



**INDEPENDENT
NATIONAL
WHISTLEBLOWING
OFFICER**

People Centred | Improvement Focused

The National Whistleblowing Standards and the HR function

A guide for HR practitioners

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1. The role of HR and whistleblowing

- 1.1 When someone has a concern about something to do with their work, they may contact HR, either directly or via their manager or union rep. HR can therefore play a key role in signposting colleagues to the right process for their situation and ensuring that they are given appropriate support.
- 1.2 It is therefore vital that those working within the HR team understand the basic principles of whistleblowing, how to identify concerns that might come under whistleblowing, and where to signpost people who wish to raise a concern.
- 1.3 It is also key for everyone working in HR to understand how workforce processes may interact with a whistleblowing situation and what they should do in that situation.
- 1.4 While whistleblowing is not a standard workforce process, HR still plays an important role in ensuring concerns are addressed effectively.



2. The National Whistleblowing Standards

2.1 [The National Whistleblowing Standards](#) (the Standards) explain that whistleblowing is when someone who delivers services on behalf of the NHS 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. This includes an issue that:

- has happened, is happening or is likely to happen
- affects the public, other staff or the NHS provider itself.

2.2 This is different to a personal complaint or grievance about an individual employment situation, including bullying and inappropriate behaviour, which are addressed under NHS workforce policies. Confidential contacts can help those wanting to raise concerns to identify whether their concern might fall into one or the other. Sometimes there can be an overlap between whistleblowing and workforce policies. Examples of when workforce issues can become whistleblowing issues include:

- When bullying behaviour is experienced widely by colleagues and is not being effectively addressed and so this impacts on the safe delivery of care and treatment.
- When managers repeatedly fail to address concerns being raised about risks or behaviours. This could impact on the running of the organisation, the quality of care, and have a negative effect on people's willingness to raise concerns in future.
- When someone has raised a concern (either through an existing [‘business as usual’ process](#) or through whistleblowing) and are then treated badly for it. The whistleblowing process can consider the concern and must ensure that no further detriment is suffered as a result of speaking up. The person's treatment may be pursued



through a workforce policy, but this should be progressed in parallel whenever possible.



3. Managing whistleblowing concerns

3.1 Concerns can be raised through many informal routes, or through existing 'business as usual' processes. Whistleblowing is when someone chooses to access the whistleblowing procedure because they do not want to use these routes or has been unsuccessful in achieving a resolution that addresses their concern. This may be because:

- They have tried raising it informally or using a different process and this hasn't worked or been followed up.
- They feel unable to raise it with their manager or with leadership.
- They may feel vulnerable due to their circumstances, e.g. those on temporary contracts or work visas. People in these circumstances may particularly benefit from the protections of the Standards.
- The situation is complex and they do not think it can be appropriately resolved through a 'business as usual' process.
- They have raised this or other concerns in the past and do not trust that they will be treated well when they raise this concern, based on previous treatment.

3.2 Managers or HR teams that receive concerns must always be willing to listen and to treat all concerns raised as an opportunity to learn and to make positive changes. It is important not to focus on fault or blame. In particular, remember:

- Each concern must be looked at carefully to ensure no assumptions have been made, even if someone has been involved in other processes or raised other issues previously.
- Every time a concern is handled well and with an open mind, it can help colleagues to build a bit more trust and confidence in the organisation and speaking up.



- If someone wants to use the whistleblowing process, or if it may be appropriate, this should be encouraged, as it will help the organisation resolve concerns and make improvements.



4. How is whistleblowing different to a workforce process?

- 4.1 Whistleblowing is a process to support raising and addressing concerns that are not being addressed elsewhere, and they may be about serious or high profile issues.
- 4.2 It is important to note that the whistleblowing process is not overseen by the HR team; it is separate to the main workforce processes reflecting the different scope and nature of whistleblowing complaints.
- 4.3 Despite this difference, some of the investigation principles used in workforce processes can be helpful, such as:
- having a terms of reference
 - ensuring there is no direct connection between the complaint and the investigator looking into it
 - supporting the person speaking up.
- 4.4 Sometimes it can be difficult to determine whether a concern is appropriate for workforce policies or for the whistleblowing process. Key to identifying something as whistleblowing, is to consider whether the issue includes a risk of harm or wrongdoing, that is in the public interest. This means that understanding the concerns raised and the outcome the person is looking for are necessary to help determine which process should be used. Some examples are included in [table 1](#).
- 4.5 The whistleblowing process is split up into two stages and the timescales for these are generally shorter than workforce processes. The Standards are also less prescriptive in how the concern should be investigated.
- 4.6 [Stage 1](#) of the Standards allows a concern to be formalised, with an emphasis on quick resolution with minimal or no investigation. [Stage 2](#) of the Standards relates to concerns which are likely to be more serious or



complex and will need to be investigated before the organisation can respond.

