PE1605/B

Petitioner submission of 10 September 2016

More Comments from those Signing the Petition

As a staff nurse I would be so glad of something like this. I do not have a voice and yet I see it all.

- *Christina Macdougall*

Free the people - let them have their say

- *Ramsay Clark*

The current measures in place are useless. The supporters of the current measures are guilty of collusion with bullying & cover-ups in their complicity with useless measures. Kez Dugdale states: "if you are working in NHS Lothian just now, you will know this culture of bullying in this organisation is out of control, and it's been that way for a couple of years now, and the whole style of management under which NHS Lothian operates needs to change". This proposed measure effects that required change.

- *Kevin Ferguson*

We need exit interviews by independent body offered to all persons, from the cleaner to the trust board members if we are to change the culture. Gongs should not go to those who keep quiet but to those who speak out.

- *Dr Roger Burns*

The Whistleblower Protection Scheme advised by The Francis Report MUST be set up as being independent of the NHS structure. Otherwise whistleblowers will not get the independent, impartial support and advice they need to function effectively. Patients' safety depends on it!

- *Elizabeth Gray*

Few Petition Responses

Although 40,000 flyers about this petition have been distributed to hospitals throughout Scotland, with 121 signatures resulting, the numbers signing were not as high as might be expected. The petitioner ran an on-line survey using survey monkey at www.surveymonkey.co.uk/r/LC2VLPY which gave the following analysis from 15 of the NHS staff who signed. They were posed the question "why do you think more staff are not signing the petition?"

Most thought it was because of nervousness about being publicly identifiable as one who wanted stronger arrangements. The responses were:

Because they are nervous of having their name on display on the parliament website	40 %
Because they do not think petitions achieve anything	20 %
Because they think the existing whistleblowing arrangements are OK	6 %
Because they are nervous of even discussing this subject at work	13 %
Because they have not heard about it	26 %
Because they are suspicious of sending their signature to an unknown website (www.kidsnotsuits.com)	20 %

These results suggest that even signing this petition is something NHS staff fear will put them in the firing line.

When Raising Concerns Doesn't Work: Bullying

On the 16th August 2016, The Guardian published the article by Roger Kline "The NHS cannot afford to ignore bullying any longer". The article posits that "Metrics are used to both identify hotspots and intervene early. Concerns are addressed quickly, not in a long drawn-out process. Metrics are used to hold middle managers and the board to account."

The whistleblower and bullying hotline proposed in this petition would create this metric by collating instances of bullying and giving NHS Boards the knowledge of how often it was happening, where it was happening and knowledge of what action was being taken. A summary of the volume of the complaints would be published by the Board in its Annual Review, with outcomes recorded.

At present Boards are in the dark as to the scale and nature of the problem within their hospitals. The staff member at the receiving end can choose to either put up with the bullying, pursue a grievance or resign. As the article explains:

"It ground me down. I lost some of my hair. I began shaking at the thought of going to work and eventually retired on ill health grounds. My manager was not disciplined because although it was agreed he had bullied me, he 'didn't intend' to bully me."

This nurse left her job and will never work for the NHS again. I have met too many fine staff with similar stories while advising staff who raised concerns about patient care or discrimination. We know the consequences of bullying in healthcare. Staff are less willing to raise concerns about care or fraud. Staff are reluctant to admit mistakes for fear of being blamed. It leads to less effective teams, demoralises staff, increases absenteeism, adds to turnover and costs the NHS a fortune.

Bullying undermines safe and effective patient care. UK research by Michael West, professor of work and organisational psychology at Lancaster University management school, revealed a strong negative correlation between whether, in the NHS staff survey, staff reported harassment, bullying or abuse from colleagues and whether patients reported being treated with dignity and respect. American research by Alan Rosenstein, disruptive behaviour specialist, reported a strong correlation between disruptive behaviours and the occurrence of adverse events and compromises in patient safety.

Yet there is no coherent strategy in response to the astonishing fact that last year 23% of NHS staff reported being bullied (up considerably in recent years) and that less than half even report bullying (down steadily in recent years). It's even worse for disabled, LGBT and black and minority ethnic staff.

