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The Draft National Whistleblowing Standards

Part 12

Examples and case studies

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Examples of concerns appropriate to address through 'business as usual' vs. those appropriate for Stage 1 of this Procedure

Concern raised	Implementation of the whistleblowing procedure
A GP practice manager (PM) notices that the record for monitoring the medication in the fridge has not been kept up to date recently. They raise this with the practice nurse (PN), as part of business as usual, at their regular monthly meeting.	PN checks the records, and identifies the gaps as relating to her recent holidays. They double check that the current stock of medication is all in date. They also update the instructions for locum nurses, to ensure they include the need to check the fridge and where to record the check.
A laboratory technician (LT) notices that some of the samples coming from a ward have labels that have not been completed properly, and they are concerned this could lead to errors in testing in future. They raise their concern with their manager (M), as part of business as usual.	M contacts the ward manager (WM) who notes the problem, and agrees to mention this at the next ward meeting. They also send an email out to all ward staff to ensure practices change as quickly as possible. LT never hears what the outcome was, but they do not notice any other errors over the next few weeks.
A nurse (N) has used Datix to raise concerns several times about inadequate staffing over the last month. They considered this reporting to be in line with their code of conduct, and part of business and usual. However, they then decide to write to their manager (M) about these issues, asking what is happening, to ensure there is no repetition.	M must identify a suitable time to discuss this situation with N. They should discuss the staffing issues raised, and M should explain what they propose to do to look into the situation. M should also discuss the option of taking N's concerns further through the whistleblowing procedure, and check that N is happy for the staffing issues to be recorded and investigated in this way. It should be highlighted that the issue will be looked into in any case, as the organisation needs to understand what is going wrong and how to ensure these staffing shortfalls do not continue. Through the whistleblowing procedure, M will be able to provide N with some support and protection during the investigation.

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Concern raised	Implementation of the whistleblowing procedure
	If N is unwilling to have their concerns recorded as whistleblowing, then it should be recorded as an anonymous whistleblowing concern. If N is happy to have their concerns logged using their details, then they will be able to be informed of the outcome. Email can be used but only if N is happy for their NHS email to be used in this way. Once this is explained, N is assured that it would be better to raise it through the whistleblowing procedure, and is keen to understand the outcome. Once M has had a chance to consider what the staffing issues are, and if necessary has discussed remedies with senior management, then they inform N of the outcome as soon as possible, and within five working days.
A junior doctor (D) notices that a consultant (C) does not wash their hands between patients. They try to raise it in a low-key way, as part of business as usual, but C brushes off the remark. D emails the lead clinician (LC) about this situation, asking how best to resolve the situation; D is worried C will have taken offence.	LC writes to D thanking them for raising this issue, and inviting them to a short meeting to discuss how best to handle this. At the meeting LC suggests that it may be best to handle this through the whistleblowing procedure if D is happy to, because this would provide D with more support and protection. D agrees to this approach, though they note they had not meant to whistleblow. LC suggests that they could raise this directly with C. However, D is wary of the consequences of this action, as they feel that C could identify that the concern has been raised by them. As an alternative, LC suggests that the issue is raised more generally at the next clinical safety meeting, with a focus on reminding all staff of their responsibilities. D is happy with this approach, but has requested that their concerns are kept confidential, and that records are not accessible to other clinicians. LC agrees to ensure this is done, and thanks D for raising this concern.

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Concern raised	Implementation of the whistleblowing procedure
	LC raises hand-washing as a general reminder to all staff at the clinical safety meeting, and highlights some recent statistics about incidents of infection rates. They also write to D to confirm that this has been done, and to refer them to the next stage of the whistleblowing procedure should they notice any further incidents of this issue.
A student nurse (SN) notices that some of the medicines in the ward fridge are out of date and raises this concern with the charge nurse (CN) as part of business as usual. CN says there is no time for a full audit of the fridge medication at this time, and no more action is taken. When SN checks the fridge again a week later they note that no action has been taken to remove out of date medication. SN speaks to their university supervisor (US) and agrees that this concern should be raised again, in writing. They discuss who should write to the CN, and it is agreed that SN will email CN and copy US into the email.	After receiving the email, CN replies to SN to find an appropriate time to discuss the situation. They also check whether US would also like to attend the meeting, but as this would delay the meeting, SN agrees to go ahead without US. They offer the option of using the whistleblowing procedure to raise this concern, and note the benefits of this for SN in terms of protection and support. CN and SN meet to discuss the situation. CN thanks the student for raising this issue again, and explains the normal procedures for checking medication in the fridge. They note that an audit is appropriate, and asks SN if they would like to be involved in this process, for a learning point. SN agrees, and is put in touch with the nurse who will be undertaking this audit. CN also looks into what has broken down with the normal procedures. They identify that it has not been done during the last month, but there is no obvious reason for this oversight. They raise the issue at the next staff meeting, and identify that new staff have not been fully trained in the ward procedure for checking fridge medication. Due to absence of some longer serving staff in recent weeks, this oversight had not been remedied. CN identifies all those in need of further training. They also provide a full explanation to SN as to what happened and why, and what has been done to ensure it doesn’t happen again. They again thank SN for raising these concerns.

