

Whistleblowing Policy – Compliance Self-Assessment Checklist for NHS Providers

The National Whistleblowing Standards (the Standards) come into force on the 1st April 2021. From that date onwards, all NHS providers delivering services on behalf of the NHS in Scotland must have a whistleblowing policy and procedure in place that complies with the Standards. This must be accessible to all staff, students and volunteers providing services on their behalf.

This self-assessment sheet includes a comprehensive list of the key requirements from the Standards and enables providers to check that their policy and procedures are compliant.

Parts 2, 3 and 5 of the Standards can be easily adapted for used as a template for the local policy. If a different approach is used, the content of the local policy and procedures must match the requirements of the Standards.

An alternative approach would be to have a summarised policy, including reference to all the elements below, but with links to the Standards for more detail on how it will be implemented.

The procedure and when to use it – the policy must:			
Define whistleblowing and whistleblower to match the definitions in the Standards		Signpost to external sources of information and advice	
Define and explain what constitutes a whistleblowing concern		Explain what should be discussed when deciding if a concern can be handled under the procedure (the 'initial discussion')	
Clarify who can raise a concern		Explain the difference between confidentiality and anonymity	
Include the requirement to provide support to anyone raising a concern		Include confidentiality and data protection (including details of what should be discussed with the whistleblower)	
Allow for whistleblowers to be accompanied at meetings by a trade union rep, friend or colleague		Protect the identity of the whistleblower during investigations	
Refer to the employer's duty of care to the person raising the concern		Guidance on handling anonymous and unnamed concerns	
Refer to the legal protections available to whistleblowers		Explain the difference between a whistleblowing concern and a grievance	
Explain how to raise a concern through existing processes (business as usual)		Include information on how to deal with claims of unfair treatment	
Explain who to raise a concern with		Explain how the organisation will handle concerns raised maliciously	
Provide a confidential contact (e.g. contact within the local health board)		Provide a brief overview of the procedure for raising a concern (e.g. a flowchart) for sharing with staff and others covered by the Standards.	

The two-stage procedure – the policy must:			
Include a description of the early resolution stage of the procedure		Explain the action to take in closing the concern at Stage 1	
Explain that the person raising the concern must want it to be handled under the procedure, and explain what to do if they do not want to		Explain when to escalate a concern to Stage 2	
Set a time limit of six months for accepting a concern, unless there is good reason for considering complaints beyond this time		Include a description of Stage 2 of the procedure	
Include the correct timeline at stage 1 – five working days		Explain the requirement to acknowledge the concern within three working days at Stage 2	
Explain the basis for an extension to the timeline at Stage 1		Explain the requirement to provide a full response to concerns within 20 working days at the investigation stage	
Explain the issues to be covered and agreed with the whistleblower during the Stage 1 discussion		Specify the information to be provided when acknowledging a concern	

The two-stage procedure (cont.) – the policy must:			
Explain the basis for an extension to the timeline at Stage 2		Explain the organisation’s responsibilities to other staff involved in the concern	
Include an outline of what should be considered when a concern is received at Stage 2		Explain the required action when responding to the concern at Stage 2	
Cover the need to tell the person who has raised the concern how the investigation will be carried out and what their role will be		Include detail on recording concerns at Stage 2	
State that investigations should be kept independent of any other procedures, including HR		Include guidance in relation to meetings and post decision correspondence with the person who raised the concern	
Outline what is expected of investigators and decision-makers at Stage 2 (<i>Paragraph 49 of the Standards</i>)		Explain the requirement to provide information about the INWO at the conclusion of the Stage 2 investigation	

Governance arrangements – the policy must:			
Explain the roles and responsibilities of staff involved in handling whistleblowing concerns, including a confidential contact		Include the requirement for senior management to review the information gathered from concerns regularly, and consider how services could be improved or internal policies and procedures updated	
Explain how to handle concerns about senior staff		Commit to reporting concerns to the relevant NHS Board on a quarterly basis (if there have been concerns raised)	
Where relevant, include information on working with other organisations (including higher education providers and voluntary sector providers)		Commit to reporting concerns to the relevant NHS board on an annual basis, even if it is to report that no concerns have been raised	
Cover confidentiality and data protection in relation to recording concerns (including reference the data Protection Act 1998)		Include the requirement to learn from concerns and make improvements following investigations at stage 1 and stage 2	
Include a list of the essential information to be recorded in relation to the concern		Include the requirement to discuss the concern with the relevant NHS Board? (<i>For small organisations, if an investigation within the organisation is not possible.</i>)	
Include arrangements to monitor concerns (including the key performance indicators in the Standards)			