Excessive workloads, constant reorganisation and relentless targets from the top of the NHS are a prime cause. But so is the model of leadership many follow. As the report on Mid Staffordshire put it: "The NHS has developed a widespread culture more of fear and compliance, than of learning, innovation and enthusiastic participation improvement."

So what should the NHS do?

Each NHS organisation must acknowledge the scale of its bullying. Staff survey data* enables every NHS trust to know the levels of harassment, bullying and abuse staff experienced from colleagues and managers, and whether staff reported harassment, bullying and abuse they experienced or witnessed. Boards need to analyse that data by department and occupation, and make it a priority to tackle it.

That necessitates boards and senior leaders modelling the behaviour they expect of others – a serious challenge in some cases. It means training in the behaviours that are expected must start at the top – respect, support, learning not blame, listening. Whatever the workload and other pressures, bullying will make it worse for staff and patients. Effective strategies set out a clear narrative explaining what bullying and harassment are, and why they impact adversely on staff wellbeing and effectiveness, and patient care.

Above all, successful strategies go beyond the dominant HR approach, well described in a recent Acas policy paper , which explained: "The strategies for dealing with bullying that are favoured by the large majority of employers in Britain include the development of anti-bullying policies, and then training managers in their application. This approach predominantly relies on bullied individuals pursuing the matter and driving the resolution ... research has generated no evidence that, in isolation, this approach can work to reduce the overall incidence of bullying in Britain's workplaces."

Employers who have reduced bullying have instead been preventative in approach and not left it to brave or desperate individual to raise concerns. Training started with the board. Metrics are used to both identify hotspots and intervene early. A culture is created where it is safe to report being bullied because there are consequences for those who bully and victimisation of those who raise concerns is not tolerated. Concerns are addressed quickly, not in a long drawn-out process. Metrics are used to hold middle managers and the board to account.

In his Mid Staffordshire public inquiry report, Robert Francis wrote: "The common culture of caring requires a displacement of a culture of fear with a culture of openness, honesty and transparency, where the only fear is the failure to uphold the fundamental standards and the caring culture." How much longer can the NHS afford to not take an evidence-based approach to tackle such a serious danger to staff and patients?

*It should be noted that in Scotland staff surveys are not carried out on an annual basis. (more at www.staffgovernance.scot.nhs.uk)

The Existing Helpline

The NHS Scotland Confidential Alert Line (NCAL) service is run by Public Concern at Work, an independent whistleblowing charity. The Scottish Government considers it "provides a safe place where staff, who feel that they may be victimised as a result of whistleblowing, can raise concerns about patient safety and malpractice".

It is also claimed to "provide a route, where appropriate, where concerns can be passed to the health board or appropriate regulator on the callers' behalf." It has been running since 2nd April 2013. (see http://www.gov.scot/Topics/Health/NHS-Workforce/Employee-Experience/NHS-staff-alert-line)

80% of callers are from doctors or nurses. Well over 90% have already raised their concerns internally before contacting the helpline. 50% of those callers felt their concerns had been ignored.

In the 6-month period to July 2015, of the 25 callers, 17 rang to blow the whistle and 4 rang about bullying.

Approximately 1 referral in every six months is referred to Scotland's external regulator, Healthcare Improvement Scotland (HIS). The regulator can investigate staff concerns related to patient safety. HIS has advised that the number of individuals approaching them directly to raise concerns (i.e. without first having contacted the NCAL) is increasing.

Effectiveness of helpline

A breakdown of the statistics for use of the helpline at www.gov.scot/Topics/Health/NHS-Workforce/Employee-Experience/NHS-staff-alert-line/Anninfoalertline shows the following:

Year	Number of whistleblowing cases
2013 (9 months)	84
2014	46
2015	31
2016 (6 months)	20

The numbers using the helpline have decreased significantly since its introduction.

Astonishingly, looking at the first half of 2015, the correct number and/or email address was provided for re-contact in just 11 (65%) cases. That means 35% either did not leave their details or left the wrong ones. This figure begs the question as to why whistleblowers had so little confidence in the helpline that they would do such a thing.

