Consultation on Draft Whistleblowing Standards for the NHS in Scotland: Principles and Procedure

Questionnaire

May 2019

Independent National Whistleblowing Officer for the NHS in Scotland
**Introduction:**
In 2020 the Scottish Government plans to introduce the new role of the Independent National Whistleblowing Officer (INWO). The role and functions of the INWO will be undertaken by the Scottish Public Services Ombudsman.

The SPSO have developed [draft National Whistleblowing Standards](#) (the Standards) which we are now consulting on. These set out the high level Principles and a detailed Procedure for investigating concerns, which all NHS organisations in Scotland will be required to meet and follow.

Further background information is available in a [consultation document](#) on the draft Standards. This consultation relates only to the Standards. The Scottish Government are carrying out a separate consultation on the draft legislation that sets out the powers which will be given to the Independent National Whistleblowing Officer (INWO)'s powers.

If you are responding on behalf of an organisation, please ensure that the organisation submits only one response. However, individuals are welcome to respond in their own capacity. We will ask for these details at the end of the survey.

**How to complete the questionnaire**
The consultation will be open until 17:00 on 28 June 2019. Please return your submission to [csa@spsso.org.uk](mailto:csa@spsso.org.uk) by this deadline. None of the questions are compulsory, and we would be happy to receive comments only on specific parts if that is appropriate.

**What we will do with your information.**
The responses will be analysed and we may produce a report of consultation responses. Where permission is given, we may publish responses in full or in part. We may include personal data where permission has been given to do so. We never publish email or postal addresses. Where permission is given, we may contact respondents for further comment.

The SPSO privacy policy can be found here: [https://www.spsso.org.uk/privacy-notice-and-disclaimer](https://www.spsso.org.uk/privacy-notice-and-disclaimer) or from the home page of the SPSO website.
The purpose and remit of the National Whistleblowing Standards

The National Whistleblowing Standards have been structured as a framework of documents. Within the framework, the Whistleblowing Principles and procedure are set out in a suite of separate documents outlining the expectations for different organisations. The expectation is that these will be accessed from a website, rather than downloaded and used as separate documents. This element of the Standards is still under development, and accessibility between documents will be improved for the final version.

We have developed this structure to make it more accessible, with information more targeted at the organisation or role of the person using the Standards.

Q1 Do you think the current structure is appropriate, or would you like to see it divided out in a different way or covering different roles?

☒ The current structure is good
☐ Fewer documents would be better
☐ Additional documents are needed for specific purposes

Please provide information on how the structure of the Standards could be improved

I think having separate documents which are targeted at different organisations is helpful and will support those trying to access information and understand responsibilities.

It states in the ‘structure of the standards’ document that the whistleblowing principles document includes definitions of whistleblowing/whistleblower – but it doesn’t. It is all contained in part 2. It may be useful to combine parts 1 and 2 as they are so closely linked and set the context for the standards.

The introductory part of the Standards (‘Structure of the Whistleblowing Standards’) sets out the intended audience for the document, and how different organisations should use it. It provides an overview of the expectations on Boards and other NHS service providers.

Q2 To what extent does the Structure of the Whistleblowing Standards make it clear which organisations and individuals the Standards apply to, its purpose and its target audience?

☐ Completely
☒ Mostly
☐ Partly
☐ Not at all

Q3 How could the Structure of the Whistleblowing Standards be improved?

Within this part - would it be useful to refer to the link between the standards and the NHS service provider’s own whistleblowing policy and the expectations around this? Some of the text within the draft explanatory document for the Order (within the section that refers to the
application of the standards for the NHS) may be useful to include. Particularly the sections which refer to the intended national policy and internal procedures within NHS services.

**The Whistleblowing Principles**
There are six key Principles critical for developing procedures and a culture that values staff raising concerns:

- Improvement focused
- Objective, impartial and fair
- Accessible
- Supportive to whistleblowers and the staff involved in the procedure
- Simple and timely
- Thorough, proportionate and consistent

Q4 To what extent do you agree with the Principles?

