



Whistleblowing Policy

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1. PURPOSE AND SCOPE

1.1 Purpose

The Board at NHS Dumfries & Galloway is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life in all of its practices. To achieve these ends, it encourages staff to use internal mechanisms for reporting any malpractice or illegal acts or omissions by its staff. The Board wishes to create a working environment which encourages staff to contribute their views on all aspects of patient care and patient services. All staff have a duty to protect the reputation of the service they work within.

It is to be expected that some staff may, at times, have concerns about what is happening at work. Usually these concerns are easily resolved. However, in the event that a member of staff does not feel that they can raise a concern informally and when the concern feels serious because it is about a possible danger, professional misconduct or financial malpractice that might affect patients, colleagues, or NHS Dumfries & Galloway itself, it can be difficult to know what to do.

This Whistleblowing Policy, based on the National Partnership Information Network (PIN) Model Whistleblowing Policy (May 2011), has been introduced to reassure all staff that it is safe and acceptable to speak up, and to enable them to raise concerns which they may have at an early stage and in the right way. Rather than wait for proof, it is preferable for a matter to be raised when it is still a concern. This policy should therefore be used for any member of staff to raise a qualifying disclosure under the Public Interest Disclosure Act 1998.

1.2 Scope

This policy applies to all those who work for NHS Dumfries & Galloway: whether full-time or part-time, bank worker, self-employed, volunteers or employed through an agency and who have concerns about misconduct or wrongdoing. (All these individuals are referred to as 'staff' throughout this Policy).

If a member of staff feels that something is of concern, and they feel that it is something which they think NHS Dumfries & Galloway should know about or look into, they should use this procedure. If, however, a member of staff wishes to make a complaint about their employment or how they have been treated, they should follow the Board's Grievance or Preventing and Dealing with Bullying and Harassment policies which can be obtained from the intranet or their manager.

If in doubt - raise it!

2. DISTINCTION BETWEEN PERSONAL EMPLOYMENT COMPLAINTS (GRIEVANCES) AND WHISTLEBLOWING CONCERNS (PUBLIC INTEREST DISCLOSURES)

It is important to distinguish between personal, employment related complaints that a member of staff may have and whistleblowing concerns.

- Whistleblowing concerns generally relate to a risk, malpractice or wrongdoing that affects others, and may be something which adversely affects patients, the public, other staff or the organisation itself. The information must be in the public interest and serious; i.e. not merely a trivial matter.
- A grievance differs from a whistleblowing concern as it is a personal complaint regarding an individual's own employment situation.

The Grievance Policy and the Preventing and Dealing with Bullying and Harassment Policy are available from the NHS Intranet site, called Beacon.

A whistleblowing concern is where an individual raises information as a witness whereas a grievance is where the individual is a complainant. For example:

Whistleblowing Concern	Grievance
A staff nurse is concerned about the way patients are being treated and believes patient treatment records are being filled in with inaccurate information.	A manager refuses a request for short notice annual leave because too many staff are off already. The employee is not happy about this and raises a concern.
A new laboratory assistant raises concern that blood test results are being ignored and emails are going unanswered. She fears patients could die prematurely because information is not being acted on.	A staff nurse makes a mistake filling out patient information on a computer system and is told off by her line manager. The staff nurse is upset by this and raises a concern that she should not have been reprimanded as she has not been trained on how to use the system.
After introducing a new procedure for knee replacements, a locum doctor believes patients are getting more infections than normal. He writes an anonymous letter to the Board setting out his concerns and asks that these are investigated.	A member of staff off work on maternity leave is not offered the opportunity to apply for a promoted post in her department. She raises a concern that she has missed out on the chance of a promotion because she was not aware of the post being advertised internally.
A toddler was admitted to hospital. Nursing staff noticed bruises on the toddler but did not take any follow up action and discharged the child. Eight days later the toddler was admitted again with a brain injury and died the following day. A member of admin staff raised concerns about the toddler's death and warned that his case should have been referred to social services when he first came in.	A porter notices that her colleague is regularly offered overtime, but that she is never asked to do this. She thinks this may be because her colleague is a relation of her line manager. She raises a concern about not being offered any overtime with her line manager who tells her that it is because she is paid more per hour. She raises a complaint with a more senior manager because she believes this is unfair.

2.1 A Broad Definition of What Constitutes a Whistleblowing Concern

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of legal obligation;
- an act of bribery
- concealment of any of the above or a failing to act.

Examples of these would include (although this list is not exhaustive):

- Patient safety, malpractice or ill treatment of a patient by a member of staff;
- A criminal offence is believed to have been committed, is being committed or is likely to have been committed, including suspected fraud, theft or bribery;
- Disregard for legislation, particularly in relation to health and safety at work;
- The environment has been, or is likely to be, damaged;
- Breach of standing financial instructions;
- Showing undue favour over a contractual matter;
- A breach of a code of conduct;
- Information on any of the above has been, or is being, or is likely to be concealed.

2.2 Other Definitions

- ‘Qualifying disclosures’, ‘public interest disclosures’ and ‘protected disclosures’ are different terms to describe a whistleblowing concern. They are disclosures of information where staff reasonably believe that one or more of the concerns described in section 2.1 above is either happening, has taken place, or is likely to happen in the future and it is in the public interest to raise this. Where a person raises a concern of this nature this is often referred to as ‘blowing the whistle’.
- A ‘whistleblower’ is a person as defined within the scope of this policy who makes a qualifying disclosure, protected disclosure, public interest disclosure or ‘blows the whistle’.
- ‘Assessment of status’ is where a concern is evaluated to ensure that it meets the definition of qualifying disclosure and assures protection for the whistleblower under relevant legislation.

3. NHS DUMFRIES & GALLOWAY'S COMMITMENT TO STAFF

3.1 Your Safety

The Board, the Chief Executive and the trade unions/professional organisations are committed to this policy. If a member of staff raises a genuine concern under this policy, they will not be at risk of losing their job or suffering any detriment (such as a reprisal or victimisation). Provided the whistleblower acts in good faith, it does not matter if they are mistaken or if there is an innocent explanation for their concerns.

3.2 The Confidence of Staff

With these assurances, the Board hopes that staff will raise concerns openly. However, it is recognised that there may be circumstances when staff would prefer to speak to someone in confidence first. If this is the case, the member of staff raising the concern should say so at the outset. If the organisation is asked not to disclose someone's identity, we will not do so without that person's consent unless required by law. Whistleblowers should however understand that there may be times when the organisation will be unable to resolve a concern without revealing someone's identity, for example where personal evidence is essential. In such cases, it will discuss with the whistleblower whether and how the matter can best proceed.

It should be remembered that if whistleblowers do not disclose their identity, it will be much more difficult for NHS Dumfries & Galloway to look into the matter. It will also not be possible to protect the whistleblower's position or give them feedback. Accordingly, a whistleblower raising a concern should not assume that the Board can provide the same assurances where a concern is reported anonymously.

4. THE LEGAL FRAMEWORK

The Public Interest Disclosure Act 1998 (PIDA) encourages matters of concern to be raised both internally to managers within the organisation and externally to regulators, it also encourages workplace accountability and self-regulation.

