to achieve. It must also include signposting to any appropriate HR procedures, to ensure any detriment can be appropriately addressed. It is also of particular importance to ensure appropriate support is in place to limit any further detriment. Failing to do so would mean the organisation was failing it their duty of care for their employee.

Concerns raised with malicious intent

80. Every concern should be given full and proper consideration, whatever others may say about the reason for it being raised. However, if a full investigation reveals that the concerns raised were knowingly based on inaccurate information, with the intention of creating difficulties for a colleague, appropriate action should be taken to address this inappropriate behaviour.

Annex A: Contact details for support agencies, regulators and professional bodies

Organisations that can provide support and information

BRITISH DENTAL ASSOCIATION
01786 476040
enquiries@bda.org
www.bda.org/contact-us

BRITISH MEDICAL ASSOCIATION
0300 123 1233
www.bma.org.uk/contact-bma

DENTAL DEFENCE UNION
0800 374 626
www.theddu.com/

MEDICAL AND DENTAL DEFENCE UNION OF SCOTLAND
0333 043 444
www.mddus.com/

MEDICAL DEFENCE UNION
0800 716 646
www.themdu.com/

MEDICAL PROTECTION SOCIETY
0800 136 759
www.medicalprotection.org/uk/home

NHS EDUCATION SCOTLAND
0131 656 3200
www.nes.scot.nhs.uk/contact-us.aspx

NHS SCOTLAND CONFIDENTIAL ALERT LINE
0800 0086112
alertline@protect-advice.org.uk

NHS SCOTLAND COUNTER FRAUD SERVICES
01506 705200
www.cfs.scot.nhs.uk/contact-us.aspx

PROTECT
020 7404 6609
www.protect-advice.org.uk/contact-us/
whistle@protect-advice.org.uk

ROYAL COLLEGE OF NURSING SCOTLAND
0345 772 6100
www.rcn.org.uk/scotland/about/contact

ROYAL COLLEGE OF ANAESTHETISTS
020 7092 1500
www.rcoa.ac.uk/

ROYAL COLLEGE OF EMERGENCY MEDICINE
020 7404 1999
www.rcem.ac.uk/

ROYAL COLLEGE OF GENERAL PRACTITIONERS
020 3188 7400
www.rcgp.org.uk/

ROYAL COLLEGE OF OBSTETRICIANS AND GYNAECOLOGY
020 7772 6200
www.rcog.org.uk/

ROYAL COLLEGE OF OPHTHALMOLOGISTS
www.rcophth.ac.uk/

ROYAL COLLEGE OF PAEDIATRICS AND CHILD HEALTH
020 7092 6000
www.rcpch.ac.uk/

ROYAL COLLEGE OF PATHOLOGISTS
020 7451 6700
www.rcpath.org/

ROYAL COLLEGE OF PHYSICIANS OF EDINBURGH
www.rcpe.ac.uk/

ROYAL COLLEGE OF PHYSICIANS AND SURGEONS OF GLASGOW
0141 221 6072
www.rcpsg.ac.uk/

ROYAL COLLEGE OF PSYCHIATRISTS
020 7235 2351
www.rcpsych.ac.uk/

ROYAL COLLEGE OF RADIOLOGISTS
020 7405 1282
www.rcr.ac.uk/

ROYAL COLLEGE OF SURGEONS OF EDINBURGH
0131 527 1600
www.rcsed.ac.uk/

ROYAL PHARMACEUTICAL SOCIETY
0131 556 4386
www.rpharms.com/about-us/contact-us

SCOTLAND DEANERY
0131 65 3200
www.scotlanddeanery.nhs.scot/contact/

OPTOMETRY SCOTLAND

0141 202 0610
info@optometryscotland.org.uk
www.optometryscotland.org.uk/contact-us/contact-us

Regulators

ALLIED HEALTH PROFESSIONS FEDERATION

0131 226 5250
admin.ahpfs@ahpf.org.uk
http://www.ahpf.org.uk/Contact.htm

CARE INSPECTORATE

0345 600 9527
enquiries@careinspectorate.com
www.careinspectorate.com/index.php/contact-us

HEALTH IMPROVEMENT SCOTLAND

0131 623 4602
hcis.respondingtoconcerns@nhs.net
www.healthcareimprovementscotland.org/our_work/governance_and_assurance/responding_to_concerns.aspx

MENTAL WELFARE COMMISSION FOR SCOTLAND

0131 313 8777
enquiries@mwcscot.org.uk
www.mwcscot.org.uk/contact-us

Professional bodies

GENERAL DENTAL COUNCIL (CURRENTLY UNABLE TO PROVIDE SUPPORT TO THEIR REGISTRANTS)

020 7167 6000
www.gdc-uk.org/contact-us

GENERAL MEDICAL COUNCIL (CURRENTLY UNABLE TO PROVIDE SUPPORT TO THEIR REGISTRANTS)

0161 923 6602
gmc@gmc-uk.org
www.gmc-uk.org/contact-us

GENERAL PHARMACEUTICAL COUNCIL

020 3713 8000
www.pharmacyregulation.org/

GENERAL OPTICAL COUNCIL

020 7580 3898

www.optical.org/

HEALTH AND CARE PROFESSIONS COUNCIL
0300 500 6184
www.hcpc-uk.org/contact-us/

NURSING AND MIDWIFERY COUNCIL
020 7637 7181
www.nmc.org.uk/contact-us/

SCOTTISH SOCIAL SERVICES COUNCIL
0345 60 30 891
www.sssc.uk.com/contact-us/

Annex B: Examples to help to distinguish between whistleblowing and grievance/ bullying & harassment issues

Detailed below are some examples to help determine if the issue raised should be addressed under whistleblowing or grievance or bullying and harassment procedure:

Whistleblowing	Grievance/Bullying and Harassment
Key test: The issue is in the public interest.	**Key test:** The issue relates solely to an individual and therefore is a matter of personal interest.
Management persistently pressurises the team into dangerous overtime conditions.	I haven't been granted my flexible working request.
Dangerous working practices of an individual leading to the risk of a serious incident.	I have been inappropriately shouted at by a senior manager in relation to an action that I took at work.
Working practices or actions that may be a risk to others. [Note: or may just suspect that there is something inappropriate happening in an area which could be a risk to the public but not have substantial evidence.]	I am not happy with the way that my manager spoke to me when they discovered I was not following the correct health and safety procedures.

SCOTTISH PUBLIC SERVICES OMBUDSMAN

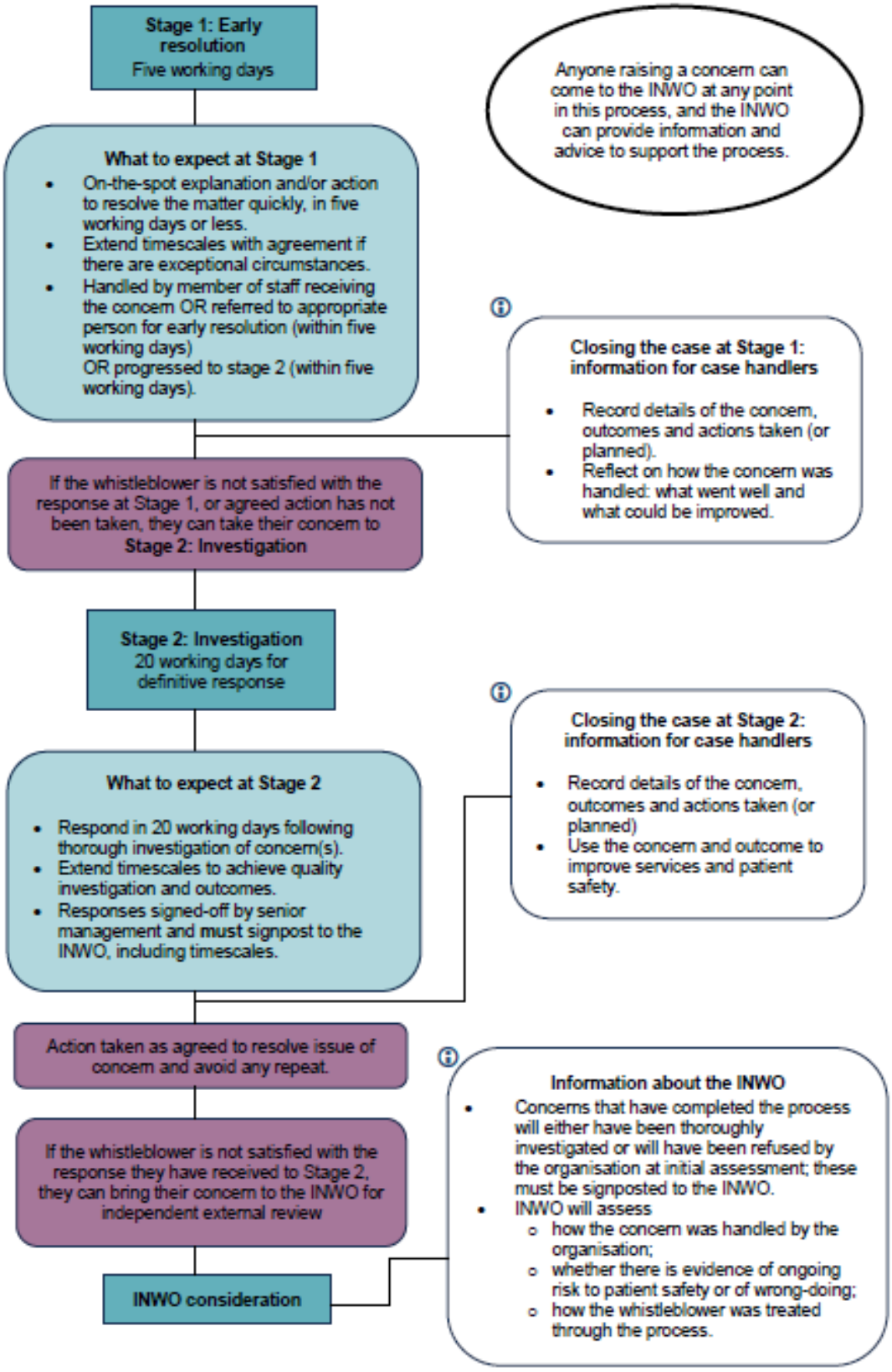
People Centred | Improvement Focused

The Draft National Whistleblowing Standards

Part 3

The 2 Stage Procedure

Overview of the procedure



Stage 1: Early resolution

1. Stage 1 is for simple and straightforward concerns that can be resolved with an explanation and/or by taking limited action to resolve the issue within five working days or less. These concerns will involve little or no investigation. Resolution should involve the line manager when appropriate. Issues that are more complex and will clearly take more than five working days to resolve should be handled directly at Stage 2.
2. Concerns can be raised with a line manager, confidential contact or other representative. Organisations must ensure there is access to an impartial, confidential contact, with the option to approach them by email, phone or in person.
3. Ideally, this will involve a face-to-face discussion with the person, or it could mean asking an appropriate member of staff to deal directly with the issue.

   Anyone raising a concern can come to the INWO at any point in this process, and the INWO can provide appropriate information and advice to support them. They can also provide advice to investigators and managers on how concerns should be handled.