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Concern raised	Implementation of the whistleblowing procedure
A new receptionist (R) in a GP practice overhears a female patient saying they do not want to see one of the male GPs. The other receptionist passes comment that it wouldn't be the first time. The following week another female patient refuses to see the same GP, and R becomes concerned that the GP may be abusing patients. R raises her concerns directly with the practice manager (PM).	PM thanks R for raising their concerns. PM gives assurances that no complaints have been made by patients about the GP, and that their list was the same as those of the other GPs in the practice. However, PM says they would record the concern that had been raised and they agree to note it as a stage 1 whistleblowing concern. They also agree that if R has any further concerns, they should raise them as soon as possible. PM reminds all staff at a regular practice meeting about the need to manage sensitive consultations carefully, and checks out with staff if there have been any barriers to using chaperoning recently (when another member of staff is present during certain procedures). They request that all staff use chaperoning when it is appropriate, and that if they have any concerns about these issues, they should raise them with PM.

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Examples to help to distinguish between whistleblowing and grievance/ bullying & harassment issues

Detailed below are some examples to help determine if the issue raised should be addressed under whistleblowing or grievance or bullying and harassment procedure:

Whistleblowing	Grievance/Bullying and Harassment
Key test: The issue is in the public interest.	**Key test:** The issue relates solely to an individual and therefore is a matter of personal interest.
Management persistently pressurises the team into dangerous overtime conditions.	I haven't been granted my flexible working request.
Dangerous working practices of an individual 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 that may be a risk to others. [Note: or may just suspect that there is something inappropriate happening in an area which could be a risk to the public but not have substantial evidence.]	I am not happy with the way that my manager spoke to me when they discovered I was not following the correct health and safety procedures.

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Case studies

The following case studies illustrate how whistleblowing concerns should be handled in a range of circumstances and scenarios:

1. When a concern should be escalated to Stage 2 because it has already been considered at Stage 1.
2. Where the issues or timescales involved require direct consideration at Stage 2.
3. How timescales are handled at Stage 2, particularly when the concern is not resolved in 20 working days – an issue which will be of significance in many complex cases.
4. When raising whistleblowing concerns leads to actions that warrant HR involvement though grievance or bullying & harassment procedures.
5. When it is important to give careful consideration to who and how to feedback during and at the end of the whistleblowing procedure.
6. Consideration of the kinds of support available and how the whistleblower could be protected from any ill effects of having raised a concern.

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Bullying within a dental practice

This case study covers a case handled directly at Stage 2, interaction with HR procedures and the need for support and protection.

A part-time dental nurse (DN) in a dental practice with four dentists feels they are being bullied into working longer hours than they are contracted to. The situation has developed over several months, and their relationship with one dentist (D) in particular has become strained.

When DN notices that the cleaners have not been cleaning some areas of the surgery, they raise concerns with one of the other dentists. However, their concerns are brushed aside. DN becomes concerned that all the dentists will hear about this and the bullying will get worse.

After speaking to a representative from the British Association of Dental Nurses (BADN), DN decides to write to the practice manager (PM), outlining their concerns about their treatment and in relation to the cleanliness of the surgery.

PM meets with DN and they discuss what has happened both in relation to the suggestion of bullying, and in relation to concerns over cleaning. They agree that these are two separate issues, which should be progressed through different procedures.

The whistleblowing procedure can be used to provide support and protection for DN in relation to the issues of cleanliness. PM agrees to investigate the records and to undertake a more general review of the contract, which has been in place for two years without review. On this basis, they will ask other nurses for their feedback on cleanliness, and this will provide the information they need to take appropriate action with the cleaners. This will also mean that any action is based on information from several sources, so DN's own input will be less significant.

They discuss the support and protection provided by the whistleblowing procedure, and what this could mean in terms of support for DN, including follow-up meetings, counselling and other support available through the BADN. PM provides assurances that their discussion will be kept confidential in relation to the whistleblowing concerns, as much as this is possible.