Under this Act, staff who act honestly and reasonably are given automatic protection from being subject to, or suffering from a detriment or being dismissed in breach of PIDA. Where an individual is subjected to a detriment by their employer for raising a concern they can bring a claim for compensation under PIDA to an Employment Tribunal.

5. RESPONSIBILITIES AND ORGANISATIONAL ARRANGEMENTS

5.1 All Parties

All employees (either directly involved or acting as a witness), managers, trade union and professional representatives and workforce employees have a responsibility to maintain confidentiality regarding any whistleblowing concern which they are involved in or party to.

All staff **must** also ensure that all information pertaining to a whistleblowing concern is kept confidential and advise others involved to do this also. Failing to maintain confidentiality is a serious concern that may result in disciplinary action.

5.2 Non-Executive Whistleblowing Champion

The Board has identified a non-Executive Board Member as the Board's Whistleblowing Champion, in line with Scottish Government requirements. The intention of this Champion role is to provide a level of local scrutiny and assurance, independent of the operational management of concerns, to help the Board to comply with its responsibilities.

The Whistleblowing Champion role is intended to fulfill the following responsibilities:

- provide a conduit role, working closely with the named policy contacts, Workforce Directorate Team, the Staff Governance Committee, the Board and the Independent National Officer;
- seek assurance that the benefits of raising concerns about patient safety, malpractice and wrongdoing are highlighted and widely publicised;
- seek assurance that all staff at all levels have access to a range of mechanisms and support to report or discuss any concerns they may have about patient safety, malpractice or wrongdoing;
- ensure that the Board is appropriately advised of reported whistleblowing cases;
- report and discuss regularly the number of concerns, if any, and their nature at the Staff Governance Committee, and report to the Board on a quarterly basis.

5.3 Whistleblowing Lead

The Workforce Director is responsible for the assessment of status and ensuring the appropriate implementation of the Whistleblowing Policy. It is essential that robust oversight and governance arrangements exist to ensure that whistleblowing concerns raised are taken seriously, are appropriately investigated and recommendations arising from this are fully implemented.

The Whistleblowing Lead will also be responsible for informing the Whistleblowing Champion of any concerns, how these are dealt with and the outcome on conclusion of any concerns.

5.4 Confidential Whistleblowing Contacts

The Board also has two confidential whistleblowing contacts who have undertaken training in dealing with Whistleblowing concerns. It is the role of the confidential whistleblowing contacts to advise and support all preliminary reviews and formal investigations in consultation with the Whistleblowing Lead.

Please see section 6.0, Raising a Concern: 'Step Two' for further details.

5.5 Occupational Health Specialists

As part of dealing with whistleblowing concerns, Occupational Health Specialists can provide support to employees following a self or management referral; particularly for any individuals whose resilience is affected by their involvement in a review or investigation or where interpersonal relationships have broken down and are psychologically or emotionally impacted by this.

5.6 All Staff

All staff have a responsibility to protect patients from risk of harm posed by another colleague's conduct, performance or health by taking immediate steps to ensure their concerns are dealt with or raised for appropriate investigation.

This includes being aware of the Whistleblowing Policy that is available on the organisation's intranet page and blowing the whistle when they perceive others not to be adhering to expected standards of performance and conduct.

5.7 All Managers and Clinical Leads (including Supervisors)

All managers and clinical leads are required to ensure that all employees for whom they are responsible are made aware of this policy and that it is accessible on the Board's intranet site; Beacon. Managers must also ensure that they are fully aware of and comply with the provisions of this policy.

5.8 Trade Union/Professional Organisation Representatives

Work in partnership with NHS Dumfries & Galloway to develop joint training as part of the implementation of this policy and participate in such joint training. This includes:

- Raising awareness of the benefits and reassure all staff that it is safe and acceptable to speak up, and to enable them to raise concerns which they may have at an early stage and in the right way.
- Supporting their members, including providing advice on the preparation of statements and representation throughout the procedure, ensuring that their members are aware of their rights and responsibilities under this and other relevant policies; and
- Participating in partnership monitoring, evaluation and review of this policy.

The Board acknowledges and endorses the role trade union/professional organisation representatives play in meeting the aims of the Whistleblowing Policy.

5.9 Workforce Representatives

Workforce Representatives are required to advise on the correct implementation of this policy and support employees and managers by providing advice on this policy.

6. RAISING A CONCERN

If members of staff are unsure about raising a concern, they can get independent advice at any stage from their trade union/professional organisation representative, or from one of the organisations listed at the end of this Policy. Staff should also remember that they do not need to have firm evidence before raising a concern. However, they should explain as fully as possible the information or circumstances that gave rise to the concern.

Step One – Managers and Clinical Leads

If a member of staff has a concern about a risk, malpractice or wrongdoing at work, it is hoped that they will feel able to raise it first with their line manager or lead clinician. This may be done verbally or in writing.

Managers and clinical leads are expected to discuss the concern with the member of staff and complete an assessment of status (See SOP flowchart and pro-forma documentation). They may address any concern that is within their responsibility of holding a management or clinical

lead position. When identifying and dealing with issues which arise, these must be addressed in a fair, consistent, confidential, timely and supportive manner.

Where a concern is out with the control of the manager or clinical lead, and/or advice is required to complete an assessment of status or take appropriate action, the concern must be escalated to one of the confidential whistleblowing contacts at the earliest opportunity.

Step Two – Confidential Whistleblowing Contacts

If a member of staff feels unable to raise the matter with their line manager or lead clinician for whatever reason; e.g. they do not think that this would effectively address the concern; where this action has been tried but has not led to action that addresses the concern; or addressed it within a reasonable period of time for whatever reason, they should then raise the matter with one of two confidential whistleblowing contacts.

These two people have been given special responsibility and training in dealing with whistleblowing concerns. If the matter is to be raised in confidence, then the staff member should advise one of the confidential whistleblowing contacts at the outset so that appropriate arrangements can be made. The contact details of both these individuals are included in Appendix 3.

Step Three – the Whistleblowing Lead

If these channels have been followed and the member of staff still has concerns, or if they feel that the matter is so serious that they cannot discuss it with any of the above, they should contact the Whistleblowing Lead. The contact details for this person are included in Appendix 3.

7. CONCERNS ABOUT THE CHIEF EXECUTIVE

If exceptionally, the concern is about the Chief Executive, then it should be made (in the first instance) to the Chairperson of the Health Board, who will decide on how the investigation will proceed. The contact details for this person are included in Appendix 3.

8. HOW NHS DUMFRIES & GALLOWAY WILL HANDLE THE MATTER

Once a concern has been raised, it will be assessed, and consideration will be given as to what action may be appropriate. This will involve a conversation with the whistleblower and may involve an informal review, a preliminary review or a more formal investigation. Full details on these options are available in the separate Standard Operating Procedure for the Whistleblowing Policy.

The member of staff raising the concern will be advised on who will be handling the matter, how they can contact them, and what further assistance may be needed. The organisation will write to the member of staff summarising the concern and advising how they propose to handle it, and provide a timeframe for feedback. If the concern has been misunderstood, or there is any information missing, the member of staff should highlight this.

8.1 When raising a concern

When raising a concern, it will be helpful to know how the whistleblower thinks the matter might best be resolved. If the whistleblower has any personal interest in the matter, they should confirm this at the outset. If it is felt that the concern falls more properly within the scope of another of the Board's policies, this will also be explained to the member of staff.

