



**November 2022**

# Review of Whistleblowing 2022-2023 L22/23



**Internal Audit Consortium of Lanarkshire**

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# Section 1: Executive Summary

## Objective

Review systems to ensure compliance with the new National Whistleblowing Standards.

The specific areas that were covered as part of this review were:


- Systems including confidential contacts have put place to record and investigate whistleblowing concerns at stage 1 and 2 that complies with the National Whistleblowing Standards and Once for Scotland Policies
- NHS Lanarkshire has appointed a Non-Executive Director as Whistleblowing champion
- Quarterly and annual whistleblowing reports that include detail on compliance with KPIs and learning are produced, presented and monitored by appropriate governance committees
- Whistleblowing training is in place for staff and managers and uptake is monitored and reported
- A communication plan is in place to promote whistleblowing and awareness of Whistleblowing routes is monitored

This review was undertaken in accordance with the 2022/2023 Operational Audit Plan.

## Internal Audit Approach

We assessed whether the internal audit objectives outlined above were being achieved by documenting the system and identifying and testing key controls.

## Overall Opinion

Level	System Adequacy	Control Application
Substantial 	Robust framework of controls ensures objectives are likely to be achieved.	Controls are applied continuously or with minor lapses.

Based on the examination of the control structure and the procedures in place, we consider the system provides Substantial assurance that objectives are met. The findings arising from this review are:

- The Whistleblowing SOP is not in the NHSL format and does not reference the appointment of a new confidential contact (2.1)
- Few staff have completed the Whistleblowing training available on Turas and there is no communications plan to promote this training (2.2)
- The annual report is not co-signed by the Whistleblowing Champion nor does it provide overt assurance on the adequacy and effectiveness (2.3)

Our findings and recommendations are set out in Section 2 on an exception basis. An Action Plan has been included at Appendix A. The audit covers controls which fall specifically within the remit of the Staff Governance Committee and we recommend its findings are reported to the next committee.

## Introduction & Background

Whistleblowing Standards were introduced in April 2021 which detail how the Independent National Whistleblowing Officer (INWO) expects all NHS service providers to handle concerns that are raised with them and which meet the definition of a whistleblowing concern. This is the first review of how NHS Lanarkshire has adopted and implemented the new standards.

In line with all NHS Scotland Boards, a Non-Executive Director has been appointed as the Whistleblowing Champion, whose role is to monitor and support the effective delivery of the whistleblowing standards. The

## Section 1: Executive Summary

Whistleblowing Champion is not involved in day-to day operation management of cases; and their role is to monitor and support how their organisation complies with the national whistleblowing standards focused on scrutiny and assurance. The role was developed by the Scottish Government to be complementary, but separate, to the work of the Independent National Whistleblowing Officer (INWO).

A whistleblowing video has been completed by the Whistleblowing Champion, who oversees communications in relation to whistleblowing. The whistleblowing champion has no formal deputy, however, the Director of Human Resources and/or the Head of HR – Policy and Governance could step in if needed. The NHSL Whistleblowing Champion has held that position since February 2020 and it is anticipated that the post will be held for the duration of their tenure on the NHSL Board. The whistleblowing champion must complete the necessary whistleblowing modules on TURAS, as part of their training for the role. There is also a National Network for whistleblowing champions, for guidance and/or advice, as required.

The Internal HR Standard Operating Procedure (SOP) includes guidance on how to record and investigate whistleblowing concerns at Stage 1 and Stage 2, it also contains information in relation to the Confidential Contacts. Staff email their whistleblowing concerns to the uMatter email address, which is monitored by the PA to Director of Human Resources on a daily basis. The Director of Human Resources and the Executive Nurse Director review any emails forwarded to them by the PA to Director of Human Resources to determine if they require to be investigated further, under the whistleblowing standards. The Head of HR – Policy & Governance maintains an 'Employer Relations Grid' spreadsheet on the (R) Drive, which contains information relating to whistleblowing incidents etc. A Short-Life Working Group (SLWG) was set up to establish an Action Plan to implement the National Whistleblowing Standards, which came into force on the 1st April 2021, and the Once for Scotland Policy. Membership of the SLWG was made up of: Chief Executive, Chairperson, Director of Human Resources, Head of HR – Policy & Governance and Employee Director. This SLWG has been stood down as the Quarter 4 Whistleblowing Report, that was presented to the Staff Governance Committee (SGC), stated that: All actions on the plan have now been implemented. Whistleblowing Reports are presented to the SGC, the Board and the Human Resources Forum. The timescales for investigating Stages 1 and 2 are 5 working days, and 20 working days, respectively. No confidential contacts have left their post since being appointed. The NHSL Whistleblowing Champion, Director of Human Resources and Head of HR – Policy & Governance hold meetings with the confidential contacts on an ad-hoc basis, and also meet up with them every 6 months which helps to ensure that the list of confidential contacts is accurate and up-to-date, and does not contain any leavers. The National Whistleblowing Officer has developed 3 whistleblowing modules within TURAS: Whistleblowing: an overview / Whistleblowing: for line managers / Whistleblowing: for senior managers.