What Views have the Petitions Committee Previously heard on the Existing Helpline?

Rab Wilson submitted Parliamentary Petition PE1495, on whistleblowers being forced to sign Confidentiality Clauses (see www.parliament.scot/parliamentarybusiness/report.aspx?r=8878&mode=pdf pages 6 and 9)

Rab Wilson, an NHS whistleblower stated of the helpline on page 6 that when someone "*phoned up to complain about some major bad thing that is going on, it refers them back to their employer, which is the last place that they will want to go.*" On page 9 he said "*I*

have received phone calls from people who have been bullied. I listen to their stories, which seem to have a ring of truth. Channels should be available for them to pursue matters. As I have said, the confidential alert line seems to be very poor. When people phone it, they are given a lot of waffle and referred back to their employer. What help is that? It is useless."

Francesca West, Policy Director of Public Concern at Work responded on the 23 Jan 2014 (www.parliament.scot/S4_PublicPetitionsCommittee/General%20Documents/PE1495_Q_Public_Concern_at_Work_23.01.14.pdf) She said "*We encourage the individuals to raise the concern themselves. This makes it easier for the caller to receive feedback and to ask for updates, it also makes it easier for the recipient to ask further questions about the concern*. "

"*It is also worth flagging that half of the individuals who have contacted the Confidential Alert Line have not been willing to provide contact details, meaning feedback potential at present is limited*."

The petitioner considers that the helpline puts the onus on the caller to go back to the manager to resolve the issue, which is not helpful. It is at this point that things get lost. Contrary to the aims, putting the onus on the caller to go back to managers does the opposite of what PCaW intends- it is likely to create greater damage to the caller, for well over 90% callers have already raised their concerns internally before contacting the helpline. (see www.gov.scot/Resource/0049/00495184.pdf). The unwillingness of half of all callers to leave contact details shows how little confidence staff have in the helpline.

NHS Scotland staff surveys were carried out in 2013, 2014, 2015 (for 2013 and 2014 see www.staffgovernance.scot.nhs.uk/monitoring-employee-experience/staff-survey/ and for the most recent see www.gov.scot/Publications/2015/12/5980). Data for the three years since the Helpline was set up shows little change in the figure of only 57% of staff who thought it safe to raise concerns. It appears the helpline is having no impact on the fear NHS staff have of speaking out. If there were a mechanism whereby staff knew that an agency were relaying concerns directly to management or the Board on their behalf, depending on the seriousness of the matter, then a great weight would be removed from their shoulders.

Lessons from England

The Scottish Government has never commissioned an independent review into an open and honest reporting culture in the NHS, but the UK Government has. Sir Robert Francis's report 'Freedom to speak up?' was published in November 2014.
(see www.gov.uk/government/groups/whistleblowing-in-the-nhs-independent-review) It provided independent advice and recommendations to ensure that:
•NHS workers can raise concerns in the public interest with confidence that they will not suffer detriment as a result
•appropriate action is taken when concerns are raised by NHS workers
•where NHS whistleblowers are mistreated, those mistreating them will be held to account.

This was encapsulated in the following principles and actions:

Principle 1
Culture of safety: Every organisation involved in providing NHS healthcare, should actively foster a culture of safety and learning, in which all staff feel safe to raise concerns.
Action 2.1: Every NHS organisation should have an integrated policy and a common procedure for employees to formally report incidents or raise concerns. In formulating that policy and procedure organisations should have regard to the descriptions of good practice in this report.

Principle 2
Culture of raising concerns: Raising concerns should be part of the normal routine business of any well led NHS organisation.
Action 1.1: Boards should ensure that progress in creating and maintaining a safe learning culture is measured, monitored and published on a regular basis.

Principle 3
Culture free from bullying: Freedom to speak up about concerns depends on staff being able to work in a culture which is free from bullying and other oppressive behaviours.
Action 3.1: Bullying of staff should consistently be considered, and be shown to be, unacceptable. All NHS organisations should be proactive in detecting and changing behaviours which amount, collectively or individually, to bullying or any form of deterrence against reporting incidents and raising concerns; and should have regard to the descriptions of good practice in this report. Action 3.2: Regulators should consider evidence on the prevalence of bullying in an organisation as a factor in determining whether it is well-led. Action 3.3: Any evidence that bullying has been condoned or covered up should be taken into consideration when assessing whether someone is a fit and proper person to hold a post at director level in an NHS organisation.