Initial discussions

4. **Anyone** who provides services for the NHS can raise a concern, including 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 person raising the concern must choose to pursue the concern using this procedure. They must also be offered support with raising their concern, and can be accompanied by a union representative, friend or colleague. Further details of the support available is provided in Part 2 of the Standards.
6. If the person does not want to use this procedure, see the section on anonymous concerns in Part 2 of the Standards for further information. Essentially, the organisation can choose how to investigate the concern, but good practice would be to follow the Principles and investigate in line with the Standards, particularly if existing business as usual procedures have already been attempted.

Time limit for raising concerns

7. The timescale for accepting a whistleblowing concern is within six months from when the person became aware of the issue of concern. The organisation has discretion to extend this time limit if there is good reason to do so, for example if the issue is still ongoing or if 'business as usual' procedures have led to delay. The key consideration should be whether there is any chance that the situation could create an ongoing risk of harm or wrong-doing.
8. If a case is not being progressed through the procedure due to the timescales involved, a clear explanation of the basis for this decision should be provided to the person raising the concern. They must also be advised that they can ask the INWO to consider the decision.

Timescales – five working days

9. The organisation (normally the manager or whoever has received the concern) has five working days to provide a response. If there are clear and justifiable reasons why this timescale cannot be met, the five days can be extended by a further five working days, with more senior approval . Reasons for this may be staff absence or difficulty in arranging a meeting. The person raising the concern must be told about the reasons for the extension, and when they can expect a response.
10. If it is clear from the outset that the concern is complex and could not be responded to in five working days, it should be handled directly at Stage 2. Extensions to Stage 1 must not be used to delay moving the concern to Stage 2.

Stage 1 discussion

11. Once there is agreement that the concern should be considered through this procedure, the next stage is to discuss and agree on:
    - 11.1. what outcomes are being sought and whether they are achievable;
    - 11.2. what action needs to be taken to put things right, and what timescales would be appropriate for this;
    - 11.3. whether all the issues are appropriate for this procedure or whether some are appropriate for other procedures, and if so, what signposting would be appropriate (see Part 2);
    - 11.4. whether any immediate action is needed to put things right/ reduce patient safety or organisational risks; and

11.5. any need for support (see Part 2) and consider how this will be accessed.

12. If a discussion raises issues which a manager considers to be more appropriate for other HR procedures (such as grievance procedures) there should be careful consideration of whether any elements of it are appropriate for the whistleblowing procedure. If a concern is raised, but a manager decides this is a grievance, this decision should be put in writing, with signposting to the INWO so this decision can be reviewed if necessary.
13. Managers and others receiving concerns must ensure that those raising concerns have the support and information they need to pursue all appropriate avenues, including HR procedures. They must be informed of what support is available, and when and how they can access it.
14. Discussions around the issue of concern must cover:
    - 14.1. what exactly is the person's concern;
    - 14.2. who are the other people involved;
    - 14.3. what support do they or other staff need (or are likely to need);
    - 14.4. how can confidentiality best be achieved;
    - 14.5. who is the best person to respond to the concern; and
    - 14.6. is this achievable in five working days or less, or should it be handled at Stage 2?
15. Annex A provides further guidance on exploring these issues.

Recording the concern

16. Details of all concerns raised by staff and other workers must be recorded. Concerns should be recorded upon receipt, and appropriate consideration taken to any requests for anonymity and/or confidentiality (see Part 2). Full details of requirements in relation to recording concerns are provided in Part 5.

Closing the concern

17. A response to a Stage 1 concern should be provided in writing, unless there is an agreement that this is not needed (in which case this decision should be recorded). The response (however it is provided) must include:
    - 17.1. responses to all the issues raised;
    - 17.2. reasons for any decisions;
    - 17.3. what action is being taken in response; and
    - 17.4. signposting to Stage 2 in case they consider that their concerns have not been resolved.

18. If the response is not provided in writing, a record must still be kept of the decision reached and the information given to the person raising the concern. The case must then be closed and the records system updated as appropriate. The case closure date is the date when the person was given the decision to the concern they raised.

Learning, improvements and recommendations

19. Concerns raised both at Stages 1 and 2 of this procedure will often identify the need for changes to improve safe and efficient service delivery, or enhance governance arrangements. Any improvement action must be appropriately planned, ensuring that all those concerned are kept informed of changes. Further information on learning from concerns is available in Part 5 of these Standards. It should be noted that this information will feed into quarterly and annual reporting on concerns.
20. Consideration must also be given to:
    - 20.1. the potential for wider learning across other departments following the conclusion of an investigation; and
    - 20.2. whether the improvements would be beneficial to other NHS organisations across Scotland. If so, this should be shared with national organisations or clinical groups to take forward as appropriate.

When to move to Stage 2

21. Some concerns will not be appropriate for Stage 1, and should be progressed directly to Stage 2:
    - 21.1. the issues raised are complex and require detailed investigation;
    - 21.2. the concern relates to serious, high risk or high profile issues; or
    - 21.3. the person does not want to pursue the concern at Stage 1, and considers that an investigation is needed.
22. Issues that relate to serious, high risk or high profile issues may need more senior oversight and consideration.
23. Alternatively, a case can be brought to Stage 2 if the person does not feel that Stage 1 has appropriately resolved the issue, and they still have concerns. This may be immediately on receiving the decision at Stage 1 or could be some time later.
24. This escalation from Stage 1 to Stage 2 should be recorded, and the system must be clear that this is the same concern, not a new one.

Stage 2: Investigation

25. Whistleblowing concerns handled at Stage 2 of the whistleblowing procedure are typically serious or complex, and require a detailed examination before the organisation can state its position. Concerns can be handled directly at Stage 2 if they raise issues which are too complex to be appropriate for resolution at Stage 1 and warrant a full investigation from the outset.
26. An investigation aims to establish all the facts relevant to the points raised in the whistleblowing concern. It should be thorough, proportionate and objective, so that any problems can be identified, and improvements can be explored. This may include action to put things right in the short term, or an action plan for future changes. It is also very important to give the person raising the concern a full and evidence-based response that represents the organisation's final position.
27. If a concern which is appropriate for Stage 2 is raised with someone who was involved with the situation, or was involved in a decision at Stage 1, every effort should be made to ensure that the individual can further discuss the situation and their concern with an appropriately placed contact who is independent of the situation soon after. This may be a confidential contact or an impartial manager.

Timescales – 20 working days

28. The following timescales apply to Stage 2:
    - 28.1. acknowledgement in writing within three working days;
    - 28.2. full response to all concerns provided as soon as possible, and within 20 working days, unless an extension to this time limit is required;
    - 28.3. if an extension is needed, the person raising the concern must be given a clear indication of when they can expect a full response within the first 20 working days, and then subsequently updated at least every 20 working days;
    - 28.4. updates every 20 working days to all those directly affected by the investigation, providing information about what progress has been made and what will happen before the next update or full response is provided; and
    - 28.5. if timescales are longer than initially anticipated, those involved should be offered support during this period.

Acknowledgement

29. The acknowledgement should include:
    - 29.1. contact details for the person overseeing the investigation;
    - 29.2. explanation of timescales, when an extension might be required and what this would mean; and
    - 29.3. support available for the person, including information about other agencies and their professional body if appropriate.
30. It may also be appropriate to provide further information including:
    - 30.1. appropriate contact details for urgent safety issues during the period of the investigation;
    - 30.2. a summary of the concerns and outcomes they are seeking;
    - 30.3. an outline of the proposed investigation and who will be involved;
    - 30.4. an offer to discuss issues either with the investigation officer or a senior member of staff; and
    - 30.5. a consent form, if the concern is raised by a union representative or other advocate on the employee's behalf.

Extensions to the 20 working day timescale

31. Every effort should be made to meet the 20 working day timescale, as failure to do so may delay changes to unsafe working practices, and could have a detrimental effect on patient safety, organisational risk, the person raising the concern or those that are the focus of the investigation.
32. While 20 working days should be the aim, and the norm, it is not a target or performance measure, and **it should not be met at the expense of a thorough, robust investigation that delivers good outcomes**. It is there to ensure that prompt action is taken, and that there is an **ongoing focus on investigating and resolving the concern**, while keeping those involved updated on progress.
33. There is an expectation that, when a final decision cannot be provided within 20 working days, **significant progress will still be demonstrated**, and the investigation will not be subject to avoidable delays.
34. There is no flexibility to 'stop the clock' in the whistleblowing procedure. Where there are clear and justifiable reasons for extending the timescale, the investigator should request authorisation from a senior manager to do so. These revised timescales must be explained to the person raising the concern and others involved in the investigation, as appropriate.
35. The reasons for an extension might include:

35.1. essential accounts or statements are needed from staff but they are unavailable due to long-term sickness or leave;

35.2. staff have requested a representative from their professional body to be with them at a meeting, and this has caused unavoidable delays;

35.3. further essential information cannot be obtained within normal timescales; or

35.4. progress of the investigation is disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.

36. If a complex, multi-faceted concern is likely to take significantly more than 20 working days to resolve in full, consideration should be given as to whether there is any scope for responding to some of the issues raised in an interim report.

First considerations

37. When a concern is raised at Stage 2 there are a range of issues to consider:

37.1. is any immediate action needed to put things right/reduce patient safety or organisational risks;

37.2. who should investigate - they need to be a senior member of staff from another department or service whenever possible. (The Governance section reviews how to take account of concerns about senior leadership or board members);

37.3. what should the investigation cover – using the list in paragraphs 8 and 11 and Annex A to explore the concerns in more detail;

37.4. how much involvement the person wants in the investigation, and whether this is appropriate;

37.5. signposting to any other appropriate additional procedures (for example, HR procedures);

37.6. what risks are involved, how they could be mitigated, and what support can be provided, ensuring access to it; and

37.7. what to expect in terms of timescales and updates.

38. Whenever possible, these issues should be explored through a discussion with the person raising the concern.

39. Managers should ensure they are aware of the person's preferred method of communication, and use this whenever possible and appropriate. They must also take account of any data safety concerns when corresponding by email. If they are using an employee's work email address the person raising the

concern must have consented to its use for this purpose, as they may not always have access to it, or may have concerns about who else can access it.

40. It is also important to take account of any accessibility issues the person has shared.

The investigation

41. The investigation must focus on the practices or procedures that are unsafe or inappropriate. It must keep patient safety, safe working practices and good governance as its focus, and must be fair, robust and proportionate to the risks identified. It must seek to resolve and fully respond to all of the whistleblowing concerns that have been raised.
42. The person raising the concern must be told about how the investigation will be conducted and what their role in it will be.
43. If Stage 2 follows attempted resolution at Stage 1, the investigator should ensure they have all the case notes and associated information considered at Stage 1. They must also clarify as early as possible what additional information will be needed and how it will be obtained.
44. It is good practice to keep a record of meetings throughout the investigation (either notes or recordings), including any discussions with the person raising the concern. This should be shared with those involved within an agreed timescale.
45. The investigation should be kept independent of any other procedures, including HR procedures, though where possible any linked procedures should be coordinated with the whistleblowing procedure or progressed in parallel.
46. Investigators and decision-makers must take account of the Principles (see Part 1), and must:
    - 46.1. be trained in what their role entails and how to carry it out;
    - 46.2. give all parties the right to be heard;
    - 46.3. not have a personal interest in the situation or the outcome;
    - 46.4. act only on the basis of evidence;
    - 46.5. make decisions in good faith and without bias;
    - 46.6. consider any person whose interests will be affected by the decision; and
    - 46.7. have dedicated time for the investigatory process.

