

**NHS Lothian**  
**Internal Audit Report 2022/23**  
**Compliance with Whistleblowing Policies and Procedures**

**Assurance Rating: Moderate Assurance**

**Date: April 2023**

**Final Report**

# Contents

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2 Management Action Plan

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## Timetable

- Date closing meeting held: 27/02/2023
- Date draft report issued: 16/03/2023
- Date management comments received: 04/04/2023
- Date Final report issued: 05/04/2023
- Date presented to Audit and Risk Committee: 17/04/2023

This report has been prepared solely for internal use as part of NHS Lothian's internal audit service. No part of this report should be made available, quoted or copied to any external party without Internal Audit's prior consent.

# Executive Summary

## Introduction

All organisations which provide an NHS service are required to follow a policy and procedure that meets the National Whistleblowing Standards, with effect from 1 April 2021. 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 aims to ensure that everyone delivering NHS services in Scotland can raise concerns with the aim of promoting a culture of speaking up. The INWO will then investigate any complaints received around concerns that have been raised through the local whistleblowing process.

The National Whistleblowing Standards are underpinned by a suite of supporting documents which provide instructions on how the INWO expects concerns to be handled. The Standards are applicable across all NHS Services and must be accessible to anyone working to deliver an NHS service, directly or indirectly. This includes current and former employees, bank and agency workers, contractors, trainees and students, volunteers, non-executive directors, and anyone working alongside NHS staff from health and social care partnerships.

As part of the Internal Audit Plan for 2022/23, it was agreed to review the processes and controls established to support compliance with the new the National Whistleblowing Standards.

## Scope

The objective of the audit was to evaluate the adequacy of internal controls in place around whistleblowing arrangements and will review the design and operating effectiveness of controls to ensure that they are effective and in line with the National Whistleblowing Standards.

The following risks have been identified as possible risk areas for NHS Lothian and our review will provide assurance as to how these risk areas are mitigated. .

- There is a lack of awareness of the whistleblowing landscape by those who are able to raise concerns and by those who investigate whistleblowing concerns. Where inconsistencies in practice are present it is possible reported concerns are not processed equitably and fairly.
- Whistleblowing concerns are not resolved in an efficient and effective way, resulting in stakeholder dissatisfaction and reputational damage to NHS Lothian.
- Governance mechanisms established to exercise scrutiny of the whistleblowing processes under the new standards are not adequately designed. Inadequate scrutiny can result in systemic issues not being identified and lessons learned not being shared. Which can ultimately impact on achievement of strategic objectives.

## Approach

Our audit approach was as follows:

- Obtain understanding of the key areas outlined in scope above, through discussions with key personnel, review of management information and walkthrough test, where appropriate.
- Identify the key risks relevant within whistleblowing.
- Evaluate the design of the controls in place to address the key risks.
- Test the operating effectiveness of the controls in place.

It is Management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit should not be seen as a substitute for Management's responsibilities for the design and operation of these systems.

## Acknowledgments

We would like to thank all staff consulted during this review for their assistance and cooperation

## Limitations in Scope

Please note that our conclusion is limited by scope. It is limited to the risks outlined above. Other risks that exist in this process are out with the scope of this review and therefore our conclusion has not considered these risks. Where sample testing has been undertaken, our findings and conclusions are limited to the items selected for testing.

This report does not constitute an assurance engagement as set out under ISAE 3000.

# Executive Summary

## Summary of Findings

We have concluded that the controls in place in respect whistleblowing policies and procedures provides a **MODERATE** level of assurance. The table below provides a summary of the findings. The ratings assigned are based on the agreed internal audit rating scale (**Appendix 2**).

Detailed findings, recommendations and agreed management actions are found in Section 2 of this report.

Moderate Assurance					
	HIGH	MEDIUM	LOW	ADVISORY	
	-	1	-	-	
Ref	Issue	H	M	L	A
2.1	<p><b>Risk area as per scope: Whistleblowing concerns are not resolved in an efficient and effective way, resulting in stakeholder dissatisfaction and reputational damage to NHS Lothian.</b></p> <p>Staff across NHS Lothian have not completed National Whistleblowing training.</p>	-	1	-	-
<b>Total</b>		-	1	-	-

## Main Findings

The Independent National Whistleblowing Officer team has created three learning programmes available to NHS staff on Turas. One programme is for staff providing an overview of the new whistleblowing standards, one for line managers, who are likely to receive concerns, and the other is for senior managers who are involved with not only receiving concerns, but also investigating, responding to, and reporting on whistleblowing concerns.

We were advised that the national training is not currently mandatory for staff. Information on the number of staff to complete each training module could not be provided however, currently less than 1% of staff have completed the module providing an overview.

