

Health Education and Improvement Wales (HEIW)

Procedure for NHS Staff to Raise Concerns

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Introduction

The Core Principles of NHS Wales are:

- **We put patients and users of our services first:** We work with the public and patients/service users through co-production, doing only what is needed, no more, no less and trying to avoid harm. We are honest, open, empathetic and compassionate. We ensure quality and safety above all else by providing the best care at all times.
- **We seek to improve our care:** We care for those with the greatest health need first, making the most effective use of all skills and resources and constantly seeking to fit the care and services we provide to users' needs. We integrate improvement into everyday working, by being open to change in all that we do, which also reduces harm and waste.
- **We focus on wellbeing and prevention:** We strive to improve health and remove inequities by working together with the people of Wales so as to ensure their wellbeing now and in future years and generations.
- **We reflect on our experiences and learn:** We invest in our learning and development. We make decisions that benefit patients and users of our services by appropriate use of the tools, systems and environments which enable us to work competently, safely and effectively. We actively innovate, adapt and reduce inappropriate variation whilst being mindful of the appropriate evidence base to guide us.
- **We work in partnership and as a team:** We work with individuals including patients, colleagues, and other organisations; taking pride in all that we do, valuing and respecting each other, being honest and open and listening to the contribution of others. We aim to resolve disagreements effectively and promptly and we have a zero tolerance of bullying or victimization of any patient, service user or member of staff.
- **We value all who work for the NHS:** We support all our colleagues in doing the jobs they have agreed to do. We will regularly ask about what they need to do their work better and seek to provide the facilities they need to excel in the care they give. We will listen to our colleagues and act on their feedback and concerns.

They have been developed to help and support staff working in NHS Wales.

NHS Wales is about people, working with people, to care for people. These Core Principles describe how we can work together to make sure that what we do and how we do it is underpinned by a strong common sense of purpose which we all share and understand.

The NHS is continually under pressure to deliver more services, with better outcomes and maintain and increase quality against the backdrop of significant financial challenge, high levels of public expectation and with a population which is getting older and with increased levels of chronic conditions.

These principles have been developed to help address some of the pressures felt by staff in responding to these demands. They will re-balance the way we work together so we are less reliant on process and are supported to do the right thing by being guided by these principles when applying policies and procedures to the workforce.

As people working within the health service, we will all use them to support us to carry out our work with continued dedicated commitment to those using our services, during times of constant change.

The Principles are part of an ongoing commitment to strengthen the national and local values and behaviour frameworks already established across Health Boards and Trusts.

They have been developed in partnership with representatives from employers and staff side.

The Principles will be used to create a simpler and consistent approach when it comes to managing workplace employment issues.

The safety and wellbeing of patients and service users are seen as the responsibility of everyone involved in the provision of health and social care services. HEIW's Board and senior management are committed to providing an environment which facilitates open dialogue and communication so as to ensure that any concerns which staff may have are raised as soon as possible.

This procedure refers in the main to 'raising concerns' rather than 'whistleblowing' because the latter has come to denote a sudden, drastic or last resort act which can hold negative connotations.

HEIW is working towards a culture that encourages the raising of any concerns by staff to be embedded into routine discussions on service delivery and patient care, (e.g. problem-solving, service review, performance improvement, quality

assessment, training and development) as these are the most effective mechanism for early warning of concerns, wrongdoing, malpractice or risks and line managers are accordingly best placed to act on, deal with and resolve such concerns at an early stage. This procedure should also be used by staff to raise any concerns with regard to practices within the supply chains through which HEIW sources its goods and services (in line with the Supporting Ethical Employment in Supply Chains Code of Practice Commitments). Staff should also recognise that elements of wrongdoing that involve aspects of Fraud, Bribery or Corruption, have a separate reporting process, which should be presented to your Local Counter Fraud team for investigation.

It is, however, acknowledged that such processes take time to develop and embed into the organisation and until such time as such a culture exists comprehensively across HEIW that a clear process needs to be in place to guide individuals who wish to raise concerns about a danger, risk, malpractice or wrongdoing in the workplace. This procedure sets out HEIW's commitment to support individuals who raise concerns as well as setting out the processes for individuals to raise such concerns and to provide assurance on how such concerns will be listened to, investigated and acted upon as necessary.