A member of staff raising a concern will not be asked to prove their claim. However, this assurance will not be extended to a member of staff who maliciously raises a matter they know to be untrue. Where malicious intent is uncovered and can reasonably be substantiated, staff may be subject to disciplinary action.

The most senior level of manager involved in resolving the concern will give feedback on the outcome of any investigation. However, it should be noted that it may not be possible to give details of the precise actions taken, where this would infringe a duty of confidence owed to another person. While it cannot be guaranteed that all matters will be responded to in the way that the whistleblower might wish, NHS Dumfries & Galloway will strive to handle the matter fairly and properly.

The investigation will be concluded without unreasonable delay. However, the organisation allows for flexibility given the possible complexity of concerns raised. Every effort will be made to keep the whistleblower informed of progress with their concern.

9. INDEPENDENT ADVICE

If any member of staff is unsure whether to use this policy, or if they require confidential advice at any stage, they may contact their trade union/professional organisation.

At all stages of the process any employee involved will have the right to be accompanied by either a trade union/professional organisation representative or a work colleague not acting in a legal capacity.

Where an individual is not an employee of the Board, consideration may be given for alternative representation.

Where an employee is represented by a trade union/professional organisation representative, the organisation reserves the right to only allow representatives formally recognised by this organisation to accompany members of staff. This is to ensure that they are represented by a trade union/professional organisation representative who have received appropriate training and understand the policies and procedures of the NHS.

10. EXTERNAL CONTACTS

While the Board at NHS Dumfries and Galloway believes that this Policy gives the reassurance needed to raise a concern internally, it is also recognised that there may be circumstances where a member of staff feels they need to report a concern to an outside body.

The Board would rather staff raised a matter with the appropriate regulator than not at all. Trade unions/professional organisation representatives will be able to advise on such a course of action.

A National Alert Line has been established to provide an additional level of support to staff who wish to raise a concern about practices within NHS Scotland. Public Concern At Work (PCaW) will receive staff's calls and will offer free, confidential advice on how best to take forward any concerns.

Contact Public Concern at Work on Freephone – 0800 008 6112.

Full details of professional associations and other relevant agencies are provided in the appendices to this Whistleblowing Policy.

11. EQUALITY AND DIVERSITY

NHS Dumfries and Galloway has a responsibility under the Equality Act 2010 Public Sector Equality Duty (PSED). The PSED requires NHS Dumfries and Galloway to pay due regard to the following aims (in relation to the 9 protected characteristics of Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex and Sexual Orientation) to:

- Eliminate discrimination, harassment and victimisation;
- Advance equality of opportunity between those who share a protected characteristic and those who do not by:-
 - Removing or minimising disadvantages suffered by people because of their protected characteristic
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
 - Encouraging people from protected groups to participate in public life, or in other activities where their participation is proportionately low.
- Foster good relations between those who share a protected characteristic and those who do not.

The Board will ensure that the Whistleblowing Policy does not discriminate against whistleblowers either in the way it has been designed or how it is implemented in practice.

NHS Dumfries and Galloway will not tolerate behaviours that may constitute a lack of respect for others, discrimination, harassment or victimisation of its staff in the course of their employment or as a result of raising a whistleblowing concern. Nor will it tolerate such behaviour by its staff whether directed against colleagues or other people with whom they come into contact during the course of their employment.

It is the policy of NHS Dumfries and Galloway to ensure that:-

- When a whistleblowing concern is received, whistleblowers are not discriminated against in the way that the organisation responds to it.

- Such matters will be taken seriously, investigated promptly and not dismissed as 'over sensitivity' on the part of the member of staff.
- The Public Interest Disclosure Act 1998, Equality Act 2010 and Public Sector Equality Duty are adhered to when responding to a whistleblowing concern.

12. RETENTION OF RECORDS

All records pertaining to whistleblowers under this policy, including the forms provided in the Standard Operating Procedure, must be held in accordance with both the Data Protection Act 1998 and the Health and Administration Records Management Policy (This document stipulates how long records can be held for).

13. MONITORING & REVIEW

The Whistleblowing Lead is required to produce a monitoring report for the Staff Governance Committee and Area Partnership Forum. The information is provided as part of the Workforce Report and includes:

- the number and type of concerns raised;
- the numbers raised internally / externally;
- the split of open / confidential / anonymous concerns;
- any organisation-wide recommendations or learning.

- Where there is a nil return during a particular period, the report will show this.

The Board is responsible for this policy and will review it at least every three years or as legislation, local practices or named contacts change. The operation of this policy will be monitored by the Area Partnership Forum, and if members of staff have any comments or questions, these should be brought to the attention of trade union/professional organisation representatives.

A confidential register of issues raised will be held by the Whistleblowing Lead for monitoring and review purposes. Information from the Whistleblowing Decision Making Process (Form W1), the Investigation Outcome Form (W2) and the Monitoring Form (Form W3) will be used to populate this register. (Please see the Appendix of the Standard Operating Procedure)

14. WHO WE CONSULTED

This policy was developed locally in partnership with trade unions/professional organisations, and meets the minimum requirements set out in the Implementing & Reviewing Whistleblowing Arrangements in NHSScotland PIN Policy.

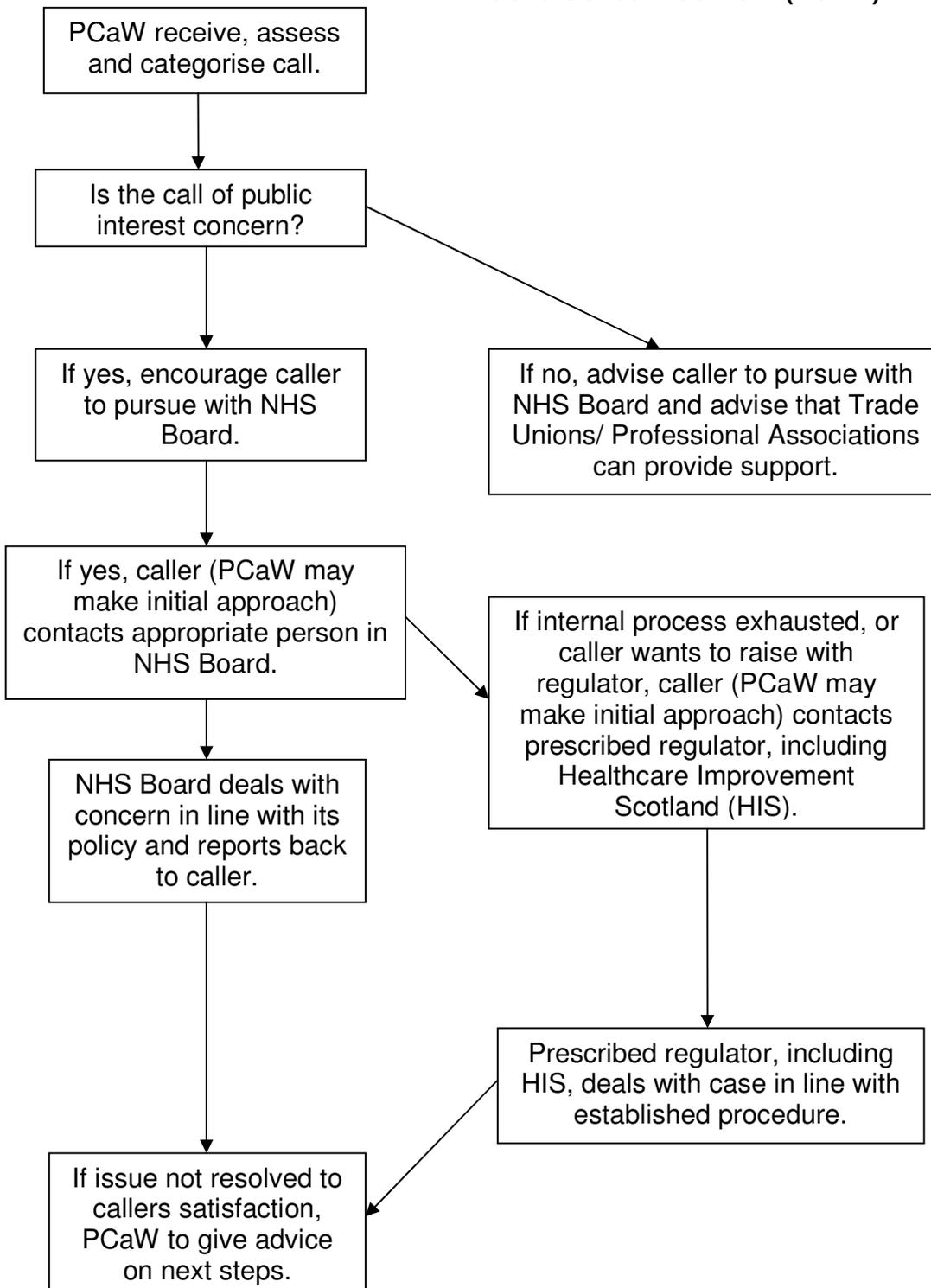
National Confidential Alert Line – 0800 008 6112