Principle 4
Culture of visible leadership: All employers of NHS staff should demonstrate, through visible leadership at all levels in the organisation that they welcome and encourage the raising of concerns by staff.
Action 4.1: Employers should ensure and be able to demonstrate that staff have open access to senior leaders in order to raise concerns, informally and formally.

Principle 7
Raising and reporting concerns: All NHS organisations should have structures to facilitate both informal and formal raising and resolution of concerns.
Action 7.1: Staff should be encouraged to raise concerns informally and work together with colleagues to find solutions.
Action 7.2: All NHS organisations should have a clear process for recording all formal reports of incidents and concerns, and for sharing that record with the person who reported the matter, in line with the good practice in this report.

Principle 8
Investigations: When a formal concern has been raised, there should be prompt, swift, proportionate, fair and blame-free investigations to establish the facts.
Action 8.1: All NHS organisations should devise and implement systems which enable such investigations to be undertaken, where appropriate by external investigators, and have regard to the good practice suggested in this report.

Principle 11
Support: All NHS organisations should ensure that there is a range of persons to whom concerns can be reported easily and without formality. They should also provide staff who raise concerns with ready access to mentoring, advocacy, advice and counselling.

Action 11.1: The Boards of all NHS organisations should ensure that their procedures for raising concerns offer a variety of personnel, internal and external, to support staff who raise concerns including:
a) a person (a 'Freedom to Speak Up Guardian') appointed by the organisation's chief executive to act in a genuinely independent capacity
b) a nominated non-executive director to receive reports of concerns directly from employees (or from the Freedom to Speak Up Guardian) and to make regular reports on concerns raised by staff and the organisation's culture to the Board
c) at least one nominated executive director to receive and handle concerns
d) at least one nominated manager in each department to receive reports of concerns .
e) a nominated independent external organisation (such as the Whistleblowing Helpline) whom staff can approach for advice and support.

Rab Wilson, a Scottish NHS whistleblower has summarised Sir Robert's perspective on WB Guardians (or whistleblower champions):

- WB Guardian posts should be dedicated roles.
- WB Guardian role should not be on top of someone's existing duties.
- WB Guardians must be recognised by all as independent and impartial

None of these conditions are in place for Scottish champions and it could be argued that NHS Scotland's system fails to adequately protect whistleblowers.

Sir Robert took evidence from one scottish whistleblower, Dr Sukhomoy Das, an Ayrshire stroke specialist. Dr Das is the only doctor to have won an industrial tribunal case for victimisation, since he was able to prove that he had been denied employment on account of his activities. He had been the sole applicant for a post for which he was fully qualified – a post which was then abolished when it became clear he was the only applicant. (Case EATS/0021/14/SM of 28th Nov 2014, Dr Sukhomoy Das v Ayrshire & Arran Health Board)

He was the only Scottish medic to be invited to London last year for the unveiling of the report.

Is the New Champion System Working?

It is worth reflecting on the origins of the Scottish arrangements for whistleblowers. The key components - the helpline and the champions - were established by the Scottish Workforce and Staff Governance Committee (SWAG). The SWAG addresses workforce issues that require Scottish-wide solutions, working in conjunction with the Scottish Partnership Forum (SPF) which was established in 1998, to strive that NHS Scotland could be an exemplary employer. The SPF has been the forum where the Scottish Executive Health Department (SEHD), NHS Scotland employers and trade unions and professional organisations work together to improve health services for the people of Scotland. The current configuration of committees follows a stock-take of partnership working as described in Partnership:

Delivering the Future (October 2005). (see www.scotland.gov.uk/Publications/2005/10/25144552/45544).

Thus the current arrangements come, in part, from the trade unions and professional associations themselves.

