

NHS Herts and West Essex Integrated Care Board (ICB)

GUIDANCE- Responding to General Practice Whistleblowing Concerns received by the Integrated Care Board (ICB)

November 2022

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Superseded Documents (if applicable)	East and North Herts Responding to Primary care Whistleblowing Concerns

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1.0 Introduction

All General Practices should have their own practice-specific policy for raising concerns. If resolution within the practice has been unsuccessful or the employee does not wish to raise their concern directly within the practice or with a named individual independent of the practice line management chain they may raise/ escalate the concern to an external organisation such as NHS England (NHSE), Healthwatch England or Care Quality Commission (CQC). Whilst the Integrated Care Board (ICB) is not a prescribed body a General Practice contract holder or employee may choose to contact the ICB to raise a concern.

[Whistleblowing: list of prescribed people and bodies - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

2.0 Purpose

The following guidance clarifies the process for the ICB to undertake on receipt of concerns raised by employees/ ex-employees/ contract holders of General Practices. It is intended to support the ICB to deliver a fair and consistent approach when dealing with information these individuals provide and to support the person raising the concerns (the whistleblower).

3.0 Definitions

Whistleblowing is the term used when an employee makes contact with a concern about an organisation and its services.

Anyone who works (or has worked) in the NHS, or for an independent organisation that provides NHS services can raise concerns. This includes agency workers, temporary workers, students, volunteers and governors.

The whistleblower must feel safe to raise their concern.

Any adjustments needed because of the protected equality status of the person raising the concern, such as communication preferences will be met.

If the whistleblower raises a genuine concern, they will not be at risk of losing their job or suffer any form of reprisal as a result.

Provided the whistleblower is acting honestly, it does not matter if they are mistaken or if there is an innocent explanation for their concerns.

Confidentiality

It is hoped that the whistleblower will feel comfortable raising their concern openly, but it must also be appreciated that they may want to raise it confidentially. An exception is if there is a legal requirement to disclose the whistleblower's identity (for example, a police request).

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The whistle blower can choose to raise their concern anonymously, without giving anyone their name, but that may make it more difficult for their concern to be investigated thoroughly and provide feedback on the outcome.

4.0 Scope

This guidance relates to whistleblowing concerns that have been raised with the ICB relating to General Practices. These types of concerns are sometimes referred to as 'Protected Disclosures' under the Public Interest Disclosure Act 1998

Whistleblowing does not apply to personal grievances (for example bullying, harassment, discrimination), including employment issues, which should be dealt with through practice internal organisational policies.

Whistleblowing concerns raised may be received through the following routes: -

- Telephone calls
- Email
- Direct Conversation with an individual
- Letter

As part of the risk and information sharing process, the ICB may be made aware of a whistleblowing concern raised with an external organisation (for example, the Care Quality Commission (CQC)). The external organisation would follow their own whistleblowing policy but may notify the ICB or ask the ICB for information or support as part of their process.

Concerns can be raised about risk, malpractice or wrongdoing staff think is harming the service. Just a few examples of this might include (but are by no means restricted to):

- unsafe patient care
- unsafe working conditions
- inadequate induction or training for staff
- lack of, or poor, response to a reported patient safety incident
- suspicions of fraud (which can also be reported to the local counter-fraud team)
- a bullying culture (across a team or organisation rather than individual instances of bullying).
- contractual non-compliance, such as reduced opening hours, which has not been agreed with the commissioner

5.0 Existing resources:

- Each NHS General Practice should be able to name an individual, who is independent of the line management chain and is not the direct employer, as the Freedom to Speak Up Guardian and who can ensure that policies are in place and

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that staff know who to contact if they have a concern [NHS-freedom-to-speak-up-national-policy-eBook-June-2022.pdf \(england.nhs.uk\)](https://www.england.nhs.uk/national-policy-eBook-June-2022.pdf)

- If resolution within the practice has been attempted but unsuccessful or the whistleblower does not wish to raise their concern within the practice then they may wish to raise /escalate a concern via the process stated in the Freedom to Speak Up in Primary Care Guidance November 2017 <https://www.england.nhs.uk/wp-content/uploads/2016/11/whistleblowing-guidance.pdf>
- Care Quality Commission (CQC) GP Mythbuster 87: Freedom to Speak Up [GP mythbuster 87: Freedom to Speak Up - Care Quality Commission \(cqc.org.uk\)](https://www.cqc.org.uk/mythbuster/87)

