

<b>Policy Title: Whistleblowing Policy</b>	<b>Policy Number: CORP-POL-06</b>
<b>Issue Number: 007</b>	<b>Date of first issue: April 2002</b>
<b>Date of last review: December 2025</b>	<b>Date of next review: December 2027</b>
<b>Lead person: Head of Culture &amp; Corporate Services</b>	<b>Approved by: Board</b>
	<b>Date approved: 9 December 2025</b>

<b>General Note</b>
<p>The Mental Welfare Commission acknowledges and agrees with the importance of regular and timely review of policy statement and aims to review policies within the timescales set out.</p> <p>New policies will be subject to a review date of no more than one year from the date of first issue.</p> <p>Reviewed policies will have a review date set that is relevant to the content (advised by the author) but will be no longer than three years.</p> <p>If a policy is past its review date then the content will remain extant until such time as the policy review is complete and the new version published.</p>

## 1. Policy Statement

The Commission is committed to creating and maintaining a safe and trusted environment for speaking up, and where needed, accessible whistleblowing concerns.

We want a culture which is open, honest and transparent, in line with the NHS Whistleblowing National Standards. We will treat all disclosures consistently, fairly and professionally. The Commission's whistleblowing policies and procedures will exceed the requirements of the Public Interest Disclosure Act 1998 (amending the Employment Rights Act 1996) (PIDA) by meeting and adopting, the Independent National Whistleblowing Officer (INWO) standards and principles.

## 2. Scope

### Who can raise a concern?

Anyone who provides services for the Commission can raise a concern, including current (and former) employees, agency workers (and others on short or insecure

contracts), contractors (including third-sector service providers), trainees and students, volunteers, DMP, and anyone working alongside the Commission. A person raising a concern has usually witnessed an event, but they may have no direct personal involvement in the issue they are raising.

Whistleblowing is defined in the Public Services Reform (Scottish Public Services Ombudsman) Healthcare Whistleblowing Order 2020 as:

*"when a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the [Scottish Public Services Ombudsman Act 2002](#)) raises a concern that relates to speaking up, in the **public interest**, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing."*

Grievances, including bullying, harassment, or discrimination, do not fall under this policy unless the particular case is in the public interest. Staff who wish to raise a grievance should refer to the Commission's Grievance Policy and Procedure (008).

For more detailed information on who can raise concerns see, INWO Standards Part 2 at: [NationalWhistleblowingStandardsPart02\\_Procedures.pdf](#), paragraphs 7 to 12.

### 3. Roles & responsibilities

#### 3.1 Chief Executive:

- To act in accordance with the operational process set out in this policy where in receipt of a disclosure.
- To liaise with the Head of Culture & Corporate Services (HOCCS) in relation to all disclosures involving financial malpractice.

#### 3.2 Head of Culture & Corporate Services (HOCCS):

- To act in accordance with the operational process set out in this policy where in receipt of a disclosure.
- To notify the Chief Executive where indicated under this policy and in particular where there is alleged financial malpractice.
- Ensure that all concerns are recorded, and anonymously reported to the Executive Leadership Team (ELT), Board and INWO at required intervals with numbers/outcomes of reported concerns on required templates.
- To act as the main point of contact with the INWO.

#### 3.3 Executive Leadership Team (ELT):

- To make sure there are sufficient mechanisms for staff to raise concerns where they believe there is serious malpractice or wrongdoing, independently of line management.
- Provide resources for putting the policy into practice. Including:
  - Ensuring that there are support systems in place for staff to raise concerns.
  - Ensuring training is available for all staff with responsibilities under the standards.
- Signing off [stage 2](#) decision letters

- Provide assurance that concerns have been appropriately resolved and no risk remain.
- Ensure that all contractors have access to this procedure.

For more detailed information see, INWO Standards Part 4 at:

[NationalWhistleblowingStandardsPart04\\_GovernanceBoardAndStaff.pdf](#)  
para 19-20

### 3.3 Senior and line managers:

- Managers must be trained and empowered to make decisions on concerns at [stage 1 of this procedure](#).
- Knowing who to refer a concern to if they are not able to personally handle it.
- Make sure the policy is known and understood by staff and that actions are taken in line with the policy.
- Identify and reduce any barriers staff may encounter in raising concerns.
- Ensuring support is made available to staff who raise a concern.

