

NHS Shetland

Meeting:	Board
Meeting date:	25 June 2024
Title:	Whistleblowing Standards Annual Report 2023/2024
Agenda reference:	Board Paper 2024/25/23
Responsible Executive/Non-Executive:	Executive: Dr Kirsty Brightwell Non-Executive: Joe Higgins
Report Author:	EM Watson, Chief Nurse (Corporate)/ Dr Kirsty Brightwell, Medical Director

1 Purpose

This is presented to the Board for:

- Awareness

This report relates to:

- Legal requirement
- Local policy

This aligns to the following NHSScotland quality ambition(s):

- Safe
- Effective
- Person Centred

2 Report summary

2.1 Situation

The Whistleblowing Standards have been in place since 1 April 2021. This Annual Report provides an update on progress with implementation and adherence to the Standards throughout the year April 2023 to March 2024.

This report is presented to the Staff Governance and Clinical Governance Committees for assurance prior to being reported to the NHS Shetland Board annually.

2.2 Background

The Whistleblowing Standards came into force in NHS Scotland on 1 April 2021.

Whistleblowing is defined 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.

[Definitions: What is whistleblowing? | INWO \(spsso.org.uk\)](#)

The Board is expected to follow the National Whistleblowing Standards set out by the Independent National Whistleblowing Officer in its handling of concerns raised that meet the definition of a "whistleblowing concern."

The Standards require that the number of concerns raised by staff be reported to a public meeting of the NHS Board on a quarterly basis. Reports should highlight any issues which cut across services and any lessons learnt should be used to inform decision making going forward. Issues raised via the Standards may also inform Board members' discussions on issues in relation to service delivery and/ or organisational culture.

2.3 Assessment

The following provides an overview of the progress with implementation and adherence to the Standards throughout the year April 2023 to March 2024:

Implementation Oversight

A Steering Group comprising the Executive Director, Non-Executive Director (Whistleblowing Champion), HR Director, Corporate Services Manager, Lead for OD, Chair of APF, Chief Nurse (Corporate) as Lead for Clinical Governance, and a Confidential Contact representative has been in place since the Standards were launched in April 2021. This Steering group has met on a quarterly basis throughout 2023/24.

Joe Higgins, took up post as NHS Shetland Whistleblowing Champion in December 2022. Prior to Mr Higgins appointment, Mr Taylor, NHS Orkney Whistleblowing Champion covered the role for NHS Shetland. Whilst both NHS Boards have benefitted from the sharing of ideas and experience that was possible under the joint arrangements, due to changes in leadership of the Whistleblowing agenda in NHS Orkney the NHS Boards have progressed their work on Whistleblowing separately since Quarter 2 of 2023/24.

The Whistleblowing Champion attends the national Whistleblowing Champions Network meetings and acts as the conduit between INWO and NHS Shetland, sharing information to inform the NHS Shetland approach to implementation of the Standards. This also facilitates the passing on of all communications received from INWO on various learnings and advices that we are required to take account of in our implementation of the Standards.

Investigation Process and Recording

Whistleblowing concerns can be raised in NHS Shetland through contacting the Non-Executive Whistleblowing Champion, Executive Lead for Whistleblowing or via one of the Confidential Contacts either through direct contact or via the whistleblowing inbox. The Clinical Governance and Risk Team Leader and the Executive Lead have access to the whistleblowing inbox and once an issue is submitted via the inbox, contact is made with the individual and a Confidential Contact is identified to contact the individual and discuss both the issue and whether this is a matter where the Whistleblowing Standards would apply.

All cases are discussed with the Whistleblowing Exec Lead and a decision as to the appropriate level of investigation is made by the Exec Lead. Organisationally staff are encouraged to resolve issues at as low a level as possible and therefore the application of 'business as usual' processes with support from a Confidential Contact may be all that is required to address an issue. Likewise Stage 1 concerns may be resolved by discussions and action taken at service level, with the support of a Confidential Contact as necessary. For cases that are assessed to require a Stage 2 investigation these can be complex cases that warrant a full and thorough investigation in which case the Confidential Contact will provide support for the individual throughout the Investigation period.