6.0 Actions to take within the ICB when a concern is received in relation to a GP Practice

See section 8.0 for summary process flowchart

6.1 Initial Actions

When the whistleblowing concern is received, and it relates to a GP Practice: -

- 1) **Initial receiver** of the concern will send the concern (email or scanned letter or email summary of verbal information received) to the following generic inbox:- (Where it will be received by the **Patient Experience Team**): -

hweicbwe.patientfeedback@nhs.net

- 2) **The Patient Experience Team** will

- log the whistleblowing concern on the Datix system
- send the concern, within 2 working days, together with the Datix reference number, to the following, heading the email up as URGENT ACTION- Primary Care Whistleblowing Concern:
 - Assistant Director for Primary Care Contracting
 - Primary Care Quality Leads for all 3 places
- send an acknowledgement of receipt to the whistleblower (if contact details are provided) within 3 working days, which will include asking the whistleblower if any adjustments are needed, such as communication preferences

- 3) **An initial review of the concern will be carried out by the Assistant Director for Primary Care Contracting and the Primary Care Quality Leads** within 2 working days to determine the following: -

- Based on the allegations and current intelligence about the practice, is there a potential immediate risk to patient safety or potentially fraudulent activity?

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- **If yes-** an urgent summit meeting will need to be arranged within 3 working days (Refer to the Hertfordshire and West Essex ICB Terms of Reference for a High Risk Practice Summit Meeting). Follow the actions to review the whistleblowing concern (section 6.2 onwards) at the meeting
- **If no –** review to take place at the Risk and Information Sharing Group Meeting. If the next meeting does not take place within 10 working days an additional meeting will need to be arranged. Follow the actions to review the whistleblowing concern (section 6.2 onwards) at the meeting

6.2 Review of the Whistleblowing concern received at either a Summit Meeting or Risk and Information Sharing Group Meeting

- Identify a **Case Lead**. The case lead will be the main contact and will liaise with and provide updates to the Whistleblower (if not anonymous). The case lead will also be responsible for updating the DATIX record. All correspondence/documents relating to the concern will be stored within the DATIX record
- Identify any immediate actions that may need to take place to maintain patient safety
- Is there a potential safeguarding concern? If so, has consideration been given to raising a safeguarding referral to the Local Authority? If not, and if required, agree who will be responsible for making the referral
- Identify if further information is required e.g, from the Whistleblower, if they have provided their contact details
- Identify others who may need to be involved e.g., Safeguarding, Medicines Management, Fraud Team, Infection Control, Information Governance etc
- Agree the type/level of investigation required (see section 6.3)
- Agree next steps and next meeting

6.3 investigation Options

6.3.1 Practice-led investigation/ review

The practice should be contacted and asked to investigate/ review the information and report back to the ICB.

- Define the terms of reference for the practice to review
- Practice to be requested to return their response:-
 - within 14 calendar days if oversight is via a Summit Meeting
 - within 28 calendar days if oversight is via the Risk & Information Sharing meetings
- The practice should send the response back to the Case Lead, who will share the response with either the Summit meeting or next Risk and Information Sharing Group Meeting. The following will be agreed: -
 - Can the concern be closed and if so, was it upheld or not upheld?

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- Is there any consideration that a Serious Incident has occurred? if so, follow the correct procedure
- Agree if further actions/ investigation are required
- Request an action plan from the practice, if required
- Agree information to be shared with the Whistleblower
- Agree information to be shared with third party organisations eg CQC
- Case lead to update DATIX record

6.3.2 ICB led investigation

A decision may be made for an investigation to be carried out by the ICB (eg potential conflict of interest):

- Identify investigator(s)
- Define the Terms of Reference for the investigation (See Appendix A for Template)
- Agree the start of the investigation clock
- The investigation must be carried out using recognised investigation techniques (including audits of clinical records where required) ensuring a non-biased approach, balance, perspective, consideration of the context of the allegations and supportive of all staff and patients involved
- Investigation to be completed and report written within 25 working days. If highly complex or independent investigators need to be sought this may need to be extended but will need to be agreed at either the Summit Meeting or the Primary Care Risk and Information Sharing Meeting
- The investigation report will be written up using the template in Appendix B
- The report will go to the attendees of the Risk and Information Sharing Group or Summit Meeting for discussion and agreement of the following: -
 - Can the concern be closed and if so, was it upheld or not upheld?
 - Is there any consideration that a Serious Incident has occurred? if so, follow the correct procedure
 - Agree if further actions/ investigation are required
 - Request an action plan from the practice, if required
 - Agree information to be shared with the Whistleblower
 - Agree information to be shared with third party organisations eg CQC
 - Case lead to update DATIX record

6.4 Contact with the Whistleblower when they have provided contact details

When a whistleblower provides their contact details the following actions will need to be taken: -