Table 1. Whistleblowing examples and workforce processes

Whistleblowing	Workforce processes
Management persistently pressurises the team into dangerous overtime conditions.	I haven't been granted my flexible-working request.
A person's dangerous working practices are 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 may be a risk to others. [Note: Or it is suspected that there is something inappropriate happening in an area which could be a risk to the public, but there is not substantial evidence.]	I am not happy with the way my manager spoke to me when they discovered I was not following the correct health and safety procedures.

- 4.7 For [stage 1 whistleblowing concerns](#) the manager looking into the concern will often be able to get to the heart of the issue and identify what action to take. For [stage 2 concerns](#) an investigator is likely to be commissioned to look into the concern in depth. Each whistleblowing concern is different and should be looked at on its own merits.
- 4.8 The whistleblowing process is about establishing if there is something that has happened, is happening, or is likely to happen, that needs to be addressed. What action is needed will vary. For stage 1 concerns it may be sharing information or delivering some learning or awareness raising. For complex stage 2 investigations it may be necessary to draw up action plans to implement wider changes. An investigation may also bring to light issues which need to be managed separately through a workforce process about conduct or capability.



- 4.9 Whichever stage of the process is being used, it is important that all those that are involved in it are given support to manage the stress of the situation. They must also be protected from detriment – which means ensuring that managers and colleagues are treating them fairly and equally, and that no HR processes are started as a result of the person simply raising concerns.



5. When might a concern require a workforce process?

- 5.1 Workforce processes should be used when there are individual concerns about terms and conditions or the employment relationship and experience, through Once for Scotland Grievance, Disciplinary and Bullying and Harassment processes, for example. They would also be appropriate where there are concerns about a recruitment process or an individual's performance or capability.
- 5.2 Each of the workforce processes has several stages, allowing for review and checking of decisions and outcomes. There is training and advice and support available for colleagues, managers and HR on all of these.
- 5.3 It's important to be aware that at times, managers may not feel equipped to deal with complex or challenging issues or concerns raised within their teams and may wish to have someone else look into this. But if it is within their role and remit, they should try and address the concerns, with support from HR and their own line management or professional leads.

An example of a workforce process

A manager received a whistleblowing concern from a colleague about bullying and harassment in their workplace. The manager met with the colleague and explored the issue. They discovered that the colleague had a difficult relationship with a supervisor and that there were no risks for patients or other staff. The manager and colleague agreed that the Once for Scotland bullying and harassment process would be the right way to deal with the concern raised, starting with early resolution. Mediation was arranged between the two parties and this was successful at resolving the issue.

Although it was raised as a whistleblowing concern, the issue related to the individual employee's experience and did not have a public interest element. The whistleblowing process would not have been the appropriate way to achieve an outcome for the colleague. However, if bullying was also being experienced by other team members, this could affect patient care or safety, and might have been whistleblowing. This is why looking at the specific facts is key.



6. When might a concern be whistleblowing?

- 6.1 Some of the reasons why people might want to blow the whistle are set out in [section 3](#) above.
- 6.2 Remember, if a colleague raises a concern that is eligible for the process under the Standards, then it is their choice about whether to use the process (or not).
- 6.3 If a whistleblowing concern is raised about an issue that has already been considered under another process, a review should be carried out to establish whether the new concern is eligible for the Standards. The review should look at:
- the previous process
 - the decisions made
 - the reasons why the person is unhappy with the outcome
 - whether the outstanding issues can be addressed through the whistleblowing process.
- 6.4 The review should be done in a thorough and structured manner by someone with no direct connection to the original case.
- 6.5 If the concern is eligible for consideration under the Standards, then the whistleblowing process should be used as normal.
- 6.6 If the concern is not eligible for the Standards, then the person raising it should be informed of this in writing, and they must be told that they can ask the INWO to review the decision if they are not satisfied.



- 6.7 It is important to note that whistleblowing should not be seen as an appeal mechanism for HR issues. An example of this might be where a colleague raises a whistleblowing concern about a recruitment process in which they have not been successful but the issue has been fully investigated under the grievance procedure and not upheld. As this is an individual employment issue, and there is no public interest, it would not be appropriate to consider this under the Standards as well.

An example of when an HR issue becomes whistleblowing

Over several years, a variety of individual complaints and concerns have been raised about relationships, behaviours and the impact on staffing and patient care relating to a community hospital in a remote and rural area.

Each case has been individually looked into under the relevant procedures and outcomes given, but there are still ongoing issues and a high turnover of staff, with a reliance on temporary and bank staffing, which isn't resilient. Exit interviews have also mentioned a climate of bullying and intimidation and poor staff survey results would indicate there are issues.

A whistleblowing complaint is received about the situation and the impact on colleagues being able to safely deliver the community health and care needs. Whilst individual situations have been progressed, the overall culture and experience has not been resolved and so raising the issue under whistleblowing allows the whole situation to be looked at and solutions created and implemented.