Other staff involved

47. Raising concerns can be stressful for anyone involved in the case, including the subject of the investigation, the investigator and witnesses. Everyone involved must be treated professionally and with respect.
48. If someone is accused of poor practice through the procedure they should be advised of the following:
    48.1. that an investigation is taking place;
    48.2. the nature of the allegation;
    48.3. the investigation process;
    48.4. their rights and responsibilities; and
    48.5. their support options.
49. They do not need to know how the organisation learnt about the concern, and care must be taken to protect the identity of the person that raised the concern.

Responding to the concern

50. At the end of the investigation, the person raising the concern must be given a full and considered response, setting out the findings and conclusions, and how they were reached. It must also provide evidence that the issue has been taken seriously and has been thoroughly investigated. It must include the conclusions of the investigation and information about any remedial action taken or proposed as a consequence of the concern, both in relation to the current situation and to avoid potential recurrence.
51. It is best practice for a single, senior member of staff (or someone authorised to act on their behalf) to be responsible for reviewing each decision prior to the response being issued. They must ensure that all necessary investigations have concluded and action is underway to prevent future risks.
52. The response must be provided in writing, and also, if applicable, by the preferred alternative method of contact. A record must be kept of the decision, and details of how it was communicated to the person raising the concern.
53. It must be clear from the response that this is the organisation's final decision, and that if the person remains dissatisfied with the decision or the way it has been investigated, they can take their concern to the INWO.
54. Other people directly involved in the investigation must also be updated on the final outcome, and must be informed of any recommendations or actions taken as a result of the whistleblowing concern. Any such updates must take full account of data protection legislation.
55. The quality of the investigation and the subsequent report is very important and in terms of best practice should:
    55.1. be clear and easy to understand, written in a way that is person-centred and non-confrontational;

55.2. use language appropriate to the person raising concerns, and their understanding of the issues;

55.3. address all the issues raised and demonstrate that each element has been fully and fairly investigated;

55.4. include an apology where things have gone wrong;

55.5. highlight any area of disagreement and explain why no further action can be taken;

55.6. indicate that a named member of staff is available to clarify any aspect of the letter; and

55.7. provide details of how to refer their concerns to the INWO if they are not satisfied with the outcome of the local process.

56. If anyone involved in the investigation has had ongoing support from their union or another third party, they should also be informed that a decision has been issued. (What further details can be provided will depend on the situation.) This will ensure that they are able to provide appropriate support in a timely manner.

Recording the concern

57. Details of all concerns investigated at Stage 2 must be recorded. As with Stage 1 concerns, they should be recorded upon receipt, and appropriate consideration given to any requests for anonymity or confidentiality.
58. Where applicable, the record must be done as a continuation of the record created at Stage 1. The details must be updated when the investigation ends.
59. Full details of requirements in relation to recording concerns are provided in Part 5 of these Standards.

Learning, improvement and recommendations

60. As for Stage 1 concerns, see paragraphs 19 and 20 above.
61. At the end of Stage 2, there may also be learning to come from consideration of how the concern was handled by the organisation. One way to facilitate this, and to ensure consistency of responses to concerns, is to involve two different parts of the organisation in reviewing the handling and outcomes of concerns. Not all organisations will be able to achieve this, but where possible, this option should be considered good practice.

Meetings and post-decision correspondence with the person raising the concern

62. The person raising the whistleblowing concern may request further information or a meeting once they have received the decision. Further communication should only relate to requests for explanation or clarification of the decision.
63. It should be made clear prior to any meeting that it is for explanation only and not a reinvestigation or reopening of the concerns raised. This meeting should be separate from any meeting relating to HR issues. If the person raises concerns about the way they have been treated, they should be signposted to the INWO, where these concerns can be explored. They should also be signposted to any appropriate HR procedures, unless this action has already been taken.
64. Any communication relating to the conduct of the investigation or the subsequent decisions or outcomes should not be considered by the organisation; rather the person raising concerns must be signposted to the INWO for Stage 3 of this procedure.

Independent external review

65. Anyone who has raised a concern through this procedure can bring their concern to the INWO for further consideration in relation to the way the concern was handled, the outcome of the investigation, or their treatment through the process. If someone has tried to access this procedure but has been denied access, they can also bring their concern to the INWO.
66. The INWO looks at:
    - 66.1. how the organisation has responded to the concerns raised, applied these Standards, and investigated the issues raised;
    - 66.2. whether the decisions made in relation to whistleblowing concerns were reasonable; and
    - 66.3. the person's treatment, including any signposting to HR procedures linked to their raising a concern.
67. The INWO recommends that organisations use the wording below to inform people of their right to ask the INWO to consider the whistleblowing concern.

Information about the Independent National Whistleblowing Officer (INWO)

The INWO is the final stage for whistleblowing concerns about the NHS in Scotland. If you remain dissatisfied with an NHS organisation after its process has concluded, you can ask the INWO to look into your concern.

The INWO cannot normally look at concerns:

- where you have not gone all the way through the whistleblowing procedure, or
- more than 12 months after you became aware of the matter you want to bring to the INWO.

The INWO's contact details are:

INWO

Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

[Freepost TBC]

(You don't need to use a stamp)

Freephone: 0800 377 7330

Online: **www.spso.org.uk/contact-us** (to be updated to reflect INWO functions)

Website: **www.spso.org.uk**

68. If the whistleblowing concern is raised with the INWO, this may result in a request for all relevant papers and other information to be provided to the INWO's office. For more information about what to expect from an INWO investigation, visit [the INWO website].

Time limits for raising concerns with the INWO

69. Someone who has raised a concern and had a final response from the NHS provider can bring their concern to the INWO within 12 months from the date they became aware of the issue. (The INWO has discretion to extend these timescales, similar to the organisation's discretion, described in paragraph 7 above.)
70. These Standards and the INWO's powers come into operation on [date the order comes into force]. The INWO only has powers to investigate where a concern has been raised, within time limits, under procedures in line with these Standards.

71. Concerns which are or have been considered under previous whistleblowing procedures or arrangements (those in place prior to [July 2020]) must be completed under those processes, and cannot be reviewed by the INWO. Issues raised under this procedure can relate to concerns that first emerged before [July 2020], but the time limits above will still hold.

72. If a concern is raised directly with the INWO, prior to a full investigation by the appropriate organisation, the INWO can provide information and advice. However, they [will have] discretion to take concerns directly, if they consider it is not reasonable to expect the person to use the employer's whistleblowing procedure. The INWO will approach each case on the basis that the organisation involved is best placed to identify the learning and improvements required. Such decisions will be made on a case by case basis but could take into account, for example, if the organisation is very small or the issue involves very senior staff. In limited circumstances the INWO may be able to assist in ensuring concerns are appropriately progressed, including monitoring the progress of an investigation.

Annex A: Further guidance for those receiving concerns on exploring the issue

What does the person want to achieve by raising this concern, and is this achievable?

Anyone receiving a concern needs to clarify the outcome the person wants at the outset. The person may not be clear about this, or it may be that they want things to change but are unclear what this would look like. It may be appropriate to signpost the person to other HR procedures too, if there are overlapping issues.

Discussions should include whether the expected outcome can be achieved. If it is not going to be possible to achieve the expected outcome, the person raising the concern must be told why. They may expect more than the organisation can provide, or the manager may consider the form of resolution to be disproportionate to the risks that have been identified.

What exactly is the person's concern?

It is important to be clear about exactly what concern(s) the person is raising. It may be necessary to ask for more information and probe further to get a full picture. Anyone receiving a concern should be aware that staff may be nervous about raising concerns; they should ensure there is enough time and space for the person to explain their concern fully.

Who are the other people involved?

Anyone receiving a concern should consider if other staff are aware of the issue, or whether they should be. If so, who are they, and has this been discussed with them already? In particular, consideration should be given to whether senior staff responsible for this area of work are aware, or whether they have been informed of the concern. They should also take account of any previous investigations into this issue.

What support does the whistleblower and/or other staff need?

Anyone receiving a concern must **always** check if the staff member needs support. They should discuss what support would be helpful, how this might be achieved and consider whether others involved in the situation also need support and how this might be provided. Some people may also benefit from seeking support from their trade union or professional representative body, if they consider the situation is warrants it. (A list of contact details for support agencies and professional bodies is available in Part 2.)

Does the whistleblower want their involvement to remain confidential?

It is important to discuss the level of confidentiality the person wishes to retain. Sometimes the investigator will need to know who raised the concern, while in other instances this would not be necessary or appropriate.

The person may wish to remain completely anonymous (when their details are not recorded anywhere). The limitations of such an approach must be explained. This would mean they do not have access to the Standards, and the organisation would choose how best to handle the concern.

In all cases, the person's name will not be disclosed beyond what is necessary for the investigation, unless there is a legal requirement to do so.

Who is the best person to respond to the concern at Stage 1?

If the person receiving the concern cannot deal with it because, for example, they are unfamiliar with the issue or do not have the authority to make the changes that are required, they should tell the person raising the concern, and pass details of the issue to someone who can attempt to resolve it. Keep the person raising the concern informed about what is happening and who is responsible for taking it forward.

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Part 4

Governance: Board and staff responsibilities

Role of NHS Board Members

Leadership

1. Board members have a critical role in setting a tone and culture in their organisation that values the contributions of all staff, including those who identify the need for changes through speaking up. This leadership role should not be underestimated, and is a critical function of the board when it comes to concerns raised about safe and effective service delivery.
2. Board members need to show interest and enthusiasm for issues that arise through concerns raised by staff, and in particular, to support the learning and improvements that stem from them. They also need to ensure that the arrangements in place act to promote trust between staff and the Board in raising concerns.
3. Every NHS board must ensure that there is a clear description of the roles and responsibilities of staff in relation to raising and receiving concerns at each level of the organisation.

Monitoring

4. The number of concerns raised by staff will be reported to a public meeting of the board on a quarterly basis. It is the board's responsibility to ensure this reporting is on time and accurate. The analysis should highlight issues that may cut across services and those that can inform wider decision-making. Board members should show interest in what this information is saying about issues in service delivery as well as organisational culture. This may mean on occasions that board members challenge the information being presented or seek additional supporting evidence of outcomes and improvements. They should also explore the reasons behind lower than expected numbers of concerns being raised, based on trend analysis and benchmarking data.

Services provided by other organisations

5. All NHS boards are responsible for ensuring that the services that are contracted out by their organisation (including primary care and on site contracted services) have arrangements in place that encourage staff to raise concerns, including procedures that meet the requirements of the Standards.
6. The board also has responsibility for ensuring there are arrangements in place that ensure students and volunteers are made aware of their right to access this procedure. In addition, systems must be in place to allow for communication

and the raising of concerns via the universities and colleges which they work with to deliver student placements and training opportunities.