### 3.4 Information Governance Manager (IGM):

- Keeping updated with best practice and development to inform policy development.
- Supporting the HOCCS in keeping a record of and reporting to ELT, the Board and INWO quarterly with numbers/outcomes of reported concerns on required templates.

### 3.5 HR Team:

Assist line managers and Confidential Contacts to identify HR issues that are raised within concerns, and to provide appropriate signposting in relation to these HR issues.

### 3.6 Confidential contact

- Provide information and advice to colleagues, when approached, about the whistleblowing policy and procedure for raising concerns, including signposting and distinguishing between HR processes and whistleblowing.
- Provide a safe space to discuss the concern and assist the individual raise their concern with an appropriate manager (which won't always be the line manager and should always be someone with a level of independence from the situation).
- Provide support to colleagues through the process.
- Work with the Board whistleblowing champion to raise staff awareness about how to raise concerns.
- Ensure staff are aware of and have access to support services available when they raise concerns.
- Assist ELT and Extended Executive Leadership Team (EELT) in using concerns as opportunities for learning/improvement.
- Work with ELT and HOCCS to ensure the policy is functioning at all levels in the organisation.

- 3.7 **Whistleblowing board champion (WBC):**  
Monitor and support the effective delivery of the organisation's whistleblowing policy. Seek assurance that:
- Staff are actively encouraged and supported to report any concerns about patient safety or malpractice they may have.
  - The Board has systems in place that are used and monitored appropriately to ensure that all reported concerns are investigated in a timely and appropriate way.
  - The Board has systems in place to ensure that any learning from Whistleblowing concerns is identified, shared and used to deliver improvements where appropriate.
  - The staff member (the whistleblower), and any other staff member implicated in the reported concern, is supported and updated on progress throughout the process. Boards should have systems in place to protect from detriment anyone who raises a concern.
  - The outcome is fed back to the member of staff who raised the concern, and any resultant recommended actions are progressed by the Board.
  - Any detriment or potential detriment to the whistleblower is properly addressed.
  - Liaise with the CEO/HOCC every 6 months.
- 3.8 **All staff:**  
Anyone who delivers a Commission service should feel able and empowered to raise concerns about harm or wrongdoing. They should be trained so they are aware of the channels available to them for raising concerns, and what access to the whistleblowing procedure means.

#### 4. Definition - What is whistleblowing?

The Commission is defined as a health body in section 23 of the [Scottish Public Services Ombudsman Act 2002](#), so the National Whistleblowing Standards for the NHS in Scotland apply to us.

Whistleblowing is defined in the Public Services Reform (Scottish Public Services Ombudsman) Healthcare Whistleblowing Order 2020 as:

*"when a person who delivers services or used to deliver services on behalf of a health service body, family health service provider or independent provider (as defined in section 23 of the [Scottish Public Services Ombudsman Act 2002](#)) raises a concern that relates to speaking up, in the **public interest**, about an NHS service, where an act or omission has created, or may create, a risk of harm or wrong doing."*

This includes an issue that:

- has happened, is happening or is likely to happen
- affects the public, other staff or the Commission itself.

Risks can relate to a wrongdoing, patient safety or malpractice which the organisation oversees or is responsible or accountable for:

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Examples may include:

- Patient-safety issues
- patient-care issues
- poor practice
- unsafe working conditions
- fraud (theft, corruption, bribery or embezzlement)
- changing or falsifying information about performance
- breaking any legal obligation
- abusing authority
- deliberately trying to cover up any of the above.

A whistleblowing concern is different to a grievance. A grievance is typically a personal complaint about an individual's own employment situation. There is more information about raising concerns and the difference with bullying and harassment in Annex 1 of this policy and the procedure.

