

# National guidance for NHS staff on speaking up in NHS Scotland

Draft version for engagement and feedback.

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## Introduction

Speaking up plays a vital role in safeguarding patient care and safety within NHS Scotland. It enables staff at all levels to raise concerns about risks to patient and staff safety, quality of care and wrongdoing. When addressed appropriately, concerns can lead to meaningful improvements in service delivery and organisational learning.

It is essential that when staff speak up, their concerns are listened to and acted on. An open, listening culture helps to improve the quality and safety of services.

We recognise it is not always easy for staff to raise concerns, but the health and wellbeing of people in the care of our NHS must always be our main priority.

If you work in the NHS in Scotland and have concerns about risks to patient or staff safety, or believe wrongdoing may be taking place, you have options for speaking up. This guidance explains the different ways you can raise concerns and provides an overview of what you can expect from the processes.

This guidance has been jointly developed by Healthcare Improvement Scotland (HIS) and the Independent National Whistleblowing Officer (INWO) to improve awareness and build confidence in speaking up about the NHS in Scotland.

## Who is this guidance for?

This guidance applies to anyone who works in the NHS or provides a service on behalf of the NHS in Scotland. This includes employees, contractors, volunteers, students and people providing NHS services in primary care and health and social care partnerships (HSCPs), as well as people who have recently left one of these roles.



## Speaking up

### What is speaking up?

Terms like speaking up, raising a concern and whistleblowing refer to when staff report risks or wrongdoing that are in the public interest. For an issue to be in the public interest, it will usually be an issue that affects (or could affect) people other than you.

Healthcare professionals may have a professional duty to report concerns and all staff (including students and volunteers) must be aware of this, as it can affect how and when concerns are raised. The health and care workforce in Scotland all have this responsibility, whether through their Statutory Regulator, the HCSW Standards or their organisational standards.

### What is not speaking up?

There is a difference between raising a concern in the public interest and a personal grievance. A grievance is typically a personal complaint about your own employment situation, rather than a wider concern about services raised and it is not made in the public interest.

All NHS Scotland employees are covered by a national [Grievance Policy](#) and a [Bullying and Harassment Policy](#). Other employers will have their own policies. If you are a member of a trade union, your workplace representatives will be able to provide advice on these processes. The [Advisory, Conciliation and Arbitration Service \(ACAS\)](#) can also provide impartial advice on your rights in the workplace.

If you work for the NHS but have a concern about your personal experience as a patient, you should use the relevant organisation's patient complaints procedure. For more information:

<https://www.mygov.scot/nhs-complaints>.

## Local Process for Speaking Up

We encourage you to try to resolve any concerns you have within your organisation first. This can lead to a quicker resolution and it is often better for the organisation involved to identify the learning and improvements that are needed.

You can speak up within your organisation by:

- challenging unsafe practice, risk or wrongdoing there and then
- using internal processes, including adverse event reporting systems
- talking to your line manager or someone senior in your organisation
- speaking with a confidential contact or speak-up ambassador, and
- using your organisation's whistleblowing policy.

The arrangements within [primary care](#), and for [students](#) and [volunteers](#), may be slightly different. If you would like confidential advice about your specific situation, please call the INWO's freephone advice line on **0800 008 6112**.

## The National Whistleblowing Standards

The National Whistleblowing Standards set out how NHS service providers must handle concerns that are raised with them and which meet the definition of a 'whistleblowing concern'.

The NHS whistleblowing procedure is based on the following principles:

- open
- focused on improvement
- objective
- impartial and fair
- accessible
- supportive to people who raise a concern and all people involved in the procedure
- simple and timely, and
- thorough, proportionate and consistent.



An important part of the Standards is the requirement for organisations to 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.

The Standards set out clear expectations regarding confidentiality. This includes the requirement not to share information about the person raising a concern (or witnesses), unless the law says that it can or must be shared.

At the end of the process, the organisation must give the person who raised the concern a full response that sets out the findings and conclusions of the investigation. The organisation must also tell the person about their right to seek an independent external review by the Independent National Whistleblowing Officer (INWO).

You can find more information about the Standards on the INWO's website: <https://inwo.spsso.org.uk/national-whistleblowing-standards>.