7. NHS boards that work in partnership with local authorities, to provide health and social care with the oversight of an integration joint board (IJB), will also be expected to work with the IJB to ensure that all staff in the partnership can raise concerns about NHS services through this procedure.
8. More detailed information is available about requirements on board members in relation to monitoring contracted services, primary care providers contracted services, health and social care partnerships (HSCPs), higher education institutions and voluntary sector providers in other parts of the Standards.

Support for the whistleblowing champion

9. As non-executive directors, whistleblowing champions are part of the board. The board must show support for the whistleblowing champion, and must listen to and take action as a result of the issues they raise.

Support for the person raising concerns

10. The board members' leadership in relation to raising concerns extends to ensuring that there are support systems in place for members of their staff who raise concerns. The support available may include:
    - 10.1. Access to a confidential contact who is able to provide information and advice in relation to the procedure for raising concerns, as well as support during the process;
    - 10.2. Counselling or psychological support services for those suffering from stress due to their involvement in this procedure;
    - 10.3. Occupational health provision which would take account of the stresses involved in raising a concern;
    - 10.4. Consideration of a range of actions to reduce the impact on the individual, in consultation with them, such as variations in their work or putting in place temporary arrangements to reduce risk.
11. It is not appropriate to redeploy staff who have raised a concern, even if their concern involves issues relating to other staff or line management. Alternative options should always be considered.

The whistleblowing champion

12. Each NHS board has a whistleblowing champion who monitors and supports the effective delivery of the organisation's whistleblowing policy. This role has

been developed by the Scottish Government and complements the work of the Independent National Whistleblowing Officer (INWO).

13. The whistleblowing champion is predominantly an assurance role which helps NHS boards comply with their responsibilities in relation to whistleblowing. The whistleblowing champion provides critical oversight ensures managers are responding to whistleblowing concerns appropriately, in accordance with these Standards. 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.
14. Beyond the services delivered directly by the NHS board, the whistleblowing champion will have responsibility for ensuring that the organisation has appropriate systems in place to ensure that services delivered indirectly, including primary care services, contracted services and those delivered by HSCPs, are meeting the requirements of the Standards. In particular, they may need to work with colleagues in IJBs to clarify expectations and requirements in relation to raising concerns.
15. The role of the whistleblowing champion is explained in more detail through guidance provided by the Scottish Government.

The role of NHS staff

Chief executive

16. Overall responsibility and accountability for the management of whistleblowing concerns lies with the organisation's chief executive, executive directors and appropriate senior management.
17. The chief executive provides leadership and direction in ways that guide and enable staff to perform effectively across all services. This includes ensuring that there is an effective whistleblowing procedure, with a robust investigation process which demonstrates how the organisation learns from the concerns they receive. The chief executive may take a personal interest in all or some of the concerns, or may delegate responsibility for the whistleblowing procedure to senior staff. Delegation must be clearly stated and accepted. Regular management reports assure the chief executive of the quality of performance.
18. The chief executive must work with board members to decide how oversight of the implementation of these Standards will be achieved, and who will have responsibility for this.

Executive directors

19. On the chief executive's behalf, executive directors may be responsible for:
    19.1. Managing whistleblowing concerns and the way the organisation learns from them;
    19.2. Overseeing the implementation of actions required as a result of a concern being raised;
    19.3. Investigating concerns; and/or
    19.4. Deputising for the chief executive on occasion.
20. In particular, directors have responsibility and accountability for signing off stage 2 decision letters. They may also be responsible for preparing decision letters, though this may be delegated to other senior staff. Either way, they must be satisfied that the investigation is complete and their response addresses all aspects of the concern raised. This will reassure the person raising the issue that their concern has been taken seriously.
21. Wherever possible, it is important for the decision on a concern to be taken by an independent senior member of staff (i.e. a senior member of staff from another directorate, with no overlap with the concern that has been raised). Directors should retain ownership and accountability for the management and reporting of concerns.
22. If the director delegates responsibility for the process, then they must ensure that the person given this responsibility has the skills and resources to document the process, be able to evaluate the quality of the investigation, and ensure that recommendations are implemented.
23. The director responsible for primary care services has specific responsibilities for concerns raised within and about primary care service provision. They must ensure that all primary care services contracted by the NHS board are reporting appropriately on concerns raised and resolved by the provider. In addition, the director may be contacted in relation to concerns about primary care. These concerns may come to the NHS Board in a range of ways:
    23.1. From staff within primary care services, who are reluctant to raise concerns to their employer;
    23.2. From staff who have already raised concerns with their employer, but have not had a satisfactory response (Stage 2 concerns); or
    23.3. From representatives of students in primary care settings (or the students themselves), who have raised concerns in relation to their placement in a primary care service.
24. There is more detailed information available about requirements for NHS boards in relation to primary care services as well as requirements for primary care providers (see Part 7) and higher education institutions (see Part 9).

HR or workforce director and their team

25. HR or workforce directors are responsible for ensuring all staff have access to this procedure, as well as the support they need if they raise a concern. They are also responsible for ensuring that anything raised within HR procedures which could amount to a whistleblowing concern is appropriately signposted to this procedure for full consideration.
26. HR teams will also be involved in assisting managers and confidential contacts to identify HR issues that are raised within concerns, and to provide appropriate signposting in relation to these HR issues.
27. The HR/ workforce director is responsible for ensuring that all staff are made aware of the Standards and how to access them, including the channels available to them for raising concerns. They must also ensure that managers have the training they need to identify concerns that might be appropriate for the Standards, and have the skills to handle Stage 1 concerns.
28. However, the HR/ workforce director does not necessarily have any specific responsibilities in relation to implementing these procedures or investigating any concerns raised by staff, unless this is considered appropriate in a specific case. For example, they would be responsible for providing expert HR input when there is interaction between HR procedures and an investigation into a concern.
29. HR functions should not be involved in investigating whistleblowing concerns, unless the concern directly relates to staff conduct issues.

Investigators

30. Investigations must be carried out by an appropriately skilled, senior member of staff from another directorate (where possible), and in particular, with no conflict of interest or perceived conflict of interest with the issue of concern. The investigator needs to take full account of the sensitivities of the case, and have strong inter-personal skills, including skills in supportive conversations. They need to be able to separate out the HR from the whistleblowing concerns, and to focus on the issues which are appropriate for this procedure.
31. Investigators have an important role in drafting recommendations. They should listen to those who have raised the concern or are involved in the service, to judge what is appropriate and reasonable, and how the service improvements can be taken forward.

The 'confidential contact' or whistleblowing ambassador

32. All organisations that deliver services for NHS Scotland must ensure that they provide staff with at least one point of contact who is independent of normal management structures (for the purposes of this role), and who has the capacity and capability to be an initial point of contact for staff from across the organisation (or their part of the organisation) who want to raise concerns. (Small organisations such as those in primary care should work with their NHS board to ensure access to a confidential contact for their staff.) The confidential contact must support staff by providing a safe space to discuss the concern, and assist the staff member in raising their concern with an appropriate manager. This will not always be the person's line manager, and in some instances it should be someone with a level of independence from the situation.

33. However, this role goes beyond simply providing advice and support to those raising concerns. In particular, the confidential contact needs to:

    33.1. Work with the whistleblowing champion to ensure that all staff are aware of the arrangements for raising concerns within their organisation;

    33.2. Promote a culture of trust, which values the raising of concerns as a route to learning and improvement;

    33.3. Through direct contact with frontline staff, ensure they are aware of and have access to the support services available to them when they raise concerns;

    33.4. Assist managers in using concerns as opportunities for learning and improvement;

    33.5. Work with the chief executive and those they have identified to oversee application of the Standards, to ensure the Standards are functioning at all levels of the organisation.

34. 'Confidential contacts' must have the appropriate skills to carry out a role that requires significant interpersonal skills and the capacity to work with all staff, from senior managers to support staff. This role is best suited to someone with experience of direct service provision rather than an HR representative.

35. NHS boards may choose to broaden the reach of their confidential contacts, by recruiting whistleblowing mentors, or similar roles. These staff members would work with the confidential contact to broaden access to raising concerns, and assist with raising awareness across the organisation. It is up to each NHS board to develop such roles that meet the needs of their own structure and organisational requirements.

INWO liaison officer

36. The NHS board's INWO liaison officer 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.

Managers

37. Any manager in the organisation may receive a whistleblowing concern. Therefore all managers must be aware of the Whistleblowing Procedure (see Part 3) and how to handle and record concerns that are raised with them. Managers must be trained and empowered to make decisions on concerns at Stage 1 of this procedure. While all managers are encouraged to try to resolve concerns early and as close to the point of service delivery as possible, they should also be aware of who to refer a concern to if they are not able to personally handle it. They should also be aware of any barriers their staff may encounter in raising concerns, and work to reduce these barriers.

All staff

38. Anyone who delivers an NHS service should feel able and empowered to raise concerns about harm or wrong-doing. They should be trained so they are aware of the channels available to them for raising concerns, and what access to the Standards means.

Union representatives

39. Union representatives can provide helpful insights into the functioning of systems for raising concerns. They should be involved in implementation and monitoring of these systems where possible.

Training

40. NHS boards need to ensure that their staff have the knowledge and skills to implement the Standards. In particular, those with specific responsibilities detailed in the Standards must have appropriate training to ensure they can fulfil their roles and are fully informed of the requirements of their role. This includes:

    40.1. Whistleblowing champions;

40.2. Confidential contacts/ whistleblowing ambassadors, and any other representatives for raising concerns;

40.3. Executive directors involved in signing off investigations; and

40.4. Investigators.

41. All staff will need to be informed of how to raise concerns, the channels they can use, the support available if they do raise concerns, and the benefits for the organisation in them doing so. Those who may receive concerns will also need training in supportive conversations/ interview skills.

Handling concerns about senior staff

42. Whistleblowing concerns raised about senior staff[1] can be difficult to handle, as there may be a conflict of interest for the staff managing or investigating the concern. When concerns are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is not only independent of the situation, but empowered to make decisions on any findings of the investigation.

43. The organisation must ensure there are strong governance arrangements in place that set out clear procedures for handling such concerns. This should include consideration of who oversees the case; how other staff are treated through the process; who should investigate; and what support is in place to assist with the investigative process. For example, each NHS board must clearly set out how it intends to consider a concern raised about the chief executive or a board member.

Working with other organisations

Services provided on behalf of the NHS

44. NHS boards must ensure that all the services they use to deliver their services, including primary care providers or contractors, have procedures in place which are in line with these Standards. It is for each NHS board to ensure that external service providers are meeting the requirements of the Standards, and they must have mechanisms in place to provide this assurance.

45. These requirements include recording and reporting (see Part 6) on all concerns. This means that service providers must record concerns raised with them (or their confidential contact), monitor these concerns, and report them to the NHS board. The board is required to ensure that systems are in place to

[1] 'Senior staff' are those whose position in the organisation means that there are limited or no staff members with clear seniority over them.

facilitate this reporting, and that they receive quarterly reports about concerns raised and performance against the Standards.

