# **Frequently asked questions**

**Q.** Are Whistleblowing concerns considered independently of the NHS Board?

**A.** If a concern is raised that falls under the definition of whistleblowing concerns it should be raised initially with the relevant Health Board, primary care provider or contracting organisation.

Health Boards, as employers or responsible for commissioning or appointing others to deliver services, have the responsibility to initially respond to a concern and this is key to improving local culture. They should also ensure that those delivering services on behalf of the board can raise concerns. Those delivering NHS services need to have the confidence to raise concerns locally either informally or via the Whistleblowing Policy. Health Boards need to ensure that the right people are in place to respond to concerns with the right skills and training.

If the concern is appropriate for investigation, this should be conducted at the local level, in line with the National Whistleblowing Standards. Investigators do not need to be fully independent, but should be separate from the issues being raised, with no line management or other responsibilities for them. If this is not possible, eg in primary care, assistance should be sought from the Health Board to enable a more independent, local investigation.

Once a local investigation has completed, and if the whistleblower is not satisfied with the outcome, then they can come to the INWO for a fully independent review of their concerns.

Alternatively, individuals (or groups of individuals) may, if they wish, raise any concerns they have directly with the appropriate scrutiny body i.e. Healthcare Improvement Scotland, Audit Scotland, NHS Counter Fraud Services, or approach the INWO directly should they wish to do so.

**Q.** How will the Whistleblowing Champions provide the intended safeguards?

**A.** The aim of this role is to further promote and support a culture of openness and transparency in NHS Scotland, where all staff feel confident to raise any concerns they may have in the knowledge that they will be supported and their concerns properly investigated.

The WBC will seek and provide assurance that their Health Board is complying with the National Whistleblowing Standards and applying policy appropriately, including ensuring the Board demonstrates it is learning from Whistleblowing concerns.

**Q.** If a complaint is raised directly with the Whistleblowing Champion, what should they do?

**A.** It is not the role of the WBC to investigate whistleblowing cases raised directly with them.

If contacted directly, the whistleblowing champion would be expected to direct the whistleblower to the appropriate confidential contact in the Board who will be able to facilitate access to the National Whistleblowing Standards. They may also wish to consider signposting to the Board Executive Lead for whistleblowing.

**Q.** As the Whistleblowing Champion also has the standard responsibilities of any other non-executive Board members – what is the planned time allocation for the role of Whistleblowing?

**A.** The WBC is appointed as non-executive member of the Board just like other non-executives and is likely to sit on Board Committees.

The time commitment for the role as specified in the recruitment pack is the same as other non-executive members – i.e. on average 8 hours per week, although candidates will be aware that there is likely to be an extra time commitment at the start of the appointment to familiarise themselves with the role and the Board.

The Board Chair will discuss with each member how that time commitment will be spent. The discussion with the WBC will include a consideration of the key elements of the WBC role within the Board, as well as their other general duties as a non-executive.

**Q.** What part will the Whistleblowing Champion play in Board committee work?

**A.** They will fulfil the standard role and responsibilities in the same way as any non-executive Board members, including involvement in Board Committee work, subject to their capacity.

The WBC role is however a dedicated role. The Board Chair will discuss with each member how that time commitment will be spent. The discussion with the WBC will include a consideration of the key elements of the WBC role within the Board, as well as their other general duties as a non-executive.

**Q.** What are the funding arrangements for the post and what about people and system resources to assist them in undertaking the role?

**A.** The funding arrangements are the same for the WBCs as for all other non-executive members.

All non-executive members have access to the new Board Development website hosted by NHS Education for Scotland. All members will have an induction process, which is a combination of national events and material and a local Board-level induction programme.

Specific support is in place to help Champions develop their understanding of their Whistleblowing role. This includes this guidance, workshops for all WBCs new to the role, and a network to provide peer support.

**Q.** What happens if a conflict of interest emerges?

**A.** As with all non-executive appointments, when members are appointed they are then subject to their Board’s Code of Conduct as provided for by the Ethical Standards in Public Life etc. (Scotland) Act 2000, and need to register and declare interests accordingly.

**Q.** How will Whistleblowing Champions operate within their Health Board and promote their role? (e.g. confidential phone line, face to face meetings with staff, promotional campaign).

**A.** This will be for the WBC in discussion with the Board and the Chair, to consider and agree.

**Q.** How can staff be assured of confidentiality whilst organisational issues are raised and addressed?

**A.** As with all other Board members, the WBC will have a professional obligation to maintain confidentiality when organisational issues are raised and addressed. Any breach of this could be considered by the Commissioner for Ethical Standards in Public Life in Scotland.

Anyone wishing to confidentially raise whistleblowing concerns should be signposted to the board’s confidential contact or the INWO.

**Q.** How will the Whistleblowing Champions fit into current governance structures within Boards?

**A.** In the same way as for any other non-executive member who is appointed to a Board. Development materials for all non-executives can be found on the NHS Education for Scotland Board Development website. <https://learn.nes.nhs.scot/17367>

**Q.** Will the Whistleblowing Champions get involved directly in responding to issues raised?

**A.** The WBC will have no operational role in any Board and should not become directly involved in investigating individual cases. Their role will be to seek and provide assurance that their Health Board is complying with the Whistleblowing Policy.

