

Annual Whistleblowing Report 2022-2023

NHS Education for Scotland
May 2023

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1. Introduction

- 1.1. The Public Services Reform (The Scottish Public Services Ombudsman) (Healthcare Whistleblowing) Order 2020¹ created a new route for whistle-blowers in the healthcare sector to bring escalated complaints to the Scottish Public Services Ombudsman (SPSO) (via the Independent National Whistleblowing Officer (INWO)). Subsequently, the April 2021 National Whistleblowing Standards² (the Standards) set out a national procedure for all NHS Scotland providers to handle whistleblowing concerns. In turn, all NHS Scotland boards are required to report on any whistleblowing concerns on a quarterly basis. Throughout 2022-2023, quarterly updates were therefore provided to the NHS Education for Scotland (NES) Staff Governance Committee and the NES Board.
- 1.2. As per the requirements of the Standards, all NHS Scotland boards are required to publish an Annual Whistleblowing Report, setting out performance in handling any whistleblowing concerns. Our first Annual Whistleblowing Report (2021-2022) was published in June 2022. This included an overview of the background and legislation surrounding the Standards. The definition of whistleblowing and an overview of the stages involved in the whistleblowing procedure were also provided.
- 1.3. This is our second Annual Whistleblowing Report, covering the period 01 April 2022 to 31 March 2023.
- 1.4. In this report, we provide an overview of our performance and a chronological summary of activities delivered over the year.
- 1.5. This report is presented as follows:
 - A chronological summary of activities throughout 2022-2023.
 - The whistleblowing annual return and key performance indicators.
 - A conclusion to the report.

¹ Crown Copyright (2020) 'Scottish Statutory Instruments. 2020 No. 5. The Public Services Reform (The Scottish Public Services Ombudsman) (Healthcare Whistleblowing) Order 2020'. Available at: <https://www.legislation.gov.uk/ssi/2020/5/made> (Accessed: 22 October 2020).

² Independent National Whistleblowing Officer (2021) 'The National Whistleblowing Standards - April 2021'. Edinburgh: Scottish Public Services Ombudsman. Available at: <https://inwo.spsso.org.uk/sites/inwo/files/Standards/NationalWhistleblowingStandards-AllParts.pdf> (Accessed: 24 January 2022).

2. Chronological summary of activities

- 2.1. Throughout 2022-2023 we delivered a series of actions to meet the requirements of the Standards.
- 2.2. Towards the start of the reporting period, three levels of online training were made available by the Scottish Public Services Ombudsman (hosted on TURAS Learn).
- 2.3. Numerous communications regarding the suite of essential learning modules were issued to all our staff throughout the reporting period. Workforce Directorate colleagues led this work.
- 2.4. In May 2022, we provided the NES Board with our first Annual Whistleblowing Report (2021-2022). The Non-Executive Director and whistleblowing champion (Gillian Mawdsley) also provided the Board with an annual assurance statement.
- 2.5. Christina Bichan, Director of Planning and Performance took up post in July 2022.
- 2.6. In line with the requirements of the Standards, Karen Wilson (Director of Nursing, Midwifery and Allied Health Professions (NMAHP) and Deputy Chief Executive – Clinical) and Graham Paxton (Head of Programme) were appointed as Confidential Contacts.
- 2.7. The intranet and internet whistleblowing webpages have been updated in an ongoing manner, where required.
- 2.8. Hosted by the Independent National Whistleblowing Officer, the first NHS Scotland ‘Speak-up Week’ was held between 03 and 07 October 2022. The approach was based on the ‘speak-up month’ previously delivered by the National Guardian’s Office in England. We used the week to give all staff further opportunities to learn more about the Standards and the arrangements for raising a concern. Our activities included:
 - An intranet news-feed and all-staff email that introduced ‘speak-up week’.
 - A video presentation by the Director of Planning and Performance (Christina Bichan) and the Non-Executive Director and Whistleblowing Champion (Gillian Mawdsley).
 - The introduction of the two Confidential Contacts, their role and how they can be contacted.
 - Awareness of the training available on TURAS Learn.
 - The distribution of an all-staff survey, which aimed to solicit staff views on their experiences to date and on whistleblowing in general, as well as to inform further developments in the area.

