

# The Draft National Whistleblowing Standards

## Part 5

### Governance: Board and staff responsibilities

May 2019

## Role of the Board of Directors

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### *Leadership*

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

### *Monitoring*

4. The number of concerns raised by staff will be reported to the Board of Directors on a quarterly basis. It is the Board of Directors' responsibility to ensure this reporting is timely and accurate. The analysis should highlight issues that may cut across services, or that can inform wider decision-making. The Board of Directors 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 the Board of Directors challenge the information being presented or seek additional supporting evidence of outcomes and improvements.

### *Services provided by other organisations*

5. The Board of Directors is 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 of Directors also have responsibility for ensuring there are arrangements in place which ensure students and volunteers are made aware of their right to access this procedure. In addition, they must have systems 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 Boards in relation to monitoring contracted services, primary care providers, integration joint boards, higher education institutions and voluntary sector providers.

### *Support for the Whistleblowing Champion*

9. As non-executive directors, Whistleblowing Champions are part of the Board of Directors. The Board of Directors must demonstrate support for the Whistleblowing Champion, and must listen to and take action as a result of the issues raised.

### *Support for the person raising concerns*

10. The Board of Directors' leadership in 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 that have raised a concern, even if their concern involves issues relating to other staff or line management. Alternative options should be considered.

## **The Whistleblowing Champion**

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12. Each Board of Directors 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 and assurance in making sure 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 of Directors 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 a 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 Health and Social Care Partnerships, 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**

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### *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 that 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.

### *Service directors*

18. On the chief executive's behalf, service directors may be responsible for:

- 18.1. Managing whistleblowing concerns and the way the organisation learns from them;
  - 18.2. Overseeing the implementation of actions required as a result of a concern being raised;
  - 18.3. Investigating concerns; and/or
  - 18.4. Deputising for the chief executive on occasion.
19. In particular, directors have responsibility and accountability for signing off Investigation Stage 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.
  20. 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.
  21. 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 with them. In addition, they may be contacted in relation to concerns about primary care. These concerns may come to the NHS Board in a range of ways:
    - 21.1. From staff within primary care services, who are reluctant to raise concerns to their employer;
    - 21.2. From staff that have already raised concerns with their employer, but have not had a satisfactory response (Stage 2 concerns); or
    - 21.3. 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.
  22. There is more detailed information available about requirements on NHS Boards in relation to primary care services as well as requirements on primary care providers (see Part 8) and higher education institutions (see Part 10).

### *HR director*

23. HR 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 that

could amount to a whistleblowing concern, is appropriately signposted to this procedure for full consideration.

24. However, they do not 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.

### *Investigators*

25. Investigations must be carried out by an appropriately skilled, senior member of staff from another directorate, with no overlap with the issues of concern. They need to take full account of the sensitivities of the case, and have strong interpersonal skills. They need to be able to separate out the HR from the whistleblowing concerns, and to focus on the issues which are appropriate to this procedure.
26. Investigators have an important role in drafting recommendations. They should listen to those that 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*

27. NHS Boards 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 who want to raise concerns. They 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.
28. However, this role goes beyond simply providing advice and support to those raising concerns. In particular, they need to:
  - 28.1. Work with the Whistleblowing Champion to ensure that all staff are aware of the arrangements for raising concerns within their organisation;
  - 28.2. Promote a culture that sees the raising of concerns as a route to learning and improvement;
  - 28.3. Ensure staff are aware of and have access to the support services available to them when they raise concerns; and
  - 28.4. Assist managers in using concerns as opportunities for learning and improvement.
29. '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; it should not be held by a representative from HR.

30. 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 promotion 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.

### *Managers*

31. Any manager in the organisation may receive a whistleblowing concern. So all managers must be aware of the Whistleblowing Procedure (see Part 4) 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, 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.

### *INWO liaison officer*

32. The NHS Board's INWO liaison officer has 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 reports. They are also expected to confirm and verify that recommendations have been implemented.

### **Training**

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33. NHS Boards need to ensure that their staff have the knowledge and skills to implement the Standards. In particular, those with specific responsibilities in relation to raising concerns must have appropriate training to ensure they can fulfil their roles and are fully informed of the requirements of their role within the Standards. This includes:
  - 33.1. Whistleblowing Champions;
  - 33.2. Confidential contacts/whistleblowing ambassadors, and any other representatives for raising concerns;
  - 33.3. Service directors involved in signing off investigations; and
  - 33.4. Investigators.

## Handling concerns about senior staff

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34. Whistleblowing concerns raised about senior staff can be difficult to handle, as there may be a conflict of interest for the staff 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. The organisation must ensure there are strong governance arrangements in place that set out clear procedures for handling such concerns. For example, each NHS Board must clearly set out how it intends to consider a concern raised about the chief executive or member of the Board of Directors.

## Working with other organisations

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### *Services provided on behalf of the NHS*

35. 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.
36. 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 of Directors are required to ensure that systems are in place to facilitate this reporting, and that they receive quarterly reports about concerns raised and performance against the Standards. This reporting should clearly differentiate between concerns raised within the NHS Board and its contractors.

### *Higher education providers*

37. 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 that 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.



38. NHS Boards are required to ensure that systems are in place to enable that 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](#).
39. NHS Boards also need to ensure that concerns raised by staff or students of HEIs are included in any reporting of concerns to the Board of Directors and externally.
40. Further information on arrangements for students (see Part 10) covers these requirements in more detail.

### *Integration joint boards*

41. 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 be able to raise concerns about these services, whether they are employed by the local authority or directly by the NHS.
42. 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 difference required procedurally 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.
43. NHS Boards also need to ensure that concerns raised by staff in integrated services are included in any reporting of concerns to the Board of Directors and externally.

### *Voluntary sector providers*

44. 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, and 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.

45. 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.
46. NHS Boards also need to ensure that concerns raised by volunteers or volunteer coordinators are included in any reporting of concerns to the Board of Directors and externally.
47. Further information on arrangements for volunteers (see Part 11) covers these requirements in more detail.

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