## Legal protection for those raising concerns

In addition to the protection within the NHS whistleblowing procedure, the Public Interest Disclosure Act 1998 (PIDA) provides legal protection for workers who raise concerns in the public interest. This includes employees and others such as agency staff and contractors.

PIDA encourages workers to make a 'protected disclosure' to their employer first, if possible (for example, through the NHS Whistleblowing Procedure). However, the legislation also recognises that workers may have good reason for raising a protected disclosure outside their workplace (either before or after reporting the concern to their employer).

You can find more information about what type of concerns are protected and what this means on the following page: [Legal protection for those raising concerns | INWO](#).

PIDA includes a list of external organisations (called 'prescribed persons') who workers can raise concerns with. Individuals raising concerns with prescribed persons will still be protected if the person reasonably believes that the information they are disclosing is true and that the subject matter falls within the remit of the external organisation.



### Raise concerns with confidence

Both the INWO and HIS are listed as prescribed persons for concerns about the NHS in Scotland.

**Note:** The law in relation to whistleblower protection can be complicated. If you need specific advice, you can find further information here: [Protect - Speak up stop harm - Whistleblowing Homepage](#)

# Role of the Independent National Whistleblowing Officer (INWO)

## About the INWO

The INWO provides the final independent review stage of the NHS whistleblowing procedure and can investigate how whistleblowing concerns have been handled.

The INWO also has a national leadership role and is responsible for setting the principles and the procedure for NHS organisations to use when handling whistleblowing concerns. As part of this, the INWO also provides support and guidance to NHS organisations ([Whistleblowing Standards Enquiries](#)).

## Investigations by the INWO

The INWO can investigate:

- how an organisation has handled a whistleblowing concern
- whether the organisation has taken action to address the risk of harm or wrongdoing
- whether a whistleblower (and others involved) have been treated fairly by the organisation, and
- an organisation's wider approach to learning from concerns.

There are some limits on what the INWO can investigate:

- the INWO cannot investigate anonymous complaints
- the INWO does not normally investigate concerns that have not completed the local NHS whistleblowing procedure. However, the INWO can provide support to individuals to access their organisation's procedure (including through the [monitored referrals](#) process), and
- a complaint should normally be made within 12 months from the date you become aware of the issue, although this timescale can be extended if there are special circumstances.



## Advice

The INWO operates a free, independent and confidential phone line to provide information and advice about speaking up about NHS services in Scotland.

You can contact the freephone advice line on **0800 008 6112** or send an email to [INWO@spsa.gov.scot](mailto:INWO@spsa.gov.scot).

## Make a complaint

You can use the online form on our website: [Complaining to the INWO](#), or contact us to ask about other formats.

There are three main stages to our process:

### Initial assessment



We will confirm your concern has gone through your organisation's whistleblowing procedure. We will speak with you to understand your complaint and tell you what matters we can investigate.

### Investigation



If we can investigate, we will tell the organisation about your complaint and gather information. We may speak with witnesses and get professional advice.

### Decisions and recommendations



We will decide whether to uphold your complaint or not and share a report of our investigation with you. If we uphold it, we may make recommendations for learning and improvement. The organisation must provide evidence that they have completed the recommendations before the case is closed.

Throughout the process, we will keep you informed about our progress and ensure that we maintain your confidentiality.

For further information about our process, please see our website: [For whistleblowers | INWO](#).

# Role of Healthcare Improvement Scotland

## Introduction to HIS

HIS is the national improvement agency for health and social care in Scotland. A key part of HIS's work is the Responding to Concerns (RTC) programme, this is the programme which relates specifically to the organisation being a prescribed person, which provides a structured and supportive process for NHS staff to raise concerns about the safety and quality of care of NHS services.

## How to share concerns with HIS

We would always encourage you to try to resolve any concerns you have within your organisation first. However, if you do not feel able to go through this route, NHS Scotland staff can contact HIS in confidence to raise concerns about the safety or quality of care.