'Whistleblowing' is the popular term applied to a situation where an employee, former employee or member of an organisation raises concerns to people who have the power and presumed willingness to take corrective action. The types of situations where this will be appropriate are outlined in Appendix 1. "Protected disclosure" is the legal term for whistleblowing and is referenced in the context of describing the protection that is afforded to the person raising the concern in the interest of the public (see appendix 2).

The development of this procedure is an ongoing process and is a part of the wider work across NHS Wales to ensure that an open culture exists to provide the highest standards of care and experience across all services. This procedure does not form part of an employee's contract of employment and may need to be amended from time to time.

1.
2. **A Commitment to Support Those Who Raise Concerns**

- 2.1 HEIW actively encourages feedback and has a transparent and open approach to listening to and responding to all concerns.
- 2.2 HEIW aims to ensure that individuals:
- Are fully supported to report concerns and safety issues;
 - Are treated fairly, with empathy and consideration when raising concerns; and
 - Have their concerns listened to and addressed when they have been involved in an incident or have raised a concern.
- 2.3 HEIW aims to develop and maintain a culture across all parts of the organisation that provides an environment where people feel able to raise concerns and are treated with respect and dignity when raising concerns.
- 2.4 Safety is at the heart of all care and must be underpinned by a culture which is open and transparent. This leads to increased reporting, learning and sharing of incidents and development of best practice. HEIW recognises that this is the responsibility of everyone involved in the provision of health and social care services. HEIW is committed to working towards ensuring that all individuals are treated in a service which is open to feedback and encourages as well as supports its staff to raise concerns.
- 2.5 HEIW will ensure that individuals always feel free to raise concerns through local processes and are supported to do so directly with the HEIW, their professional regulatory body, professional association, regulator or union.

1.6 HEIW will facilitate an individual to raise an issue or concern in Welsh and they should be advised of this at the outset. Any subsequent proceedings should be conducted in Welsh or a simultaneous translation service provided.

1.7 HEIW is committed to: -

- Working in partnership with other organisations to develop a positive culture by promoting openness, transparency and fairness;
- Fostering a culture of openness which supports and encourages staff to raise concerns;
- Sharing expertise to create effective ways of breaking down barriers to reporting incidents and concerns early on;
- Exchanging information where it is appropriate and lawful to do so, in the interests of patient and public safety; and
- Signposting individuals to support and guidance to ensure that they are fully aware of and understand their protected rights under the Public Interest Disclosure Act 1998.

1.8 A definition of whistleblowing is included at appendix 1.

1.9 HEIW will monitor the use of this procedure and report to the Board or a sub-committee as appropriate.

2. About this Procedure

2.1 The aims of this procedure are:

- (a) To encourage staff to discuss concerns and safety issues as soon as possible, in the knowledge that their concerns will be taken seriously and acted upon as appropriate,
- (b) To encourage staff to report more serious concerns and suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and where requested that their confidentiality will be respected.
- (b) To provide staff with guidance as to how to raise those concerns.
- (c) To assure staff that they should be able to raise genuine concerns without fear of reprisals, even if they turn out to be mistaken.

2.2 This procedure applies to all employees, officers, consultants, contractors, students, volunteers, interns, casual workers, and agency workers.

3. Raising a Concern

- 3.1 All healthcare settings and workplaces should encourage ongoing open dialogue and feedback on matters relating to provision of care/service delivery through supervision, team or departmental meetings, staff forums. These ongoing mechanisms are the place where HEIW will actively seek suggestions for improvement and regularly review the safe and effective delivery of services and ways of working.
- 3.2 All managers will ensure that there is a shared responsibility to focus positively on the quality of service/care, continuous improvement and/or problem solving.
- 3.3 If concerns are held by an individual or individuals, HEIW will ensure that such concerns are addressed and responded to with the outcome being verbally communicated, as a minimum, to the individual or individuals raising the concern. An individual may raise a concern in Welsh, and they should be advised of this at the beginning of any proceedings. Any subsequent proceedings should be conducted in Welsh or a simultaneous translation service provided.