- **The Patient Experience Team** will provide the whistleblower with written confirmation of receipt of the concern within 3 working days and determine if any

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adjustments are required eg communication preferences. The whistleblower can then expect to be kept up to date with progress by the identified **Case Lead**

- The **Case Lead** will contact the whistleblower to advise on next steps to be taken by the ICB. The **Case Lead** will also gain an understanding of the whistleblower’s confidentiality expectations/ requests in advance of the practice concerned being contacted.
- All correspondence with the whistleblower must be captured in the Datix log by the **Case Lead**.
- The **Case Lead** will feedback to the whistleblower once the investigation is completed as agreed by either the Summit Meeting or Risk and Information Sharing Group Meeting
- The **Case Lead** will close the case on Datix

7.0 Governance Arrangements

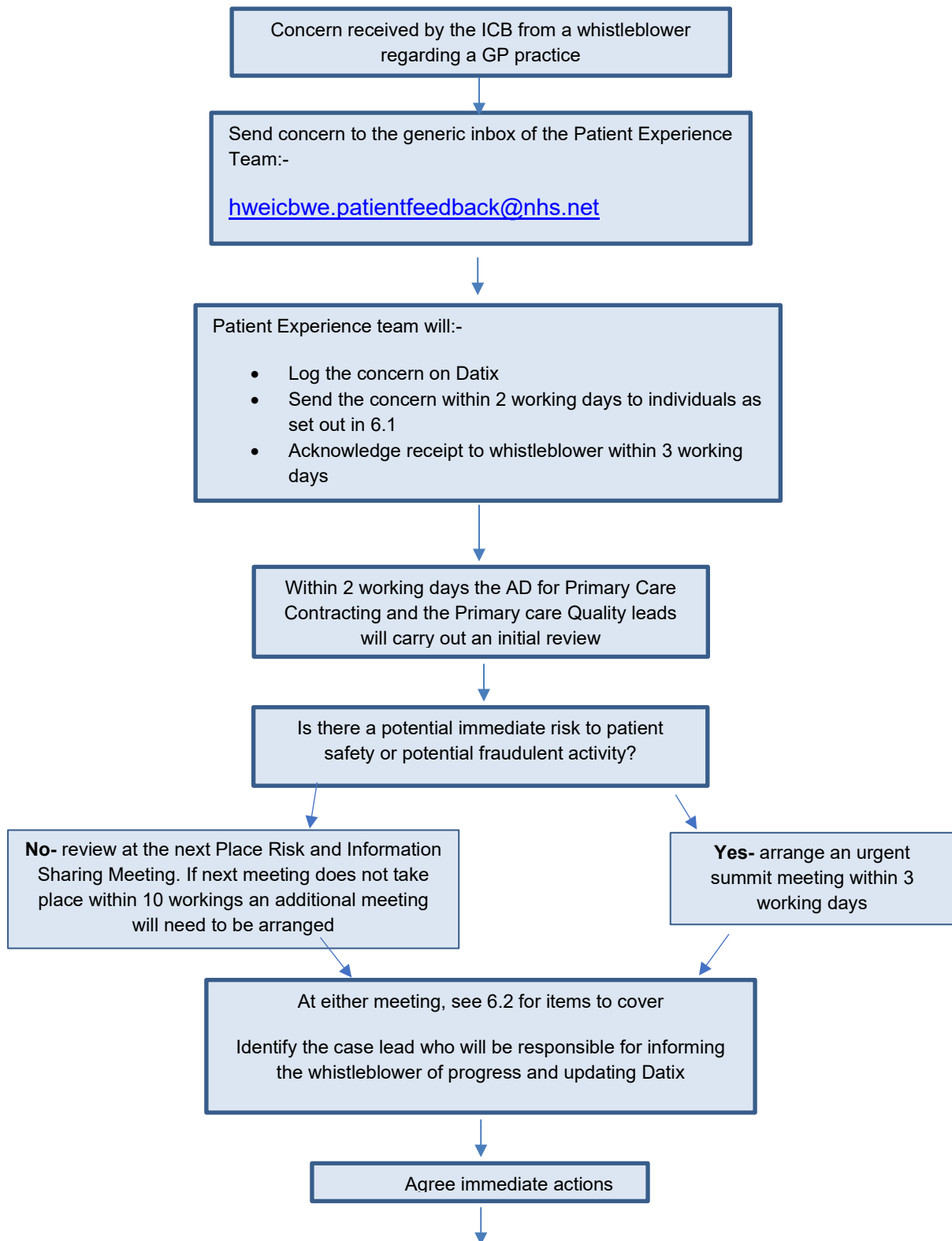
A summary will be shared at the Herts and West Essex Primary Care Commissioning Committee within the Primary Care Quality update- Part 2 (Private) to include:-

