

Whistleblowing Annual Report – April 2022 to March 2023

1. Introduction

The National Whistleblowing Standards and Once for Scotland whistleblowing policy (the Standards) were introduced on 1 April 2021. NHS Lanarkshire's performance against the Key Performance Indicators included in the Standards has been reported to the Staff Governance Committee and the board on a quarterly basis. In addition to quarterly reporting boards are also required to prepare an annual report, the contents of which are outlined in the Standards.

2. Key findings

- 3 concerns were investigated under the Standards during 2022/2023
- All 3 of the concerns related to independent primary care contractors
- None of the concerns were upheld.
- All 3 of the investigations were granted an extension.
- Learning from the concerns include reviewing clinical supervision in line with best practice and reviewing the hybrid model of appointments, communication and organisational structures and TURAS training compliance.
- 4 concerns originally raised as potential whistleblowing concerns were dealt with under HR procedures.
- A review by the Internal Audit Consortium of Lanarkshire of the introduction of the Standards was positive in its findings.

2. Key Performance Indicators

2.1 Cumulative total – Whistleblowing Concerns Raised 2022/23

Quarter	Appropriate for whistleblowing	Stage 1	Stage 2	Outcome	Comments
1	1	0	1	Not upheld	Outcome confirmed to individual concerned.
2	0	n/a	n/a	n/a	
3	1	0	1	Not upheld	Concern related to primary care provider
4	1	0	1	Not upheld	Concern related to primary care provider
Total	3	0	3	See above	See Above

The Standards require stage 1 concerns to be completed within 5 working days and Stage 2 concerns to be completed within 20 working days.

The table below shows the number and percentage of concerns at each stage which were closed in full within the set timescales of 5 and 20 working days, for 2022/23. This reflects any extensions agreed.

	Nos received	% closed in 5 working days		Nos received	% closed in 20 working days
Stage 1	0	n/a	Stage 2	3	0

The table below shows concerns raised in 2022/23 where an extension was authorised.

Concern	Nos received	Extension authorised	As % of all concerns
Stage 1	0	0	n/a
Stage 2	3	3	100

None of the three cases raised were investigated within 20 working days. All three cases related to concerns about issues within independent primary care practices and the latter two cases were about the same practice. The individuals who raised the concerns were kept apprised of the timescales and reasons for the delays, which included sickness absence, annual leave, diary commitments and the complexity of the investigations. In light of these delays it has been decided to refresh communication with independent primary care practitioners, in conjunction with the appropriate medical director and head of primary care.

3. Analysis of numbers of concerns raised

Three concerns were raised during 2022/23 and this compares to three during 2021/22, two during 2019/2020, one during 2018/19, three during 2017/18 and none during 2016/17, so numbers remain fairly constant. Figures recently published by the INWO indicate that a total of 106 concerns were handled by 22 Boards during 21/22 which would suggest that NHS Lanarkshire received slightly fewer than the national average during that year. Figures have not yet been published for 2022/23.

4. Further information on the 3 concerns raised during 2022/23, including service improvements and shared learning.

4.1 The first complaint raised in April 2022 was reported to the Staff Governance Committee in September 2022. The concern related to an independent primary care contractor and included allegations of financial impropriety and references to behaviours which would be more appropriately addressed under the primary care contractor's HR policies. The concern was investigated at Stage 2 by three managers from NHS Lanarkshire, including the then Deputy Director of Finance and the Primary Care manager. The complaint was not upheld and the individual was notified and informed of their right to go to the Independent National Whistleblowing Officer (INWO).

- 4.2 The second complaint was raised directly with the INWO by an individual who had resigned from the practice. The nature of the concern included training, clinical supervision, continuous professional development, skill mix, use of locums and prescribing practices. A lengthy and detailed investigation into the concerns was led by a director from the group of practices in question and HR support was provided by NHS Lanarkshire (NHSL). The individual who raised the complaint was also provided with support from one of NHSL's confidential contacts. Although the complaint was not upheld a number of improvements are being made as a result of the investigation. These include a review of best practice in clinical supervision, engagement with the Board's pharmacy team to look at clinician specific reporting, review of the hybrid model of appointments, ensuring clarity around organisational structures, escalation processes and contingency arrangements and ensuring that senior team and site managers have undertaken the TURAS whistleblowing training modules.
- 4.3 The third complaint was also raised directly with the INWO in January 2023 by an individual who had left the same group of practices. The complaint covered allegations of poor and unsafe clinical practices, including lack of skill mix, inadequate support and poor management procedures including a lack of employer duty of care. Although the complaint was not upheld a number of improvements are being made as a result of the investigation, including a review of clinical supervision, review of hybrid model of appointments, and identification of mental health first aid training.