- 2.9. The Independent National Whistleblowing Officer intimated their intention to hold speak up again during 02-06 October 2023.
- 2.10. Intelligence from the all-staff survey is outlined in Appendix A. In summary the results indicated that:
- Further promotion of the confidential contacts is welcome.
 - Staff were most comfortable raising any concerns with their line manager, followed by the confidential contacts and peers. Other approaches included a close confidante, someone external to their team, an anonymous mailbox, and/or that it simply depended on the issue involved.
 - Whilst most respondents did not feel the need to raise a 'business-as-usual' concern, there were some queries regarding its definition. Clarity is required around the definition of business-as-usual concerns and how to progress them (as precursors to the formal process). Other commentary included previous experiences in raising concerns and the perceived risks in doing so.
 - Most respondents felt no need to raise a whistleblowing concern. Other commentary included lack of confidence in the process, previous negative experiences, and the wider connotations around whistleblowing in general.
 - Finally, there were a range of positively and negatively framed perceptions towards the whistleblowing process and whistleblowing in general. These included:
 - The acknowledgement of a useful procedure in place.
 - The useful opportunity to feedback opinions via the survey.
 - The creation of safe spaces and processes to trust that concerns will be heard without prejudice.
 - The need to create a culture of psychological safety.
 - There was some fear expressed around any repercussions when raising concerns.
 - The e-Learning available and the need to increase knowledge and awareness around whistleblowing.
 - The needs for anonymity, impartiality, independence, and clear protections in place for anyone raising concerns.

- 2.11. A NES Whistleblowing Steering Group was established³ and met formally on two occasions (as well as on three informal occasions). Discussions included:
- Actioning the intelligence from the all-staff survey.
 - Further promotion and communication of the Confidential Contacts.
 - The development of learning resources to support the Confidential Contacts (in collaboration with the Independent National Whistleblowing Officer).
 - Ongoing engagement with the Independent National Whistleblowing Officer.
 - A schedule of future activities for 2023-2024.
 - Communications regarding induction, the Line Manager's Forum, and students.
- 2.12. Developed by the Scottish Public Services Ombudsman, there are three levels of training available on [TURAS Learn](#): (1) an overview level; (2) a resource for line managers; and (3) a resource for senior managers. A review of compliance in this area identified opportunity for creating greater clarity in respect of requirements for completing (2) and (3), and this has been actioned by the Organisational Development and Learning Team.
- 2.13. For additional context, the Scottish Public Services Ombudsman developed other learning resources. These included a quick reference guide for managers and people receiving concerns, a guide for HR teams, and a suite of learning resources for confidential contacts (recently launched in April 2023 – for the next reporting period). NES supported the development of this work through the involvement of the Director of Planning and Performance. Access to the resources has also been facilitated by its inclusion in the relevant pages of TURAS Learn.
- 2.14. During quarter four, the Director of Planning and Performance also participated in the focus group tasked with developing the Whistleblowing questions, which will be used in this year's 'iMatter' survey. The outcome of these questions will be used to assess the impact of our recent whistleblowing activities and to further shape our work plan for 2023-2024.

³ A previous group was in place in advance of the launch of the Standards.

3. Whistleblowing annual return and key performance indicators

- 3.1. In March 2022, NES received one “unnamed concern”, in which investigation of the case was carried over into quarter one of 2022-2023. At the request of the whistleblower, this was an unnamed concern (and hence there was no obligation to follow the Standards regarding it⁴). However, the concern was investigated as per good practice guidelines, where applicable. Communication with the whistle-blower was ongoing during the investigation stage, with the final report being issued in early June 2022.
- 3.2. The case involved another NHS Scotland board (territorial), in which communication with them was ongoing during the reporting period. The concerns were in relation to the educational and clinical supervision of NES doctors in training and the out-of-hours supervision of trainees at night.
- 3.3. It was noted that earlier concerns about staffing and training had been received via another route. In response to those, NES Medical Directorate representatives met with the Director of Medical Education of the board concerned, in which solutions were explored. It was agreed that a fact-finding quality management visit would be arranged (by the Quality Management Group of the NES Medical Directorate). The required standards for medical education were reviewed against the General Medical Council’s (GMC’s) ‘Promoting excellence: standards for medical education and training’⁵. The final concluding report highlighted concerns about the training environment, and a remediating action plan was therefore produced.
- 3.4. The report was shared with the territorial board concerned and other interested parties. Based on the board’s commitment to address the concerns, it was agreed that enhanced monitoring would not be required. The Scottish Government was advised of potential concerns regarding patient safety and training at the hospital concerned, and the risk of potential future escalation to enhanced monitoring if not resolved.
- 3.5. In January 2023, NES received one formal whistleblowing concern, which was initially received by the Chief Executive on 30 January 2023. The concern was related to the education and training requirements of a senior position within NES. The investigation was led by the Director of Planning and Performance through a small team. The concern was acknowledged within three working days and responded to on 17 February 2023 (14 working days), meeting the Standards in respect of both elements.