**Q.** Does the Whistleblowing Champion carry any personal legal liabilities associated with the role?

**A.** The Board is a body corporate. The Board and its Chair and its members do not have the status, immunity or privileges of the Crown. Individual Board members however are not personally liable for the actions of the Board.

**Q.** How will any complaints against the Whistleblowing Champion be handled?

**A.** In the same way as complaints made against any other non-executive member. Any complaint/concern about the WBC should be raised with the Board Chair.

If the complaint relates to Code of Conduct matters there are established external routes for matters to be raised.

**Q.**  How might the Whistleblowing Champion role be different within the national non- patient facing boards compared with the territorial boards?

**A.** While the role of some Health Boards may not include direct delivery of clinical care, all Boards need to have assurance that they have appropriate systems in place to implement the National Whistleblowing Standards in their organisation, therefore the role will have the same responsibilities regardless of the Board.

**Q.** Will the Whistleblowing Champion be subject to the same performance and appraisal arrangements as other Board non-executives?

**A.**  Yes, the Whistleblowing Champion will be subject to the same performance and appraisal arrangements as other Board on-Executives. Follow this link to access the Non-Executive Member Appraisal documentation <https://www.nhs.scot/nhs-scotland-governance/standard-operating-procedures-sops/>

**Q.** Will the formal accountability lines of the Whistleblowing Champion be to Board Chair or to the Cabinet Secretary?

**A.** The Board Chair, as is the case for all other non-executive Board members.

**Q.** What should the Whistleblowing Champion do if they are made aware of concerns that a whistleblower is being treated unfairly or being bullied?

**A.**  Whilst the WBC should have no involvement in the individual case they should sign-post the staff member to the whistleblowing coordinator, HR, the Employee Director (who has a role in supporting staff) and/or their Trade Union/professional representative.

They should bear in mind the need for the whistleblower’s identity to be kept confidential, and should only be shared with those that they choose to share it with. Their identity should not be shared with HR or others separate from the whistleblowing process unless by agreement. It is up to the whistleblower if they want to raise these issues with HR.

Link to NHSScotland Once for Scotland Policies: <https://www.staffgovernance.scot.nhs.uk/partnership/once-for-scotland-workforce-policies>

**Q.** What should the Whistleblowing Champion do if an external Agency or Regulator contacts them directly to discuss an individual case?

**A.** Whilst there is an expectation that the WBC have an awareness of concerns being raised they must be clear that this it is not their role to become directly involved in individual cases.

The WBC should explain to the external Agency or Regulator that the whistleblowing policy outlines how a member of staff should raise a concern and signpost them to the INWO for further advice about the Whistleblowing Standards.

Mindful of any request for confidentiality, the WBC should let the Board know that they have been approached so that they may have general awareness that there are concerns about practices in the Health Board.

**Q.** What should the Whistleblowing Champion do if an external agency or regulator contacts them directly to highlight concerns about internal whistleblowing procedures?

**A.** The WBCs should note the concerns made and advise the external Agency or Regulator that they will consider the concerns raised and that they will also raise these concerns directly with the Board.

The WBC should then consider the concerns raised with a view to discussing these with the Independent National Whistleblowing Officer who has a national role in providing guidance on these issues.

Following discussion of the issues raised, they should gain assurance that appropriate action is taken to resolve the concerns that have been raised.

**Q.** What should the Whistleblowing Champion do if they do not think a case is being handled appropriately?

**A.** The Whistleblowing Champion should seek assurance that the case is being appropriately progressed and that the whistleblower is being updated on progress and supported. The WBC does not need the operational details of the case. They are simply seeking assurance, not to become involved in the operational detail.

If they are not satisfied that this is the case, they should raise this with the Board Chair and seek assurance that this has been dealt with appropriately.

**Q.** What should the Whistleblowing Champion do if they become aware of a criminal offence taking place?

**A.**  Whilst there is no legal requirement for the WBC to report a criminal offence they would be expected to make their Board immediately aware of any suspected illegal activity.

As with all non-executive Board members, WBCs must adhere to the Code of Conduct for Members of Devolved Public Bodies. This will be available from the Board Secretary of each Board or as part of the local induction programme.

**Q.** What role does the Whistleblowing Champion take in ensuring appropriate reporting by the Board?

**A.**  The WBC should seek assurance that the Board reporting arrangements are in line with the Governance section of the Whistleblowing Standards. <https://inwo.spso.org.uk/sites/inwo/files/Standards/NationalWhistleblowingStandardsPart05_GovernanceRecording.pdf>

If the WBC has any urgent concerns they should bring this to the Board’s attention at the earliest opportunity.

**Q.** What does the Whistleblowing Champion do if they are asked to be involved in the investigation of a concern that has been raised?

**A.** The WBC should not become involved in the investigation of cases and should explain why at the earliest opportunity.

The non-executive status of the WBC role is intended to provide a level of local scrutiny and assurance independent of the direct management or handling of whistleblowing concerns. WBCs should therefore have no involvement in the application of the local whistleblowing policy or in any investigation. To be involved in the process in any way could potentially compromise the independence of the role.