Public Concern at Work (PCaW) will:-

- establish the nature of the concern and provide advice tailored to individual circumstances.
 - will categorise each call as either public interest or private (individual employment issue).
 - will encourage individuals to raise their concern with their employer. Individuals will be advised that employers will respect confidentiality but will not accept concerns raised anonymously.
 - categorised as individual employment issues, PCaW will direct the caller to their employer.
1. Where PCaW considers that there is a public interest issue and the internal process appears to have been exhausted, or the individual has sound reasons for not raising the concern with their employer, they will either direct the individual to the appropriate regulator or at the individual's request will make the initial approach to the regulator on the individual's behalf. If PCaW determine that the issue should be referred to Healthcare Improvement Scotland then this will always be referred by PCaW rather than the individual themselves.
 2. PCaW are able to refer anonymous cases or, where the regulator is unable to accept anonymous concerns (Audit Scotland will accept anonymous concerns, HSE will not), will act as an intermediary for information.
 3. PCaW and the regulators will respect callers' confidentiality.
 4. PCaW will record cases electronically. For management information purposes each case will be closed by PCaW after providing advice to the individual on who they should raise their concern with, or on completion of any follow up work they have been asked to do by the individual. This may include contacting either the employer or the regulator and seeking feedback.
 5. Reporting back on the action taken by the employer or regulator will be to the individual who raised the concern. In the case of Healthcare Improvement Scotland, which is not a regulator, they will report back to the individual and PCaW.
 6. The regulators' responsibility is to the individual who raises the concern and will only report to Scottish Government on cases where investigation confirms that there is a concern that needs to be addressed. In the case of Healthcare Improvement Scotland, which is not a regulator, their responsibility is to PCaW since they would refer the case to Healthcare Improvement Scotland (*and through Public Concern at Work to the Scottish Government as commissioner of the Alert Line*).

NATIONAL CONFIDENTIAL ALERT LINE : CALL FLOW

Public Concern at Work (PCaW)



If you are worried that something wrong or dangerous is happening at work, please don't keep it to yourself. Unless you tell us about any concerns you may have about fraud, safety risks including clinical safety, or other wrongdoing, it may not come to our attention at that time and patients and/or staff could come to harm.

As some of you may be nervous about raising such matters, here are some tips:

- Raise it when it's a concern - we won't ask you to prove it;
- Keep it in perspective - there may be an innocent explanation;
- It will help us if you can say how you think things can be put right;
- Stay calm - you're doing the right thing; and
- If for whatever reason you are worried about raising it with your manager, please follow the steps shown below.

How to Raise a Concern about Serious Malpractice

- We hope that you will feel able to tell your line manager; If for whatever reason you are uneasy about this or your manager's response doesn't seem right, you should contact the Health Board's named Confidential Whistleblowing Contacts or your local trade union / professional organisation representative;
- If your concern is regarding the Chief Executive, please contact the Chairperson of the Health Board;
- If you want to talk to them in confidence, just say so. If you prefer to put it in writing, that's fine but please tell them who you are;
- If you want confidential advice first, you can talk to your local trade union/professional organisation representative. You may also wish to contact one of the independent organisations listed below and/or in Appendix 3.

Contact Details and Support

<p>Whistleblowing Confidential Contact</p> <p>Graham Stewart, Deputy Director of Finance Tel: 01387 244 033 Email: graham.stewart@nhs.net</p>	<p>Whistleblowing Confidential Contact</p> <p>Alice Wilson, Deputy Nurse Director Tel: 01387 272 789 Email: alice.wilson@nhs.net</p>
<p>Whistleblowing Lead</p> <p>Caroline Sharp, Workforce Director Tel: 01387 246 246 Email: carolinesharp@nhs.net</p>	<p>For concerns regarding the Chief Executive:</p> <p>Phil Jones, Chairperson of the Health Board Tel: 01387 246 246 Email: phil.jones8@nhs.net</p>
<p>The postal address for all of the above is: Crichton Hall, Bankend Road, DUMFRIES, DG1 4TG</p>	
<p>Support for Whistleblowers:</p> <p>Dawn Allen, Confidential Staff Support Tel: 01387 246 246 Email: dawnallan1@nhs.net NHS Dumfries & Galloway, DGRI Sanctuary Office, Cargenbridge, DUMFRIES, DG2 8RX</p> <p>Breathing Space 'A confidential phone line for anyone in Scotland feeling low, anxious or depressed.' Tel: 0800 83 85 87</p> <p>Doctor Support Service https://www.gmc-uk.org/concerns/doctors_under_investigation/13013.asp</p>	<p>Support for Whistleblowers:</p> <p>Whistleblowers UK Freepost RRZB-TAKA-RBTR Whistleblowers Press Agency PO Box 9181, Colchester, CO1 9EU Freephone: 0800 8766 568 / 0800 585 231 Tel: 01206 711055 (six lines) Text: 07797 805 349 Email: newsdesk@whistleblowers.uk.com</p> <p>Tea and Empathy - an online forum http://www.wsh.nhs.uk/Staff/Health-and-wellbeing/Tea-and-empathy.aspx</p>

Further Information

Further information is available from:

<p>BSI Code of Practice on Whistleblowing Arrangements Organisations can download a free copy of the 2008 British Standards Institution's Code of Practice on Whistleblowing Arrangements from www.pcaw.co.uk/bsi</p>	<p>General Optical Council 41 Harley Street London W1G 8DJ www.optical.org Tel: 020 7580 3898</p>
<p>Public Concern at Work For information about the Public Interest Disclosure Act 1998, please visit: www.pcaw.co.uk/law/uklegislation.htm</p>	<p>General Osteopathic Council 176 Tower Bridge Road London SE1 3LU www.osteopathy.org.uk Tel: 020 7357 6655</p>
<p>NHSScotland Counter Fraud Service (CFS) Fraud Hotline Powered by CrimeStoppers on - 08000 151 628 cfs.scot.nhs.uk</p>	<p>Nursing and Midwifery Council 23 Portland Place London W1B 1PZ www.nmc-uk.org</p>
<p>Health Improvement Scotland Elliott House 8-10 Hillside Crescent Edinburgh EH7 5EA Call 0131 623 4300 www.healthcareimprovementscotland.org</p>	<p>General Medical Council GMC Scotland 5th Floor The Tun 4 Jackson's Entry Edinburgh EH8 8PJ www.gmc-uk.org Tel: 0131 525 8700</p>
<p>Audit Scotland 110 George Street Edinburgh EH2 4LH Tel: 0845 146 1010 www.audit-scotland.gov.uk/</p>	<p>Health Professions Council 184 Kennington Park Road London SE11 4BU www.hpc-uk.org Tel: 0845 300 4472 or 020 7840 9802</p>
<p>General Chiropractic Council 44 Wicklow Street London WC1X 9HL www.gcc-uk.org Tel: 020 7713 5155</p>	<p>Royal Pharmaceutical Society of GB 1 Lambeth High Street London SE1 7JN www.rpsgb.org.uk Tel: 020 7735 9141</p>
<p>General Dental Council 37 Wimpole Street London W1G 8DQ www.gdc-uk.org Tel: 020 7887 3800</p>	<p>National Partnership Information Network Model Whistleblowing Policy (May 2011) www.staffgovernance.scot.nhs.uk/</p>

DOCUMENT CONTROL SHEET

1. Document Status

Title	Whistleblowing Policy
Author	Implementing and Reviewing Whistleblowing Arrangements in NHSScotland PIN Policy John Glendinning, Liz Shannon etc. May 2015
Approver	Area Partnership Forum
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Version number	2.0

2. Document Amendment History

Version	Section(s)	Reason for update
1.0	Policy	May 2015 - the Whistleblowing Policy has been developed in accordance with the National PIN Policy.
2.0	Policy	Review to incorporate best practice and learning plus:- Internal Audit recommendations; NHS A&A and GG&C Policies; Role of Whistleblowing Champion; Whistleblowing Lead and confidential whistleblowing contacts; Addition of Standard Operating Procedure; Alignment with Document Development and Approval Policy.

3. Distribution

Name	Responsibility	Version No.
Corporate Business Manager	Place on policy register	2.0
Communications Team	Place on intranet and in 'Latest News'	2.0
Board Management Group	Dissemination of awareness to all staff through line management	2.0
Workforce Directorate	Include paragraph in the WD Update Paper Talk through the Policy at Meetings Provide How to Guide for Management	2.0
APF	Included in APF minutes	2.0

4. Associated Documents

Public Interest Disclosure Act 1998
Employment Rights Act 1996
Equality Act 2010
General Data Protection Regulation 2017

5. Action Plan for Implementation

Action	Lead Officer	Timeframe
Agree Draft with Union Rep	Ingrid Wilson	26 March 2018
Approve at GM's Meeting	Sharon Lynch	5 April 2018
Approve at Management Team	Linda McKie	25 April 2018
Approve at APF	Caroline Sharp	June 2018
Place on policy register	Corporate Business Mgr	June 2018
Place on intranet	Communications Team	June 2018
Raise awareness and inform staff	All line managers	June 2018
Use Policy	All staff	June 2018

WHISTLEBLOWING

STANDARD OPERATING PROCEDURE

To be read in conjunction with NHS Dumfries & Galloway's Whistleblowing Policy v 2.0, Approved June 2018.

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1. KEY PRINCIPLES AND VALUES

When staff raise a concern they must be encouraged that the best way to do this is openly. Openness makes it easier for the organisation to assess the issue, work out how to investigate the matter, understand any motive and get more information.

Managers responding to any whistleblowing concern are required to be aware of the Public Interest Disclosure Act 1998 (see Policy) and must also ensure that they are fully aware of, and comply with the provisions of the Whistleblowing Policy; identifying and dealing with issues which arise that are within their remit in a fair, consistent, confidential, timely and supportive manner.

Any concerns raised under the Whistleblowing Policy must provide staff with:

- the opportunity and confidence to raise concerns and have these investigated and acted upon without fear of suffering any detriment;
- supported to raise these concerns;
- listened to;
- feedback on the outcome, if appropriate.

1.1 Confidentiality

A whistleblower raises a concern confidentially if they give their name on the condition that it is not revealed without their consent.

If NHS Dumfries and Galloway is asked not to disclose someone's identity, we must not do so without that person's consent unless otherwise required by law. Whistleblowers should however understand that there may be times when NHS Dumfries and Galloway will be unable to resolve a concern without revealing someone's identity, for example where personal evidence is essential, or where it will be obvious based on the nature of the concern and/or circumstances surrounding this.

In such cases, we will discuss with the whistleblower whether and how the matter can best proceed if individuals do not disclose their identity. It will be much more difficult for NHS Dumfries and Galloway to look into the matter.

1.2 Anonymity

A member of staff raises a concern anonymously if they do not give their name at all.

If this happens, whoever receives the concern will be required to provide this to an appropriate service manager or one of the confidential whistleblowing contacts. An assessment of status will need to be carried out on the anonymous information, to establish whether there is substance to the concern and whether it can be addressed. If no-one knows who provided the information, it will not be possible to provide any feedback.

1.3 Malicious Concerns

There may be occasions when a concern is raised either with an ulterior motive or maliciously. In such a case, the organisation cannot give the assurances and safeguards included in the policy to someone who is found to have maliciously raised a concern that they also know to be untrue. NHS Dumfries and Galloway complete an assessment of status and examine whether there is any substance to it. Every concern will be treated as made in good faith, unless it is subsequently found not to be. However, if it is found that the individual has maliciously raised a concern which they know is untrue, disciplinary proceedings may be commenced against that individual.

2. THE PROCEDURE TO BE FOLLOWED IN RAISING A CONCERN

If staff have concerns in relation to issues of the kind referred to in Section 2 of the Whistleblowing Policy document, they should follow the Three Step procedure that is also set out in the Whistleblowing Policy.

3. HANDLING CONCERNS RAISED

3.1 Acknowledge the Concern

When a concern is raised with a manager, lead clinician or confidential whistleblowing contact the first action is for the individual contacted to discuss the concern with the member of staff and obtain as much information as possible to fully understand the issue. (Please also refer to 3.2 and 3.6).