46. In addition to quarterly reporting of concerns raised within the board (and in relation to services delivered via an HSCP), there must also be systems in place to gather reports of concerns from primary care and contractors on a quarterly basis.

Higher education providers

47. Higher education institutions (HEIs) work closely with the NHS in a wide range of settings. This includes staff (who can be contracted to work for an HEI, but nevertheless carry out work for the NHS) and students. Anyone working or learning in NHS services must be able to access a procedure for raising concerns which is in line with these Standards. NHS boards must ensure that staff under contract with an HEI have equal access to any systems and arrangements for raising concerns as those under contract with the NHS.
48. NHS boards must ensure that systems are in place to enable this access, particularly for students. This means that arrangements for placements must include information for the student and their course representative on how to raise a concern, including access to the confidential contact.
49. NHS boards also need to ensure that concerns raised by staff or students of HEIs about the board's services and considered through the Standards are included in any reporting of concerns to the board and externally.
50. Further information on arrangements for students (see Part 9) covers these requirements in more detail.

Integration joint boards (IJBs)

51. Most NHS boards have arrangements with their local authority colleagues to provide health and social care services in an integrated way. The levels of integration vary between areas and services. However, NHS boards are expected to work with their local authority colleagues to ensure that arrangements are made by the IJB to enable all those working in NHS services to raise concerns about these services, whether they are employed by the local authority or directly by the NHS.
52. The requirement is for each IJB to develop an agreement that would allow for staff working across the partnership to raise concerns (in line with the Standards) across all the services they deliver, to ensure fair access to this procedure. The only procedural difference would relate to the final stage of the process: concerns relating to social work and care services should be

signposted to the Care Inspectorate, whereas those relating to health services should be signposted to the INWO for review.

53. NHS boards also need to ensure that concerns raised by staff in integrated services are included in any reporting of concerns to the board and externally.

Voluntary sector providers

54. Voluntary organisations work alongside and within the NHS in a range of settings, from providing transport to direct care and support for patients. Both staff and volunteers of these organisations may identify issues of concern about the board's services. It is for NHS boards to ensure that there is clear information for these organisations on how they can raise concerns, in line with these Standards. Their staff and volunteers must have access to the NHS board's confidential contact, or other representative for raising concerns.
55. Managers in areas that regularly work alongside voluntary organisations must be aware of the need to facilitate access to this procedure, and any other local arrangements that are in place to ensure access.
56. NHS boards also need to ensure that concerns raised by volunteers or volunteer coordinators about the board's services and considered through the Standards are included in any reporting to the board and externally.
57. Further information on arrangements for volunteers (see Part 10) covers these requirements in more detail.

Regulatory investigations

58. NHS boards are expected to work with organisations that regulate their services or staff, to ensure that investigations are as effective and efficient as possible, even when a concern has been raised with both the NHS and the regulator.
59. If a concern is raised with more than one organisation, it is always important to make sure that it is clear which elements of the concern are being pursued by which organisation, and what outcomes are being sought by the person raising the concern. In some instances, it may be appropriate to have parallel investigations, as the NHS's interests may be different from those of the other regulator.
60. Regulators must be informed if an investigation identifies issues around a professional's fitness to practise. However, both regulators and NHS providers must be aware of the potential for staff to raise concerns as an act of retribution. The Standards should be used for specific consideration of issues relating to risks to safe practice and patient safety, and must be kept separate from disciplinary issues.

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Part 5

Governance: from recording to learning lessons

The importance of recording and reporting

1. One of the main aims of the whistleblowing procedure is to ensure learning from the outcome of whistleblowing concerns and to identify opportunities to improve NHS services.
2. Managers must record all whistleblowing concerns, in a systematic way so that the concerns data can be analysed to identify themes, trends and patterns and to prepare management reports. By recording and using concerns information in this way, the root causes of concerns can be identified and addressed, such as through service improvements or training opportunities.

IT systems

3. The organisation must have structured systems for recording whistleblowing concerns, their outcomes and any resulting action taken to resolve the concern. It is important that these systems are able to hold records in a way that takes full account of the need for staff confidentiality, the requirements of GDPR, and the current Scottish Government Records Management Code of Practice.

Confidentiality

4. It is essential that recording systems are able to maintain confidentiality, and that access to personal information is restricted. In some cases, this will mean that only one person or a very select (and specific) group can access this personal information. The person raising the concern needs to be informed of, and give their consent to, whom their personal information is shared with.
5. Information relating to the concern can be shared more widely than the person's personal details, though care must still be taken to consider who will have access to this information and what assumptions may be made about who raised the concern. This information should be shared only where it is necessary to resolve or investigate the concern. There should be a presumption against sharing information unless there is good reason to do so, to reduce risks for patients and/or the organisation.

Access

6. All managers and the organisation's confidential contact or whistleblowing ambassador must be able to record concerns. However, they must not be able to access other records, unless they have good reason to do so, and have been given specific permission.
7. It may be appropriate to hold personal information about the person who has raised the concern in a different part of the system from that which contains details of the concern raised and handling of the case. Each organisation's IT arrangements will vary, to reflect their structures and the size of the organisation.

Enabling reporting

8. The organisation must ensure that systems allow for full reporting of all concerns raised under this procedure, regardless of who they have been raised with. There will be some members of staff who need access to data specifically for reporting purposes. As a minimum this would include the organisation's confidential contact or whistleblowing ambassador and the whistleblowing champion (for boards). Most organisations will need to ensure that others can also access some or all of this information, and it is for each organisation to establish how best to ensure effective reporting arrangements.

What to record

9. It is essential to record all information on whistleblowing concerns (including concerns raised anonymously) as follows:
    - 9.1. person's name, work location (where appropriate), and contact details (mindful of their preferred method of contact) – access to this information must be restricted;
    - 9.2. the nature of the concern raised;
    - 9.3. if the concern was raised on behalf of another person, whether that other person has given consent to do so;
    - 9.4. what role the person raising the concern has (e.g. nurse, technician, doctor, administrator, etc.);
    - 9.5. date the concern was received;
    - 9.6. date the event occurred;
    - 9.7. how the whistleblowing concern was received;
    - 9.8. service area to which the whistleblowing concern refers;
    - 9.9. whether the concern includes an element of bullying and harassment and/or other HR issue;

9.10. whether the concern raises issues of patient safety;

9.11. whether the person has already experienced detriment as a result of raising this concern;

9.12. date the concern was closed at the early resolution stage (where appropriate);

9.13. date the concern was escalated to the investigation stage (where appropriate);

9.14. date the concern was closed at the investigation stage (where appropriate);

9.15. outcome of the investigation at each stage;

9.16. findings in relation to safety concerns and potential harm;

9.17. findings in relation to concerns of fraud or administrative failures; and

9.18. action taken to remedy any findings.

Key performance indicators

Reporting whistleblowing concerns

10. All NHS service providers **must** record and review information in relation to concerns raised about their services on a **quarterly basis**.

11. Data required for these quarterly reports is based on these key performance indicators (KPIs):

11.1. a statement outlining learning, changes or improvements to services or procedures as a result of consideration of whistleblowing concerns;

11.2. a statement to report the experiences of all those involved in the whistleblowing procedure (where this can be provided without compromising confidentiality);

11.3. a statement to report on levels of staff perceptions, awareness and training;

11.4. the total number of concerns received;

11.5. concerns closed at Stage 1 and Stage 2 of the whistleblowing procedure as a percentage of all concerns closed;

11.6. concerns upheld, partially upheld and not upheld at each stage of the whistleblowing procedure as a percentage of all concerns closed in full at each stage;

11.7. the average time in working days for a full response to concerns at each stage of the whistleblowing procedure;

11.8. the number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days;

11.9. the number of concerns at Stage 1 where an extension was authorised as a percentage of all concerns at Stage 1; and

11.10. the number of concerns at Stage 2 where an extension was authorised as a percentage of all concerns at Stage 2.

12. Further information and guidance [will be] provided in relation to these KPIs, and in particular in relation to the INWO's expectations of the statements on the INWO website.

Performance at Stage 2 and extensions

13. The timescale of 20 working days for a concern to be closed at the investigation stage aims to ensure cases are progressed as efficiently as possible; while overall timescales will be measured, there is no performance measure or KPI that sets down how many cases must be closed within this timescale.
14. Extensions to timescales should be signed off by senior leadership, and only when it is clear that additional time is needed to ensure a thorough and robust investigation of the issues of concern. If an extension is granted, those involved must all be informed of indicative revised timescales and regular updates on progress must be sent every 20 working days.
15. Any related HR processes should progress in parallel with an investigation into the concerns raised through this procedure. Every effort should be made to avoid delay in this procedure as a result of associated HR procedures, as this could raise the risk of unsafe or ineffective service delivery.

Senior management review

16. Concerns must be analysed for trend information to ensure service failures are identified and appropriate action is taken. Quarterly reporting to senior management helps to identify how services could be improved or internal policies and procedures updated. Where appropriate, this review must also consider any recommendations made by the INWO in relation to the investigation of NHS whistleblowing concerns.
17. The outcomes of these reviews should be reported via the organisation's governance structure to the NHS board for review by its members, or equivalent governing body.

Reporting from primary care and other contracted services

18. NHS boards are responsible for ensuring all primary care and other contracted service providers supply the appropriate KPI information to their board as soon as possible after the end of the quarter.
19. For contracted services, the contract or service level agreement must set out the requirements in relation to reporting concerns.
20. In instances where no concerns have been raised within either primary care or other contracted services, there is no need to provide a quarterly return to the board, but annual reports must still be submitted, setting out the concerns that have been raised over the year, or an explanation that there have been no concerns raised. The board should use this longer-term monitoring of the raising of concerns to gain assurances that staff have confidence in the systems in place.

Learning from concerns

21. The two key ways of learning from concerns are:
    - 21.1. identifying improvements based on the findings of an investigation; and
    - 21.2. using statistical analysis of concerns raised at a departmental or organisational level to identify recurrent themes, trends or patterns of concerns.

Improvements following investigations

22. When an investigation identifies that there is a need for change, the organisation must proactively explore the root causes of the concern, how widespread the issue is and the likelihood of recurrence.
23. Investigations may identify improvements which are applicable across other services or clinical departments, and it is important for senior leaders to ensure that every opportunity is taken to explore when service improvements can lead to wider organisational learning.

Statistical analysis

24. Statistical analysis can be used to identify trends, themes and patterns from the concerns raised across a department or service. Given the potential for different routes to be used to raise concerns, and for confidentiality concerns to limit the number of people informed of them, it is particularly important that the outcomes of concerns are reported and analysed.

25. Where a pattern is identified, this must be fully explored to identify if there are any shared root causes which should be addressed. For example, several concerns raised about cleaning services may reflect a more significant issue in relation to the delivery of cleaning services within a department.