3.4 **More Serious Concerns**

Confidentiality

As noted in section 1.3 of this procedure “HEIW aims to develop and maintain a culture across all parts of the organisation that provides for an environment where people feel able to raise concerns”. It is therefore hoped that all staff will feel able to voice concerns openly under this procedure. However, if an individual wants to raise a concern confidentially this will be respected. It is sometimes difficult however, to investigate a concern without knowing the individual’s identity. In such circumstances if it is considered absolutely necessary to share the identity of the person raising the concern this will be discussed with them prior to any disclosure being made, and their permission sought.

Stage 1 – Internal (Informal)

If an individual has a concern about any issue involving malpractice/wrongdoing they are encouraged to raise it first either verbally or in writing with their line manager or the manager responsible for that area of work, unless it relates

to fraud or corruption (see paragraph overleaf relating to this issue). They may also wish to involve their Trade Union/Staff Representative. Medical staff should report the issue to their Lead clinician.

It is important to remember that raising a concern is different from raising a personal complaint or grievance and in such circumstances the All Wales Respect and Resolution Policy may be appropriate (see appendix 1). If the concern is around the abuse of children or adults with vulnerabilities then the [Wales Safeguarding Procedures](#) should be followed and initiated immediately.

Where going through the line manager is not appropriate, any concerns regarding potential fraud or corruption should be raised in the first Instance with the Head of People and OD or the Board Secretary. If the individual is still not comfortable with sharing at this level, they may escalate their concerns with reference to the counter fraud page on the NHS Wales Shared Services website: www.nwssp.wales.nhs.uk/counter-fraud.

Circumstances where going through the line manager is not appropriate might include;

- the member of staff feels there is an immediate issue of significant risk to safety which would not be addressed by line management,
- the concern raised relates to the conduct or practice of one or more individuals in the line management accountability structures who would normally consider the concern,
- the member of staff has strong experiential evidence that the line manager(s) would not address the concern,
- the member of staff feels that similar concerns raised in the past had been ignored,
- the member of staff feels that the raising of concern would place him/her at risk of harassment or victimisation from colleagues or managers.

The individual will be entitled to a verbal response, as a minimum, and where appropriate detail needs to be conveyed, a written response to their concern may be appropriate, provided that they have not wished to remain anonymous. The responsibility for providing this response will be either the manager to whom the concern was addressed, or the individual identified to provide such responses in any local processes in place to ensure that concerns can be raised as described in the previous paragraph.

Any concerns regarding potential fraud or corruption should be raised initially with the Local Counter Fraud Specialist (LCFS) at Gareth.Lavington2@wales.nhs.uk. Alternatively, reports can be made via the Fraud and Corruption Reporting Line or within the NHSCFA website <https://cfa.nhs.uk/>. Full contact details are available via the Counter Fraud pages on the NHS Wales Shared Services website: www.nwssp.wales.nhs.uk/counter-fraud

These concerns will then be managed in line with HEIW's Counter Fraud and Corruption Procedure.

Stage 2 – Internal (Formal)

If, having followed the approach outlined in stage 1, the individual's concerns remain, or they feel that the matter is so serious that they cannot discuss it with any of the above then they can move on to use the more formal steps as follows.

The individual should make their concerns known to an appropriate senior manager in writing. The WB1 forms in appendix 3 are included to help an individual formulate concerns but they do not need to be used if an individual chooses to use a different approach.

They may also wish to involve their Trade Union/Staff Representative.

When a concern is raised, it is helpful to know how the individual considers the matter might be best resolved.

The senior manager will meet with the individual raising the concern within seven working days. The outcome of the meeting will be recorded in writing, and a copy given to the individual within seven working days of the meeting.

Once an individual has told someone of their concern, whether verbally or in writing, HEIW will consider the information to assess what action should be taken. This may involve an informal review or a more formal investigation.

The individual will be told who is handling the matter, how they can contact them and what further assistance may be needed. If there is to be a formal investigation the manager to whom they have reported their concern will appoint an Investigating Officer. If an internal investigation takes place this will be undertaken thoroughly and as quickly as possible (usually within 28 days) in light of the matters to be investigated. At their request, the individual will be written to summarising their concern, and setting out how it will be handled along with a timeframe.