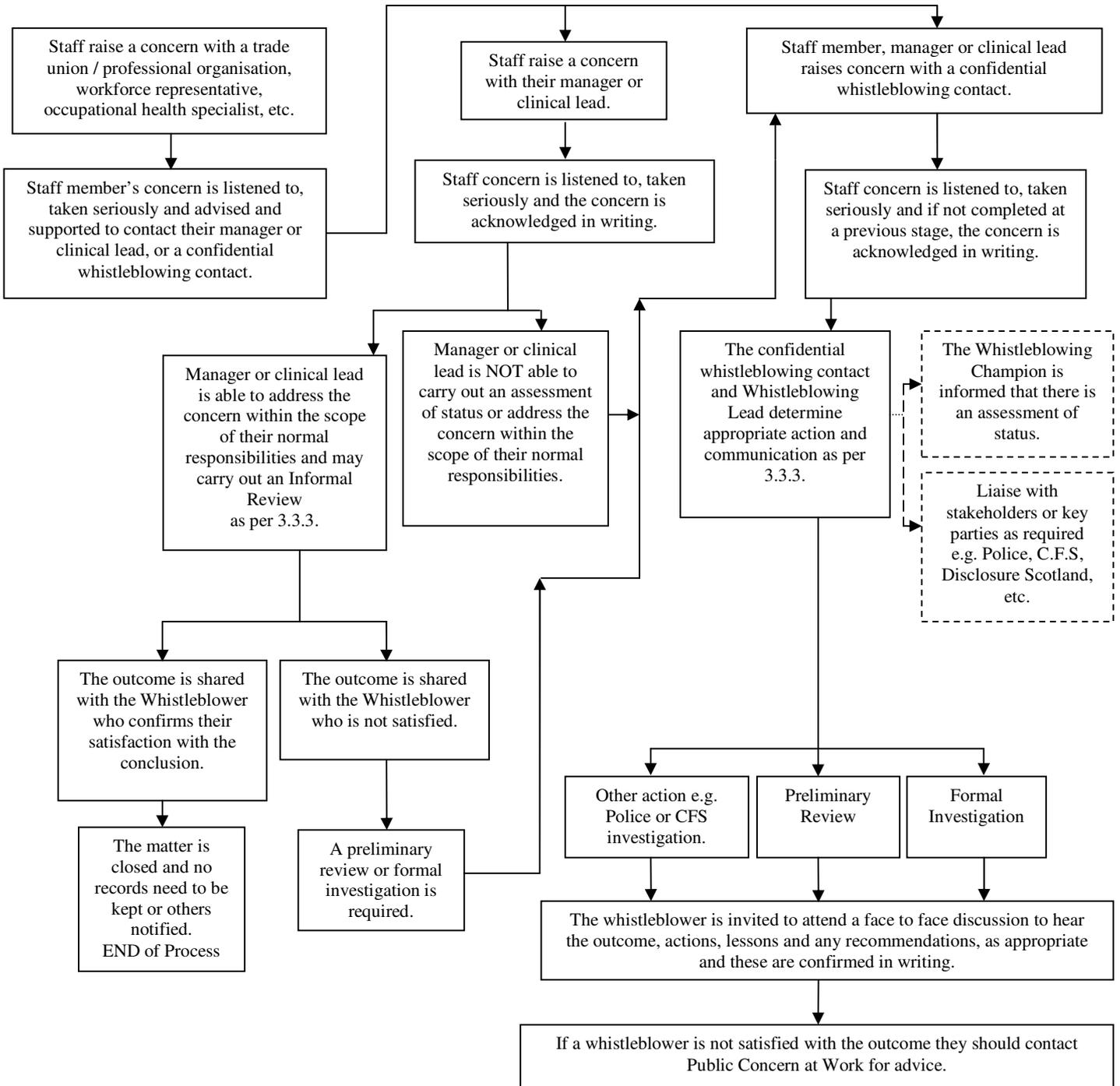
In situations where the concern cannot be resolved during the initial discussion, a written (or emailed) acknowledgement of the whistleblowing concern should be provided within three working days from the date it was raised. Responsibility for acknowledging the concern will sit with the most senior person operationally involved.

3.2 Confidentiality

The manager, confidential whistleblowing contact or Whistleblowing Lead will confirm with the individual concerned whether or not the matter is being raised in confidence.

(Fig 1. Flowchart for Handling Concerns)

Fig. 1 Flowchart for Handling Concerns



3.3 Appropriate Action

3.3.1 Management / Lead Clinician Action

i) Managers and Lead Clinicians are expected to address any concern that is within their responsibility. There is no requirement to notify a confidential whistleblowing contact or the Whistleblowing Lead of any concerns that they are able to address using an informal review, as detailed in 3.3.3 A.

ii) Where a concern is out with the control of the manager or clinical lead; and/or advice is required; and/or a whistleblowing concern requires a preliminary enquiry or formal investigation as per 3.3.3 B or C, appropriate advice must be sought by contacting one of the confidential whistleblowing contacts at the earliest opportunity. (Please see some examples at the end of this section.)

For all situations described in ii) a Whistleblowing Decision Making Process (Form W1, Appendix A) must be used and is required to be submitted timeously as per 3.5 of this document.

3.3.2 Conduct or Fitness to Practice

In all cases where employee conduct or fitness to practice issues are suspected, the manager must consult with the Workforce Directorate. In such cases it may be that there is a need to refer to other organisations (such as the police, UK Border Agency, statutory regulatory bodies, Disclosure Scotland or NHSScotland Counter Fraud Services (CFS)).

If at any stage it becomes apparent that fraud, bribery or another type of criminal act may have taken place, the investigation must be halted and the Fraud Liaison Officer (who is also known as the Chief Internal Auditor) consulted. The following is a list of offences which the FLO may investigate (this list is not exhaustive, but contains examples of the type of offence that may attract a CFS investigation.):-

- Falsehood
- Fraud or corruption
- Embezzlement
- Theft by omission
- Other financial irregularities involving dishonesty or deception such as timesheet irregularities, sick leave irregularities, failure to declare gifts, breaches of NHS Circulars or Standing Financial Instructions or other accounting irregularities.

Please refer to the Disciplinary Policy for further details.

3.3.3 Reviews and Investigation

The review or investigation carried out will be proportionate to the complexity of the concern and will follow the principles of employment relations policies already in place (e.g. the Disciplinary Policy). Depending on the circumstances, it may be necessary to take other action or for an informal review or a preliminary review to be escalated to a formal investigation.

A. Informal Review – where all parties have a belief that the concern has the potential to be resolved through discussion with management and normal line management action;

B. Preliminary Review – for matters where there is a likely need to speak to a range of staff, including managers, in order to gather facts and details of the concern; all findings are required to be summarised in a brief report. This report will, in normal circumstances, be reviewed by the Chief Executive;

C. Formal Investigation – for matters where there is a serious concern that there may have been a breach affecting patient safety, malpractice or an illegal act or omission. Formal written statements are requested from individuals involved, interviews recorded and a full report and appendices provided to record the process, involvement and findings from the investigation. This report will, in normal circumstances, be reviewed by the Chief Executive;

A preliminary review or formal investigation may require any individuals suspected of involvement to be suspended. Where this is required the relevant details set out in the Disciplinary Policy will be followed.

3.3.4 Examples of actions that Managers/Lead Clinicians may consider:-

1. A member of staff raises a concern about a change to the disposal of contaminated waste from their service and believes the company who is now being used does not meet the required environmental standards.

The manager is fully aware of what the change is, why this has occurred and what the impact of this is and is able to obtain information from colleagues in supplies and share this information to the satisfaction of the employee. The matter is resolved informally. No records are required to be kept.