⁴ The National Whistleblowing Standards (April 2021), part two, paragraphs 66-73.

⁵ General Medical Council (2015) ‘Promoting excellence: standards for medical education and training’. Manchester: General Medical Council. Available at: www.gmc-uk.org/education/standards.asp. (Accessed: 1 July 2022).

- 3.6. The investigation reviewed the points raised within the initial correspondence and concluded that the concern was not substantiated with no further action necessary. Explanation of the investigation findings was provided to the individual who raised the concern as part of the written response, which has since been acknowledged. A review of the process undertaken in respect of the handling of this concern was supported by the NES Whistleblowing Champion, and the learning from this has been adopted into future practice.
- 3.7. In summary, one formal whistleblowing concern was raised in 2022-2023 which was closed at stage two of the whistleblowing process. This was not upheld and the response was issued in 14 working days.
- 3.8. We continue to learn from the experiences of those involved in whistleblowing.
- 3.9. Within NES, all line managers are required to complete the line manager training (which is embedded within a suite of 'essential learning'). As of 31 March 2023 (and 04 April 2023), 270 line managers (76%) completed the mandatory level e-Learning, with 84 yet to complete (24%)⁶. There has been a steady increase, however, we acknowledge that these figures could be improved. The Workforce Directorate has continued to promote and monitor compliance of essential learning completions. Communications included an entry within the 'NES Matters!' newsletter and email correspondence to all staff.

⁶ Note: compliance and exclusion criteria (e.g., those on maternity leave and students, etc) were reviewed in 2022-2023.

4. Conclusion

- 4.1. In line with the National Whistleblowing Standards, we reiterate our commitments to dealing responsibly, openly and professionally regarding any whistleblowing concern. We also encourage all those involved to raise any concerns as early as possible.
- 4.2. Throughout 2022-2023, the Staff Governance Committee and the NES Board were kept informed of developments. The NES Whistleblowing Steering Group also met formally and informally to progress the work (chaired by the Director of Planning and Performance).
- 4.3. The first NHS Scotland speak up week afforded us the opportunity to further promote the whistleblowing process, the confidential contacts and the training available. We also solicited staff perspectives into the process, in which valuable actionable insights were obtained. We have developed an onward action plan for 2023-2024 and look forward to the next speak up week in October 2023.

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26 May 2023

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5. Appendix A: Whistleblowing – insights and perspectives

The survey was distributed to core NES staff during the very first NHS Scotland speak up week (03-07 October 2022):

- Email (03 October 2022).
- Intranet newsfeed article (03 October 2022).
- Reminder email (07 November 2022).

None of the questions were mandatory and no identifiable information was requested.

Responses varied from 23 to 75.