## Areas of Good Practice

NHS Lothian has separate guidance in place for the various groups who are able to raise a whistleblowing concern including employees, and those in health and social care partnerships. These are in the form of a flowchart which make it easier to understand the steps involved in the process.

NHS Lothian has also created an information pack for investigators of whistleblowing cases. This includes guidance for initial meetings, investigations, a process flow chart, a template for keeping a record of contact / decision log, suggested letters and investigation notes in format suggestions. This helps to provide continuity and is shared by the Whistleblowing Programme and Liaison Manager at the outset of an investigation.

NHS Lothian has provided lunch and learn sessions and focused sessions had been rolled out to the Executive Leadership Team at the time of this review. There are plans to expand these sessions to senior nursing and medical leaders in 2023/24.

Our sample testing confirmed that whistleblowers are kept up to date with progress of their case every 20 days and are provided with an updated resolution date. All cases sampled were acknowledged within 3 days and progressed to stage 2 within 5 days as required by the standards. No cases sampled were responded to with an outcome within 20 days, however, those raising the concern were provided with updates every 20 days.

The Patient Safety Experience Action Group, Reference Advisory Group, Staff Governance Committee and the Board, all consider different aspects of whistleblowing and provide assurance that the process for concerns is being adhered to.

## Follow Up

Approximately two weeks following issue of the final Internal Audit report, a member of the Audit Team will issue an 'evidence requirements' document for those reports where management actions have been agreed.

This document forms part of the follow up process and records what information should be provided to close off the management action.

The follow-up process is aligned with the meetings of the Board's Audit & Risk Committee. Audit Sponsors will be contacted on a quarterly basis with a request to provide the necessary evidence for those management actions that are likely to fall due before the next meeting of the Audit and Risk Committee.

**Risk Area Per Scope: Whistleblowing concerns are not resolved in an efficient and effective way, resulting in stakeholder dissatisfaction and reputational damage to NHS Lothian.**

**MEDIUM**

**Finding 2.1 – Staff across NHS Lothian have not completed National Whistleblowing training.**

Control

National training on how whistleblowing concerns should be raised, managed and investigated has been provided to staff via TURAS learn.

Observation

The INWO team has created three learning programmes available to NHS staff on Turas. One programme is for staff providing an overview of the new whistleblowing standards, one for line managers who are likely to receive concerns, and the other is for senior managers who are involved with not only receiving concerns, but also investigating, responding to, and reporting on whistleblowing concerns.

We were advised by the Whistleblowing Programme and Liaison Manager that the national training is not currently mandatory for staff. However the training is for anybody who provides services on behalf of the NHS in Scotland, including students, contractors and volunteers as per the INWO website. Our work at other health boards has seen national whistleblowing training included as mandatory for staff.

We obtained completion rates for the three training modules;

<ul style="list-style-type: none"><li>An overview (for all staff) has 243 completions. (estimated as less than 1%)</li></ul>	<ul style="list-style-type: none"><li>Line manager training has 24 completions.</li></ul>	<ul style="list-style-type: none"><li>Senior manager training has 54 completions.</li></ul>
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Information on the number of staff required to complete each training module could not be provided. The Whistleblowing Programme and Liaison Manager explained that there is nothing that identifies staff as line managers and the number of senior managers is also misleading as there is a very small cohort with staff off similar seniority.

The NHS Lothian website states that there are approximately 26,000 staff members, therefore currently less than 1% of all staff have completed the whistleblowing training.

Considering compensating arrangements, we obtained evidence of a dedicated intranet page for whistleblowing, various communications to all staff throughout the year, and 'lunch and learn' sessions focused on whistleblowing which have been rolled out to the Executive Leadership Team. We also note there are plans to provide dedicated sessions to wider management in 2023/24. Based upon our learning from other bodies, we consider that NHS Lothian could extend their arrangements around whistleblowing to include the suggestions provided within the recommendation section.

Risk

Where training is not being completed by staff / management, the Board has limited assurance that staff are aware of the requirements of the whistleblowing standards and the procedure in place at NHS Lothian. This may result in a whistleblowing concern being mismanaged, or not received in the first place.

**Recommendations**

NHS Lothian should increase awareness and specific training for whistleblowing by taking the following actions:

- 1) Support an increase in the take up of whistleblowing training by:
  - a) encouraging the completion of the whistleblowing e-Learning module on TURAS to all staff members.
  - b) including reminders and encouraging staff to complete the national e-Learning as part of other whistleblowing communications.

We have obtained an example of good practice in relation to a whistleblowing awareness flyer which we have shared with Management for their consideration

## Management Response

Recommendations accepted.