There is a requirement for all organisations that deliver services for NHS Scotland to ensure that they provide staff with at least one point of contact who is independent of normal management structures who has the capacity and capability to be an initial point of contact who want to raise concerns. Within NHSL there are 7 confidential contacts. Prior to being appointed to the role they were required to send a copy of their certificates to Head of HR – Policy & Governance demonstrating completion of the modules. During October 2022, as part of Speak Up Week, an organisation-wide communication included the names, phone numbers and specific area of designation where relevant of the confidential contacts. NHSL will receive notifications when the National Whistleblowing Standards and/or the Once for Scotland Policy are updated. However, there have been no updates since 2021.

The Head of HR- Policy & Governance prepares the quarterly and annual whistleblowing reports with the Director of Human Resources oversees this process. The Head of HR – Policy & Governance is responsible for presenting the reports to the Staff Governance Committee (SGC), and the Director of Human Resources is responsible for ensuring the reports are presented at the Board meetings. The SGC send a report to the Board covering all aspects of their work including the whistleblowing. A quarterly whistleblowing report is presented to the Board, with embedded documents. The Board and the SGC have not been required to complete any monitored actions in relation to whistleblowing as yet. However, any updates to the KPIs have been noted, and the SGC Action Plan would pick up any agreed actions.

## Section 1: Executive Summary

The main KPIs which must be reported, are contained within the Whistleblowing Standards, i.e. number of whistleblowing concerns received / how long it took to resolve them / how many were upheld / who is accountable for the actions etc. We note that there is currently no KPI which would allow an understanding of the extent to which staff are aware of Whistleblowing procedures i.e. training modules completed. So far, there has been no issues around KPIs not being met, or lessons not being learned. There are no discernible patterns in whistleblowing concerns that have been raised thus far, with none of the lessons learned requiring further dissemination. If KPIs were not met, or if it was felt that lessons were not being learned, then the Director of Human Resources and the Head of HR – Policy & governance would consider the issue and ensure that remedial action was carried out in a timely manner. Lessons learned from whistleblowing concerns that have been raised and investigated, are shared across NHS Lanarkshire, where appropriate, through the whistleblowing Annual Report. The annual report is issued in the name of the Director of HR. The quarterly reports conclude that the SGC, based on the implementation, update and performance report, confirm that the Whistleblowing standards are being followed and learning shared which carried forward into the SGC Annual Report which states they gained assurance from the quarterly reports but does not provide a conclusion on the adequacy and effectiveness of Whistleblowing arrangements. Three complaints were received throughout the year, there is no exploration of whether this indicates a positive culture in which the Whistleblowing system is largely unnecessary, or a lack of awareness by staff of the process noting that, take-up of training has been low. In addition, the report states *'It would be interesting to compare NHS Lanarkshire's numbers with those from other Boards but this information is not readily available, unless the Independent National Whistleblowing Officer (INWO) decides to publish national numbers, which would be useful for comparison purposes.'* Such information would be exceptionally useful in benchmarking NHSL data and we would recommend that the NHSL Whistleblowing Champion or HR Director instigate conversations with other Boards to share data if it is not forthcoming nationally, or at the very least, formally encourages that INWO to make such data available.

There are separate whistleblowing training modules for Line Managers and Senior Managers contained on TURAS. There are 3 modules in total: Whistleblowing: an overview / Whistleblowing: for line managers / Whistleblowing: for senior managers. The NES and INWO (Independent National Whistleblowing Officer) are responsible for reviewing and updating the training content to ensure that it reflects current whistleblowing guidance. It is the responsibility of each individual manager to ensure that their staff members have completed the necessary whistleblowing training. There is currently no requirement for staff to complete the whistleblowing training on a cyclical basis, i.e. yearly. They complete the training once; it is then up to them if they would like to complete the training again for their own benefit - or they may consider doing the training again if the whistleblowing standards are updated. The Annual Whistleblowing report 2021-22 stated that the training module for all staff had been completed by 151 people and the module for managers/people receiving complaints by 52 people. This would appear to be a low number and might explain the lack of Whistleblowing complaints received, but there was no comment on whether these figures were cause for concern and whether, as a consequence, the overall system might not be effective.