NHS Scotland implemented the arrangements for whistleblower champions in September 2015 by asking NHS Boards to appoint a member of their Board, explaining their role was to provide assurance to the Boards that whistleblowers were not being victimised. The Director-General of Health & Social Care wrote to NHS Boards indicating that each Board should appoint a Whistleblowing Champion who would look for assurance that investigations were being handled fairly and effectively.

The champions were to ensure that reported cases were being investigated, that regular updates were provided on the progress of the investigations of reported Cases, that staff members who reported concerns were being treated and supported appropriately and not victimised, that members of staff were regularly updated on the progress of the concern they reported and advised of investigation outcomes, and that any resultant actions were progressed.

They were to ensure that Whistleblowing policy contacts were being updated on the progress and outcomes of cases and recommended actions resulting from an investigation. They were to publicise and champion positive outcomes and experiences.

It would appear from examining the minutes of Board meetings that little of this is happening in Scottish Health Boards. Only Tayside NHS appears to buck the trend: they've agreed a six monthly update on whistleblowing will be provided to the Staff Governance Committee.

http://www.nhstaysidecdn.scot.nhs.uk/NHSTaysideWeb/idcplg?IdcService=GET_SECURE_FILE&dDocName=PROD_257697&Rendition=web&RevisionSelectionMethod=LatestReleased&noSaveAs=1

There are no Whistleblowing policy contacts listed in NHS Regional whistleblowing policies and the identity of the Whistleblowing Champions is not publicised.

Boards state the Champions have no staff-facing role, so apparently they do not benefit whistleblowers directly. As each Board makes clear: "The Whistleblowing Champion does not form any part of the whistleblowing policy, is not a point of contact for staff; and does not become involved in the investigation of cases. The Champion is there to ensure that staff members who report concerns are being treated and supported appropriately and not victimised."

Yet if a staff member is being victimised, the champion will never know, for Boards refuse to divulge details of who the champions are, so there is no way they can "champion" anybody or anything.

NHS Boards- How they Could Take Whistleblowing Reports

This petition posits it would be most appropriate for reports to be taken to each Board's Staff Governance Committee. For obvious reasons Boards would not want whistleblowing reports to be made public, but Standing Orders will allow a meeting of an NHS Board to be held in private if necessary. Other public bodies using the hotline approach, such as the City of Edinburgh Council, work in this way.

Health Boards comprise two kinds of member: Executive Members and Non-Executives. The Executive members are few and represent the workings of the Health Board- the Chief Exec, Human Resources, Nursing, Medicine, etc- they come from the staff side and do not have voting rights. The bulk of each Board comprise the non-executive members who run the various committees and receive about £9,000 pa for sitting on the Board.

Thus most of those who sit on Health Boards are non-executives, but to date their knowledge of NHS workings only come through reports via the Chief Executive and the other Executive members.

The non-Executive directors that make up the bulk of every Health Board need to have far greater insight into mismanagement and bullying concerns if they are to fulfil their duties to effectively scrutinise the organisation.

The role of whistleblowing champion in every Board has been given to a non- executive Board member who sits within the Staff Governance Committee. The petitioner thinks it is therefore this Committee that should receive the whistleblowing hotline reports.

The hotline would thus be a radical departure from existing practise, since it would mean non-executive directors on every NHS Board would, for the first time, have direct knowledge of what goes in our NHS.

This petition makes clear there could be an effective role for the champions; it could be the responsibility of each Board's Whistleblowing Champion to liaise with the hotline provider to protect whistleblowers from retribution, to ensure their concerns were being considered and to ensure an annual whistleblowing report was compiled.

Although the current whistleblowing champion regime was set up in September 2015, some seven months later its inadequacy was highlighted when Aberdeen Royal Infirmary's top surgeon, Professor Zygmunt Krukowski left his job. He resigned in April 2016. He was the Queen's personal surgeon.

He had been suspended in May 2015 after he expressed concerns about the number of operations that were being carried out that weren't necessary. One of his patients, Diane Smith, 67, led a campaign for his reinstatement; the petition got over 2,000 signatures. In April 2016 he was exonerated when Grampian Health Board were forced to release a report which revealed the extent of unnecessary operations carried out at Aberdeen Royal Infirmary.