5.1. Knowledge of the National Whistleblowing Standards

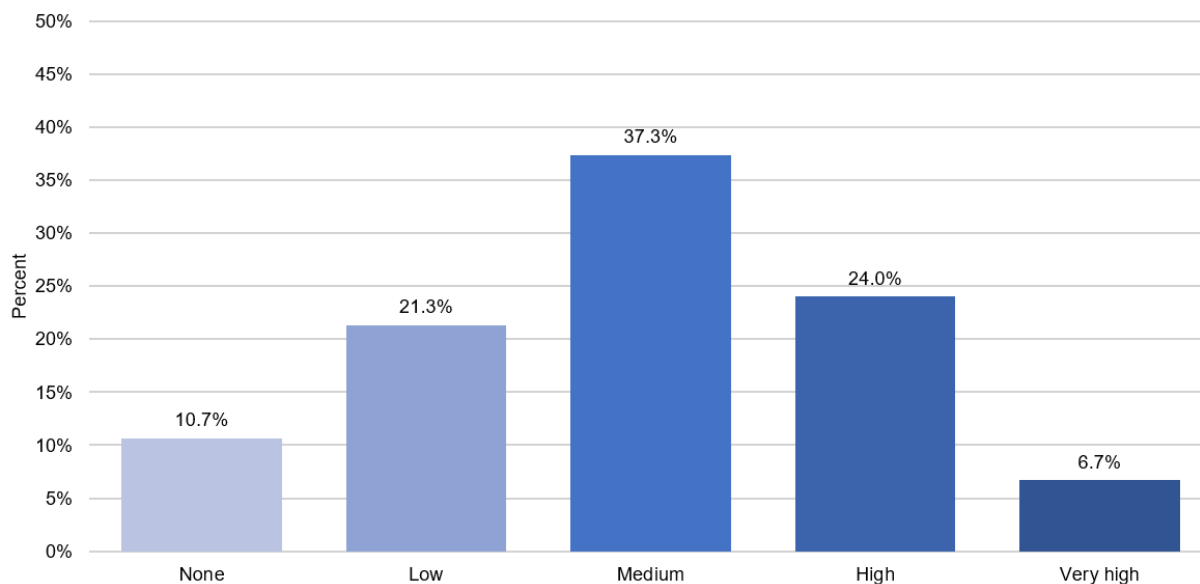


Figure 1: Respondents' knowledge of the National Whistleblowing Standards (N=75).

5.2. Confidence in raising a whistleblowing concern

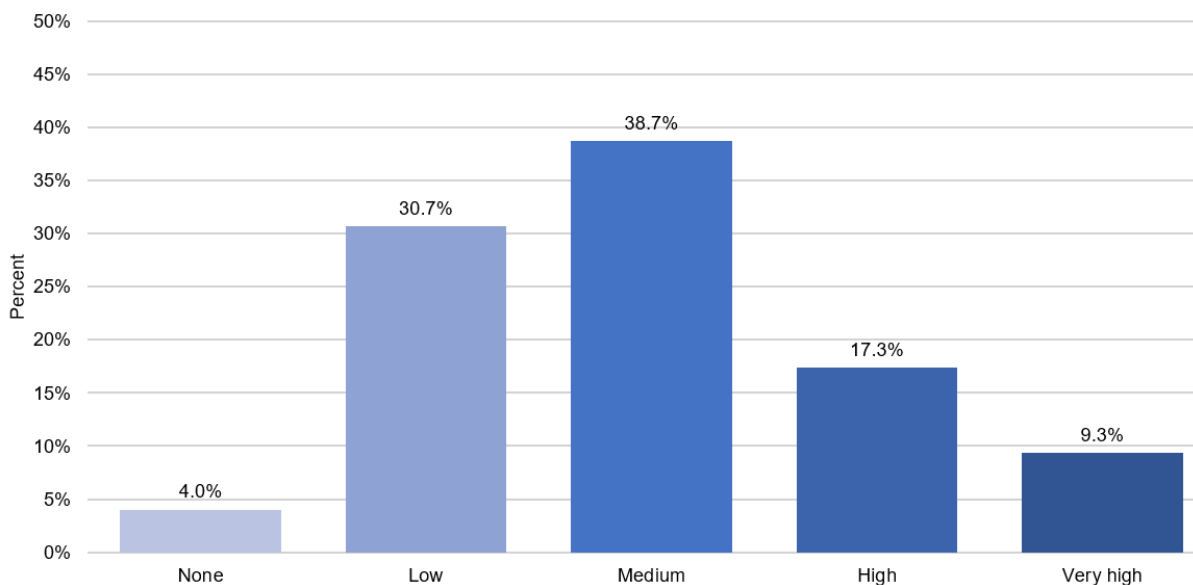


Figure 2: Respondents' confidence in raising a whistleblowing concern (N=75).

