

NHS Ayrshire & Arran



Meeting:	Ayrshire and Arran NHS Board
Meeting date:	Monday 28 November 2022
Title:	National Whistleblowing Standards: Proposal for Confidential Contacts
Responsible Director:	Jennifer Wilson, Nurse Director and Whistleblowing Executive Lead
Report Author:	Shona McCulloch, Head of Corporate Governance

1. Purpose

This is presented to Board Members for:

- Decision

This paper relates to:

- Government policy/directive

This aligns to the following NHSScotland quality ambition(s):

- Safe
- Effective
- Person Centred

2. Report summary

2.1 Situation

Following a review of the Board's arrangements for Confidential Contacts, this paper is presented to Board with a recommended revised 'Speak Up' model for NHS Ayrshire & Arran to promote a culture of psychological safety where all staff are confident to bring forward any concerns, and that is in keeping with the requirements of the National Whistleblowing Standards. Members are asked to approve a change our Confidential Contacts and support the approach to recruit to these posts.

2.2 Background

On 1 April 2021, the [National Whistleblowing Standards](#) were published across NHS Scotland and went live across NHS Ayrshire & Arran (NHSAA) from this date. Implementation had been managed through a Whistleblowing Oversight Group and a separate Whistleblowing Implementation Group.

On 1 February 2021, the NHS Board discussed options presented for a Speak Up Model to support the new National Whistleblowing Standards. Members agreed a model which would enable the Board to retain its current Confidential Contacts for a

transition period for stability and continuity. These Confidential Contacts were in place to support existing local whistleblowing arrangements prior to the new National Standards. The Board agreed to support this with a cohort of Speak Up Advocates who would support and broaden the reach of the Confidential Contacts and provide ease and equity of access for staff groups across the organisation. Board Members agreed that these arrangements should be reviewed in a year's time.

Our current Confidential Contacts are:

- Nurse Director
- Medical Director
- Director of Finance
- HR Director

The cohort of Speak Up Advocates agreed as part of our model in January 2021 has been implemented and is in place across our organisation. Information is available on our external web [here](#).

A review has been undertaken, led by the Head of Corporate Governance. The review included engagement with other NHS Boards to learn from best practice, feedback received from Speak Up Advocates and the Board's Whistleblowing Champion plus advice from the Independent National Whistleblowing Officer (INWO) via the National Practitioners Network.

2.3 Assessment

- **Review outcome**

The review identified a need for change to ensure that our Confidential Contacts (CC) are viewed as being accessible by those who may have concerns across all areas of the organisation and our wider partners and also that the role aligns with the requirements of the National Whistleblowing Standards. The role as described in the Standards is shown in Appendix 1.

At present the existing Confidential Contact role can include decision making when concerns are received, commissioning investigations, signing off investigation reports and letters. INWO reminded all Boards that Confidential Contacts should not be involved with management of concerns received and their role is predominantly to support those who raise concerns.

- **Confidential Contacts proposal**

The Whistleblowing Oversight Group (WBOG) discussed the review outcomes and supported a proposal to recruit one or more Confidential Contacts who would be appropriately skilled and experienced to undertake this role, to fulfil the requirements as set out in the standards (Appendix 1) and in keeping with the NHS Ayrshire & Arran ambition to promote a culture of psychological safety. The proposal suggested a minimum of four CCs, one of which would be aligned to support Primary Care and encourage raising of concerns in those areas, which is a requirement of the Standards.

WBOG also discussed our approach to recruit to these posts as noted below and recommended Option 1 to progress with an open and transparent process to recruit to the roles from across the organisation. Once appointed our current Confidential Contacts would stand down.

Options to recruit new Confidential Contacts with a developed Role Specification:

- Option 1: An open recruitment process to be undertaken across the organisation to seek personal statements/expressions of interest from staff members with the desired skillset. The roles will be undertaken in addition to existing roles and staff members must be supported by managers to be released from duties to undertake their CC roles and given time back when their CC duties require to be undertaken out with normal working hours. This was the preferred option.
- Option 2: A more targeted recruitment process via Directors to seek nominations for staff with the required skillset. It was not felt that this would be an open and transparent process and was not supported.
- Option 3: A more direct approach to identify possible CCs via Directors for staff with the required skillset. As for Option 2 it was not felt this would be an open and transparent process and was not supported.

A suitable network and/or forum will be established to ensure that the Whistleblowing Confidential contacts receive support as peer groups, opportunity to meet with the Chief Executive and also meetings with the Whistleblowing Champion. This would link to the existing network/forum for Speak Up Advocates to provide appropriate support and supervision via the Confidential Contacts.

- **Whistleblowing processes**

Changes to whistleblowing operational processes were also discussed and supported so that our current Confidential Contacts would no longer be involved in any part of how a concern is managed. This aligns with advice from the INWO.

A revised process will ensure Directors have ownership of any concerns raised relevant to their area to receive an investigation report and provide a response to those raising concerns. The Standards note “it is important that Directors are satisfied that an investigation is complete and that their response addresses all aspects of the concern raised. This will reassure the person raising the issue that their concern has been taken seriously.” The INWO has reminded of the need to ensure that all staff involved in a whistleblowing case are supported, this includes those who work in the area under investigation and this can be supported through Director ownership. The importance of confidentiality for all involved will be paramount from the outset.