HEIW will aim to keep the individual informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent specific details of the investigation or any disciplinary action from being disclosed. All information about the investigation should be treated as confidential.

If the matter falls more appropriately within the remit of other W&OD policies, the employees should be advised that they should pursue the matter through the relevant policy and that the Procedure for NHS Staff to Raise Concerns will not be followed (see appendix 1).

HEIW does not expect any individual reporting a matter under this procedure to have absolute proof of any misconduct or malpractice that they report, but they will need to be able to show reasons for their concerns, so any evidence that they have such as letters, memos, diary entries etc. will be useful. These will need to be redacted if they contain any patient identifiable information.

If the alleged disclosure is deemed to be serious enough, then the HEIW may follow the process laid down in the Disciplinary Policy and Procedure, where the issues raised could relate to individual misconduct, when considering the most appropriate line of action.

The aim of this procedure is to provide an effective process for serious concerns to be raised. If it is concluded that an individual has deliberately made false allegations maliciously or for personal gain, then HEIW will instigate an investigation into the matter in accordance with the Disciplinary Policy and Procedure.

Subject to any legal constraints, HEIW will inform the individual(s) who raised the concern of an outline of any actions taken. However, it may not always be possible to divulge the precise action, e.g., where this would infringe a duty of confidentiality of HEIW towards another party.

Stage 3 – Executive Director

If an individual is either dissatisfied with a decision to only undertake an informal review or is dissatisfied with the outcome of stage 2 through the mechanisms outlined previously, they should raise their concerns in writing with the Chief Executive, and/or an appropriate Executive Director. If the concern relates to the Chief Executive or Executive Director, concerns should be raised with the Chair. Exceptionally, an individual should be able to go directly to this stage if the concerns are so serious as to warrant it **or** the previous stages have failed to address their concerns.

The Chief Executive or Chair (or a nominated representative not previously involved) will meet the individual within 28 working days. Again, the outcome of this meeting will be recorded in writing and a copy given to the individual within seven working days of the meeting.

Stage 4 - Serious or Continued Concerns and Regulatory/Wider Disclosure

The aim of this procedure is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing/inappropriate practices in the workplace. In most cases individuals should not find it necessary to alert external parties.

However, the law recognises that in some circumstances it may be appropriate to report concerns to an external body. It will very rarely, if ever, be appropriate to alert the media. It is strongly encouraged that an individual seeks advice before reporting a concern to external parties. The independent charity, Protect operates a confidential helpline to support individuals in determining the appropriate course of action. They also have a list of prescribed regulators for reporting certain types of concern. Protect details are included later in this procedure.

All staff have an individual responsibility to safeguard people from harm or suspected harm, by making known their concerns about abuse. Children and adults with vulnerabilities can be subjected to abuse by those who work with them in any setting; all allegations of abuse must therefore be taken seriously and treated in accordance with the [Wales Safeguarding Procedures](#). These procedures may dictate that any investigation should be handled by a partner organisation such as Social Services or the Policy which would take precedence over internal procedures, therefore advice from a safeguarding professional should be sought at the earliest opportunity.

If an individual has followed the above procedure to deal with the matter and still has concerns or if they feel that the matter is so serious that they cannot discuss it in any of the ways outlined previously, then in exceptional circumstances they may wish to contact: -

The National Fraud and Corruption reporting Line on 0800 028 40 60, or alternatively via the online reporting facility at <https://cfa.nhs.uk/reportfraud> (if your concern is about aspects of Fraud, Bribery or Corruption).

HEIW hopes that this procedure will provide individuals with the reassurances required to raise any matters of concern internally or exceptionally with the organisations referred to above. However, there may be circumstances where individuals are required under their professional regulations to report matters to external bodies such as the appropriate regulatory bodies, including: -

- ❖ General Medical Council (www.gmc-uk.org)
- ❖ Nursing and Midwifery Council (<https://www.nmc.org.uk/>)
- ❖ Health and Care Professions Council (www.hpc-uk.org)
- ❖ General Pharmaceutical Council (www.pharmacyregulation.org)

HEIW would rather the matter is raised with the appropriate regulatory body than not at all. Other regulatory bodies may include;

- Health and Safety Executive
- Health Inspectorate Wales
- Wales Audit Office
- Police

(This list is not exhaustive).