5.3. Familiarity of the stages involved

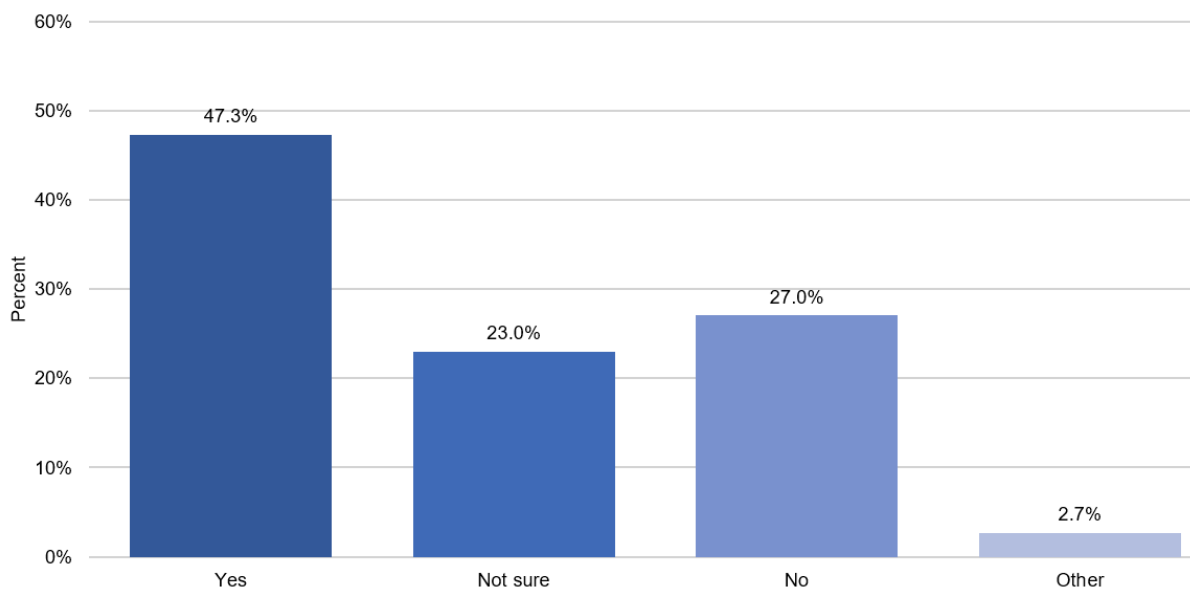


Figure 3: Respondents' answers to "Are you familiar with the stages involved for raising a whistleblowing concern?" (N=74).

Other comments:

- *"Only from the training overview modules"*
- *"I am aware but could not talk anyone through it without the policy"*

5.4. NES Confidential Contacts

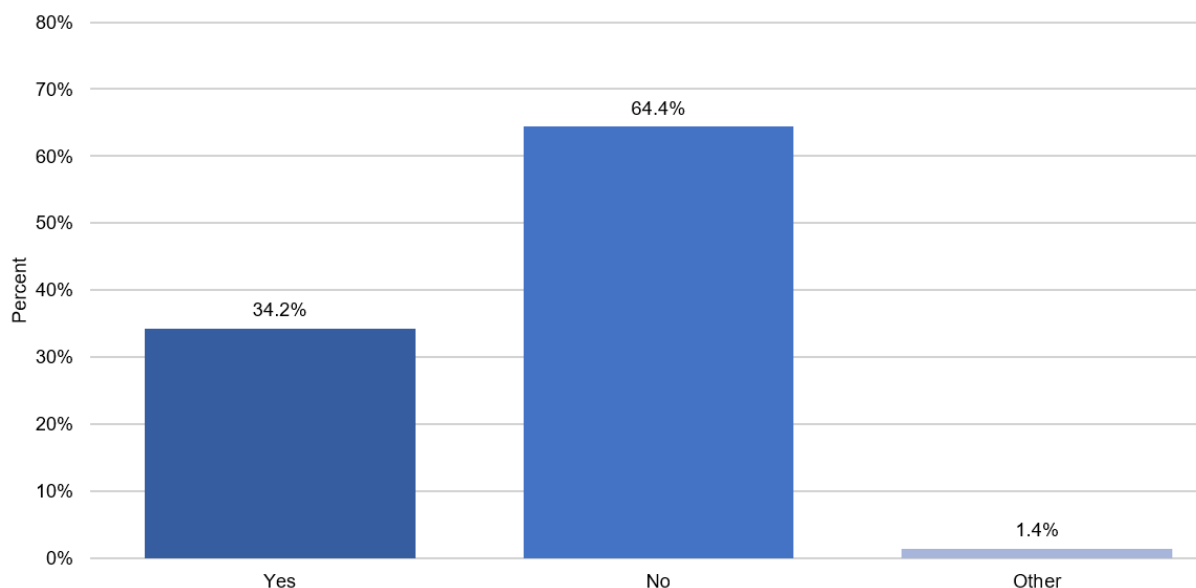


Figure 4: Respondents' answers to "Do you know who the NES Confidential Contacts are?" (N=73).