When PM asks other nurses for their input they find that several of them have identified issues, but have not raised them to date. This raises concerns for PM in relation to the cleanliness, which they deal with through the contract with the cleaners. It also raises concerns about staffing issues.

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PM provides feedback on the outcome of the cleaning review to all staff. They also feedback specifically to DN who raised concerns, to clarify that this has been handled through Stage 2 of the whistleblowing procedure (because of the timescales involved in the cleaning contract review) and that if they have any concerns about how the issues have been investigated or responded to they could go to the Independent National Whistleblowing Officer (INWO).

PM pursues the concerns about D, in line with their grievance procedures, focusing on the bullying relating to working hours, and on the fact that other staff have been reluctant to raise concerns.

A bank nurse in a care of the elderly ward

This provides an example of a case handled directly at Stage 2, interaction with HR procedures, where timescales need to be extended and more complex arrangements for feedback.

A bank nurse (BN) on a care of the elderly ward raised concerns with the bank about the treatment and neglect of patients, and said they did not want to return to work on the ward. The concerns included staff shouting, using abusive language, poor basic hygiene, and falsification of records. The manager of the nursing bank (M) raised these concerns with senior nursing staff in the Board. The Board took the concerns seriously from the outset and commissioned a full investigation under stage 2 of the whistleblowing procedure.

The senior nurse (SN) in the Board involved in the investigation met with M, BN and their Royal College of Nursing (RCN) representative. BN was provided with assurance that they had done the right thing by reporting their concerns. They reviewed BN's experiences on the ward, and explored what support was in place for BN through the whistleblowing procedure. The RCN representative also provided support to ensure BN could continue to work for the bank.

An investigator (I) was identified from another department, and their first task was to identify the scope of the investigation, and establish roughly how long it might take to complete. It was soon clear that the investigation would require several members of staff to be interviewed, often with representatives of professional bodies. As a result, it was anticipated from the outset that the timescales for the investigation would be longer than 20 working days. BN and M were informed of the likely timescales for the investigation within 20 working days of when M had raised the concern with SN, and were kept informed every 20 working days of what progress had been made with the investigation.

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The investigation found that some staff had failed to follow safe practice. It upheld the majority of the concerns raised by BN, though it was noted that poor practice was more significant when staff were unobserved. Further action was taken against these staff through the Board's HR procedures.

The investigation also identified that staff sickness absence was an issue in the ward. It also found that staff documented care when no care had been given, and that this reflected a wider culture that lacked compassion and respect for patients.

The Board took full ownership and responsibility for the issues identified. They put in an immediate action plan, and they wrote to all the staff involved. They also apologised to the patients and their families. They wrote to BN to thank them for raising the initial concerns, and provided a full update on what action had been taken, while withholding appropriate information in relation to the HR action.

Care assistant in a surgical ward

This provides an example of a case handled directly at Stage 2, where timescales need to be extended and more complex arrangements for feedback.

A care assistant (CA) working in a surgical ward noticed that the cleaners attended to clean the bathroom off a small ward. They were in and out so quickly that they could not have cleaned it properly, but the chart had been signed. CA knew the importance of cleanliness, particularly as patients on the ward had recently had surgery. However, they had raised other concerns recently, so they were reluctant to raise another one. CA decided to wait and monitor the cleaners themselves.

A few days later, CA noticed similar things happening a few more times. CA reported this to their ward manager (M). M thanked CA, and they discussed what CA has seen and how they should proceed. M suggested the option of taking CA's concerns through the whistleblowing procedure, to ensure CA got support and that the situation was looked into. CA was reluctant, but eventually agreed to this.

When M recorded the issue, they identified similar reports from other wards, and they had concerns that this issue was more widespread. They thought the issue should be escalated to Stage 2, with a wider investigation into cleaning. M started by discussing this with CA, as they would need to provide input to the investigation. M was keen to explain what protections were in place, and how the investigation might proceed.

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The investigation was carried out by the Board’s contract and procurement team. At the start of the investigation they reviewed the available records and planned their investigation. This allowed them to provide CA and M with anticipated timescales for the completion of the process. CA and M were provided with a brief update 20 working days later, and were reassured that the investigation was progressing. The final response was provided after 48 working days.

The investigation identified issues with lack of staffing, despite adequate funding being provided through the contract. They therefore contact the National Services Scotland Counter Fraud Services, who expressed an interest in the case, and took forward their own investigation.