## How to Submit a Concern

Concerns can be shared with us through completing a form on our website - [Responding to concerns – Healthcare Improvement Scotland](#) or you can email the team directly - [his.respondingtoconcerns@nhs.scot](mailto:his.respondingtoconcerns@nhs.scot). When raising a concern with HIS, you can provide contact details or you can decide to remain anonymous. If you share your contact details, all information that is shared with the NHS board is anonymised and your identity protected in as far as is possible. However, sometimes there may be practical limits to protecting your identity.

HIS does not have a remit to respond to concerns or complaints about NHS services from members of the public. Information about making a complaint is available through [NHS Inform](#) or contacting the relevant NHS board.

Concerns regarding independent healthcare services are responded to and managed by the HIS Independent Healthcare Programme and further information can be found on the HIS website - [Regulation of independent healthcare – Healthcare Improvement Scotland](#).

### **What Happens Next?**

- Your concerns will be assessed to consider if they fall within the HIS remit.
- You will be offered a confidential meeting to discuss your concerns and explore next steps.
- A structured assessment process then begins, involving:
  - Initial triage and risk assessment.
  - Engagement with the individual (s) raising the concern.
  - Engagement with the relevant NHS board.
  - Review of responses and supporting evidence.
  - Determination of assurance levels and next steps.

Throughout the process, HIS maintains open communication with the individual raising the concern, ensuring confidentiality wherever possible and offering support at each stage.

For further information on the process for responding to concerns, HIS has published a detailed methodology document which can be accessed on our website - [Healthcare Improvement Scotland](#).

## How our organisations collaborate

Both HIS and the INWO are jointly committed to providing a person focussed service to staff who speak up. This means that whichever organisation you approach first, you will receive consistent information and advice about the options available and how you can access further support.

Both organisations:

- have a clear understanding of each other's roles and responsibilities
- can support individuals to access the appropriate routes to share their concerns, and
- will seek assurance that concerns are listened to, acknowledged, and addressed.

Where both organisations have a potential role in responding to concerns raised, we will work together to ensure processes are effective. We will securely share information in line with our information sharing agreements, with the aim of minimising duplication where possible.

## Choosing between the different options

It can be hard to know the best way to raise a concern. The table below shows the main differences between raising a concern with HIS and using the NHS Whistleblowing Procedure (which includes the INWO's independent review stage).

See also [frequently asked questions](#) for further information.

	<b>NHS Whistleblowing Procedure</b>	<b>Raising a concern with HIS</b>
<b>What types of concerns can I raise?</b>	The <a href="#">whistleblowing definition</a> is broad and covers different types of risks of harm and wrongdoing in the public interest.	HIS can consider concerns about the safety or quality of NHS services.
<b>Will I be protected?</b>	The Standards say that people who raise a concern must be offered support and must not be treated unfairly because of raising a concern. Anyone involved in an investigation can complain to the INWO about how they have been treated. Workers also receive legal protection under PIDA.	Workers receive legal protection under PIDA.

	<b>NHS Whistleblowing Procedure</b>	<b>Raising a concern with HIS</b>
<b>Can I remain anonymous?</b>	No. Anonymous concerns cannot be handled under the whistleblowing procedure. The INWO cannot consider anonymous complaints.	Yes. HIS can consider concerns that have been received anonymously, however we would always recommend that this information is shared so we can contact you to ensure we have captured the detail of the concerns appropriately. HIS will not share your name with your organisation unless you agree to this. However, sometimes there may be practical limits to protecting your identity.
<b>Can I raise concerns about primary care?</b>	Yes. The National Whistleblowing Standards apply to primary care.	There may be limitations on the extent to which HIS can consider concerns that relate to primary care. This would be considered when determining the nature of the concerns. This would be discussed with you.

	<b>NHS Whistleblowing Procedure</b>	<b>Raising a concern with HIS</b>
<b>How will I be informed about the outcome?</b>	Your organisation will provide a written response to your concerns. They will also inform you of your right to approach the INWO.	Throughout the process, HIS maintains open communication with the individual raising the concern, ensuring confidentiality wherever possible and offering support at each stage.
<b>What will happen as a result of my concern?</b>	If there are issues, your organisation should make recommendations for these to be addressed. You can approach the INWO if you still have concerns. The INWO can make recommendations for the organisation to take action to address the issue, as well as learning and improvement.	If at the end of our assessment process we are not assured about the arrangements in place or the safety and quality of care, we will recommend further steps for HIS to take.
<b>Do I have to raise a concern with my organisation before contacting HIS/INWO?</b>	The INWO does not normally consider concerns if the person has not completed the NHS whistleblowing procedure. However, the INWO can provide support to individuals to access their organisation's procedure (including through the <a href="#">monitored referrals</a> process).	While HIS encourages you to try to resolve any concerns you have within your organisation first, you can raise a concern with HIS without firstly raising it with your organisation.