Other comment: "Would look to find out"

5.5. Approach to raise a whistleblowing concern

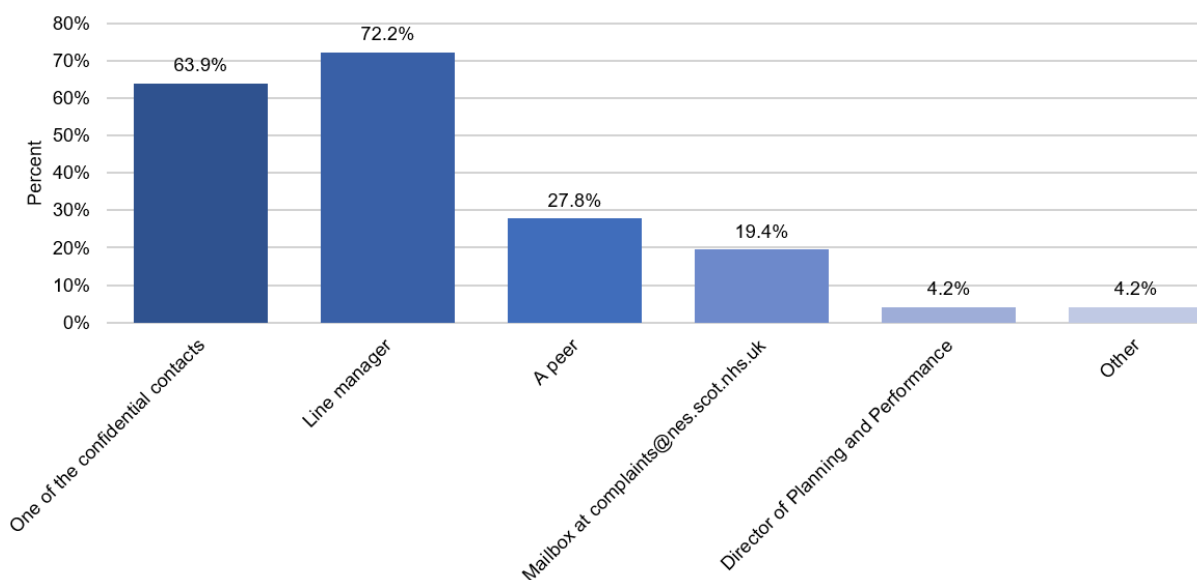


Figure 5: Respondents' answers to "Who would you approach to raise a whistleblowing concern? Please check all or any that apply to you" (N=72).

Other comments:

- "Depends on concern"
- Confidential / anonymous mailbox
- don't know"

5.6. Person most comfortable raising a whistleblowing concern with

There were 69 responses to the question: “If you had a whistleblowing concern, who would you be most comfortable raising it with in the first instance? This can be anyone of your choosing.)”

Most respondents highlighted their line manager as their preferred person to approach. Other preferred people included the confidential contacts or a peer. Others highlighted that it simply depended on the issue.

There were a few outliers, and some comments included:

- *“A close confidante and then possibly a mailbox where I would remain anonymous.*
- *I wouldn't. I think it's widely known that doing so is career limiting within the NHS and that every effort will be attempted to find out what the individual's identity is. If someone wants to take that step, they should be supported rather than outed.*
- *I have full trust in my line manager, and would, I suspect, appreciate their consideration of my concerns - so probably my line manager. That said, I would have greater confidence in procedural awareness of the confidential contacts. I guess it depends.*
- *This would depend on the situation and what the whistleblowing concern was. On some occasions I would initially refer the concern to an Adviser to determine this was actually a whistleblowing concern but only if appropriate”*

5.7. Business as usual concerns

There were 62 responses to the question: “Have you ever felt the need to raise a business-as-usual concern? If so, what were your experiences?”. The majority of respondents didn't feel any need to raise a business-as-usual concern.