CA was kept informed of the Board’s investigation, but beyond their initial discussion and statement on what they observed, they had no further involvement with the investigation. When the Board’s investigation was concluded, M and CA were given full responses that thanked them for raising the issues and highlighted the benefits for patients that their actions had, both in relation to cleaning and in contract management.

Junior doctor concerned about unsafe working hours

This provides an example of interaction with HR procedures, where timescales need to be extended and the need for support and protection.

A junior doctor (JD) was working for two years in a clinical area they wanted to specialise in. However, they felt over-worked, and when this had been going on for several months, they did not feel safe to sustain their current workload. JD had a good relationship with the consultant (C), but did not want to jeopardise this, or come across as being unable to manage their work.

JD sought support and advice from the NHS Scotland Confidential Alert Line. They suggested that JD discuss this situation with their professional body (as they were a member of the British Medical Association (BMA)). They also advised that this would be considered whistleblowing, and the various forms of support that would be open to them if JD were to take this further. The BMA were clear that JD should report this issue within the Board where they work, as a patient safety issue, and that this would be in keeping with the advice from the professional regulator, the General Medical Council (GMC).

After another week of long hours, JD decided to raise their concerns with C. C understood JD’s concerns, and thanked them for raising them. However, they did not feel able to resolve the situation, as many of the issues related to resourcing. They decided on an approach that would raise concerns at a higher level, and logged it initially as a Stage 1 whistleblowing concern.

A senior manager (SM) reviewed the concern and offered a meeting with JD about their working hours, with a representative if JD chose. SM explained that resource restrictions meant there was no scope for employing more staff. They discussed other options for limiting JD's workload, but JD was aware this would have an impact on other colleagues. SM said there was nothing further they could do if JD was unwilling to work with the potential improvements suggested. The Stage 1 whistleblowing concern was closed.

Three weeks later JD was working beyond his contracted hours, and made an error by prescribing too high a dose of a medication for a patient. The error did not have any serious consequences, but it knocked their confidence. The stress at work was getting to JD and they took some days off work due to poor mental health.

At the same time, C was becoming concerned about JD's performance, though they understood the stress JD was under. C discussed the situation with HR and was advised not to pursue concerns about competency at this stage, particularly as C was keen to work with JD to identify ways to relieve their stress, despite resource limitations. JD was keen to improve things too, and worked with C on finding ways to reduce JD's workload and manage the pressure they were under.

Two months later the workload issues had not improved, and JD decided to raise another concern, as they were worried another error may happen. They decided to now raise this as a stage 2 whistleblowing concern. The pressure of the situation meant JD felt unable to work, though they had every intention of returning to work soon.

While JD was off work, an unfamiliar senior manager (INV) contacted them, and explained they had been asked to investigate the situation, and were independent of the unit where JD worked. They agreed to meet to discuss what had been happening. INV also ensured that JD had access to a range of support options, including counselling, support from another member of staff who had been through the whistleblowing procedure, and consultation with an occupational health adviser in relation to maintaining their health at work.

At the meeting JD and INV analysed the staffing level, the workload in the unit and the amount of work JD was doing. They considered the options that had been previously explored with C. INV set out their proposals in terms of their investigation, and asked what outcomes JD was hoping for. They discussed the resource limitations, and INV explained what kind of outcomes may be achieved, including moving JD to a different unit or speciality. This was not what JD wanted.

They also discussed timescales, and INV explained that the investigation would take longer than 20 working days, but was not anticipated to take longer than 40 working days.

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Whilst the investigation was being carried out JD required more time off due to mental health issues. JD felt they were underperforming and this was putting patients at risk. They sought support from C, who was helpful but also became frustrated with JD's absences from work. JD also sought information and support from the BMA and from a counselling service.

The investigation took six weeks, during which time INV updated JD on progress and roughly when they could expect the final outcome.

The final report concluded that there was a shortage of medical staff in the unit, and that the workload was being exacerbated by sickness absence and low morale among medical and nursing staff. The recommendations included a focus on improving nursing staffing and exploring options for recruiting another junior doctor, potentially on a shared basis with another complementary specialism.

During the investigation JD was kept updated on its progress. At the end JD was fully informed of the outcome of the investigation and the improvements that were due to be made. They were thanked for raising this issue, and the Board apologised for the additional work JD had done and the resulting stress they suffered. With the knowledge that there was good reason for their feeling of being overworked, and with the full support of their colleagues, JD was able to return to work and noticed an improvement in their working environment as the recommendations were implemented.

