The Draft National Whistleblowing Standards

Part 6

Governance: from recording to learning lessons

May 2019

The importance of recording and reporting

1. One of the main aims of the whistleblowing procedure is to ensure learning from the outcome of whistleblowing concerns and to identify opportunities to improve NHS services.

2. Managers must record all whistleblowing concerns, including anonymous concerns, in a systematic way so that the concerns data can be analysed to identify themes, trends and patterns and to prepare management reports. By recording and using concerns information in this way, the root causes of concerns can be identified and addressed, such as through service improvements or training opportunities.

IT systems

3. The organisation must have structured systems for recording whistleblowing concerns, their outcomes and any resulting action taken to resolve the concern. It is important that these systems are able to hold records in a way that takes full account of the need for staff confidentiality, the requirements of GDPR, and the current Scottish Government Records Management Code of Practice.

Confidentiality

4. It is essential that recording systems are able to maintain confidentiality, and that access to personal information is restricted. In some cases this will mean that only one person or a very select (and specific) group can access this personal information. The person raising the concern needs to be informed of, and give their consent to, whom their personal information is shared with.

5. The concern can be shared more widely than the person's personal details, though care must still be taken to consider who will have access to this information and what assumptions may be made about who had raised the concern. This information should be shared only where it is necessary to resolve or investigate the concern. There should be an assumption against sharing information unless there is good reason to do so, to reduce risks for patients and/or the organisation.

Access

6. All managers and the organisation's confidential contact or whistleblowing ambassador must be able to record concerns. However, they must not be able to access other records, unless they have good reason to do so, and have been given specific permission.

7. It may be appropriate to hold personal information about the person who has raised the concern in a different part of the system from that which contains details of the concern raised and handling of the case. Each organisation's IT arrangements will vary, to reflect their structures and the size of the organisation.

Enabling reporting

8. The organisation must ensure that systems allow for full reporting of all concerns raised under this procedure, whoever they have been raised with. There will be some members of staff who need access to data specifically for reporting purposes. As a minimum this would include the organisation's confidential contact or whistleblowing ambassador and the Whistleblowing Champion (for Boards). Most organisations will need to ensure that others can also access some or all of this information, and it is for each organisation to establish how best to ensure effective reporting arrangements.

What to record

9. It is essential to record all information on whistleblowing concerns (including concerns raised anonymously) as follows:

   9.1. person's name, work location (where appropriate), and contact details (mindful of their preferred method of contact) – access to this information must be restricted;

   9.2. the nature of the concern raised;

   9.3. if the concern was raised on behalf of another person, whether that other person has given consent to do so;

   9.4. what role the person raising the concern has (e.g. nurse, technician, doctor, administrator, etc.);

   9.5. date when the concern was received;

   9.6. date on which the event occurred;

   9.7. how the whistleblowing concern was received;

   9.8. service area to which the whistleblowing concern refers;

   9.9. whether the concern includes an element of bullying and harassment and/or other HR issue;

   9.10. whether the concern raises issues of patient safety;

   9.11. whether the person has already experienced detriment as a result of raising this concern;

   9.12. date the concern was closed at the early resolution stage (where appropriate);

9.13. date the concern was escalated to the investigation stage (where appropriate);

9.14. date the concern was closed at the investigation stage (where appropriate);

9.15. outcome of the investigation at each stage;

9.16. findings in relation to safety concerns and potential harm;

9.17. findings in relation to concerns of fraud or administrative failures; and

9.18. action taken to remedy any findings.

Key performance indicators

Reporting whistleblowing concerns

10. All NHS service providers **must** record and review information in relation to concerns raised about their services on a **quarterly basis**.

11. Data required for these quarterly reports is based on these key performance indicators (KPIs):

11.1. a statement outlining learning, changes or improvements to services or procedures as a result of consideration of whistleblowing concerns;

11.2. a statement to report the experiences of all those involved in the whistleblowing procedure (where this can be provided without compromising confidentiality);

11.3. a statement to report on levels of staff perceptions, awareness and training;

11.4. the total number of concerns received;

11.5. concerns closed at Stage 1 and Stage 2 of the whistleblowing procedure as a percentage of all concerns closed;

11.6. 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;

11.7. the average time in working days for a full response to concerns at each stage of the whistleblowing procedure;

11.8. the number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days;

11.9. the number of concerns at Stage 1 where an extension was authorised as a percentage of all concerns at Stage 1; and

> 11.10.   the number of concerns at Stage 2 where an extension was authorised as a percentage of all concerns at Stage 2.

12.   Further information and guidance [will be] provided in relation to these KPIs, and in particular in relation to the INWOs expectations of the statements at points 16.1-16.3.

Performance at Stage 2 and extensions

13.   The timescale of 20 working days for a concern to be closed at the investigation stage aims to ensure cases are progressed as timely and efficiently as possible; while overall timescales will be measured, there is no performance measure or KPI that sets down how many cases must be closed within this timescale.