Five days later, on the 24th April 2015, the Press and Journal revealed that Prof Krukowski had resigned from the Health Board, along with his colleague Dr Wendy Craig. Prof Krukowski has told the petitioner that he resigned because he was unhappy about his treatment.

Because there is no decent system in place, staff resign or get sacked over disputes and going to an Employment Tribunal can mean waiting years for justice, as Blueprint found in their recent Whistleblowing Report (available at https://blueprintforfreespeech.net/wp-content/uploads/2016/05/Report-Protecting-Whistleblowers-In-The-UK.pdf)

A key component of the SWAG's authority rests in the trade union and professional organisations who are part of it.

NHS Boards- Why The Petition Helps Them Meet Their Legislative Duties

NHS staff in Scotland tell employees of the "Right to raise concerns in the public interest"

"All employees working in the NHS have a contractual right and a duty to raise genuine concerns they have with their employer about malpractice, patient safety, financial impropriety or any other serious risks they consider to be in the public interest. Employee should refer to the Whistleblowing Policy for further detail."

There is an important piece of legislation to consider when considering the impact of a duty to blow the whistle: Section 2 (1) of the Health and Safety at Work Act (1974). This section of Act imposes a general obligation upon employers:

"It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare of all his employees"

This piece of legislation dictates the actions that must be taken to promote the health, safety and wellbeing of people at work. However, if any whistleblower suffers detriment to their career through whistleblowing, that will affect their wellbeing and mental health. The NHS clearly has a duty to establish the safest possible arrangements for whistleblowers.

Indeed, the Scottish Government makes this clear. The Scotland Staff Governance Standard is a Government publication for NHS Scotland and employees (from http://www.gov.scot/Resource/0039/00395439.pdf.) On page 14 it requires of employers "They ensure that it is safe and acceptable for staff to speak up about wrongdoing or malpractice within their organisation, particularly in relation to patient safety." On page 15 it indicates that staff are expected to blow the whistle.

Whistleblower Hotline in use at NHS Trust

At least one NHS trust in England uses a whistleblower hotline similar to the one proposed by this petition. Salford Royal NHS Foundation Trust have 7,000 staff and are an integrated provider of hospital, community and primary care services, including the University Teaching Trust. They provide local services to the City of Salford and specialist services to Greater Manchester and beyond. They are an Outstanding Trust – the first Trust in the North of England to achieve the highest rating given by the Care Quality Commission. Their commitment to care is illustrated by an extremely well thought-out whistleblowing policy (available at http://www.srft.nhs.uk/EasysiteWeb/getresource.axd?AssetID=3655&type=full&servicetype=Inline).

They have a “Freedom to Speak Up Guardian” in place who may be contacted for advice and who has access to the Chief Executive and nominated Non-Executive Director with whom concerns may be raised.

They also have a proper whistleblower hotline. On page 4 of their policy they say “Alternatively, for staff who feel unable to report concerns in this way, the Trust has engaged **Safecall**, an independent confidential reporting service which staff are urged to use where they wish to remain anonymous. Safecall provide a 24 hour a day, 7 days a week service for concerns reporting. When contacting Safecall on 0800 915 1571 they will be put in touch with an operator who is trained to receive reports about concerns in the workplace which they feel cannot be addressed in any other way. Calls will not be recorded but a written report will be produced and sent to an appropriate Director at the Trust. All calls received by Safecall will be treated confidentially and anonymity (where requested) is guaranteed.” (www.safecall.co.uk)

How would Whistleblowing Hotline Providers interface with Staff Regulatory Bodies?

How would the hotline mesh in with the professional machinery that oversees practice of doctors, nurses and others? As noted in the body of the petition, the whistleblowing hotline provider would take reports on the “major/ significant” concerns (NOT the “minor/operational” ones- they’d be dealt with by management) to the Staff Governance Committee of the relevant Regional Health Board. If the Committee felt that a report indicated clinicians were failing to meet professional standards, then it would be the Committee's responsibility to pass that report over to the relevant regulatory body- whether that be the General Medical Council, the Nursing Medical Council or another body.