2. A bank worker raises a concern with a manager that he has heard that theatre supplies from NHS Dumfries and Galloway can be bought on Ebay. He claims he has heard there are various individuals involved and has seen a member of nursing staff take a box of supplies to their own car.

The manager obtains as much detail as she can from the bank worker who insists that he wishes to keep his details confidential. The stock and usage level report is checked and there is a higher than normal turnover of particular types of medical equipment.

As this concern is out-with the direct responsibility of the manager and involves numerous members of staff from another directorate, the Whistleblowing Decision Making Form is completed with as much information as possible and one of the Confidential Whistleblowing Contacts is immediately alerted. Because this concern involves allegations of theft, the CFS is made aware via the FLO. The member of nursing staff alleged to have been taking items to their car is not informed to allow an investigation to take place and evidence to be collated before anything can be removed or destroyed.

3.4 Effective Communication

As detailed, all whistleblowing concerns that cannot be resolved at management / lead clinician level using the informal review process must be escalated to one of the confidential whistleblowing contacts. This is to ensure that appropriate arrangements are made and communication protocols are put in place as required.

3.4.1 The Confidential Whistleblowing Contacts

It is the responsibility of the confidential whistleblowing contacts to inform the Whistleblowing Lead that a whistleblowing concern has potentially been raised so that an assessment of status can be carried out and action agreed depending on the circumstances.

3.4.2 The Whistleblowing Lead

Where this person is the first point of contact, the responsibility will be for the Whistleblowing Lead to inform one of the confidential whistleblowing contacts so that an assessment of status can be carried out and action agreed depending on the circumstances.

The Whistleblowing Lead is also responsible for informing the Whistleblowing Champion that an assessment of status is being completed and to provide fortnightly updates on progress in resolving this matter.

The Assessment of Status

This assessment involves reviewing the concern and determining if it is a Public Interest Disclosure as per the definitions in Section 2 of the Policy. The assessment must include those involved declaring any conflict of interest.

Senior Management

An appropriate member of senior management (e.g. General Manager, Director) will be briefed on the case in order to ensure that senior managerial oversight is maintained at all times over the directorate / team within which the concern has been raised. This is to ensure confidentiality and safety safeguards are in place throughout the review / investigation process, and any breaches are appropriately managed within the wider policy context.

3.5 Recording the Concern and Action

Where a concern requires a preliminary enquiry or formal investigation, the confidential whistleblowing contact must use the Whistleblowing Decision Making Process (Form W1, Appendix A) to document the concern raised and the reasons for taking the action as proposed. This document will be used by the Whistleblowing Lead to record the concern on the confidential register of whistleblowing concerns.

It is essential at this point to assess if there is any risk of reprisals to the whistleblower and ensure appropriate arrangements are made to eliminate this risk.

For this reason the senior manager will undertake and record a risk assessment at the initiation of the review/investigation process with support from the workforce team. This will assess the need for protection of all staff members involved in the case based on the circumstances of the case itself. The manager will identify and put in place any further control measures required to minimise the risk of physical or psychological harm and breach of confidentiality during the review/investigation process. Relevant information from this risk assessment will be shared with the whistleblower and others affected so that they are aware of the arrangements which are/will be put in place, as they relate to individuals affected.

The Whistleblowing Decision Making Process and associated risk assessment are required to be submitted to the Whistleblowing Lead within 3 working days of the date the concern is raised.

3.6 Informing the Whistleblower of the Proposed Action

Once actions have been considered and agreed as appropriate, the most senior person operationally involved in resolving the whistleblowing concern is responsible for ensuring that the whistleblower is informed how the whistleblowing concern will be taken forward as quickly as possible (normally within a week of receiving the concern).

This notification may include, as relevant:

- a. a summary of their concern to be taken forward
- b. how the matter will be handled (i.e. what the initial category of action is, as per 3.3 of this policy)
- c. how confidentiality can or will be difficult to maintain and what the whistleblower can expect in this regard;
- d. when others involved will be notified, particularly those who may have an impact on the whistleblower (e.g. others involved may include colleagues or line management);
- e. who will be handling the matter;
- f. how they can contact this person;
- g. what further assistance may be needed;
- h. an estimated timeframe for completion of the process and when the next communication will be provided during this;
- i. If the concern has been misunderstood, or there is any information missing, the member of staff is given the opportunity at this stage to highlight this.
- j. If the member of staff has any personal interest in the matter, they should confirm this at the outset.

If not already provided, when responding to a whistleblowing concern, it will be helpful to know how the member of staff thinks the matter might best be resolved.

If it is felt that the concern falls more properly within the scope of one of another of the Board's policies, this will be explained to the member of staff at either 3.1 or at this stage.

3.7 Timeframe and Updates

The informal review, preliminary review or formal investigation will be concluded without unreasonable delay. The Board will endeavor to complete the process within **28** calendar days. However, dependent on the complexity of the concerns raised there may be a requirement for flexibility with regard to timescales.

As detailed in 3.6, an estimated completion date should be included in the initial letter confirming what action is to be taken and 'regular' updates provided at least every **two** weeks. Where the timeframe needs to be amended, every effort must be made to inform the whistleblower as soon as reasonably practical.

The updates should specify what action has been taken and what still needs to be done without breaching confidentiality (e.g. four interviews have been held and another three are required to be completed with staff in the department, there have been delays because of annual leave/representative availability, etc.).

The definition of 'regular' will vary depending on the nature of the whistleblowing concern and the action to be taken. Regular updates may include; the appropriate member of senior management (e.g. General Manager/ Director); Occupational Health Specialists, Workforce Representatives, Trade Union/Professional Organisation Representatives, plus the Whistleblowing Champion to whom updates should be provided on a fortnightly basis by the Whistleblowing Lead.

Updates should be provided to all others involved using the method of communication most convenient, confidential, efficient and least disruptive to those impacted by the review or investigation.

3.8 Outcome and Feedback

Depending on the level of action taken, the manager, lead clinician, Whistleblowing Lead or Chief Executive will provide feedback on the outcome of the informal review, preliminary review or formal investigation.

While it cannot be guaranteed that all matters will be responded to in the way that the whistleblower might wish, NHS Dumfries and Galloway will strive to handle the matter fairly and properly.

Under the Data Protection Act 1998, it is legitimate for the organisation to redact information that others have provided for a review or investigation where this would infringe a duty of confidence owed to another person and to protect them from potential harm. This means that it is acceptable to provide a documented summary of the review or investigation report, any findings and any recommendations or actions required where necessary.

It is recommended that in all cases the Whistleblower is invited to attend a face to face discussion allowing for feedback on whether the individual is satisfied with the process and findings.

In all cases a letter confirming the outcome must be sent within five working days of concluding the review or investigation.

A copy of this letter must be sent to those operationally involved in the review or investigation to trigger the completion of the Investigation Outcome Form W2 and Monitoring Form W3 (Appendix B).

3.8.1 Feedback to others

At this point it will be useful to consider if any other individuals involved in the process require feedback or further support to provide closure.

3.9 Monitoring

The most senior person involved in the whistleblowing concern must ensure that Investigation Outcome Form W2 and Monitoring Form W3 (Appendix B), are completed and provided to the Whistleblowing Lead within three working days of providing written feedback to the whistleblower.