Annual reporting and monitoring performance

26. Boards must publish an annual report setting out performance in handling whistleblowing concerns. This should summarise and build on the quarterly reports produced by the board, including performance against the requirements of the Standards, KPIs, the issues that have been raised and the actions that have been or will be taken to improve services as a result of concerns.
27. Boards must work with their services providers (including primary care (see Part 7)) to ensure they get the required information so that this annual report covers all the NHS services provided through the board. Integration joint board (IJB) (see Part 8) reporting must also be covered in this report, unless a separate annual report covering all IJB services is published by the IJB itself. The annual report must also include concerns raised by students (see Part 9) and volunteers (see Part 10) about NHS services.
28. This provides the opportunity for boards to show that they have listened to their staff, addressed the concerns raised and made improvements to services. A focus on the lessons learned will demonstrate that concerns are taken seriously and that staff are treated well through the process.
29. An increase in the number of whistleblowing concerns is not necessarily a cause for concern; it may reflect a shift towards a culture that values the raising of concerns as opportunities to learn and improve. However, an increase in anonymous whistleblowing concerns may be driven by different considerations, and potentially a culture that does not value the raising of concerns. Likewise, very low numbers of concerns being reported may indicate a lack of confidence in the processes and support in place. The data should be considered in the context of existing trends and benchmarking data. The reason for any major variations must be fully explored, and appropriate action taken in response.
30. Every effort must be made during the preparation of these reports to ensure that the identities of those involved in whistleblowing concerns cannot be discerned from the information or context provided in the report. This is particularly relevant where small numbers of cases are involved. In such instances it may be necessary to provide more limited information.
31. These reports must be easily accessible to members of the public and available in alternative formats as requested.

Sharing the learning

32. As well as publicising performance in relation to concerns handling, all providers should show that they encourage staff to speak up, and that doing so leads to improvements in services. This can be achieved through sharing the learning from concerns as widely as possible, and by publicising good news stories on a regular basis. This could be through staff newsletters, leaflets, posters or on staff intranet pages, to ensure that staff across the organisation have easy access to it. This helps to show staff that raising concerns can influence service delivery and improve the profile and transparency of the whistleblowing procedure.
33. Openly and regularly discussing improvements that have been made as a result of concerns raised by staff at a team or departmental level will also encourage staff to raise their concerns. This must be done carefully and with sensitivity, to ensure appropriate confidentiality is maintained. However, the benefits of gaining staff trust through discussing and sharing improvements should be explored when possible.

SCOTTISH PUBLIC SERVICES OMBUDSMAN

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The Draft National Whistleblowing Standards

Part 6

Governance: Board requirements for external services

Requirement to meet the Standards

1. This part of the Standards sets out the responsibilities of all NHS boards for the services they provide indirectly – through primary care, contracted services (including any maintenance and domiciliary services), health and social care partnerships (HSCPs), and in conjunction with higher education institutions and voluntary sector providers.
2. Further information on the requirements for these various service providers are available in Parts 7-10 of the Standards.

Board oversight

3. NHS boards must have effective mechanisms for oversight of the concerns raised about their own services. They must also have systems in place to ensure that they are aware of concerns that are raised about the services they fund or support through alternative delivery routes.
4. This means that boards must ensure that all services delivered by them or on their behalf have appropriate procedures in place for their staff, students, contractors, volunteers and others to access a whistleblowing procedure that is in line with these Standards.
5. They must also ensure that they receive quarterly reports from all those organisations that deliver services on their behalf. In particular, boards will be expected to compile reports on concerns raised with primary care providers and contracted services.
6. Boards must review these quarterly reports and follow up on any issues that they raise. They must also take a considered approach to what these reports say about the culture of speaking up within the organisation and beyond. This is particularly important in relation to primary care services, where a lack of reporting of any concerns may indicate difficulties for staff in raising concerns.

Ensuring compliance through contracts

7. As set out above, it is the **NHS board's responsibility to ensure that primary care and other contracted service providers have procedures in place that are in line with these Standards**. This must form a part of all contracts or service level agreements with contracted service providers.
8. Boards must have mechanisms for ensuring compliance with these requirements, including the requirement to report concerns handling information to the board on a quarterly basis when necessary.
9. Boards must have a confidential contact, who staff from primary care and contracted providers can contact if they do not feel able to raise their concerns within their own organisation.

10. This confidential contact must be able to provide information and support to the person raising a concern. They must also be familiar with routes for progressing such concerns and the requirements of the Standards, so they can discuss options with the person raising the concern.
11. Where an investigation within the contracted service is not possible, due to potential conflicts of interest, the provider must discuss the concern with the NHS board contracting the service, and work with the board to investigate the issue.
12. NHS boards must be willing to assist with the investigation of concerns raised in relation to primary care or contracted services. This assistance may involve providing an investigator with an appropriate level of experience and expertise, or advice on how to conduct an investigation. The board must gain assurances that appropriate action has been taken to address concerns raised with them about a service they are providing under contract.

NHS boards and integration joint boards

13. Each integration joint board (IJB) must develop an agreement which sets out how staff employed by both the NHS board and the local authority can raise concerns about services that are the responsibility of either the NHS board or the local authority.
14. This agreement must ensure that concerns about NHS services can be considered through the Standards. While good practice would suggest that a similar approach is taken to local authority services, these cannot be reviewed by the INWO, but are more likely to be appropriate for consideration by the Care Inspectorate.
15. The board must satisfy itself that:
    - 15.1. concerns raised within the health and social care partnership (HSCP) are recorded and reported in line with the Standards;
    - 15.2. arrangements are in place for quarterly reporting of concerns raised by staff to the IJB itself; and
    - 15.3. quarterly reports reflect the concerns that have been raised within the HSCP, performance in handling these concerns and lessons learned.
16. Further information is provided in the Part 8 of the Standards, for IJBs.

Working with higher education institutions

Enabling students to raise concerns

17. Students and trainees work in a range of settings, and cover many disciplines. Students must be able to raise concerns and have access to support services, in line with the Standards.
18. Students must also be encouraged to raise concerns with an appropriate manager within the service they are working in. Feeling confident and able to do this is an important part of their training. They must also have access to the board's confidential contact or whistleblowing ambassador. However, it is acknowledged that students are, mostly, inexperienced and particularly at risk of detriment in relation to their course marks. For this reason, it is important that they also have access to an alternative route for raising concerns.
19. In order to achieve this, higher education institutions (HEIs) courses must identify an appropriate contact for any student group that will be working in an NHS service. This could be a course coordinator or similar. Their role will be to provide information and support to any students raising concerns with them. Further information is available in Part 9 of the Standards on arrangements for students.

Higher education institution staff in the NHS

20. Many NHS boards have departments where staff from HEIs work alongside NHS staff, and their educational and health care roles normally overlap. These workers are as likely as anyone else to identify an issue within an NHS service which needs to be addressed for the benefit of patient safety, efficient service delivery or good governance. It is therefore important that, in relation to whistleblowing, they should have equal access to this procedure and to the support they need in raising their concern.
21. On occasion, these staff may wish to raise a concern with a supervisor or line manager who is outside the NHS. However, while they may be well placed to provide support for the individual, they may not be well placed to take forward appropriate service changes. On this basis, HEI staff should be encouraged to raise concerns with an appropriate manager within the department they are working in. They must also have access to the board's confidential contact.
22. Boards must also ensure that access to the Standards is included within their Allied Health Professionals' NES Practice Placement Agreements, so that boards, HEIs and students are aware of the process.

Working with voluntary sector providers

23. Voluntary organisations work within the NHS in a number of ways, most common of which are:
    23.1. provision of additional services, paid for by the voluntary sector, e.g. Macmillan nurses;
    23.2. provision of services contracted by the NHS, e.g. delivery of nursing care at home; and
    23.3. volunteers working within an NHS setting, e.g. ward visitors.
24. All these groups may find there are issues which concern them about how work is being carried out in an NHS service, so all must be able to access this procedure, and have access to the support and protection provided by these Standards.
25. People working for voluntary organisations contracted to provide a service for the NHS are included through contractual arrangements, in line with all other contracted services.
26. People working (either paid or voluntarily) for voluntary services that are additional to NHS services, but work alongside them, must be able to raise any concern they have with the most appropriate local manager. They must also be able to have access to the board's confidential contact and to any support they need in relation to raising the concern.
27. These workers may prefer to raise their concern with a representative from the voluntary organisation (particularly volunteers, who may not feel able to raise concerns directly). It is expected that each voluntary organisation that works within an NHS setting will have at least one member of staff who is informed and able to support their volunteer or colleague through this procedure. They can act as an advocate if the individual does not feel able to raise the concern themselves. NHS managers must facilitate such raising of concerns and be open to the learning opportunities they provide.

Providing a confidential contact

28. Details of the role of the confidential contact or whistleblowing ambassador are provided in Part 4 of these Standards. In relation to their role with external service providers, the confidential contacts must be aware of the board's obligation to receive concerns and provide support to anyone working within or alongside a service provided by the board. They must welcome such concerns and actively encourage them when promoting the raising of concerns.
29. Confidential contacts are encouraged to develop relations with representatives from HEIs and voluntary sector providers, to develop a mutual understanding of their roles, and so if issues do arise, communication is easier.

30. Boards may choose to have several confidential contacts; it may be appropriate to have one specifically for these groups, and another to work with primary care and contracted services, to encourage the raising of concerns in these areas.

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The Draft National Whistleblowing Standards

Part 7

Information for Primary Care Providers and other contracted services

Promoting raising concerns

1. The Standards set out how the Independent National Whistleblowing Officer (INWO) expects all NHS service providers to respond when staff raise concerns. This document reviews the expectations for all primary care and contracted services in implementing the Standards.
2. Listening and responding to concerns raised by staff about the way services are provided is a vital way in which organisations of all sizes can improve their services. In primary care and other small organisations it is particularly important to make this process easy and straightforward, and to show the benefits of raising concerns.
3. Staff in small teams or organisations can find it particularly difficult to raise concerns about the work they or their colleagues are doing, and it is important that they receive the support and encouragement they need to raise concerns in a way which can improve safe, effective service delivery and good governance.
4. Senior managers play a critical role in promoting a culture that encourages staff to raise issues or concerns. Their leadership and behaviour will set the tone for the way other staff behave, particularly in a small organisation. All NHS services must strive for a culture that welcomes concerns from people working within their services, whoever they are, and whatever their concern, with the focus on good governance and delivering safe and effective services.
5. The Standards set out how the Independent National Whistleblowing Officer (INWO) expects primary care providers and contacted services to respond when staff raise concerns, and this includes providing support within a culture that welcomes concerns from people working within their services.

Requirement to meet the Standards

6. All primary care providers and contracted services are required to have a procedure that meet with the requirements of these Standards. This means that any organisation delivering NHS services, whether it is a private company, a third sector organisation or a primary care provider, has the same requirement to ensure access to a procedure in line with these Standards. This includes third sectors organisations providing services on behalf of NHS Scotland and private companies under contract with NHS Scotland, including maintenance and domiciliary services.
7. All those delivering NHS services **must** be able to raise concerns about NHS services, and **must** have access to the support they need to do so Access to the Standards **must** be available to:
   - 7.1. anyone who works directly for these services; and
   - 7.2. anyone working for another organisation, but within these services, such as district nurses, agency staff, students/ trainees and volunteers.