Likely Cost of a National Hotline- A correction

The original submission to Parliament in March quoted a cost for the hotline of £450,00 pa to cover the 160,000 NHS employees throughout Scotland. This was an overestimate. Two hotline providers have now indicated to the petitioner the annual running costs would be far lower- and not more than £150,000.

How do Unions and Staff Associations Feel About the Petition?

Health workers in Scotland are being blocked by unions from debating whether to support this Parliamentary Petition calling for a whistleblower hotline. All four big health sector unions have indicated to the petitioner they either won't support (or won't allow their members to discuss) the Petition. The reason why the unions oppose the measure is because they say they are tied into partnership arrangements with NHS Boards and will do nothing that might undermine that. But it is not clear if they have discussed the scheme with NHS Management; but it indicates they assume management would not be in favour.

It is unreasonable of them to assume that NHS bosses will oppose a hotline. When a similar approach was made by this same petitioner to Edinburgh Council in 2013 the Corporate Management Team initially opposed it, but now pay tribute to its success. The hotline has been in place since May 2014 and was recently lauded by the Council in its Whistleblowing Annual Report : “Many of the recommendations that have resulted from

investigations have led to amendments to policy, improvements to procedures and processes, the development and sharing of best practice and improved service delivery."

Whistleblower reports are taken by the Council's Governance Risk and Best Value (GRBV) Committee and have led to numerous improvements at the Council. (Read the 2016 Annual Report at www.edinburgh.gov.uk/download/meetings/id/49623/item_77_whistleblowing_annual_report_%E2%80%93_report_by_the_chief_executive).

The unions and staff associations say that the Scottish Government's scheme of Sept 2015 to install regional Whistleblowing Champions in every Health Board should be allowed time to render results. But as explained above, the Government itself states that the Champions would have no role to play in investigating staff concerns.

Unions and Whistleblowing

Unions occupy uncomfortable territory when it comes to whistleblowing.

According to Wikipedia, most whistleblowers are internal whistleblowers, who report misconduct on a fellow employee or superior within their company. US civic activist Ralph Nader is said to have coined the phrase, but he in fact put a positive spin on the term in the early 1970s to avoid the negative connotations found in other words such as "informers" and "snitches".

Thus the action of blowing the whistle often means one worker reporting on another worker for conduct they deem inappropriate. Reporting someone for bullying is the same thing- since they work for the same organisation, it is one colleague reporting on another. Within the NHS is highly likely that both parties will be union members and both will expect the union to defend them. This situation puts any trade union in a difficult position because they suffer a conflict of interest.

Where this has arisen in the past, the petitioner has witnessed the union taking the side of whichever worker is better friends with key union officers or is the more senior employee (and who will probably have been in the union for longer and will be paying higher dues).

In Private Eye recently, the Unite Scottish Secretary even went so far as to say the petition could actually put his members at risk of vexatious complaints.

Some staff consider unions and staff associations are uncomfortable with whistleblowers generally, perhaps seeing them more as "complainers" rather than individuals acting from moral purpose.

Given the above, it is small wonder that unions prefer the current arrangements, whereby it is generally left to middle management to sort out whistleblowers- with predictably disastrous consequences. That allows the unions not to take sides in a dispute.

These same staff associations have to defend the current system because they are equally responsible for it. Rather than accept they have supported a flawed system, they are sticking to their guns to avoid embarrassment and maintain good working relationships with the employer to remain in Partnership. The problem is the Partnership element here: if

unions complain or object to current arrangements they are objecting to their own work. The result is that unions police their own members on discussing an issue that affects every worker.

Bearing this in mind, Parliament should not expect the unions and staff associations to provide comment on this petition which truly reflect the interests of their members. The views expressed will reflect the interests of those senior paid union staff who are wedded to the Partnership arrangements. It may be more productive for Parliament to seek out the views of patients' associations and whistleblowers themselves - who are far more likely to understand the consequences of this petition, should it be successful.