There is currently no formal documented communications plan to promote awareness of whistleblowing to NHS Lanarkshire staff, however, communication was part of the implementation plan. Whistleblowing procedures have been communicated to staff via staff briefings and Pulse on-line. The NHSL Whistleblowing Champion and the Head of HR – Policy & Governance have carried out presentations to management groups. The Head of HR – Policy & Governance keeps a note of all of these. The NHSL Whistleblowing Champion has completed a whistleblowing video, and there are plans to increase communication and awareness of whistleblowing. There is a dedicated whistleblowing page available on FirstPort that NHSL staff have access to. The Head of HR – Policy & Governance is responsible for monitoring staff member's awareness of whistleblowing routes, however, hits on the whistleblowing FirstPort page are not currently monitored or reported.

### Acknowledgements

We would like to thank all staff for the co-operation and goodwill we received during the course of our fieldwork.

## Section 2: Detailed Findings

### 2.1 HR Whistleblowing SOP

**Grading: Merits Attention**



A Standard Operating Procedure (SOP) on Whistleblowing has been developed by the Human Resources directorate which details the processes when a concern is raised. The document does not follow a best practice model which would include a title page with Author, Responsible Lead Executive Director, Implementation Date, Review, Responsible Team and Responsible Person.

It was also noted that there is no reference in the SOP to how a confidential contact is appointed. We recognise that since the adoption of the whistleblowing standards there has been no change to the original confidential contacts.

The quarterly whistle blowing and annual report do not provide overt assurance on the adequacy and effectiveness.

There are no KPI's for the number of staff undertaking the training nor the number of approaches made to confidential contacts and the split between passing whistleblowing and been dealt with under (HR policies and procedures).

### 2.2 Turas Module & Communications Plan

**Grading: Merits Attention**



As reported in the annual report the completion of the Turas modules on Whistleblowing is low – 151 for the overview module and 52 for the senior manager's module. There is also no information at present on how many hits there has been to the website or video.

There is no communications plan at present to promote the modules and other materials this may be a contributory factor in the small uptake and may also explain the very low rate of Whistleblowing concerns.


### 2.3 Whistleblowing Assurance


**Grading: Merits Attention**



The Annual whistleblowing report goes out in the name of the Director of HR and is not co-signed by the whistleblowing champion.

## Appendix B – Definition of Assurance Levels and Grading of Findings


HR Whistleblowing SOP			
No.	Definition	Recommendation	
2.1	Merits Attention 	<p>The Whistleblowing SOP should be updated to include the detailed process for the appointment of a confidential contact as well as being in a best practice format with a title page which should include the relevant information.</p> <p><b>Rationale</b></p> <p>The inclusion of the detailed process of appointing a new confidential contact is vital should the original staff involved in adopting the new standards and appointing the current contacts leave the organisation. Having the Whistleblowing SOP in a standard format with a title page etc. allows a greater management and audit trail of when the SOP should be reviewed and approved.</p>	
Management Response		Implementation Date	Responsible Officer
The SOP will be updated so that it is in the best practice format. There is no detailed process for the appointment of confidential contacts as they were recruited on an entirely voluntary basis by responding to an email sent via the Head of Spiritual Care's peer support network. It is anticipated that we will continue to use this as a mechanism for recruiting to these roles, should any of the confidential contacts decide they no longer wish to continue. This will depend, of course, on whether we decide to replace them.		31st January 2023	Head of HR – Policy & Governance

Turas Module & Communications Plan		
No.	Definition	Recommendations
2.2	Merits Attention 	<p>A A communications plan should be developed to promote the availability of the Turas modules on Whistleblowing and also the website and video. A formal reminder should also be completed, as stated in the Whistleblowing annual report, to all directors for disseminating the completion of the Turas modules.</p> <p>B Uptake of the Turas modules should be a formal KPI for the Whistleblowing report, and KPIs should be further developed and updated as the system matures.</p> <p><b>Rationale</b></p> <p>The completion of the Turas modules gives assurance that staff are aware of the process of raising any concerns through Whistleblowing and would allow a more informed conclusion on the adequacy and effectiveness of the system. The promotion of the modules should increase the uptake of staff completing the modules and viewing the website and video.</p>