14.   Extensions to timescales should be signed off by senior leadership, and only when it is clear that additional time is needed to ensure a thorough and robust investigation of the issues of concern. If an extension is granted, those involved must all be informed of indicative revised timescales and regular updates on progress must be sent every 20 working days.

15.   Any related HR processes should progress in parallel with an investigation into the concerns raised through this procedure. Every effort should be made to avoid delay in this procedure as a result of associated HR procedures, as this could raise the risk of unsafe or ineffective service delivery.

Senior management review

16.   Concerns must be analysed for trend information to ensure service failures are identified and appropriate action is taken. Quarterly reporting to senior management helps to identify how services could be improved or internal policies and procedures updated. Where appropriate, this review must also consider any recommendations made by the INWO in relation to the investigation of NHS whistleblowing concerns.

17.   The outcomes of these reviews should be reported via the organisation's governance structure to the Board of Management or equivalent governing body.

Reporting from primary care and other contracted services

18.   NHS Boards are responsible for ensuring all primary care and other contracted service providers supply the appropriate KPI information to their Board as soon as possible after the end of the quarter.

19. For contracted services, the contract or service level agreement must set out the requirements in relation to reporting concerns.

20. In instances where no concerns have been raised within either primary care or other contracted services, there is no need to provide a quarterly return to the Board, but annual reports must still be submitted, setting out the concerns that have been raised over the year, or an explanation that there have been no concerns raised. The Board should use this longer term monitoring of the raising of concerns to gain assurances that staff have confidence in the systems in place.

Learning from concerns

21. The two key ways of learning from concerns are:
    21.1. Identifying improvements based on the findings of an investigation; and
    21.2. Using statistical analysis of concerns raised at a departmental or organisational level to identify recurrent themes, trends or patterns of concerns.

Improvements following investigations

22. When an investigation identifies that there is a need for change the organisation must proactively explore the root causes of the concern, how widespread the issue is and the likelihood of recurrence.

23. Investigations may identify improvements which are applicable across other services or clinical departments, and it is important for senior leaders to ensure that every opportunity is taken to explore when service improvements can lead to wider organisational learning.

Statistical analysis

24. Statistics can be used to identify trends, themes and patterns from the concerns raised across a department or service. Given the potential for different routes to be used to raise concerns, and for confidentiality concerns to limit the number of people informed of them, it is particularly important that the outcomes of concerns are reported and analysed.

25. Where a pattern is identified, this must be fully explored to identify if there are any shared root causes which should be addressed. For example, several concerns raised about cleaning services may reflect a more significant issue in relation to the delivery of cleaning services within a department.

Annual reporting and monitoring performance

26. Boards must publish an annual report setting out performance in handling whistleblowing concerns. This should summarise and build on the quarterly reports produced by the Board, including performance against the requirements of the Standards, KPIs, the issues that have been raised and the actions that have been or will be taken to improve services as a result of concerns.

27. Boards must work with their services providers (including primary care (see Part 8)) to ensure they get the required information so that this annual report covers all the NHS services provided through the Board. Integration Joint Board (IJB) (see Part 9) reporting must also be covered in this report, unless a separate annual report covering all IJB services is published by the IJB itself. The annual report must also include concerns raised by students (see Part 10) and volunteers (see Part 11).

28. This provides the opportunity for Boards to show that they have listened to their staff, addressed the concerns raised and made improvements to services. A focus on the lessons that have been learned will demonstrate that concerns are taken seriously and that staff are treated well through the process.

29. An increase in the number of whistleblowing concerns is not necessarily a cause for concern, it may reflect a shift towards a culture that values the raising of concerns as opportunities to learn and improve. However, an increase in anonymous whistleblowing concerns may be driven by different considerations, and potentially a culture that does not value the raising of concerns. The reason for such trends must be fully explored, and appropriate actions taken in response.

30. Every effort must be made during the preparation of these reports to ensure that the identities of those involved in whistleblowing concerns cannot be discerned from the information or context provided in the report. This is particularly relevant where small numbers of cases are involved. In such instances it may be necessary to provide more limited information.

31. These reports must be easily accessible to members of the public and available in alternative formats as requested.

Sharing the learning

32. As well as publicising performance in relation to concerns handling, all providers should show that they encourage staff to speak up, and that doing so leads to improvements in services. This can be achieved through sharing the learning from concerns as widely as possible, and by publicising good news stories on a regular basis. This could be through staff newsletters, leaflets, posters or on staff intranet pages, to ensure that staff across the organisation

have easy access to it. This helps to show staff that raising concerns can influence service delivery and improve the profile and transparency of the whistleblowing procedure.

33.   Openly and regularly discussing improvements that have been made as a result of concerns raised by staff at a team or departmental level will also encourage staff to raise their concerns. This must be done carefully and with sensitivity, to ensure appropriate confidentiality is maintained. However, the benefits of gaining staff trust through discussing and sharing improvements should be explored when possible.