## 5 The Standards

Under the Standards, all whistle-blowers are entitled to support, legal protection, and confidentiality. A formal whistleblowing concern may be raised when:

- The issue is not solely related to a personal employment or Human Resources matter.
- The concern is in the public interest (for example, patient safety).
- The concern is raised within six months, which is the generally accepted time limit.
- Business-as-usual processes have been followed through and concluded (where applicable).

The Standards outline a three-stage procedure. The full procedure is explained in the Whistleblowing Procedure (CORP-SOP-16).

## 6 Principles

The whistleblowing principles underpin and drive how concerns raised are handled.

The Commission has designed its procedure for raising concern to ensure they are:

- **Open.** Handle concerns openly and transparently throughout the process. At the same time, recognise and respect that everyone involved has the right to confidentiality.
- **Focused on improvement.** Use the outcomes of concerns to identify and demonstrate learning and improvement and share best practice, both in providing services and in the procedure itself.
- **Objective, impartial and fair.** Procedures for raising concerns should be objective, based on evidence and driven by the facts and circumstances. Staff investigating concerns should be impartial, independent and accountable. Procedures should be fair to anyone involved in the investigation.

- **Accessible.** The processes must be easy to understand and well-publicised within the organisation.
- **Supportive to people who raise concerns.** Offer support and protection at all stages, treat people raising concerns with dignity and respect.
- **Simple and timely.** Timescales should be clearly published and met wherever possible. If timescales cannot be met, the person raising the concerns needs to be informed about the revised timescale.
- **Thorough, proportionate and consistent.** Procedures for raising concerns should provide good-quality outcomes through a thorough but proportionate investigation. The outcomes of investigations should be appropriate to the findings.

For more information see:

[Whistleblowing principles | INWO](#)

[NationalWhistleblowingStandardsPart01\\_Principles.pdf](#)

## 7 Support and protection during the process

Nobody should be treated unfairly as a result of raising a concern, having a whistleblowing allegation made against them, or co-operating with any investigation. If staff are victimised as a result of being involved in a whistleblowing case, this must be treated as a disciplinary matter.

The Commission will ensure that anyone raising concerns receive adequate support when needed. Support available includes:

- Access to a confidential contact
- Counselling or psychological support services
- Occupational health referral
- The INWO (phone 0800 008 6112 or email [INWO@spso.gov.scot](mailto:INWO@spso.gov.scot)) who can provide information and advice about how a concern should be handled, and can provide support through the process.

### Legal protection for those raising concerns

The Public Interest Disclosure Act 1998 (PIDA) is often called the 'whistleblowing law'. It is there to protect all 'workers' (as defined in the Employment Rights Act 1996 – this classification is broader than, but includes all employees), who have made a 'protected disclosure' from being treated unfairly as a result of raising a concern. Protection against discrimination on the grounds of being a whistleblower, or appearing to be a whistleblower, is also given to applicants for work with some NHS employers (including NHS boards).

A concern is considered a 'protected disclosure' when it meets this legal test: the person raising it must reasonably believe that it is in the public interest to raise a concern, and that the information available shows that the following has happened, is happening or is likely to happen.

It relates to one of six categories:

(a) a criminal offence

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- (b) an act that creates a risk to health and safety
- (c) an act that damages the environment
- (d) a miscarriage of justice
- (e) a breach of any other legal obligation not being met
- (f) concealment of any of the above

A full list is available in the legislation here: [Public Interest Disclosure Act 1998](#)

It is important to note that making a 'protected disclosure' does not mean that the concern must be raised or investigated in a certain way. It provides legal protection for workers who suffer detriment after raising concerns. If a worker is unfairly dismissed or treated unfairly as a result of raising a concern, they can claim compensation under PIDA at an employment tribunal.

### **Disclosure to person outside the Commission**

PIDA encourages workers to make the 'protected disclosure' to their employer first, if possible. However, this is not essential as it recognises that workers may have good reason for raising a protected disclosure outside their workplace (either before or after reporting the concern to their employer). To qualify for protection, the disclosures made beyond the employer (the Commission), must be made to certain individuals or bodies listed in [the public interest disclosure order 2004](#)..

The Independent National Whistleblowing Officer (INWO) is being added to the list of organisations, so concerns can be raised with them directly and be legally protected by PIDA when the concern meets its legal test.