Administrative and recording practices

This provides an example of where timescales need to be extended, and more complex arrangements for feedback and the need for support and protection.

An experienced hospital administrator (A) was working in a team of ten, which had significant staff turnover and had to manage several process changes in the past 12 months.

A had been off work recently, due to a disagreement between them and their team leader (TL), which had been causing stress. They had recently returned to work, but the team were aware of on-going tensions between A and TL.

Six months previously a new process had been introduced for monitoring cancer waiting times, to improve the performance of cancer services. The aim was to improve the identification of any breaches in national standards and improve processes. A new supervisor (S) was brought in to oversee the new scheme.

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On their return from work, A had concerns that the data they worked with had been changed incorrectly. They suspected that S had been changing these records. They spoke to TL, but were told that it was for S to consider the issue. They explained that it was S that had been changing the results.

TL listened to their concerns, but was sceptical about the evidence, and did not feel it was appropriate for them to challenge S with so little clear evidence. TL called a team meeting to discuss these concerns, in S's absence. Other members of the team were aware of on-going tensions with TL, and when they were asked if they had noticed any issues with their own records, nobody speaks up. TL did not feel they could pursue the concerns any further and closed the whistleblowing concern at Stage 1.

A continued to have concerns about data being changed, and they contacted the NHS Scotland Confidential Alert Line. They were advised that they could take their concern to a senior manager, as TL had not been able to resolve the situation; this would initiate Stage 2 of the whistleblowing procedure. They also highlighted that A should be eligible for a range of support and protection because their concerns were handled through the whistleblowing procedure. A was concerned that 'going over TL's head' would antagonise them and could create further tensions. However, their concerns were significant and they were not willing to let it go.

A emailed a senior manager (SM) to raise these concerns. SM was keen to hear more, and they arranged to meet at the end of the day, so as not to raise any suspicions. They reviewed the situation in detail, and SM was very supportive. They provided contact details for the employee counselling service, and explored ways in which the data issued could be investigated with minimal input from the administration team. They were also put in touch with another administrator who had gone through the whistleblowing procedure, and was happy to provide support through the investigation process.

A was keen to have their name kept completely anonymous, particularly in any communication with TL. SM agreed to this approach.

The investigation took several weeks, as an internal audit was initiated using colleagues in IT. During this time SM kept A up to date through letters sent to their home address.

At the end of the investigation, S was been found to be repeatedly changing records to ensure they met the national standards. This falsification of records was taken forward through disciplinary procedures. SM wrote to A to inform them of the outcome of the investigation and thanked them for coming forward. They also wrote to all members of the team to ensure that everyone was informed of the outcome and what this meant for their work going forward.

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TL's manager also stepped up their oversight of the team to ensure that new procedures for monitoring were implemented effectively and that the team were able to work efficiently together, including encouraging openness and learning within the team. The manager also worked with TL and A to improve their relationship so that they could work more effectively together.

Locum pharmacist identifies fraud

This provides an example of a case handled directly at Stage 2, and more complex arrangements for feedback

A locum pharmacist (LP) worked for two weeks at a town centre store. They noticed that some of the staff were dispensing medication on the minor ailments scheme (a scheme to reduce the cost to the customer), but then charging the customer for the medicine, who was unaware of their eligibility for the minor ailments scheme. This meant staff could collect the extra money. At the end of their two weeks, LP emailed the store manager (SM) to make them aware of their concerns. They copied in their agency, so they were aware of the situation. SM said they would look into it, but neither the store nor the agency heard any more about it.

Six months later, LP was asked to work at the store again. There was a new manager (NM) in post, but LP noticed that similar practices were still taking place. While they were there they gathered some evidence of what was happening, including figures for the number of minor ailment claims and the stock takings for the week.

Once LP had this evidence they raised their concern with the agency. The agency manager (AM) contacted NM to discuss these concerns. NM was dismissive, and clearly did not want to investigate the issue. LP and AM were concerned by this reaction, and agreed to progress their concerns by reporting them to the head of the Board's pharmacy department. Once the Board became aware of the situation, they raised concerns with the National Services Scotland Counter Fraud Services. An extensive investigation into the minor ailments processes at this pharmacy and others within this franchise were undertaken.

The Board temporarily suspended the minor ailment scheme to these pharmacies in their area, and they informed LP and AM of this outcome. They also reminded NM and their company of the Board's requirements for a culture that supports raising concerns and a whistleblowing procedure as set out in these Standards. The pharmacy took internal action too; staff found to have been involved in fraudulent activity were reported to the relevant professional regulator and to HR disciplinary processes.

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