

Whistleblower Blast - Those offering to speak (as at 15/4/19)

A report on the subject found one third of NHS Scotland's 160,000 staff were unwilling to speak up. Those that do have suffered. These NHS staff (both current and former) will speak about the need for a Whistleblower hotline which would report initially to the staff governance committee of the relevant NHS Board and if that fails to satisfy the complainer's concerns, to the new Independent National Whistleblowing Officer at the SPSO.

The existing provision is of a helpline; what is proposed is a commercial hotline; the UK Government guidance [British Standards on Whistleblowing](#) explains the difference (see page 9).

It would operate as Safecall does with [City of Edinburgh Council's hotline](#), sorting concerns into major and minor significance. (In the case of 'major/ significant' concerns, the Whistleblowing Hotline will own the investigation. In the case of 'minor/ operational' whistleblowing disclosure (and at the sole discretion of the Whistleblowing Hotline provider), they may ask a manager within the NHS Board to conduct investigations and report back to them with their findings. If this is the case the Whistleblowing Hotline provider will liaise with the Board's whistleblowing champion. Alternatively, the Whistleblowing Hotline provider may themselves carry out the investigation and reporting function concerning a 'minor/ operational' whistleblowing disclosure. In the case of 'major/ significant' whistleblowing disclosures, the Whistleblowing Hotline provider will always carry out the investigation, reporting to the NHS Board's Governance Committee.

Should any of NHS Scotland's 14 Board Governance Committee fail to act, the whistleblower will be able, with the provider's support, to take their concern to the newly established [Independent National Whistleblower Officer](#) at the SPSO.

See [Parliamentary NHS WB Petition from 2016 here](#) and [CEC 2016 WB monitoring report here](#) and [original Council WB policy from 2013 here](#)

Whistleblowers and bullied NHS staff and former staff speaking will be:

1. Dr Jane Hamilton "It cost me my job, reputation and family life but I'd be an NHS whistleblower again". This top doctor suffered an eight-year nightmare. She says she took stress-induced sick leave and eventually lost her job at the Mother and Baby Unit (MBU) at St John's Hospital in Livingston after telling bosses the unit was badly run and patients were at risk – warnings she claims went unheeded. Two women and a baby were later reported to have died. By Christmas of 2008 – before those tragedies unfolded – Jane went off sick. She claims: "I knew something terrible could happen. I felt like I was the only one who could keep the service going safely but I was in the position that if something went wrong, I could be blamed. Some of our patients were extremely ill and could kill themselves. The stress made me physically ill. I was depressed, suffered migraines and anxiety and was grinding my teeth so badly my fillings came out. A week after I went off sick, a formal complaint about my clinical work came in from a team leader and I had to go through a complaint procedure." A preliminary hearing held about a year later found nothing wrong with

her clinical work, but she was told she could not go back to her post. And it later emerged in a Freedom of Information request that the cost of covering her post with locum doctors between January 2009 and the end of March 2014 came to more than £1 million. She then worked for two years in Edinburgh before taking on a role in perinatal psychiatry in Yorkshire for seven months, while continuing to fight for a return to her MBU post. Mediation between her employers and unions followed and she claims she was offered a settlement to leave which came with a gagging clause – an allegation staunchly denied by NHS Lothian. She refused and sought the services of an employment lawyer at a personal cost of £80,000. For more, [see here](#)

2. Debby McIlquham was bullied out of her NHS Lothian job 17 months ago. She was a senior charge nurse with the AMU (Acute Medial Unit) at the Royal Infirmary of Edinburgh. In 2014 she complained/ blew the whistle because her boss, a Band 8 Clinical Nurse Manager [Linda Mackintosh] and the Service Manager [Janice Alexander] looked up her medical records. That in itself should be enough to get these two fired, but they were never even disciplined. What happened was they looked up Debby's records and found out she was bipolar. Debby had worked and managed at the AMU perfectly well for many years, but when these two found out her medical history, they decreed that she was incapable for work. Thereafter Debby was bullied until she complained about the unauthorised access and the bullying. She was immediately suspended. The Unison Rep (Grace Forrest) told her bosses that they should not have looked at Debby's records, but took it no further. Eventually Debby was signed off with stress and she was forced to take early retirement, after almost 4 years of strife.

Debby is one of the most recent whistleblowers and her experience shows problems at the NHS just aren't going away. If there had been a hotline in place, Debby could have reported her bosses' misconduct. It would have gone to the Staff Governance Committee. Since these two had broken a cardinal rule (they had no authority to view Debby's records; they even left them lying open about in their office) they should have been sacked. Since we suspect that Governance's remit is to cover up bad smells, the hotline provider would have gone to Rosemary Agnew, the new INWO. If she failed to act then the politicians would be duty-bound to take note. PIDA would protect Debby from going public after that.