5. Whistleblowing themes, trends and patterns

The analysis of themes from whistleblowing concerns aids identification of any shared causes and helps to progress learning and improvement in a targeted manner. The categories/classification for whistleblowing concerns are listed in Part 2 of the Standards and are outlined below for information:

- Patient Safety
- Patient Care
- Poor practice
- Unsafe working conditions
- Changing or falsifying information on performance
- Fraud
- Breach/breaking any legal obligation
- Abusing authority
- Concealment of any of the above

The three concerns raised would be classified as relating to patient care and safety, poor practice and fraud. Two of the concerns relate to the same independent primary care practice and, although not upheld, share the same themes of patient care and safety and poor practice. The learning and improvements resulting from the investigation are therefore being targeted and progressed in these areas. As all three whistleblowing concerns raised during 2022/2023 related to independent primary care practices, a review of the implementation of the Standards in these areas will be considered. Follow

up will be arranged in six months with the practices involved in order to seek reassurance that safe and effective systems of clinical governance are in place. Whilst it is anticipated that the practices in question will fully cooperate with any such requests, Board members should be reassured that, ultimately, independent primary care practices can be compelled to provide such information under the requirements of Schedule 6 of The NHS (GMS Contracts) (Scotland) Regulations 2018.

6. Independent primary care contractors

Three concerns were raised about primary care contractors, the details of which are included above. No other concerns were received. The Primary Care department requests quarterly information from all independent primary care contractors regarding the number of whistleblowing concerns raised. There are 455 primary care contractors in NHS Lanarkshire, including medical practices, pharmacists, dentists and optometrists. The table below provides more information and efforts are underway to improve return rates.

Primary Care Whistleblowing Returns 2022/2023

	Medical (%)	Dental (%)	Optometry (%)	Pharmacy (%)
Response	82	60	48	17
No Response	18	40	52	83

7. Experience of Individuals Raising Concern/s during 2022/23

The individuals who raised the concerns have left the practices in question and were not employees of NHS Lanarkshire. Regarding the second two complaints, the group of practices are involved in separate legal issues and further comments around experiences would be inappropriate at this stage. A further indicator of the satisfaction of those who raise concerns can be derived from the number of concerns escalated to the INWO after having been considered by NHS Lanarkshire. No referrals were made to the INWO after having been investigated but two concerns were raised directly with the INWO and these are detailed above.

8. Concerns raised as whistleblowing which were dealt with through other HR policies

In addition to the cases outlined above which were dealt with through the whistleblowing Standards, four other concerns were logged via uMatter. After carefully considering the cases against the checklist and definitions in the Standards and using the protocols developed locally for this purpose, it was concluded by the HR and NMAHPs directors that these cases should be more appropriately dealt with using other HR policies. The individuals concerned were advised of this in writing and referred to more appropriate

policies including Grievance and Bullying and Harassment. They were also advised of their right to contact the INWO about this decision.

9. Review of Whistleblowing 2022-2023 by the Internal Audit Consortium of Lanarkshire

The systems in place to ensure compliance with the Whistleblowing Standards were reviewed during the summer and autumn of 2022. The review was undertaken in accordance with the 2022/2023 Operational Audit Plan and the final report was issued on 8th November 2022. A copy of the report is attached for information. Based on the examination of the control structure and the procedures in place, the report concluded that the system provides “substantial” assurance that objectives are met and that a “robust framework of controls ensures objectives are likely to be achieved, with controls being applied continuously or with minor lapses”. As a result of this review a communications plan has been developed, the format of the HR Standard Operating Procedure for whistleblowing has been amended.

10. Communication, Awareness and Training

Since the soft launch of the Standards at the beginning of 2021 regular items have appeared in the staff briefing and in the Pulse on-line. Details of confidential contacts have been publicised and a separate briefing has also been sent to all primary care contractors, along with supporting documentation to enable independent contractors to record and report cases. The non-executive whistleblowing champion has presented to the two Health & Social Care Partnerships and Acute management teams and presentations have also been made to both the GP and GDP Sub Committees. Meetings have also been held with both PFI contractors to confirm that the Standards will be made available to their staff who provide services to NHS Lanarkshire patients and the non-executive whistleblowing champion has delivered presentations to the PFI management teams at University Hospitals Hairmyres and Wishaw. Managers in PSSD have been asked to circulate leaflets on whistleblowing for staff who do not have easy access to email.