All enquiries to the Confidential Contacts are recorded on a section within the Datix system. This is a separate database from the Adverse Event function of Datix, and has restricted access to only the Whistleblowing Exec Lead and the Confidential Contacts. The outcome of all enquiries are recorded here, including those cases which following discussion are treated under a 'business as usual' approach or for those issues where there is no further action taken.

Data, including the types of issues raised and the outcome of all cases that proceed through the Whistleblowing route, are recorded to support lessons learnt and also for reporting to the NHS Board and the Independent National Whistleblowing Office.

The Chief Nurse (Corporate) and Clinical Governance team are in the process of finalising local policy and procedures on Whistleblowing, these are based on the national guidance from the Independent National Whistleblowing Officer (INWO) and continue to be refined in line with experience gained to date organisationally.

Training and Support

All staff are encouraged to undertake the Whistleblowing modules available on TURAS. Training for confidential contacts and managers was held prior to the Act being implemented in 2021. Whilst there has been no further local training since then, all Confidential Contacts have been encouraged to sign up to the national Speak Up Network which is hosted by staff in NHS Lothian. This network hosts meetings approx. 6 weekly and alternates between being peer support meetings and having expert speakers from topics relevant to Whistleblowing/ Confidential Contact actions. The local Confidential Contacts regularly attend the Network meeting. This network is highly valued by both Confidential Contacts locally and across Scotland.

During 2023/24 we had commenced a peer support learning and development session for Confidential Contacts and invited colleagues from NHS Orkney to join us. However, due to changes in the leadership of the Whistleblowing agenda in NHS Orkney, this is now just an NHS Shetland staff group.

We plan to utilise the case scenarios developed by INWO to further our learning and development as experience to date has been relatively limited and therefore using the scenarios will enable us to refresh skills and knowledge in terms of process, and hopefully increase confidence for those Confidential Contacts that have had no experience to date.

The Executive Lead and the Whistleblowing Champion meet with the Confidential Contacts at the beginning of the Peer support learning and development session to discuss any operational or other issues of concern. This has proven to be a very positive development and it is intended that the Executive Lead and Whistleblowing Champion will participate in the learning and development sessions with the Confidential Contacts. A Teams channel is also in place to provide a central place for accessing resources and other supporting materials by the Confidential Contacts.

Since appointment as well as being in regular contact with the Executive Lead and Chief Nurse (Corporate), the Whistleblowing Champion has visited NHS Shetland and met with the Confidential Contacts and a range of staff throughout the Organisation. This has been helpful in providing support for the process organisationally and in assisting with raising the profile with staff both of Whistleblowing and more generally regarding the role of the Non-Executive Director.

Responsibilities to 3rd Sector/Volunteers, Independent Contractors and University Students

There are Confidential Contacts available within Primary Care and the Local Authority part of the Health and Social Care Partnership (HSCP). There are annual updates sent to Primary Care, HSCP, University partners and Third sector organisations working with the NHS to raise awareness of the Standards with their staff/students and to clarify how to access the Confidential Contacts, as required.

Quarterly, and on an Annual basis, these organisations are asked to confirm whether or not they have had any issues raised under the Standards. This is then formally reported to the governance Committee's quarterly and to the NHS Board annually. No issues have been reported as being raised under the Standards during 2023/24.

Business Continuity

There are currently 7 Confidential Contacts one of whom is part of the Executive Lead's team thus providing senior leadership resilience. The process for recording and reporting concerns is within the Datix system and the Clinical Governance team are able to support individual Confidential Contacts to utilise this system where there is either skills atrophy or for new Confidential Contacts who are unfamiliar with the system.

Reporting

The Independent National Whistleblowing Office (INWO) have developed a set of KPIs against which all NHS Board's should report on an Annual basis. The following sections report on NHS Shetland's performance against these KPIs.

KPI 1 Learning, changes or improvements to services or procedures as a result of consideration of whistleblowing concerns

Learning to date has predominantly been in relation to Whistleblowing processes and procedures, and falls into the following categories:

- Time and resource required to support cases at Stage 2 is not insignificant, especially for a small NHS Board;
- Timescale to close Stage 2 concerns exceeds 20 working days;
- Importance of follow through on agreed actions to minimise the risk of these issues being raised again;
- Importance of oversight on actions until closed.