## Appendix B – Definition of Assurance Levels and Grading of Findings

Management Response	Implementation Date	Responsible Officer
An informal communication plan exists which includes the promotion of modules as well as articles in the Pulse and briefings and presentations to various groups. A formal communication plan will be developed for 23/24 in conjunction with the Comms dept.	1 <sup>st</sup> April 2023	Head of HR – Policy & Governance
A further reminder will be sent to CMT members at the beginning of 23/24 which will provide them with uptake figures for the TURAS modules. It should be noted that we are dependent on NES for the provision of the uptake statistics. We report as required on the KPIs specified in the Standards and this includes the provision of a statement on levels of staff training. We will continue to do this in the quarterly and annual reports.	1 <sup>st</sup> May 2023	Head of HR Policy & Governance





Whistleblowing Assurance		
No.	Definition	Recommendations
2.3	Merits Attention 	<p>A The whistleblowing annual report should go out in the names of the Director of HR and the Whistleblowing Champion.</p> <p>B The Whistleblowing quarterly and annual report should have a summary section detailing an overall assurance. Suggested wording for a positive assurance should be along the lines of <i>“From the review of the performance and work undertaken it can be confirmed that the work undertaken has been in line with the Whistleblowing Standards. Based on this it can be confirmed that adequate and effective Whistleblowing arrangements and risk arrangements were in place throughout the year”</i>.</p> <p>C Management should update the KPI’s to include training and number of concerns raised that are dealt with through the HR process.</p> <p><b>Rationale</b> Having the whistleblowing champion endorse the annual report provides assurance and shows their role in monitoring of the processes. Having overt assurance provides the SGC and the NHSL board with comfort that good governance and whistleblowing arrangements are in place. KPI’s add to the assurance process.</p>
Management Response	Implementation Date	Responsible Officer
The next annual report due to be presented to the SGC in May 2023 and to the Board in August 2023 will go out in the names of the HR Director and the Whistleblowing Champion.	May and August 2023	Head of HR – Policy & Governance
The quarterly report for Q3 will contain the overall assurance summary section as indicated.	February 2023	Head of HR – Policy & Governance
Information on levels of training is already included in quarterly and annual reports and concerns raised and dealt with through HR processes are reported elsewhere by the Head of Employee Relations.		






## Appendix B – Definition of Assurance Levels and Grading of Findings

### Internal Audit Objective

To assist management in assessing the overall opinion of the area under review, we have assessed the system adequacy and control application, and categorised the opinion based on the following criteria.

Level of Assurance		System Adequacy	Controls
Substantial		Robust framework of controls ensures objectives are likely to be achieved.	Controls are applied continuously or with minor lapses.
Adequate		Adequate framework of key controls with minor weaknesses present.	Controls are applied frequently but with evidence of non-compliance.
Limited		Satisfactory framework of key controls but with significant weaknesses evident which are likely to undermine the achievement of objectives.	Controls are applied but with some significant lapses.
No Assurance		High risk of objectives not being achieved due to the absence of key internal controls.	Significant breakdown in the application of controls.

To assist management in assessing each audit finding and recommendation, we have assessed the risk to NHS Lanarkshire of each of the weaknesses identified and categorised each finding according to the following criteria.

Risk Assessment	Definition	Findings
Fundamental 	Action is imperative to ensure that the objectives for the area under review are met. Non-compliance with key controls or evidence of material loss or error.	
Significant 	Requires action to avoid exposure to significant risks in achieving the objectives for the area under review. Weaknesses in control or design in some areas of established controls.	
Merits Attention 	Action advised to enhance control or improve operational efficiency. These are generally issues of good practice.	2.1; 2.2; 2.3
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# Appendix C – Respective Responsibilities of Management and Internal Audit

## Internal Controls

It is the responsibility of NHS Lanarkshire management to maintain adequate and effective systems and to arrange for a system of internal controls. Our responsibility as Internal Auditors is to evaluate significant systems and associated internal controls and to report to the Audit Committee on the appropriateness of such systems and controls. In practice, we cannot examine every activity and procedure and we cannot substitute for management's responsibility to maintain adequate systems of internal controls over systems. We therefore may not identify all the weaknesses that exist in that regard.

## Fraud and Corruption

The prime responsibility for the prevention and detection of fraud irregularities rests with NHS Lanarkshire management. They also have a duty to take reasonable steps to limit the opportunity for corrupt practices. It is our responsibility to review the adequacy of these arrangements, but our work does not remove the possibility that fraud, corruption or irregularity may have occurred and remained undetected.

We nevertheless endeavour to plan our audit so that we have a reasonable expectation of detecting material fraud, but our examination should not be relied upon to disclose all such material frauds as may exist.