3. Dr Sukhomoy Das, a stroke physician who had been working in Ayrshire since 2000, raised patient safety concerns to his superiors in 2006 about a substandard agency locum consultant who, he alleged, was making a series of misdiagnosis of mini-stroke and stroke in young patients and subjecting them to unnecessary investigations and treatments. Despite the fact his *confidential* letter was a 'protected disclosure' it was shown to the locum. (The Trust accepted the letter as such under PIDA only in 2010, when faced with Employment Tribunal (ET) proceedings.) Unknown to Dr Das at the time, HR provided guidance to his superiors and none to Dr Das. His superiors called him to a meeting and told him that his 'concerns had been investigated and appropriate actions taken', but to this day the Trust has failed to produce records of any investigation. However, the locum continued to work in the specialised area and continued to make the same mistakes, until Dr Das raised a formal grievance later that year. Having blown the whistle, he then faced isolation, bullying, intimidation and victimisation.

He finally left his job in 2009. He then worked in several health boards away from his Ayrshire home-county; during that period he twice applied for jobs in Ayrshire, only to be turned away. Dr Das brought legal proceedings against the Trust each time, claiming victimisation and blacklisting. He established case law in [Das v Ayrshire NHS UKEAT](#) of 10% likelihood employability, so demonstrating effective blacklisting and the inadequacy of PIDA. When

faced with the ET proceedings in 2014, the concerns which his superiors had claimed in writing were 'investigated and appropriate actions taken' became, on the basis of oral evidence as 'unfounded'. The ET panel was satisfied and Dr Das won his claim of unlawful victimisation on the basis of the Equality Act 2010- but not on Employment Rights Act 1996 - at a personal cost of £90000 which he had raised by re-mortgaging his home after refusing to settle.

Concomitantly, Dr Das was the only NHS Scotland whistle-blower invited by Sir Robert Francis to contribute to the 'Freedom to Speak Up' review, after submission of his story with 60 pages of ET judgment but also with his suggestion of a statutory 'independent centralised whistleblowing unit'. His case was raised in the Scottish Parliament on 2nd April 2015. Dr Das became a public face while still working in the NHS, demanding that the Scottish Government adopted the Francis' report and recommendations to protect the public, public money and the whistle-blowers, or else carry out its own public enquiry.

He was invited as a guest speaker to a Scottish Government sponsored public sector HR conference at Queen Margaret University in Edinburgh; after his presentation Audit Scotland invited him to share his story with Scotland's public sector auditors. Later, Dr Das contributed to the Scottish Parliamentary Committee's enquiry into NHS Governance and last year he was invited by the Scottish Government and SPSO to contribute towards establishing the role of INWO. ([See the report on the workshops here](#)) Dr Das had also contributed to the consultation of the draft legislation of Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations 2018.

He currently works at the East of Scotland's Major Trauma Centre in Dundee and thinks the proposed whistleblowing hotline a crucial lifeboat for both the public interest disclosure and the whistle-blower. However, he considers the appointment of whistleblowing champions in each health board under current arrangements, to be nothing but window dressing. Many materials are available online to read about this doctor, but he will speak on the 19th by video recording.

4. Rab Wilson, ex-nurse from NHS Ayrshire who in 2012 exposed a cover-up at the health board involving 56 so-called critical incidents and at least 40 deaths.
5. Dr Peter Gordon, who raised concerns about the misdiagnosis of Alzheimer's at NHS Forth Valley, believes he was subsequently blacklisted when he was the only applicant for a Consultant's job at Tayside NHS. He said: 'We need this, otherwise powerful voices may continue to talk about "putting patients first" but actually may not ensure this.'
6. A registered nurse from NHS Lothian, who had raised concerns about poor patient care and then faced unwarranted disciplinary action. He said "This is a very good idea. At present folk won't come forward for fear of bullying and victimisation, like I was."
7. Gary Wilson, ex-Employee Director of NHS Health Scotland, was bullied out of his job after raising concerns such as serious bullying, breaches of due process, irregular financial decisions and that staff were not being listened to about relocation plans. He said: 'The hotline would lift the burden off the shoulders of the employee and give them the confidence to know that their concern has been formally registered. It's also important to recognise that the scheme will equip the whistleblowing champions on every Board to carry out the tasks that the Scottish Government has laid down for them. Without a hotline like this, they will have no way of knowing if and when someone has blown the whistle- and if their concern is being evaluated or acted upon.'

NOT CONFIRMED

1. David Healy (BCUHB - Mental Health & Learning Disabilities) Blew the wistle in Wales = see <https://www.bbc.co.uk/news/uk-wales-23218676>
2. Joyce Nicoll - Activist & Campaigner – helps those who've suffered at the hands of the Mental Health Act (sectioned against their will)
3. Raj Mattu was Cardiologist with University Hospitals of Coventry and Warwickshire NHS Trust and Winner of Blueprint Whistleblower 2016 award (see video of awards event at <https://youtu.be/zfYJepSTRuk> 26 minutes in). He fought for justice for 15 years before getting compensation. He was fired for flagging up unnecessary deaths due to overcrowding in wards. [More here](#)
4. Freddie Crawford-Grundy "As you may be aware my major experiences have been with NHS Ayrshire & Arran, also Scottish Ambulance. I have been non-executive member of many of their boards & committees (over some 15 years).. although these days I am regarded as something of a trouble maker. Among current issues of note is the case of 56 disparate largely incompatible IT systems within the new North Ayrshire Health & Social Care Partnership.. incredible but true. After exposing that issue, I was removed from the Strategic Planning Board."