KPI 2 Report the experiences of all those involved in the whistleblowing procedure

A feedback process has been developed for all individuals raising concerns. This utilises a MS Forms format which will be issued to all individuals approx 6 weeks after the conclusion of their whistleblowing process. Using an MS Forms format will enable individuals to provide feedback anonymously, if they wish to do so. However, if individuals are reporting areas of concern we would encourage them to provide contact details in order that the Clinical Governance & Risk Team Leader can follow this up with an aim to make improvements in the system, where possible.

Whilst we have had relatively low levels of whistleblowing activity to date we have scheduled a review meeting for the first case to be reviewed as a Stage 2 in order to review the challenges experienced in progressing this case from all perspectives in order to establish any learning for future Stage 2 investigations. This review will involve the Exec Manager responsible for commissioning the Stage 2 review, Investigating Manager, Whistleblowing Exec Manager and Chief Nurse (Corporate) / Confidential Contact.

Consideration will be given as to how we seek feedback from all involved in each case going forward. This will include staff within service, Confidential contacts, service manager as well as already noted seeking feedback from the individual raising concerns themselves.

KPI 3 Levels of staff perceptions, awareness and training

Information on Whistleblowing is available for staff on the internet, intranet and has been shared regularly in the Corporate Bulletin and via the Chief Executive's all organisation briefing. This has included feedback from the organisation's Speak Up week in October 2023 being covered in the first Organisational briefing in November 2023.

Within NHS Shetland we are encouraging a safe culture for staff to speak up and for managers to feel confident and competent to manage and/ or escalate concerns appropriately. Managers' bundles are in place which support the development of advanced communication skills and how to manage situations where interpersonal communication difficulties have arisen. Resources which provide support for Managers in dealing with issues of concern have been developed through INWO and are being promoted with Line Managers throughout the service.

A Communications Plan was in place for 2023/24 to ensure that there was regular awareness raising for staff about the Whistleblowing Standards and how to effectively raise any issues of concern. This proved to be a very useful tool in ensuring that the profile of speaking up was raised in different ways, and on various occasions throughout the year eg sharing of INWO Managers resources, article by the Employee Director, Exec Lead article on Speak up/Listen Up encouraging Managers to listen to issues raised.

An audit of Communications was carried out by Internal Audit in February/March. This audit had a specific focus on how the organisation communicates on Whistleblowing/ Speak Up. The Audit report noted as good practice the communications and accessibility of information on speaking out for staff, as well as the opportunity to meet the Non-Exec Whistleblowing Champion, Exec Lead and Confidential Contacts which was provided through the reaching out sessions held for staff during Speak Up week in October 2023. Good governance was noted, with no weaknesses identified and no management actions required in relation to Whistleblowing policy and procedures.

The iMatter survey in 2023/24 had 2 questions asking staff to help us understand how they feel about raising concerns at work. These were

- I am confident that I can safely raise concerns about issues in my workplace
- I am confident that my concerns will be followed up and responded to

In NHS Shetland, 98.27% of staff completed these voluntary questions, with 90% of those stating that they felt confident that they could safely raise concerns about issues in the workplace. Whilst slightly less staff, 83%, felt confident that their concerns would be followed up and responded to. The scores for both of these questions were 8% above the national average score.

National 'Speak Up' week was held 2-6 October 2023, which provided an opportunity to further raise the profile of speaking up/ whistleblowing locally. Opportunities were made available for staff to link into sessions being held by INWO and locally, a programme of visits and/or open sessions was held at various locations across the organisation. At each session an Executive Director, Non-Executive Director and a Confidential Contact attended areas and discussed with staff about raising concerns, how to do this and support available within the organisation to staff who had any issue of concern that they wished to raise.

Over 115 staff members from a range of disciplines, across the organisation were engaged in this process and a number of items which were causing concern were raised. An overview of the sessions and issues raised were then shared with the Executive Management Team on 1 November by the Whistleblowing Champion and Chief Nurse (Corporate) for ownership and follow up actions.

In addition to issues of concern being raised there were a number of ideas put forward for increasing visibility, knowledge and support with whistleblowing across the organisation. This included repeating the site visits on a more regular basis, increasing contact between Confidential contacts and staff, and increasing the profile of whistleblowing and of the Confidential Contacts on the Intranet site.