If an individual needs further advice they can contact the charity Protect on 020 3117 2520 or by email at whistle@protect-advice.org.uk. Protect can advise individuals how to go about raising a matter of concern in the appropriate way <https://protect-advice.org.uk/>. Alternatively, the Department of Health also provide a free, independent, confidential advice service for NHS and Social Care employees and employers in England and

Wales known as Speak Up. They can be contacted on 08000 724 725 or via their website at <https://speakup.direct/>.

Appendix 1

What is whistleblowing?

Whistleblowing is the term used when a member of staff raises a concern about a possible risk, wrongdoing or malpractice that has a public interest aspect to it, usually because it threatens or poses a risk to others (e.g., patients, colleagues or the public).

This may include:

- Systematic failings that result in patient safety being endangered, e.g., poorly organised emergency response systems, or inadequate/broken equipment, inappropriately trained staff;
- Poor quality care;
- Acts of violence, discrimination or bullying towards patients or staff;
- Malpractice in the treatment of, or ill-treatment or neglect of, a patient or client;
- Disregard of agreed care plans or treatment regimes;
- Inappropriate care of, or behaviour towards, a child /vulnerable adult;
- Welfare of subjects in clinical trials;
- Staff being mistreated by patients;
- Inappropriate relationships between patients and staff;
- Illness that may affect a member of the workforce's ability to practise in a safe manner;
- Substance and alcohol misuse affecting ability to work;
- Negligence;
- Where a criminal offence has been committed / is being committed / or is likely to be committed (or you suspect this to be the case);
- Where fraud or theft is suspected;

- Disregard of legislation, particularly in relation to Health and Safety at Work;
- A breach of financial procedures;
- Undue favour over a contractual matter or to a job applicant has been shown;
- Information on any of the above has been / is being / or is likely to be concealed.

This procedure should not be used for complaints relating to your own personal circumstances, such as the way you have been treated at work. In these cases, the Respect and Resolution Policy should be used. Link [here](#).

Appendix 2

Protection of those making disclosures

It is understandable that individuals raising concerns are sometimes worried about possible repercussions. HEIW aims to encourage openness and will support staff who raise genuine concerns under this procedure, even if they turn out to be mistaken. In addition, there are statutory provisions for individuals who make what are termed “protected disclosures”.

In law individuals must not suffer any detrimental treatment as a result of raising a concern. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If an individual believes that they have suffered any such treatment, they should inform a member of the People Team, immediately. If the matter is not remedied, they should raise it formally using the All Wales Respect and Resolution Policy.

Those who raise concerns must not be threatened or retaliated against in any way. If an individual is involved in such conduct, they may be subject to disciplinary action.

HEIW aims to protect and support staff to raise legitimate concerns internally within the organisation where they honestly and reasonably believe that malpractice/wrongdoing has occurred or will be likely to occur. Staff who make what is referred to as a “protected disclosure”, i.e., a disclosure concerning an alleged criminal offence or other wrongdoing, have the legal right not to be dismissed, selected for redundancy or subjected to any other detriment (demotion, forfeiture of opportunities for promotion or training, etc.) for having done so and the protections are set out in law in the Public Interest Disclosure Act 1998.

If an individual is raising a matter of serious or continued concern the same protection applies as for internal disclosure. This is intended to promote accountability in public life and there is no requirement that such concerns should first be raised with the NHS organisation, although it is preferred that HEIW should be given an opportunity to resolve the matter first.