National Speak Up Week took place between 3rd and 10th October 2022 and NHS Lanarkshire’s approach focussed on awareness raising about the Standards, promotion of the role of the confidential contacts, using the annual report to evidence improvement as a result of whistleblowing and focussed work with managers and leaders. Staff side colleagues played a key role in promoting the week and examples of how we engaged with the campaign include:

- Articles appearing in the staff briefing and the Pulse, a banner on FirstPort as well as “footers” on emails and MS Teams. One of the articles was based on a concern raised through a confidential contact in 2021 and the confidential contact highlighted her role in receiving and taking forward the complaint. The Chief Executive also referenced Speak Up Week in her weekly video to staff.
- In addition to sharing INWO posts the main NHS Lanarkshire Twitter banner was updated to promote the week and a video from the whistleblowing champion was shared on the Wednesday to coincide with the INWO’s promotion of the role on that day.

- An email was sent to all in NHS Lanarkshire using content from the Pulse article and speaking up was also promoted across sites by circulating posters and leaflets. Staff side colleagues discussed at branch and other trade union meetings how best they could raise awareness during the week and when they were out in the service discussing the pay ballot.
- The whistleblowing lead and champion attended a leadership development programme and presented on speaking up and the role of the manager and leader. Participants had previously read an article from the Harvard Business Review and also watched a Ted Talk on whistleblowing.

Communication has continued since Speak Up Week with regular articles in the staff briefing. In response to a recommendation contained in the review of whistleblowing carried out by the Internal Audit Consortium of Lanarkshire a communication plan has been developed and is attached to this report. Further awareness raising will take place across University Hospital Wishaw through the focus groups which will meet following completion of the Just Culture survey. It has also been confirmed that the following statements will be included in the iMatter staff engagement survey this year: “I am confident that I can safely raise concerns about issues in my workplace” and “I am confident that my concerns will be followed up and responded to”. It is anticipated that responses to these questions will enable us to further focus on specific departments where further awareness raising might be necessary.

Training on the Standards is available through TURAS via three modules which provide an overview, a module for line managers and one for senior managers. NHS Education for Scotland (NES) provides monitoring information on the uptake of the training. During 2022/2023 216 modules were completed and since the introduction of the Standards, in April 2021, 427 modules have been completed.

11. Confidential Contacts

There are six confidential contacts in NHS Lanarkshire, all of whom have completed the training modules. Their contact details are regularly publicised in briefings and in the Pulse on line and they are also available on NHS Lanarkshire’s intranet. Two of the confidential contacts are designated for private contractors, including PFIs and one is designated specifically for independent primary care contractors. A network for the confidential contacts has been established to enable them to meet with the Non-Executive Whistleblowing Champion and the HR Director on a bi-annual basis. They are also encouraged to engage with the Scottish Speak Up Network.

12. Priorities for 2023/24

During 2023/24 it is intended to focus on the following areas:

1. Implementation of the communication plan
2. Improving uptake of TURAS whistleblowing training.
3. Use the INWO’s Speak Up week in October to further promote and celebrate speaking up.
4. Review of responses to iMatter questions about whistleblowing.

5. Improving return rates and raising awareness in independent primary care contractors.

13. Concluding remarks by Whistleblowing Champion

Whistleblowing is intended to reassure staff that, where they have a concern about practices in their workplace that they don't feel comfortable discussing with their manager, they can raise their concern with confidence that it will be investigated and addressed. My role as NHS Lanarkshire's Whistleblowing Champion is to monitor and support the effective delivery of its whistleblowing policy, providing assurance to the Board that the organisation has appropriate systems in place and raising any issues of concern.

I have been supported in this role by the Executive Lead, Kay Sandilands, HR Director and Eddie Docherty, Director of NMAHPS who worked with Kay to discuss concerns received, identify those which fell within the whistleblowing policy and ensuring that any concern was directed to an appropriate policy or process to be addressed. Our strong, enthusiastic and active network of confidential contacts supported the implementation of the Standards and were invaluable in supporting those raising concerns. Ruth Hibbert, Head of HR, Policy & Governance, held everything together in coordinating the implementation of the Standards and monitoring concerns from receipt to Board report as well as promoting the Standards. Staff side colleagues were also integral in promoting whistleblowing with their members, I am grateful to every one of them for their wise counsel and contribution.

Work continues to ensure that the Standards are fully embedded across the healthcare system and I endorse the recommendations in this Report in relation to increasing awareness of the Standards across the primary care sector in particular and dealing with concerns timeously and appropriately. I would also encourage increased uptake of the TURAS training module. I consider that NHS Lanarkshire has made satisfactory progress to date.

14. Conclusion

The Board is asked to note the implementation update and the content of this performance report and seek assurance that whistleblowing standards are being followed and learning shared.

**Director of Human Resources
August 2023**

Appendices

Internal Audit Report

Communications Plan