To provide assurance of independence in our investigations, a Whistleblowing investigation lead will always be completely independent of the area that the concern is about. WB investigators are identified from a list of experienced and appropriately trained investigators.

There was also support for a more formal decision making process when a concern is received and going forward a Decision Team of agreed nominees will be in place led by the Executive Lead for Whistleblowing (Nurse Director), an HR Assistant Director for advice on personal employee concerns, the Head of Corporate Governance - additional nominees are being identified to ensure impartiality in decision making.

All whistleblowing processes are supported by the Whistleblowing Coordinator who ensures that the Standards are followed and confidentiality remains paramount throughout the process.

Corporate Management Team (CMT) supported the above proposals at their meeting on 8 November 2022

2.3.6 Quality/patient care

NHS Ayrshire & Arran aims to promote a culture of psychological safety where all our staff feel safe to speak up about any issues or concerns. Improving our Speak Up Model with the recruitment of new Confidential Contacts is in keeping with this ambition and will aim to instil absolute confidence in the fairness of the procedures through which concerns are raised. Learning from patient care concerns raised by those who deliver our services presents the opportunity to change practice and improve patient experience and outcomes.

2.3.7 Workforce

In terms of the recruitment of new Confidential Contacts, applicants will require to undertake these duties in addition to their substantive roles and directors and managers will support the Confidential Contacts by ensuring they can be released as required to fulfil the role as described in Appendix 1.

2.3.8 Financial

Confidential Contacts will require to undertake these duties in addition to their substantive roles and there will be no remuneration associated with these roles. However, departments will require to offer time back to staff members who require to attend meetings out with their normal working hours.

2.3.9 Risk assessment/management

If staff do not have absolute confidence in the fairness of the procedures through which their concerns are raised, or do not feel assured that concerns raised will be acted upon, there is a risk that they will not raise valid concerns about quality, safety or malpractice. The opportunity to investigate and address these concerns will have been lost, with potentially adverse impact on quality, safety and effectiveness of services.

There is also a wider risk to organisational integrity and reputation, if staff do not believe they will be listened to and do not feel senior leaders in NHS Ayrshire and Arran are fulfilling the NHS Ayrshire & Arran Values of 'Caring, Safe and Respectful' and promoting a culture of Psychological Safety.

2.3.10 Equality and diversity, including health inequalities

A national Equality Impact Assessment has been completed by the Independent National Whistleblowing Officer (INWO). In addition a local Equality Impact Assessment has been completed and is available on the [external web](#).

2.3.6 Other impacts

- Best value
 - Governance and accountability
 - Performance management
 - The delivery of an effective process for whistleblowing concerns will support the Board's commitment to safe, effective and person-centred care.
- Compliance with Corporate Objectives
 - Create compassionate partnerships between patients, their families and those delivering health and care services which respect individual needs and

values; and result in the people using our services having a positive experience of care to get the outcome they expect.

- Local outcomes improvement plans, community planning etc
 - Effective handling of concerns supports the delivery of the Healthcare Quality Strategy.

2.3.7 Communication, involvement, engagement and consultation

Proposals were developed following engagement with peers in other NHS Boards, taking account of feedback from Speak Up Advocates, the Board's Whistleblowing Champion and the INWO.

2.3.8 Route to the meeting

This has been previously considered by the following groups as part of its development. The groups have either supported the content, or their feedback has informed the development of the content presented in this report.

- Whistleblowing Oversight Group – 27 October 2022
- Corporate Management Team – 8 November 2022

2.4 Recommendation

For decision: Board are asked to approve the changes to Confidential Contacts and the approach to appointing to these roles and to be assured by the improvements in how cases will be managed through robust operational process.

3. List of appendices

Appendix 1 – Confidential Contact and Speak Up Advocate Roles

Appendix 1 - Confidential Contact (CC) and Speak Up Advocate (SUA) Roles:

Extract from National Whistleblowing Standards.

The Standards state that:

“All organisations that deliver services for NHS Scotland must ensure that they provide staff with at least one point of contact who is independent of normal management structures (for the purposes of this role) and who has the capacity and capability to be an initial point of contact for staff from across the organisation (or their part of the organisation) who want to raise concerns.....The confidential contact must support staff by providing a safe space to discuss the concern, and assist the staff member in raising their concern with an appropriate manager.

This role goes beyond simply providing advice and support to those raising concerns. In particular the Confidential Contact needs to:

- *work with the whistleblowing champion to ensure that all staff are aware of the arrangements for raising concerns within their organisation;*
- *promote a culture of trust which values the raising of concerns as a route to learning and improvement;*
- *through direct contact with frontline staff, ensure they are aware of and have access to the support services available to them when they raise concerns;*
- *assist managers in using concerns as opportunities for learning and improvement;*
- *work with the chief executive and those they have identified to oversee application of the Standards, to ensure the Standards are functioning at all levels in the organisation*

Confidential contacts must have the appropriate skills to carry out a role that requires significant interpersonal skills and the capacity to work with all staff..... This role is best suited to someone with experience of direct service provision rather than an HR representative.

“NHS Boards may choose to broaden the reach of their confidential contacts, by recruiting whistleblowing mentors, or similar roles. These staff members would work with the confidential contact to broaden access to raising concerns, and assist with raising awareness across the organisation. It is up to each NHS board to develop such roles that meet the needs of their own structure and organisational requirements.”