7. When might there need to be HR and whistleblowing processes running concurrently?

7.1 There may need to be two processes running alongside each other, where whistleblowing and HR issues are presented together as part of a concern.

7.2 If a whistleblowing issue is raised during a workforce procedure it will be important to look at this impartially, document any decisions that are made and take advice if necessary (the SPSO's Improvement, Standards and Engagement team can help csa@spsso.gov.scot). Some questions to think about with the person raising the concern:

- Have they been told about the whistleblowing process and do they want to use it?
- Is the matter already being investigated as part of the workforce process or another business as usual process, and would the route under the Standards be more appropriate?
- Have the other processes or procedures been used but not resulted in the outcome the person was expecting?

7.3 If an HR issue comes up during a whistleblowing investigation (e.g. detriment related to speaking up) this should be handled under the umbrella of the whistleblowing process. The whistleblowing co-ordinator should make the appropriate referrals to the relevant HR processes, so that the person raising the concern does not need to raise the issues separately. Ideally the processes should run in parallel and the colleague should be informed of the anticipated timescales for both.

7.4 People receiving concerns must keep an open mind at all times, and focus on prompt resolution, using the most appropriate route.



An example of two processes running concurrently

A colleague has raised a grievance about their employment and their unfair treatment by their colleagues and line manager. This is being taken forward under the Once for Scotland policy.

Whilst this process is ongoing the colleague alleges that data about the performance of the service is being manipulated and is misleading Scottish Government and the public. This allegation meets the definition of whistleblowing. It may be connected to how the colleague feels about their employment, but it is a very serious and specific allegation with wider organisational consequences than the grievance.

The colleague should be told about the whistleblowing process and the procedure engaged, with their agreement. If the whistleblowing investigation reveals that there is substance to the allegations, then other conduct related workforce policies may be needed in response to the findings (for example, conduct or disciplinary procedures for people found to have manipulated data).



8. Roles and responsibilities under the whistleblowing process

8.1 Details of the roles and responsibilities of all those involved in the whistleblowing process, from the NHS board down to staff and union reps can be found in [Part 4 of the Standards](#). Here we highlight those most important for HR teams to be aware of.

8.2 Confidential Contacts

Confidential Contacts provide an initial point of contact for those who wish to raise a concern. They provide information and a safe space to discuss the concern and support colleagues to raise concerns with the appropriate manager or leader.

8.3 HR Lead

This role is 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
- ensuring that all staff are made aware of the Standards and how to access them, including the channels available to them for raising concerns
- ensuring that managers have the training they need to identify concerns that might be appropriate for the Standards and to manage them appropriately.

It is important to note that the whistleblowing process is not overseen by the HR team; it is separate to the main workforce processes reflecting the different scope and nature of whistleblowing complaints.



8.4 **Managers**

Any manager in the organisation may receive a whistleblowing concern. Therefore, all managers must be aware of the whistleblowing procedure and how to handle and record concerns that are raised with them, with their colleagues and with any third party or independent contractors who deliver services on our behalf. All managers are encouraged to undertake the training module available on Turas Learn.

8.5 **Union representatives**

Union representatives play a key role in supporting members to raise concerns and provide insight into the effectiveness of our systems and processes.

8.6 **All colleagues**

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



9. Developing your Board's handling of whistleblowing concerns

- 9.1 One of the biggest challenges is to build a culture where challenge and difference of opinion is valued and embraced as a tool for reflection, learning and improvement. This takes time and needs to be role modelled by senior leaders and HR professionals in how they respond to challenge and encourage speaking up.
- 9.2 Also important is addressing concerns as soon as they are raised, taking ownership, giving people clear information and outcomes and communicating well about what the board are doing.
- 9.3 Finally, it is important to evaluate progress honestly and openly, taking the opportunity to improve when things don't go so well.



10. Contacts and information

- 10.1 The National Whistleblowing Standards set out how the Independent National Whistleblowing Officer (INWO) expects all NHS Scotland service providers to handle concerns that are raised with them and which meet the definition of a 'whistleblowing concern'.
- 10.2 The INWO team provide a daily information and advice phone service to help confidential contacts and people who want to raise a concern. You can contact the team on 0800 008 6112 (The line is available Mon, Wed, Fri, 9am – 1pm; Tues, Thurs 12pm – 4pm) or email: INWO@spsso.gov.scot).
- 10.3 The SPSO's Improvement Standards and Engagement team also provide support and advice to whistleblowing practitioners about handling whistleblowing cases under the Standards. They can be contacted by emailing CSA@spsso.gov.scot.
- 10.4 The [INWO website](#) has lots of resources and advice.
- 10.5 There is also training on TURAS learn which it is highly recommended to complete.
- [Whistleblowing: an overview | Turas | Learn \(nhs.scot\)](#)
 - [Whistleblowing: for line managers | Turas | Learn \(nhs.scot\)](#)
 - [Whistleblowing: for senior managers | Turas | Learn \(nhs.scot\)](#)