The Petitioner has set up another petition calling upon union leaders to reconsider their approach. It is asking union bosses to allow their members to discuss this petition. Citizens are being invited to sign this "petition for a Petition" to: Unite Scotland's Regional Secretary, to Unison Scotland's Health Committee Convener, to the Royal College of Nursing (RCN) Scotland Associate Director and the Chair of the British Medical Association (BMA) Scotland. The "petition for a Petition" can be viewed on the ipetitions website. As at 23rd August 2016 it had 115 signatures.

Which Politicians Support the Parliamentary Petition?

Petition PE1605 has been signed by politicians from right across the spectrum. Supporters include MSPs Kezia Dugdale (Scottish Labour Leader); Jeremy Balfour (Conservative Shadow Minister for Childcare & Early Years- who also helms Edinburgh's GRBV Committee), Green MSPs Alison Johnstone and Andy Wightman. Other ex-MSPs signing are Sarah Boyack of Labour; Mary Scanlon of the Conservatives and politocians Maggie Chapman of the Greens, Lloyd Quinan of the SNP, and Cospatric D'Inverno of the Lib Dems.

The Petition is supported by The UK Patients Association (at www.patients-association.org.uk) , by Action for a Safe and Accountable People's NHS (at http://asapnhs.org.uk), the Scotland Patients Association, the NHS Lothian Branch of Unite and Accountability Scotland (at www.accountabilityscotland.org).

The Petition in the Press

The Herald Scotland published an article on 19 March 2016 on this petition. It noted that *"the proposal had already found backing from a campaign group set up in January to promote openness in the Scottish NHS. Rab Wilson of Action for a Safe & Accountable People's NHS, said :*

"If all complaints within the NHS were taken as learning material we would reduce the cost of time taken to deal with patients and relatives who have found the need to raise formal complaints - as well as reducing the cost of litigation - and so I think the independent hotline would be cost effective in so many ways.

"NHS professionals are expected to raise issues which concern them but as the Staff Survey shows, few do for many reasons."

The article went on to quote Margaret Watt of Scotland Patients Association, who said: *"The system that there is at present doesn't protect patients. Staff feel frightened of speaking out - they are not allowed to.*

The existing helpline doesn't help anybody- it doesn't help the staff and so it doesn't help the patients either." She said a hotline could tackle problems early, avoiding expensive litigation and compensation claims and saving public money."

The article reiterates the petitioner's claims that an NHS hotline could mimic the success of an independent hotline set up at Edinburgh City Council, brought about in response to a similar petition. It notes

"This is run by an independent company and reports to the council's Governance, Risk and Best Value committee.

Cllr Jeremy Balfour, who helms that committee, said: "I believe the Whistleblowing policy gives greater protection to Council staff and the citizens of Edinburgh can feel more confident about what is going on behind closed doors. The scheme will only work well if local politicians scrutinise the workings of the scheme and hold senior staff accountable for their decisions."

The council itself says its helpline, introduced in May 2014, has been a success. "Many of the recommendations that have resulted from investigations have led to amendments to policy, improvements to procedures and processes, the development and sharing of best practice and improved service delivery," a report on the scheme concluded.

<u>Summary</u>

At present staff expose themselves to victimisation, by having to progress whistleblowing and bullying matters on their own. Through routing concerns through a hotline provider, this petition will reduce risk and the consequences of having to raise concerns with those who might cause detriment to their prospects.

The hotline provider could also help ensure the staff member was supported and updated on progress throughout the process; and that the outcome was fed back to the caller who raised the concern. If the resultant recommended actions were not progressed by the Board the whistleblower would have recourse to the national Whistleblowing champion. This will lead to staff having greater confidence in speaking out.

It will also mean that each Board will publish annual data indicating whistleblowing concerns broken down into a "major/significant" or "minor/operational" nature- and to calls relating to bullying complaints. This will enable stakeholders to truly understand the scale of the problem and better indicate the Board's endeavours to improve results in these key areas.

The petitioner thinks the existing arrangements are quite inadequate, inefficient and waste public funding. He calculates there is almost £40M claimed by staff and patients against the NHS in Scotland each year and savings could be made if reports on poor patient care were dealt with efficiently.