## Other organisations

There are also other organisations that have specialist roles in relation to certain types of concerns being raised. The following list includes some of the main organisations but is not exhaustive. If you would like further information or advice, please contact INWO's freephone advice line on **0800 008 6112**.

[Mental Welfare Commission for Scotland](#) can investigate concerns that a person with a mental illness or learning disability is not getting the right care and treatment.

[Care Inspectorate](#) are the regulators for registered social care services in Scotland. As such, they have a duty to consider all complaints, including whistleblowing disclosures, about these services made by employees, ex-employees and students. If you have a concern about a registered social care service, you can contact the Care Inspectorate by calling **0345 600 9527**.

[NHS Scotland Counter Fraud Services](#) will consider concerns relating to any financial loss to the NHS. These can include allegations of fraud, embezzlement, theft, corruption and other irregularities.

[NHS Education for Scotland](#) can consider concerns relating to the delivery or quality of postgraduate medical education and training.

[Audit Scotland](#), the Accounts Commission, the Auditor General and the firms they appoint can consider concerns about fraud, corruption or wrongdoing within the public bodies they audit.

[The Health and Safety Executive](#) (HSE) is Britain's national regulator for workplace health and safety. You can contact HSE to report a health and safety issue in a workplace or public space.



**The Office of the Patient Safety Commissioner for Scotland** is independent of the NHS and government and plays a key role in advocating for systematic improvement in the safety of healthcare across Scotland. The Office does not look at, or resolve individual complaints, nor does it replace internal NHS speaking-up channels. However, safety concerns raised by patients, families or NHS staff can feed into its wider investigations, reports, and recommendations.

**Professional Regulators** can consider concerns about the behaviour, health or performance of registered professionals. The largest regulators are listed below, but a more complete list can be found here: [UK regulated professions and their regulators](#).

[\*\*The Nursing and Midwifery Council\*\*](#) can consider concerns about the standards of practice or behaviour of nurses or midwives.

[\*\*General Medical Council\*\*](#) can consider concerns about a doctor, physician associate (PA) or anaesthesia associate's (AA) behaviour, health or performance which put public safety or the public's confidence in the profession at risk.

[\*\*The Health and Care Professions Council\*\*](#) is the statutory regulator of 15 regulated health and care professions (including paramedics, practitioner psychologists, occupational therapists, radiographers and more). They set standards to ensure public protection, and can consider concerns raised about registrants, and take appropriate action when necessary.

[\*\*General Dental Council\*\*](#) can consider concerns about the clinical practice, behaviour or health of dental professionals.

[\*\*General Pharmaceutical Council\*\*](#) can consider concerns about individual pharmacists, pharmacy technicians and pharmacies where there may be a risk to patient safety or the public confidence in pharmacy could be affected.

## Frequently asked questions

### **I have concerns about an issue in my workplace, but I do not feel safe to speak to someone internally.**

All organisations that deliver NHS services must provide staff with at least one point of contact that staff can speak with about raising concerns.

This person may be called a 'Confidential Contact', 'Speak-up Ambassador' or 'Speak-up Advocate' and as part of this role they are independent from normal management arrangements. Their role is to offer a safe and supportive space where you can talk about your concerns and get clear guidance on your options.

If you don't know who the Confidential Contacts are for your organisation, or if you would prefer to speak to someone external, please call the INWO's freephone advice line on **0800 008 6112**.

### **I have a concern about patient safety, but I want to remain anonymous.**

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

Anonymous concerns cannot be handled under the NHS whistleblowing procedure. This means that the person raising the concern, or any other people involved (such as witnesses), will **not** receive support or protection under the procedure. In addition, the person will not receive feedback on their concern and they will not be able to approach the INWO for an independent review.