A number of respondents highlighted that they did not know what a business-as-usual-concern was, for instance, as exemplified by the following selected comments:

- *“I wouldn't know what constituted a valid business concern*
- *Not familiar with what a business-as-usual concern is*
- *Don't know what this term means.”*

Other comments included:

- *“I feel safe to raise concerns in my current team. In previous Health Board I had varying experiences of raising concerns.*
- *No, and I wouldn't feel confident in doing so. If there was a risk to patient safety absolutely I would, but in doing so would have to accept that my career was likely over as there would be attempts to discover identity and, no doubt, ramifications from the highest level for doing so. I think all staff feel this way and anyone who prioritises patient safety concerns over their own progress or career is an absolute hero and should be treated as such - they're exactly the people we want within the NHS.*

- *Not within NES but within my previous organisation. This was not a good experience and required escalation beyond my line manager, this was a more positive outcome initially, but I continued to see fragility and ruptures within the system, I did consider using formal whistleblowing procedures.”*

5.8. Formal whistleblowing concerns

Potential respondents were invited to respond to the following question: “Have you ever felt the need to raise a formal whistleblowing concern? If so, what were your experiences?”. There were 61 responses.

The vast majority felt no need to raise a formal whistleblowing concern.

There were a few negative outliers, which may be related to the wider connotations around whistleblowing, perhaps. Examples included:

- *“Yes, poor experience my concerns were not explored, and actions taken on word of mouth of other member of staff without consultation with me at all.*
- *Am considering a whistleblowing concern regarding NES but don’t want the stress...Considering the history of whistleblowing out in the wider world it seems that whistle-blowers destroy their own lives and prospects while organisations cover things up and get away with things.”*

5.9. Additional comments

Staff were invited to add any additional comments, in which 23 responded.

A number of responses were positively framed, in which examples included:

- *“Good that there is something in place in case you need to refer to it. Shows that NES isn’t just prepared to brush things under the carpet if an employee feels there is a need to bring something to the attention of those higher up.*
- *Thanks for this survey - I appreciate the effort that is going into supporting whistle blowing and, in my view, there needs to continue to be concerted effort to support the creation of safe spaces and safe processes to enable us all to be able to trust that concerns will be heard without prejudice*
- *Thanks for promoting this as an option. It’s great to have this and if we can create a culture with psychological safety we can minimise the requirement for formal complaints.”*

Conversely (as with any survey), a number of negatively framed comments were received. Commentary included:

- *“Not enough info or confidence in the process.*
- *Worried about repercussions if the situation ever arose.*
- *I feel there are concerns to whistleblowing for fear they are being raised inappropriately and should be dealt with in a less formal manner or via another route. This is a mindset we need to make people feel comfortable to do as without fear of repercussions.”*

There were a few comments in relation to the online training (available on [TURAS Learn](#)):

- *“e-learning is good, a follow up workshop/session to consolidate would be beneficial or guidance to develop knowledge further as a team.*
- *I recognise the need to complete the Turas learn module to increase knowledge and awareness.*
- *Training very long”*

Other comments included:

- *“I think there has to be clear protection in place for staff for raising concerns including absolutely anonymity. It would be easy for someone senior to put pressure on the investigating team to reveal the details, and it requires those on the whistleblowing team to demonstrate absolute integrity in their actions around whistleblowing as it would be easy for pressure to be applied even on them to reveal sources or other that would give away the identity of those involved. Anyone who attempts to violate that process should be dealt with as a disciplinary matter in the strictest of terms.*
- *Whistleblowing is a very difficult thing to do, there is a very real fear of not being supported, or listened to, and being labelled as a troublemaker. In my experience managers and those in power don't like to hear bad news. Speaking truth to power is difficult and can be career limiting.*
- *In principle it is a good policy, but we should work towards a culture where people feel safe and supported to highlight concerns - I don't feel this is the case.”*

5.10. Suggested Implications and recommendations

- Knowledge and awareness raising of the confidential contacts would be beneficial.
- Evidence regarding the critical roles of line managers and the confidential contacts is noted.
- Clarity is required around the definition of business-as-usual concerns and how to progress them (as pre-cursors to any formal processes).
- Additional communication to enable confidence around the whistleblowing process is suggested.
- In addition, further communication around confidentiality, anonymity (where applicable) and the general working culture around raising any business-as-usual concerns is suggested.

Whistleblowing insights and perspectives: Staff survey results

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12 April 2023

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