A feedback session was also provided to the Area Partnership Forum on the 2 November where support was gained for increasing the number of Confidential Contacts across the organisation, recognition of the Confidential Contact role by the allocation of the equivalent of 'Facilities' time to Confidential Contacts whom to date have provided this service on a voluntary basis in addition to their role in the organisation and a need to consider training for managers in relation to managing issues raised by staff under the whistleblowing standards, as well as skills development to support Managers in the conduct of Investigations .

As well as providing an opportunity to raise awareness of the Whistleblowing Standards, the Speak Up sessions also enabled staff to discuss any concerns that they had and to be signposted to appropriate ways to address these whether through Whistleblowing or other organisational processes. It is planned to develop a general information resource to signpost staff to the variety of support systems available within the organisation.

Whistleblowing sessions have been delivered at Corporate Induction sessions for all new staff since April 2023. With the exception of 3 sessions, all Corporate Induction sessions (2 per month) have been covered over the year April 23 to end of March 24. These sessions are generally delivered by a Confidential Contact and thus gives staff new to the Organisation an opportunity to both meet a Confidential Contact and understand about the role from the outset of their employment.

KPI 4 Total Number of Concerns Received

In 2023/24, 10 concerns were received into the whistleblowing inbox.

All concerns raised have been about services within the NHS Board and/or Health and Social Care Partnership. An overview of how these were managed is provided below:

Concerns received managed via	Number of concerns
BAU Processes	5
Not a Whistleblowing issue	1
Withdrawn / Not progressed by Individual	2
Stage 1	0
Stage 2*	2

*Due to the complexity of the concerns raised in one of the Stage 2 Investigations, this required an external investigation to be commissioned. Investigation timescale is outwith the 20 days standard for Whistleblowing Investigations, however, the individual has been kept up to date with the progress of the Investigation and has received appropriate support from a Confidential Contact throughout this period.

KPI 5 Concerns closed at Stage 1 and Stage 2 of the whistleblowing Procedure as a percentage of all concerns closed

Two cases were closed in 2023/24, both of which were Stage 2 cases, ie Stage 2 closures 100%.

KPI 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

Concerns were either upheld or partially upheld in both Stage 2 concerns closed in 2023/24.

KPI 7 Average time in working days for a full response to concerns at each stage of the whistleblowing procedure

Concerns managed via	Working days
Stage 1	Not applicable
Stage 2	Case 23/24 – 19 working days Case 22/23 – 245 working days
Average for Stage 2	132 days

KPI 8 Number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days

No Stage 1 concerns raised, therefore nil (0%) were closed within the 5 working days.

1 out of 3 concerns Investigated at Stage 2 was closed within the 20 working days timescale. This is 33% of the Stage 2 concerns dealt with in 2023/24.

KPI 9 Number of concerns at stage 1 where an extension was authorised as a percentage of all concerns at stage 1

No Stage 1 concerns raised.

KPI 10 Number of concerns at stage 2 where an extension was authorised as a percentage of all concerns at stage 2

Of the 3 Whistleblowing concerns to date which have required a Stage 2 Investigation, we have had only one (33%) which has been completed within the 20 days timescale. This Investigation was undertaken by an Experienced Senior Manager within the local services. Learning from this case has highlighted the need for the organisation to consider for the future how we support resourcing these Investigations to enable them to be conducted in as timeous way as possible for the benefit of patients, staff and the whistleblower.

Sixty seven percent (67%) of all our Stage 2 Investigations to date have required extensions to be authorised.

Summary

Over the last year work has continued to embed awareness of the Whistleblowing Standards across the organisation. Confidential contacts are available and readily accessible to staff across NHS Shetland and the Health and Social Care Partnership, with work being undertaken to ensure that Confidential Contacts can keep their skills current.

Over the last 12 months we have seen a material increase in the number of concerns submitted to the whistleblowing inbox and believe this to be as a result of the range of activities undertaken to raise awareness of whistleblowing amongst staff, in particular following the activities around Speak Up week. The concerns raised have required action at different stages of the process and have been actioned accordingly, although as noted above we have experienced considerable delays to the 20 working days timeframe for Investigation and reporting on Stage 2 concerns.