4. OUTCOMES

If the result of the review or investigation is that there is a case to be answered by any individual, the Board's Disciplinary Policy will be used.

Where there is no case to answer, but the whistleblower held a genuine concern and was not acting maliciously this will be accepted and fully acknowledged. The whistleblower must not suffer any reprisals.

Where a whistleblower is not satisfied with the outcome, they should be advised to contact Public Concern at Work for advice (see Policy). Please also refer to section 6.

Only where malicious allegations are made will it be considered appropriate to act against the concerned member of staff under the terms of the Disciplinary Policy.

5. HANDLING CONCERNS ABOUT THE CHIEF EXECUTIVE

If the concern raised is about the Chief Executive, then it should be made (in the first instance) to the Chairperson of the Health Board at the first possible opportunity to decide on how the investigation will proceed, taking account of the processes described within this Policy.

6. CONCERNS TO AN EXTERNAL CONTACT

While the Board at NHS Dumfries and Galloway believes that this Policy gives the reassurance needed to raise a concern internally, it is also recognised that there may be

circumstances where a member of staff feels they need to properly report a concern to an outside body.

The Board would rather staff raised a matter with the appropriate regulator than not at all. Trade unions/professional organisation representatives will be able to advise on such a course of action.

A National Alert Line has been established to provide an additional level of support to staff who wish to raise a concern about practices within NHS Scotland. Public Concern at Work (PCaW) will receive staff's calls and will offer free, confidential advice on how best to take forward any concerns.

Contact Public Concern at Work on Freephone – 0800 008 6112.

Full details of professional associations and other relevant agencies are provided in the appendices to the Whistleblowing Policy.

Whistleblowing Decision Making Process (Form W1)

Appendix A

Staff Name (unless confidential)	Manager(s) or appropriate person Name	'Confidential W. Contact' and 'W. Lead'	Date of Decision
What is the concern? <i>Use an additional sheet of paper if required</i>			<i>Describe the situation and/or relevant details of the concern. Ensure that you have all information pertaining to the issue i.e. what happened, when, where, witnesses, impact, etc.</i>
Policies / Procedures / Professional Guidelines that apply			<i>Standing Financial Instructions, Environmental Legislation, Professional Standards, Local Policies, etc</i>
Assessment of Status: Is this a whistleblowing concern (Y/N)? <i>Use an additional sheet of paper if required</i> <i>If not, how best is it resolved?</i>			<i>Review the concern and implications against Section 2 of the Policy. If required the final determination on this is made by the Whistleblowing Lead</i>
Have declarations of interest been checked / received (Y/N)?			<i>Check all involved and record the outcome(s)</i>
Witnesses <i>Use an additional sheet of paper if required</i>			<i>Please detail all witnesses - provide full names and if an employee, member of the public, patient, etc.</i> <i>Provide contact details if not an employee.</i>
Documentation available <i>Use an additional sheet of paper if required</i>			<i>Any statements, DATIX, records, rosters, CCTV, etc. Provide details or list any documentation that is available.</i>
Is anyone required to be suspended and/or require disciplinary allegations to be made against them <i>Use an additional sheet of paper if required</i>			<i>Risk Assess if it is appropriate to arrange temporary adjustment or to suspend anyone involved.</i> <i>- Consult a Workforce Representative.</i> <i>- Allocate and Inform the Designated Contact Person.</i>
Decision on whether to move to A, B or C or other action. (Refer to 5.3.3 of the Policy) <i>Use an additional sheet of paper if required</i>			<i>Detail here the reasons for your decision i.e.</i> <i>- What has been considered?</i>
Who is to investigate?			<i>What support is required to be put in place.</i>

/Continued

Initial Risk Assessment			
Description of Operation/Activity/Task/Area/Environment/Issue			
			<i>Complete the relevant details of the activity or issue being addressed</i>
Identify Hazards			
			<i>All hazards associated with the activity or issue should be entered here</i>
Individuals or Groups Exposed			
			<i>Highlight the people at risk and the likely maximum numbers exposed</i>
Current Control Measures			
			<i>List current control measures, including physical controls but do not forget to include safe working procedures, information, instruction and training</i>
Initial Risk Rating			
Risk Rating <i>Using information above and the risk matrix and taking into account the control measures in position, decide the Likelihood and Severity, and calculate the risk rating.</i>	Likelihood <i>Rarely happens Unlikely to occur Possibly can occur Likely to occur Almost certain</i>	Severity <i>Negligible injury, illness, loss Minor injury, illness, loss Moderate injury, illness, loss Major injury, illness or loss Extreme loss, fatality, disaster</i>	Rating R=L x S
Calculate <i>Rating = Likelihood x Severity</i>			
Signature(s) of those involved in the decision Date:		
 Date:		
 Date:		

Consider if any other risk assessments are required to be completed in relation to this concern:
 E.g. Confidentiality of the whistleblower being exposed / Risk of distress to those involved / Risk of adverse publicity / Risk of impact or repercussions to whistleblower / etc.

A copy of this document must be submitted to the Whistleblowing Lead within 3 working days of receipt of the concern(s), or as soon as reasonably practical, for all cases where a preliminary review or formal investigation is expected to be required.

INVESTIGATION OUTCOME FORM (Form W2)

1. Name and position of manager dealing with concern:			
Full Name:		Job Title: Service:	
2. Name and position of staff raising concern (if confidential please leave blank):			
Full Name:		Job Title: Service:	
3. Date concluded:		(Target is 28 days)	
4. Brief outcome details, including any recommendations / organisational learning:			
<i>Use an additional sheet of paper if required</i>			
5. Staff member provided with feedback on outcome? Yes [] No []			
If not, why?	<i>Use an additional sheet of paper if required</i>		
6. Concern resolved to staff member's satisfaction? Yes [] No []			
Details:	<i>Use an additional sheet of paper if required</i>		

/Continued.

**WHISTLEBLOWING
MONITORING FORM (Form W3)**

Reference No.:	
Transparency: (please tick)	Name identified: <input type="checkbox"/> Name withheld: <input type="checkbox"/> Anonymous: <input type="checkbox"/>
How was concern raised? (please tick)	Internal process: <input type="checkbox"/> External process: <input type="checkbox"/>
Concern category: (please tick)	<ul style="list-style-type: none"> - patient safety, malpractice or ill treatment of a patient by a member of staff; - repeated ill treatment of a patient, despite a concern being raised; - an unacceptable standard of patient/clinical care; - a criminal offence is believed to have been committed, is being committed or is likely to have been committed; - suspected fraud; - disregard for legislation, particularly in relation to health and safety at work; - the environment has been, or is likely to be, damaged; - breach of standing financial instructions; - showing undue favour over a contractual matter; - a breach of a code of conduct; - an act of bribery – the offering, soliciting, giving or receiving of a financial or other advantage in exchange for improperly performing a relevant function or activity; - information on any of the above has been, is being, or is likely to be concealed. - Other (Please describe).....
Description of concern:	
<i>Use an additional sheet of paper if required</i>	
Outcome, including any recommendations / organisational learning:	
<i>Use an additional sheet of paper if required</i>	

Please provide this form electronically or as a hard copy along with the Investigation Outcome form above to the Whistleblowing Lead for all preliminary reviews and formal investigations within three working days of the outcome letter being sent to the whistleblower.