If an individual is raising a matter with a regulatory body defined within the Public Interest Disclosure Act 1998 they will be protected where they honestly and reasonably believe that the malpractice/wrongdoing has occurred or is likely to occur and in addition they honestly and reasonably believe that the information and any allegation contained in it are substantially true. The Public Interest Disclosure (Prescribed Persons) Order 2014 amends the list of prescribed persons and came into force on 1 October 2014 and applies to disclosures made on or after this date. The new list of prescribed persons in respect of matters relating to healthcare services is set out below: -

Relevant matters	Prescribed person
Matters relating to the registration and fitness to practice of a member of a profession regulated by the relevant council and any other activities in relation to which the relevant council has functions.	The Nursing and Midwifery Council, Health and Care Professions Council, General Medical Council, General Chiropractic Council, General Dental Council, General Optical Council, General Osteopathic Council, General Pharmaceutical Council.

For healthcare services in Wales (specifically):

Relevant matters	Prescribed person
Matters relating to the registration of social care workers under the Care Standards Act 2000.	Care Council for Wales
Matters relating to: <ul style="list-style-type: none"> The provision of Part II services as defined in section 8 of the Care Standards Act 2000 and the Children Act 1989. The inspection and performance assessment of Welsh local authority social services as defined in section 148 of the Health and Social Care (Community Health and Standards) Act 2003. 	Welsh ministers

- | | |
|---|--|
| <ul style="list-style-type: none"> • The review of, and investigation into, the provision of health care by and for Welsh NHS bodies as defined under the Health and Social Care (Community Health and Standards) Act 2003. • The regulation of registered social landlords in accordance with Part 1 of the Housing Act 1996 (as amended by the Housing (Wales) Measure 2011). | |
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If an individual is making a wider disclosure (for example to the police, or an Assembly Member (AM) (other than the Welsh Ministers) there are rigorous conditions for such wider qualifying disclosures to be protected:

Belief. The individual must reasonably believe that the information disclosed, and any allegation contained in it, are substantially true.

Not for gain. The individual must not make the disclosure for the purposes of personal gain (but rewards offered under statute, for example by HMRC, are ignored).

The individual must:

- have **previously disclosed** substantially the same information to their employer or to a prescribed person; or
- reasonably believe, at the time of the disclosure, that they will be subjected to a **detriment** by their employer if they make disclosure to the employer or a prescribed person; or
- reasonably believe (where there is no prescribed person) that material evidence will be **concealed or destroyed** if disclosure is made to the employer.

Reasonableness. In all the circumstances of the case, it must be reasonable for them to make the disclosure.

Protect or a Trade Union will be able to advise on the circumstances in which an individual should use this procedure and where they may be able to contact an outside body without losing the protection afforded under the Public Interest Disclosure Act 1998.

Appendix 3 – Health Improvement Education Wales (HEIW)

Form WB1 – Recording a concern raised under the procedure

Concern raised by (name):			
Designation			
Ward / Department			
Confidentiality requested:	yes		No
Nature of concern raised:	Delivery of care/services to patients		
	Value for money		
	Health and safety		
	Unlawful conduct		
	Fraud, theft or corruption		
	The cover-up of any of the above		
Details of concern raised: (Continue overleaf is necessary)			

Evidence to support the concern (if available): (Continue overleaf if necessary)		
Any suggestions from employees as to a resolution?		
How will the matter be handled?	Informal review	
	Internal investigation	
Concern reported to:		
Contact name:		
Designation:		
Telephone no:		
Signed:		
Date:		
N.B. Once completed, this form should be retained on a case file		

Appendix 4 – Health Education and Improvement Wales (HEIW)

Form WB2 Concerns Raised Under the Procedure: Summary of findings and outcome of investigation

Concern raised by (name):	
Designation:	
Informal review undertaken by:	
Investigation undertaken by:	
Summary of findings of review / investigation: (continue overleaf if necessary)	
Outcome: Action taken: (continue overleaf if necessary)	

No action taken for the following reasons:	
Further action (if appropriate): (e.g., report the matter to Welsh Government / Regulator)	
Name:	
Signed:	
Designation:	
Date:	
N.B. Once completed, this form should be retained on a case file.	

Appendix 5 – Flowchart of Raising Concerns Process

This flowchart sets out the stages in raising a concern and shows the management levels for internal disclosure. In a small organisation, there may not be more than one or two levels of management to whom you can escalate your concerns. In these cases, you should consider escalating your concern to the regulator or other prescribed person at an earlier stage than is shown on the flowchart.