- [ ] Completely
- [ ] Mostly
- [ ] Partly
- [ ] Not at all

Q5 How could the Principles be improved?

**Accessing and Using the Procedure**
The aim of the *Overview of the Procedure* document is to provide a clear definition of what is and is not a whistleblowing concern, and who can bring these concerns to the organisation. It also provides a clear overview of the procedure itself, so staff and managers can identify how to access it and what to expect.

Q6 How clear is the Overview of the Procedure for staff?
The section on **When to use the Procedure** provides more detail on how to access the procedure and the support and protection it provides.

Q7 Does this document provide clear information for staff about what they need to know, particularly in relation to support and protection?

☐ Completely
☑ Mostly
☐ Partly
☐ Not at all

Q8 How could this section of the Standards be improved?

It may be useful to have a short narrative giving an overview of each of the stages to go alongside the flowcharts in Part 2 - some of this text is included in Part 3 so it may be useful to either include this in Part 2 as well or refer readers to part 3 for more detailed explanation on the stages?

It may also be useful to include a sentence in the ‘Business as usual’ section of the flowchart in Part 2 or have an additional arrow going to a box which states that the concern is not addressed through business as usual and then the arrow going to the box which talks about the person wanting to raise a concern under the whistleblowing procedure.

In Part 3, Annex A it still refers to Public Concern at Work rather than Protect.

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**The 2 stage procedure**

Part 4 of the Standards sets out in detail how an organisation should handle whistleblowing concerns. It provides details of what to do at each of the two stages of the procedure, including what to discuss with the person raising a concern and what information to share with them. Included in this are timescales of 5 working days for Stage 1 (simple and straightforward concerns) and 20 working days for Stage 2. The INWO is keen to ensure that timescales, which are aimed at ensuring appropriate priority is given to resolution of patient safety and other risks, do not compromise the thoroughness of an investigation.
Q9 How clear is the whistleblowing concerns handling procedure in how it should be applied?

☐ Completely
☒ Mostly
☐ Partly
☐ Not at all

Q10 How reasonable is the whistleblowing concerns handling procedure?

☒ Completely
☐ Mostly
☐ Partly
☐ Not at all

Q11 Is the timescale of 20 working days (extendable by agreement for complex or voluminous issues) identified for Investigation concerns reasonable?

☒ Yes, 20 days is reasonable
☐ No, 20 days is too much
☐ No, 20 days is too little
☐ Not sure

If not, what would you recommend and why?

Q12 How could the whistleblowing concerns handling procedure be improved?

At the bottom of the flowchart it states that the INWO will assess concerns that have been investigated locally or those refused at initial assessment. However, in Part 3 it states that the INWO will be a designated body so some concerns may come direct to INWO. Should this be referenced here too?

Would it be useful to provide a timescale for the whistleblower bringing a case to stage 2 if they are dissatisfied at the end of stage 1? It is unclear whether this is included as part of the 6 month overall timescale.
**Governance of the Whistleblowing procedure**

There are three sections of the Standards which set out governance requirements.

- Part 5 sets out requirements for the Board of Directors and NHS Board staff, particularly senior management and those with particular responsibilities in relation to raising concerns.
- Part 6 sets out requirements in relation to recording, reporting and learning from concerns, along with publicising the action taken in response to concerns raised.
- Part 7 sets out what Boards must do to ensure organisations providing services on their behalf provide access to these Standards.

Q13 How clear is Part 5 on Board responsibilities?

- [ ] Completely
- [x] Mostly
- [ ] Partly
- [ ] Not at all

Q14 How clear is Part 6 on the requirements to record, report, monitor and learn from concerns?

- [x] Completely
- [ ] Mostly
- [ ] Partly
- [ ] Not at all

Q15 How clear is Part 7 for Boards on how they ensure access to the Standards within organisations that provide services on their behalf?

- [x] Completely
- [ ] Mostly
- [ ] Partly
- [ ] Not at all

Q16 How could the Governance sections (Parts 5-7) be improved?