8. If the individual is raising a concern about a service that is not their employer (such as a district nurse working in a GP service or a locum pharmacist working for an agency) then they must be able to raise concerns either directly with their employer or within the service itself, including full access to the Standards.
9. This includes:
    9.1. providing clear information about who staff and other workers can raise concerns with, both within the organisation and externally;
    9.2. access to a 2 stage procedure (see Part 3), where the worker has agreed to use this procedure;
    9.3. the availability of support (see Part 2) for those involved in raising a concern;
    9.4. arrangements for raising concerns about senior staff (see Part 4);
    9.5. the requirement to record (see Part 5) all concerns;
    9.6. the requirement to report (see Part 5) all concerns internally and to the board on a quarterly basis; and
    9.7. the requirement to share information about how services have improved following raising of concerns, taking care not to reveal who has raised the concern.
10. Anyone raising a concern about a service provided by NHS Scotland must be signposted to the INWO at the end of this process. More information about this is available in Part 3 of the Standards.
11. When a primary care or contracted service is being delivered by a much larger organisation, such as a local pharmacy that is run by a national company, this company must ensure that any services delivered on behalf of NHS Scotland are compliant with these requirements.

How to raise concerns; options for small organisations

12. Small organisations face varying challenges around the raising of concerns, and it is important for managers to be aware of these. The most obvious difficulty is for staff to raise concerns in a confidential way, when the size of the team means it will be obvious who has raised the concern. This is likely to be exacerbated by worries that a concern may be investigated by another member of the team.
13. Small organisations can reduce the difficulties their workers may face in raising concerns by:
    13.1. providing an alternative point of contact for raising a concern, for example, sharing ‘confidential contacts’ with other local services or practices. They would not share the details of who had raised the concern, but would act as the person’s advocate, passing on information and updates as appropriate; and

13.2. using an external investigator to investigate concerns raised at Stage 2.

14. To ensure all staff working for NHS providers can safely raise concerns about the services they provide, NHS boards are required to provide a confidential contact for primary care and contracted providers, and this person can provide information and advice to anyone considering raising a concern. If necessary the confidential contact will ensure that appropriate action is taken to reduce immediate patient risk.

15. Where an investigation within the organisation is not possible, due to potential conflicts of interest, the provider must discuss the concern with the NHS board contracting the service, and work with the board to investigate the issue.

16. For their part, NHS boards must be willing to assist with the investigation of concerns raised in relation to primary care or contracted services. This assistance may involve providing an investigator with an appropriate level of experience and expertise, or advice in how to conduct an investigation. The board must gain assurances that appropriate action has been taken to address concerns raised with them about a service they are providing under contract.

17. Sharing information about how services have been improved may be more difficult if there is a concern about confidentiality. Care must be taken in reporting both statistical and case specific information. However, where this information can be appropriately anonymised, it provides the potential to reassure staff that their concerns will be listened to and acted on, so every effort must be made to share information in some way.

18. At the end of this process, the worker must be signposted to the INWO. The INWO's assessment of a case will consider whether the procedures were in line with the Standards, and that sufficient attempts have been made to ensure staff can raise concerns confidentially.

Informing staff

19. Encouraging staff to raise concerns early is the best way to resolve them easily. It is important, alongside encouraging staff to raise concerns, that they are also given the information they need to raise concerns through the Standards. This must include information on who they can raise concerns with, and how, including the board’s confidential contact, as well as any local routes for raising concerns.

20. They must also be informed of the two stage process and contact details for the INWO, along with information about where they can access information and support on raising concerns. Ensuring this information is readily available will show staff that the organisation values the concerns that they raise.

Recording of concerns

21. The detailed information about recording concerns (Part 5 of the Standards) is also applicable to primary care and contracted services.

22. There is not necessarily a need to have complex recording and reporting systems in place. However, it is important to ensure that there is the capacity to maintain confidentiality for the person raising the concern. This may be achieved by holding information on the person separate from information on the investigation of the concern. Ensuring that access to records is limited to the smallest number of people possible is critical. Ensuring that those raising concerns have agreed to this information sharing (or are made aware of it ahead of time if there is no agreement, but it is needed for safety reasons) is equally important.

Monitoring, reporting and learning from concerns

23. The detailed information about monitoring, reporting and learning from concerns (Part 5 of the Standards) is also applicable to primary care and contracted services.

24. It is important for all services to listen to staff concerns, and for this to lead to learning and service improvements. Learning can be identified from individual cases (including the potential for improvements across other areas of the service) and through statistical analysis of more minor concerns raised at Stage 1 of the procedure. Any learning that is identified from concerns must be recorded within the case record, including any action planning.

25. The number of concerns raised within a single primary care service may be limited, making the outcomes of statistical analysis less valid. For this reason, it is particularly important that primary care services report their concerns data, including lessons learned, to their board. Each board will then be able to collate this information and identify areas for specific attention, based on the themes and trends within the services in their area. On this basis, primary care services must:

    25.1. **annually report** concerns data to the board, even if to report that there were no concerns raised; and

    25.2. **quarterly**, only report to the board if concerns were raised in that quarter; if no concerns have been raised, there is no need to report, though it is good practice to let the board know.

26. Individual services are also expected to show their staff that they value the concerns that are raised by staff and other workers. There are a range of ways they show this, and one of the best ways is to use case studies when concerns have led to improvements. All primary care and contracted services must publish information about the concerns that have been raised with them, unless this is likely to identify any individuals. High level information (with very limited

information about what was investigated) may still be appropriate, and will provide the opportunity to show staff that managers will listen and respond to concerns.

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The Draft National Whistleblowing Standards

Part 8

Information for health and social care partnerships

Promoting raising concerns

1. The Standards set out how the Independent National Whistleblowing Officer (INWO) expects all NHS service providers to respond when staff raise concerns, including supporting the person raising a concern. This document reviews the expectations and options for health and social care partnerships (HSCPs) in implementing the Standards.
2. Listening and responding to concerns raised by staff about the way services are provided is a vital way in which organisations can improve their services. HSCPs are in an unusual position in having employees from two organisations delivering services together. The challenges this creates in governance arrangements must not get in the way of staff raising concerns when they see working practices which are unsafe or risky, or where they believe there has been improper conduct, mismanagement or fraud.
3. People working in joint teams may feel reluctant or uneasy in raising concerns relating to staff with different lines of management, or where employers have different arrangements in place for whistleblowing. It is, therefore, more important than ever that senior managers in HSCPs and the integration joint board (IJB) itself promote a culture that encourages staff to raise issues or concerns at the earliest opportunity.
4. Senior managers play a critical role in promoting a culture that encourages staff to raise issues or concerns. Their leadership and behaviour sets the tone for the way other staff behave. All NHS services must strive for a culture that welcomes concerns from people working within their services, whoever they are, and whatever their concern, with the focus on good governance and delivering safe and effective services.

Requirement to meet the Standards

5. All those working in HSCPs **must** be able to raise concerns about NHS services, and **must** have access to the support they need to do so, whoever their employer is. Any concerns about the delivery of NHS services must be handled in line with the requirements of these Standards, and anyone raising a concern through these Standards will have access to the INWO, whoever their employer is.
6. IJBs must ensure that all HSCP staff, across both the local authority and the NHS, as well as any students, trainees, agency staff or volunteers, must be able to raise a concern through this procedure.
7. This includes:
   7.1. providing clear information about who staff and other workers can raise concerns with, either within their service or at a more senior level;

7.2. ensuring access to the 2 stage procedure (see Part 3), where the worker has agreed to use this procedure;

7.3. the availability of support (see Part 2) for those involved in raising a concern;

7.4. the ability to raise concerns about senior staff (see Part 4);

7.5. a requirement to record all concerns (see Part 5);

7.6. a requirement to report all concerns to the IJB and the NHS board on a quarterly basis (see Part 5); and

7.7. a requirement to share information about how services have improved as a result of concerns, taking care not to identify who raised the concern.

8. Anyone raising a concern about a service provided by NHS Scotland must be signposted to the INWO at the end of this process. More information about this is available in Part 3 of the Standards.

9. It may be that in considering concerns about NHS services, issues are identified which relate to local authority services. If that is the case, the whistleblower should be signposted to the INWO in respect of issues that relate to NHS services and either the Care Inspectorate (for concerns about registered care services) or Audit Scotland (for concerns about other elements of local authority services). It should be noted that the Care Inspectorate and Audit Scotland have a more limited role in the review of concerns raised by staff. In particular, Audit Scotland will only consider concerns about value for money, fraud and corruption.

10. An agreement by the IJB may be required to ensure support and protection for all those working within the HSCP, in raising concerns about its NHS services.

Ensuring equity for staff

11. The requirement to have the Standards in place for all NHS services and not for local authority services could lead to disparity between those working for HSCPs. It could also lead to some confusion around which procedure to use, these Standards or the local authority's procedure for raising concerns. This could be particularly difficult where these services are closely integrated.

12. While this procedure must be available to all those working within NHS services, it is also important for those working in any of the HSCP's other services to also feel able to raise concerns. This is critical to:

12.1. effective governance arrangements;

12.2. enable safe and efficient delivery of services;

12.3. ensure equity for staff whoever they work for;

12.4. assist senior managers in sharing a consistent message in encouraging staff to raise concerns through a simple and straightforward procedure; and

12.5. enable a joined up approach to raising concerns, where lessons can be learnt across the organisation.

13. With this in mind, and particularly where services have been effectively integrated, the INWO recommends that HSCPs adopt the same approach to handling concerns raised about local authority services as they do in relation to NHS services. This would extend any agreement in place in relation to the raising of concerns for NHS services, and would ensure that all those working within the HSCP have equal access to a procedure in line with these Standards. The only variation would need to be at the review stage, when concerns about different services would need to be signposted as appropriate, to the INWO, the Care Inspectorate or in some cases, Audit Scotland.

14. The details of any extended agreement are for each IJB and their HSCP to consider; each HSCP has different arrangements in place for the delivery of their services, and it will be for them to consider whether such an agreement should cover all of their services or only the NHS services. This may depend to some extent on how differentiated the HSCP's services are from other local authority services; it would not be appropriate to create confusion for local authority staff in how to raise concerns about their services.

15. Chief Officers are responsible for ensuring that systems and procedures are in place for raising concerns within these Standards, in relation to NHS services. They must also take a leading role in reviewing arrangements in relation to local authority services, and taking forward any changes to ensure the Standards can be met, as well as any other changes to ensure equity of access across the HSCP.

How to raise concerns

16. Those working in HSCPs must be able to raise concerns in several ways, including:

16.1. with their line manager or team leader (whether they are employed by the NHS or the local authority);

16.2. a more senior manager from either employer if circumstances mean this is more appropriate; or

16.3. a confidential contact for raising concerns (in some places there may also be speak up ambassadors or advocates); this may be someone within the board.

17. A key element of the Standards is for those people who raise concerns to be advised of their right, and agree to access this procedure. This can be done in the initial conversation about the concern, or following receipt of an email.

18. Within HSCPs, the confidential contact will need to be familiar with the way concerns are handled across its services, as well as the board's expectations around handling concerns.