2.3.1 Quality/ Patient Care

The Whistleblowing Standards were introduced to support staff in raising issues of concern about matters that are in the public interest. Matters that are in the public interest include issues relating to patient care, poor practice, unsafe working conditions, fraud etc. It is important that individuals feel safe to raise these issues as this supports the development of a positive patient safety culture across the organisation.

Activity in 2023/24 has increased particularly on the back of the Speak Up week sessions. This is hopefully a reflection of the impact of the awareness raising carried out to date and the development of an increasingly open culture within the organisation where staff can feel safe to seek support to talk about any issue of concern. Accessing Confidential Contacts can help individuals to consider and seek appropriate ways to address their concern, whilst being supported through the process.

2.3.2 Workforce

Having systems and processes in place to support staff to raise issues of concern is important in ensuring psychological safety in the workplace for staff as well as supporting the development of an overall safety culture in the organisation to the benefits of patients and staff.

2.3.3 Financial

Whilst there is no direct financial impact of this report, there may be a requirement to fund publicity materials and/ or training for staff which will have a financial consequence to the organisation. Any costs will have to be met from within department/service budgets as there is no dedicated budget to support this area of practice.

2.3.4 Risk Assessment/Management

There is a risk that awareness of the Whistleblowing Standards in the organisation erodes over time. This will be monitored by the steering group and appropriate action taken, as required.

Due to the relatively low level of issues raised to date, there is also a risk that the Confidential Contacts' confidence erodes over time and/or that they chose to no longer provide this service. This will be monitored by the steering group and remedial action taken as required to ensure that NHS Shetland can continue to support individuals who raise issues of concern. There is a Teams page for the Confidential Contacts to use for peer support and the INWO training materials will be used for development within the local Confidential Contacts meeting.

There is a risk that the information about raising concerns through the Confidential Contacts will be undermined with staff turnover. This will be monitored by the steering group.

There is a risk that as the number and complexity of issues raised under the Standards increases that the work undertaken by the Clinical Governance and Risk Team to support the Whistleblowing process will be unable to be sustained without an investment in capacity within the Team.

The Clinical Governance and Risk Team have been impacted significantly recently with both the Chief Nurse (Corporate) and Clinical Governance and Risk Team Leader being actively engaged in both supporting Whistleblowing processes and individuals involved in a Stage 2 Investigation.

There is a risk that the non-adherence to timeframes as outlined in the Whistleblowing Standards makes staff lose confidence in this as a way of raising issues of concern which are in the public interest, and that lessons learnt fail to be recognised and implemented in a timely way, leading to the potential for further harm. There is also the potential that INWO consequently review the process of how Whistleblowing concerns are managed within NHS Shetland.

There is a risk that awareness in the organisation erodes over time. This will be monitored by the steering group and appropriate action taken.

There is also a risk to the organisation if remedial actions are not followed through that this compromises investigations, and creates a lack of clear follow through on issues of concern raised thus increasing concerns about the merit in speaking up .

2.3.5 Equality and Diversity, including health inequalities

Due regard requires to be paid by the organisation at all times to assure the Board that it can meet its Public Sector Equality Duty, Fairer Scotland Duty, and the Board's Equalities Outcomes.

Monitoring of the issues raised under the Whistleblowing Standards will enable us to have oversight of whether there are any equality and diversity issues arising. These will be actioned and reported accordingly.

2.3.6 Other impacts

There are no other impacts of this report.

2.3.7 Communication, involvement, engagement and consultation

Alongside regular awareness raising amongst staff, the Board has carried out its duties to involve and engage external stakeholders during 2022/23. This has included:

- Independent Contractors (dental, GP, community pharmacy, opticians);
- Students – via local coordinator for University of Aberdeen medical students and Practice Education Lead for nursing and AHP students;
- Third sector organisations.

2.3.8 Route to the Meeting

This Annual Report provides a summary of the information presented via the quarterly reports to the Governance Committee's throughout 2022/23, minutes from Steering Group meetings and/or meetings of the Confidential Contacts.

2.4 Recommendation

This is presented to the Clinical Governance Committee (CGC) for:

- Awareness

2 List of appendices

There are no appendices attached to this report.