## Management Action

Communications and awareness raising plan for 23/24 to be developed and signed off by the Whistleblowing Advisory Group . Central to this plan will be ongoing and targeted communications regarding training options including promotion of the TURAS eLearn modules.

**Responsibility:**  
Director of HR & OD

**Target Date:**  
31 May 2023

# Appendix 1 – Staff Involved and Documents Reviewed

## Staff Involved

- Director of HR and OD
- Whistleblowing Programme and Liaison Manager

## Documents Reviewed

- The National Whistleblowing Standards
- Email communications to all leaders and managers
- Email communications to all staff.
- Staff Guide to raising a concern
- Executive Director Responsibilities
- Whistleblowing Lunch and Learn presentation
- Whistleblowing Annual Report 2021/22
- Whistleblowing Quarterly Report (Q1 and Q2)
- Investigator packs
- Extension letters
- Action plans
- Patient Safety Experience Action Group Executive Summary for October, November December 2022 and January 2023.
- National Whistleblowing Standards Guidance (Flowcharts)
  - HSCP
  - Community Pharmacists
  - Dentists
  - Optometrists

# Appendix 2 – Our IA Report assurance levels

The table below shows the levels of assurance we provide and guidelines for how these are arrived at. We always exercise professional judgement in determining assignment assurance levels, reflective of the circumstances of each individual assignment.

Rating	Definition	When Internal Audit will award this level
<b>Significant assurance</b>	<p>The Board can take reasonable assurance that the system(s) of control achieves or will achieve the control objective.</p> <p>There may be an insignificant amount of residual risk or none at all.</p>	<p>There is little evidence of system failure and the system appears to be robust and sustainable. The controls adequately mitigate the risk, or weaknesses are only minor (for instance a low number of findings which are all rated as 'low' or no findings)</p>
<b>Moderate Assurance</b>	<p>The Board can take reasonable assurance that controls upon which the organisation relies to achieve the control objective are in the main suitably designed and effectively applied.</p> <p>There remains a moderate amount of residual risk.</p>	<p>In most respects the "purpose" is being achieved. There are some areas where further action is required, and the residual risk is greater than "insignificant".</p> <p>The controls are largely effective and in most respects achieve their purpose with a limited number of findings which require management action (for instance a mix of 'medium' findings and 'low' findings)</p>
<b>Limited Assurance</b>	<p>The Board can take some assurance from the systems of control in place to achieve the control objective, but there remains a significant amount of residual risk which requires action to be taken.</p>	<p>This may be used when:</p> <ul style="list-style-type: none"> <li>There are known material weaknesses in key control areas.</li> <li>It is known that there will have to be changes that are relevant to the control objective (e.g. due to a change in the law) and the impact has not been assessed and planned for.</li> </ul> <p>The controls are deficient in some aspects and require management action (for instance one 'high' finding and a number of other lower rated findings)</p>
<b>No assurance</b>	<p>The Board cannot take any assurance from the audit findings. There remains a significant amount of residual risk.</p>	<p>The controls are not adequately designed and / or operating effectively and immediate management action is required as there remains a significant amount of residual risk (for instance one Critical finding or a number of High findings)</p>



# Appendix 2 - Continued

The table below describes how we grade our audit recommendations based on risks

Rating	Description	Possible features
High	Findings that are fundamental to the management of risk in the business area, representing a weakness in the design or application of activities or control that requires the immediate attention of management	<ul style="list-style-type: none"><li>▪ Key activity or control not designed or operating effectively</li><li>▪ Potential for fraud identified</li><li>▪ Non-compliance with key procedures / standards</li><li>▪ Non-compliance with regulation</li></ul>
Medium	Findings that are important to the management of risk in the business area, representing a moderate weakness in the design or application of activities or control that requires the immediate attention of management	<ul style="list-style-type: none"><li>▪ Important activity or control not designed or operating effectively</li><li>▪ Impact is contained within the department and compensating controls would detect errors</li><li>▪ Possibility for fraud exists</li><li>▪ Control failures identified but not in key controls</li><li>▪ Non-compliance with procedures / standards (but not resulting in key control failure)</li></ul>
Low	Findings that identify non-compliance with established procedures, or which identify changes that could improve the efficiency and/or effectiveness of the activity or control but which are not vital to the management of risk in the business area.	<ul style="list-style-type: none"><li>▪ Minor control design or operational weakness</li><li>▪ Minor non-compliance with procedures / standards</li></ul>
Advisory	Items requiring no action but which may be of interest to management or which represent best practice advice	<ul style="list-style-type: none"><li>▪ Information for management</li><li>▪ Control operating but not necessarily in accordance with best practice</li></ul>



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