**Note:** NHS Scotland staff that wish to remain anonymous still have the option of raising a concern about the safety and quality of care with HIS.

When raising a concern with HIS, you can provide contact details or you can decide to remain anonymous. We suggest that you give your name to HIS when raising a concern as this makes it easier to engage with you, assess your concerns and for you to be protected under PIDA. HIS will keep your identity confidential. It will never be disclosed to anyone who does not need to know it for the purposes of our assessment.

You should understand that there may be practical limits to anonymity and confidentiality. By engaging with the NHS board about the concerns it may be obvious to your employer who has raised them. It is an offence for an employer to try to identify an employee who has raised a concern.

There may be occasions where we are required to share information about your identity with other agencies, including Police Scotland, local authorities and other regulatory bodies.

Occasions where we may be required to share information about your identity include:

- If there is a serious risk of harm to yourself or others.
- If there is disclosure of abuse or neglect involving a child or vulnerable adult.
- If required by a court order or legal process.

We will always let you know if we need to take this step.

If you don't feel safe to speak to someone within your team, your department or your organisation, NHSScotland staff can contact HIS in confidence to raise concerns about the safety or quality of care

[his.respondingtoconcerns@nhs.scot](mailto:his.respondingtoconcerns@nhs.scot)

**I have raised a concern with someone in my organisation, but I am having difficulty getting a response.**

If you are worried that your concern is not being taken seriously or if you are unclear what is happening to address the issues, you should firstly speak to one of your organisation's Confidential Contacts for advice.

If you don't know who the confidential contact is for your organisation, or if they cannot help you, please call the INWO's freephone advice line on: **0800 008 6112.**

## **I have raised a concern with my organisation, but I am unhappy with the response.**

The next step in the process will depend on how you have raised your concern so far.

In many instances, concerns are raised as part of everyday ('business as usual') processes or systems that support quality and safety. These include raising an issue at a team meeting or handover, reporting incidents via DATIX or consideration of a matter as part of a review or audit, for example. If you have not been able to resolve the issue via business as usual processes, you may wish to speak to one of your organisation's Confidential Contacts about raising a concern formally.

If you have raised a concern under the whistleblowing procedure and have received a response to your concern at stage 1 (early resolution), you can ask for your concerns to be considered at stage 2 (investigation).

At the end of the two-stage process, you will normally receive a letter from the organisation with information about how to bring your concern to the INWO if you remain unhappy. You will need to do this in writing, using the complaint form at the bottom of the following page:

[Complaining to the Independent National Whistleblowing Officer \(INWO\) | INWO.](#)

## **I am unhappy with how I have been treated after raising a concern within my organisation.**

The National Whistleblowing Standards require organisations to protect and support those who speak up. People who raise a concern must not be treated unfairly 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.

If you have raised a concern under the NHS whistleblowing procedure, you can complain to the INWO about how you have been treated as a result of speaking up.

Employees can also use organisational procedures (such as grievance or bullying and harassment policies) to complain about treatment. For employees of NHS Scotland, see [Policies | NHS Scotland](#).

The type of outcomes that can be achieved will depend on the process you use. If you would like to talk about your options, please contact the INWO advice line.

Finally, workers who have been victimised or dismissed for whistleblowing have the right to make a claim for compensation to the Employment Tribunal. You should contact your trade union, [Protect](#) or [ACAS](#) as soon as possible to find out what to do next. There are short timescales for bringing a case to a tribunal, so it is important that you act quickly.

### **I would like to speak with someone about my specific situation**

The INWO operates a free, independent and confidential phone line to provide information and advice about speaking up about NHS services in Scotland. The INWO can provide advice on the different options for raising a concern and general information about support and signposting.

You can contact the freephone advice line on **0800 008 6112** or send an email to [INWO@spsa.gov.scot](mailto:INWO@spsa.gov.scot).

Published | Month 2026

Need information in a different format? Contact our Equality, Inclusion and Human Rights Team to discuss your needs. Email [his.equality@nhs.scot](mailto:his.equality@nhs.scot) or call 0141 225 6999. We will consider your request and respond within 20 days.

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