19. The board's Whistleblowing Champion will have a role in ensuring that appropriate arrangements are in place to ensure delivery of the Standards. (Further information about this role is available in Part 2 of the Standards.) They will be able to provide guidance for HSCP managers on how concerns raised in relation to NHS services must be handled, as well as sharing information about appropriate governance arrangements.

Recording of concerns

20. The detailed information about recording concerns (Part 5 of the Standards) is also applicable to concerns raised within HSCPs in relation to their NHS services.
21. Each HSCP needs to consider how they hold information about concerns that have been raised through this procedure. In particular, there need to be systems in place to ensure that personal information is only shared with individuals as agreed or explained to the person raising the concern. The details of the concern itself, and how it has been handled, need to be stored in a way that will enable reporting and monitoring of concerns and concerns handling.
22. This may mean that concerns about local authority services are recorded separately from those relating to NHS services. Any joint systems that are developed will need to be able to separate out concerns about NHS services from those about the local authority services, so the NHS board can carry out appropriate monitoring of these concerns.

Monitoring, reporting and learning from concerns

23. The detailed information about monitoring, reporting and learning from concerns (Part 5 of the Standards) is also applicable to concerns raised within HSCPs in relation to their NHS services.
24. It is important for all services to listen to staff concerns, and, where appropriate, for this to lead to organisational learning and service improvements. Learning can be identified from individual cases closed at Stage 2 and through statistical analysis of concerns resolved at Stage 1 of the procedure. This may include the potential for improvements across other areas of the service. Any learning that is identified from concerns must be recorded within the case record, including any action planning.
25. NHS boards are responsible for collating reports of concerns raised in relation to the services they deliver, including those raised within the HSCPs in its area. In this way, boards will be able to identify areas for specific attention, based on the themes and trends across these HSCPs. Feedback from this process provides the opportunity to demonstrate the benefits of raising concerns.

26. Each HSCP is also expected to show their staff that they value the concerns that are raised by staff and other workers. All IJBs must ensure that information is published and promoted about the concerns that have been raised about their services, unless this is likely to identify individuals. High-level information (with very limited information about what was investigated) may still be appropriate, and will provide the opportunity to show staff that managers will listen and respond to concerns.

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The Draft National Whistleblowing Standards

Part 9

Arrangements for students and trainees

Student and trainee access to the Standards and the Independent National Whistleblowing Officer (INWO)

1. Students, trainees, and anyone on apprenticeships and internships working and/or studying within NHS services must have access to these Standards. They must be able speak out by raising concerns over patient safety or malpractice, and they must have access to the support they need to do so.
2. Students and trainees are often at specific risk of detriment during placements, as they will be relying on managers and mentors for assessment and grading. They may be deterred from raising concerns if they feel this would impact on their marks, and this concern must be taken into consideration when responding to concerns raised by students.
3. During their training, most students will be informed of what whistleblowing means and how raising concerns provides an important mechanism for service improvements. Some will also be informed of the duty they will have to raise concerns, once they are registered professionals. Their confidence in putting this into practice will vary, depending on a range of factors, including their previous placements and the culture they experience around them where they are working.

Students raising concerns within NHS services

4. Students and trainees working in an NHS setting should be encouraged to participate fully in the organisation's learning culture and should be encouraged to use the systems available to all regular members of staff to raise concerns.
5. They must have access to information and advice from all the same sources as other staff within the service, including:
    - 5.1. National Alert Line – 0800 008 6112 or alertline@protect-advice.org.uk;
    - 5.2. The board's confidential contact for raising concerns, or other confidential speak up contact;
    - 5.3. The INWO;
    - 5.4. Union representatives;
    - 5.5. Professional bodies;
    - 5.6. University representatives (for students); and
    - 5.7. NHS Education Scotland (for trainee doctors and dentists).
6. They must also be able to raise concerns with:
    - 6.1. A service manager or team leader;
    - 6.2. A more senior manager if circumstances mean this is more appropriate;
    - 6.3. A university representative (see below for details); or

6.4. A confidential contact for raising concerns (in some places there may also be speak up ambassadors or advocates).

7. All NHS boards and service providers must be open to receiving concerns either directly from a student, or through a representative from their course, and must ensure that these concerns are responded to in line with the Standards.

8. Students may have concerns that relate to the way their course has been managed or how their placement fits into their wider studies. Concerns such as these, that relate to their course rather than the delivery of NHS services, should be directed to the HEI's complaints procedure. Concerns about NHS services should always be referred to the NHS for consideration, either by the student or via their course advocate, as detailed below.

9. (Staff that have NHS as well as teaching responsibilities should raise their concerns through the NHS procedure, as this will provide protection through the Standards. Please see Part 6 of the Standards for further information.)

Students raising concerns through course advocates

10. In addition to the routes normally available to staff, students can also raise their concerns with a representative on their course. It may be that information and advice is enough for the student to then raise the concern within the service. However, if this is not felt appropriate in the circumstances, or if the student does not feel confident that this would achieve the right outcomes for them, they must be able to raise their concern through their course representative or 'course advocate'.

11. Each course that provides placements, traineeships or work experience in NHS services must have a named person (such as the course coordinator), who can act as an advocate, and take the concern to the board or primary care service on their behalf. This person must be fully aware of these Standards, what students can expect when they raise a concern, and who to contact in each of the boards where their students work, in case any concerns are raised.

12. The course advocate must provide information and advice to students, and discuss the implications of raising the concern either directly or through the advocate. This discussion must include:

    12.1. Consideration of confidentiality issues;

    12.2. Support available to the student and how to access it; and

    12.3. Details of the procedure and what to expect.

13. If a student chooses to, they can use the course advocate to raise the concern on their behalf, and can choose whether they then remain anonymous to the board or service provider. If they choose to be anonymous, all communication must go through the course advocate. This includes enquiries for further information, updates and a final response at the end of the process.

14. Trainees that are under a direct contract with NHS Education Scotland (NES) can choose to raise their concern directly with the NHS board they are working for, or through NES, with NES acting in the same way as an HEI, Trainees must be informed of who they can contact within NES if they want to raise a concern or would like advice or support in raising a concern.

Recording student concerns

15. Student concerns should be recorded in the same way as any other concerns. Detailed information about what to record is available in Part 5 of these Standards.
16. For concerns that are raised by a course advocate rather than by the student, the record should indicate the role of the person bringing the concern, as well as their full contact details, and information about the concern being raised. The name, contact details or any other personal details (including course details) of the student must not be recorded, as this could put them at risk of detriment.

Support for the student

17. Students raising concerns must have access to the same support as staff do in relation to raising concerns. Their course advocate will be able to provide some support in person. The advocate will also be expected to be able to advise on support options provided by the board or service provider. This may, on occasion, mean making special arrangements to ensure access, for example, to counselling which would normally be provided through an employee assistance scheme.

Signposting to the INWO

18. The final decision provided by the NHS service on any concern raised with them must include signposting to the INWO. This applies equally to student concerns, and , where appropriate, course advocates must take responsibility for passing on this information to the students concerned.

SCOTTISH PUBLIC SERVICES OMBUDSMAN

People Centred | Improvement Focused

The Draft National Whistleblowing Standards

Part 10

Arrangements for volunteers

Volunteers' access to the Standards and the Independent National Whistleblowing Officer (INWO)

1. All volunteers working within NHS services must have access to these Standards; they must be able to speak out where they have concerns over patient safety or malpractice, and they must have access to the support they need to do so.
2. Volunteers often have a unique perspective on the work of a ward or service. Their regular presence may mean they become aware of issues which are of concern, and they may well be uncertain of how to deal with them. They may also be uncertain about how serious a problem is, or whether it is something they should have any involvement in.
3. Volunteers are unlikely to share their concerns unless they are encouraged and offered the opportunity to share their insights with others. They may not feel that a whistleblowing procedure applies to them, so it is particularly important to ensure that all volunteers are informed of the procedure and how they can access it.

Volunteers raising concerns within NHS services

4. Volunteers do not have access to most NHS policies and procedures, but this procedure is an exception. They must have access to information and advice from all the same sources as board staff, including:
    - 4.1. National Alert Line – 0800 008 6112 or alertline@protect-advice.org.uk;
    - 4.2. the board's confidential contact for raising concerns, or other confidential speak up contact;
    - 4.3. the INWO; and
    - 4.4. coordinator for the organisation they are volunteering for.
5. They must also be able to raise concerns with:
    - 5.1. a service manager or team leader;
    - 5.2. a more senior manager if circumstances mean this is more appropriate;
    - 5.3. a volunteer representative (see below for details); or
    - 5.4. a confidential contact for raising concerns (in some places there may also be whistleblowing ambassadors or advocates).
6. NHS boards must be open to receiving concerns either directly from a volunteer, or through a volunteer coordinator or representative.

Volunteers raising concerns through the charity's representative

7. In addition to the routes normally available to staff, volunteers can also raise their concerns with a volunteer representative. This is the person nominated by the organisation arranging the volunteering opportunity (which could be directly through the NHS, a charity or other third sector provider). It may be that information and advice is enough for the volunteer to then raise the concern within the service. However, if this is not felt appropriate in the circumstances, or if the volunteer does not feel confident that this would achieve the right outcome, they must be able to raise their concern through the organisation's representative or volunteer coordinator.
8. Any organisation that engages volunteers to work in NHS services must be provided with information about these Standards and asked to ensure that they have someone (such as the volunteer coordinator), who can act as an advocate, and take the concerns to the board or primary care service on the volunteer's behalf, if needed. This person must be fully aware of these Standards, what volunteers can expect when they raise a concern, and who to contact in each of the boards where their volunteers work, in case any concerns are raised.
9. The volunteer representative must provide information and advice to volunteers, and discuss the implications of raising the concern either directly or using the representative as an advocate. This discussion must include:
    - 9.1. consideration of confidentiality issues;
    - 9.2. support available to the volunteer and how to access it; and
    - 9.3. details of the procedure and what to expect.
10. If a volunteer chooses to, they can use the volunteer representative to raise a concern on their behalf, and can choose whether they then remain anonymous to the board or service provider. If they choose this anonymity, all communication must go through the volunteer representative. This includes enquiries for further information, updates and a final response at the end of the process.

Recording volunteer concerns

11. Volunteer concerns should be recorded in the same way as any other concerns. Detailed information about what to record is available in Part 5 of the Standards.
12. For concerns that are raised by a volunteer representative rather than by the volunteer, the record should indicate the role of the person bringing the concern, as well as their full contact details, and information about the concern being raised. The name, contact details or any other personal details (including volunteering role) of the volunteer must not be recorded, as this could put them at risk of detriment.

Support for the volunteer

13. Volunteers raising concerns must have access to all appropriate forms of support. Their representative will be able to provide some support in person. They will also be expected to be aware of, or seek out information about, support options provided by the board or service provider.
14. Boards must ensure that, wherever possible, volunteers have access to the same support as staff do in relation to raising concerns. This may, on occasion, mean making special arrangements to ensure access, for example, to counselling which would normally be provided through an employee assistance scheme.

Signposting to the INWO

15. The final response or feedback provided by the NHS service on any concern raised with them must include signposting to the INWO. This also applies to concerns raised by volunteers, and the volunteer representative must take responsibility for passing on this information to the volunteer concerned.