The INWO will approach each case on the basis that it is better for the organisation involved to identify the learning and improvements that are needed. However, they can agree to accept concerns direct if they do not feel it is reasonable to expect the person to use their employer's whistleblowing procedure. They will decide whether to do this case by case, but could take into account, for example, whether the organisation is very small or the issue involves very senior staff. In limited circumstances the INWO may be able to help make sure concerns are dealt with appropriately. This may include monitoring the progress of an investigation.

## **8 How to raise a concern**

The Commission's Whistleblowing Procedure (CORP-SOP-16) is based on the NHS Whistleblowing Standards and is designed to work with, not duplicate, other business processes and procedures within the Commission.

People may report or mention issues through business-as-usual processes which could meet the whistleblowing definition. To avoid duplication and confusion, the Whistleblowing Procedure should normally only be used if:

- no other procedure or processes are being used
- an existing procedure or process has been used but has not resulted in the outcome the person raising the concern expected, or
- the person asks for the whistleblowing procedure to be used.

People should raise concerns within six months of first becoming aware of the issue the concern relates to.

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Where the employee remains dissatisfied, the concern can be escalated for external review to the Independent [National Whistleblowing Officer](#).

Full details of the process to follow can be found in the Whistleblowing Procedure (CORP-SOP-16).

## **9 Reporting**

One of the main aims of the whistleblowing procedure is to ensure learning from the outcome of whistleblowing concerns and to identify opportunities to improve our services.

Managers must record all whistleblowing concerns, in a systematic way so that the concerns data can be analysed to identify themes, trends and patterns and to prepare management reports. By recording and using concerns information in this way, the root causes of concerns can be identified and addressed, such as through service improvements or training opportunities

The Commission will ensure that there is a system that allows the full reporting in a confidential way as described in the INWO standards.

The 10 key performance indicators set in paragraph 14 of [Part 5](#) of the National Whistleblowing Standards will be reported quarterly to the ELT and the INWO.

Please refer to our CORP-SOP-16 for full details.

## **10 Learning from concerns**

The two key ways of learning from concerns are:

- identifying improvements based on the findings of an investigation, and
- using statistical analysis of concerns raised at a departmental or organisational level to identify recurrent themes, trends or patterns.

Both ways need to be explored to identify findings that can lead to organisational learning as described in the INWO standards.

Please refer to our CORP-SOP-16. for full details.

## **11 Annual reporting and monitoring performance**

The Commission must publish an annual report setting out performance in handling whistleblowing concerns.

This should summarise and build on the quarterly reports produced for the ELT. including performance against the requirements of the Standards, key performance indicators (KPIs), the issues that have been raised and the actions that have been or will be taken to improve services as a result of concerns.

Please refer to our (CORP-SOP-16) for full details.



## 12 Risk Management

Changes to legislation will be monitored and this policy will be updated as required.

## 13 References

[The Public Interest disclosure Act 1998](#)

[The public interest disclosure order 2004](#) – Prescribed person

[Employment Rights Act 1996](#)

[Whistleblowing guidance for employers and code of Practice GOV UK.](#)

<https://inwo.spsso.org.uk/whistleblowing-principles>

[Download | INWO](#)

## **ANNEX 1**

The following examples will help with deciding if the issue raised should be handled under this procedure or under grievance or bullying and harassment procedure.

<b>whistleblowing</b>	<b>Grievance or bullying and harassment</b>
<b>Key test:</b> The issue is in the public interest	<b>Key test:</b> the issue relates solely to an individual and so is a matter of personal interest
<b>Examples</b>	<b>Examples</b>
Patient-safety issues not addressed	I haven't been granted my flexible working request
A person's dangerous working practice is leading to the risk of a serious incident	I have been inappropriately shouted at by senior manager in relation to an action that I took at work
Breaking any legal obligation	I am not happy with the way my manager spoke to me when they discovered I was not following the correct health and safety procedure.
Abusing authority	Claims that they are being bullied or harassed.
Management persistently pressurises the team into dangerous overtime conditions.	