In Part 5 it refers to the requirement for the number of concerns raised to be reported on a quarterly basis. Should this not also refer to the requirement to include actions, learning from concerns raised and improvements where required?
Information for specific groups – Primary care, IJBs, students and volunteers

There are four documents which set out in more detail how the INWO expects different organisations to manage concerns and meet the Standards for their staff (in primary care and IJBs) and how all services should meet the needs of specific groups (students and volunteers).

Q17 How clear are Parts 8 and 9 on the application of the Standards within Primary Care and for IJBs?

☒ Completely
☐ Mostly
☐ Partly
☐ Not at all

Q18 How could the sections for other organisations (Parts 8 and 9) be improved?

☐ Completely
☐ Mostly
☒ Partly
☐ Not at all

Q19 How clear are Parts 10 and 11 on how to apply the Standards for students and volunteers?

☐ Completely
☐ Mostly
☒ Partly
☐ Not at all

Q20 How could the sections on ensuring access for students and volunteers (Parts 8 & 9) be improved?
Healthcare Improvement Scotland hosts the Volunteering in NHSScotland Programme that supports NHS Boards to develop sustainable volunteering programmes that are safe, effective and person-centred.

There are over 6,000 directly engaged volunteers in NHSScotland (volunteers recruited, trained and managed by NHS Boards who employ NHS staff to manage volunteer programmes) and many thousands more indirectly-engaged (via third sector organisations where volunteers are placed in healthcare settings).

**Part 11 of the Draft Whistleblowing Standards (Arrangements for Volunteers)** is a welcome guide to whistleblowing but contains two issues that would helpfully be addressed prior to publication:

1. It only makes reference to indirectly-engaged volunteers, those of a “charity”. As noted above, this should be expanded to ensure that arrangements are in place for all volunteers in NHS settings, not only those indirectly engaged. See also [DL 2017 07](#).

2. The use of the term “charity” in Part 11 is restrictive and many organisations placing volunteers in NHS settings will not be registered charities. Some may be voluntary associations, community interest companies or other legal forms. It’s also likely that many will be small self-help or peer support groups. It is even feasible that some may not even constricted or have any legal form (e.g. ad-hoc fundraising). We suggest replacing the word “charity” with “volunteer-engaging organisation”.

Q21 Would it be helpful to have further targeted information for specific organisations (such as contracted services) or groups (such as agency staff/contractors), or any others?

**Case studies and examples**

Part 12 provides examples of how whistleblowing concerns should be handled and of the difference between whistleblowing and other HR procedures such as bullying and harassment.

Q22 Do the case studies and examples provide appropriate information?

☑ Completely
Mostly
Partly
Not at all
Q23 How could these case studies and examples be improved?

Overall
Q24 Please add any other comments on the National Whistleblowing Standards here.

Questions about you or your organisation
Q25 Are you responding on behalf of an organisation or as an individual?
☑️ Organisation
☐ Individual
Q26 If you are responding for an organisation:

What is the name of the organisation?
Healthcare Improvement Scotland

What is your role?
Policy and Governance Manager

Q27 If you are responding as an individual:
Do you work / have you recently worked in the NHS?

☐ Yes
☐ No

If yes, what is/ was your role in the NHS?

If not, what is your experience in relation to the health service?

Q28 We may wish to publish your consultation responses in full or in part. The SPSO would like your permission to do so. Please indicate your publishing preference.

☒ Publish response with name
☐ Publish response (without your name) – for individuals only
☐ Do not publish response

Information for individuals
If you choose the option ‘Do not publish response’ we will still reflect your comments in our analysis but will not include any of the free text comments in any report of the consultation.

Information for organisations:
If you choose the option ‘Do not publish response’, your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

Q29 We will analyse all responses and may publish a report. SPSO staff conducting the analysis may wish to contact you for further information. Are you content for SPSO to contact you again in relation to this consultation exercise?

☐ No
☒ Yes

If appropriate (based on your responses to the two questions above), please provide your name:

Jane Illingworth

If appropriate, please also provide your email address:

Jane.illingworth@nhs.net
Thank you

We welcome all comments and contributions, and will use this feedback to improve the National Whistleblowing Standards.