- Issue raised
- Steps taken
- Whether it was upheld or not upheld
- Practice Learning and Further actions

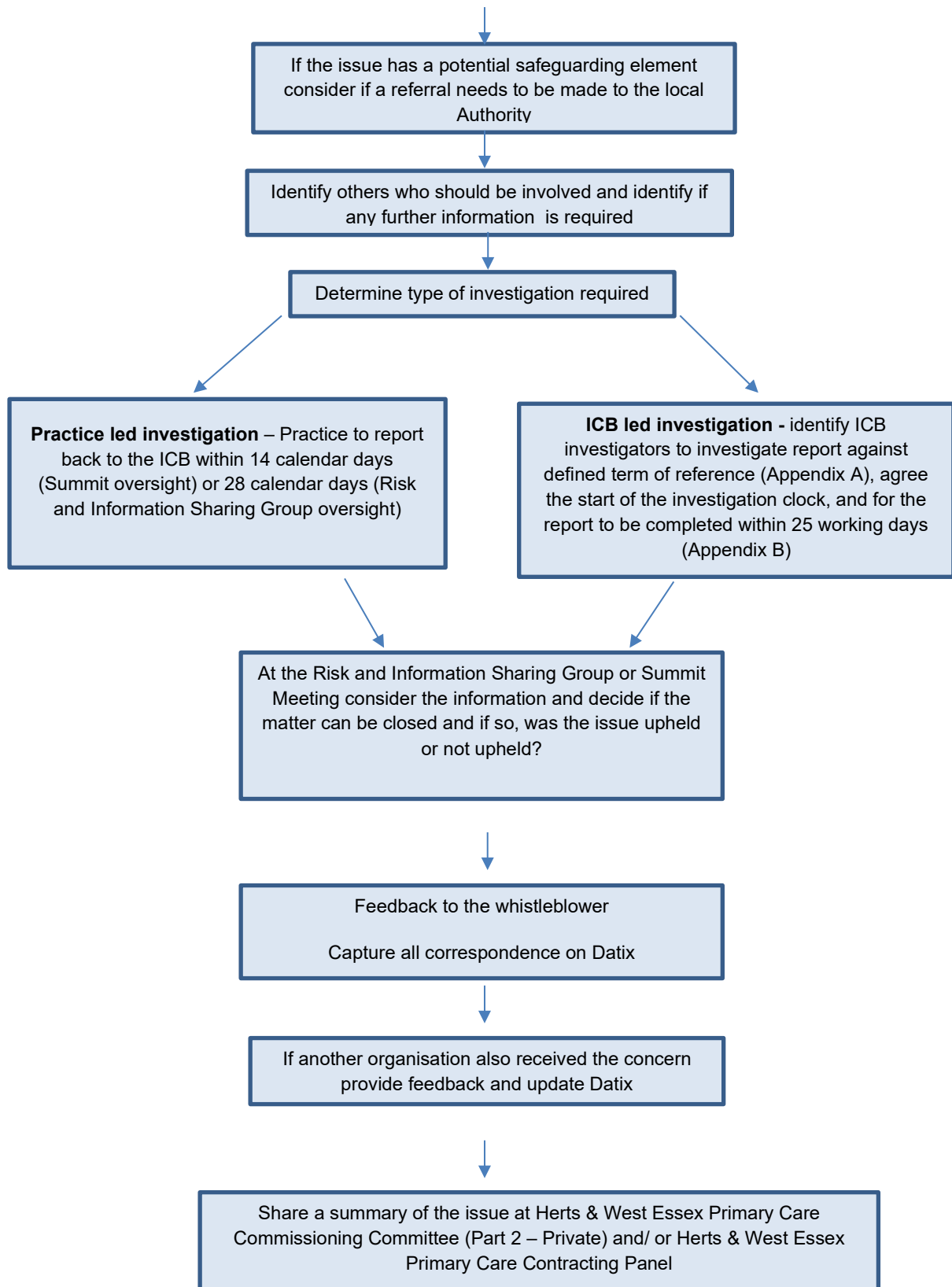
If the concern is contractual in nature a summary will be shared with the Herts and West Essex Primary Care Contracting Panel

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8.0 Summary Process Flowchart - Responding to Primary Care Whistleblowing concerns raised with the ICB



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Appendix A – Template- Terms of Reference for a Whistleblowing Concern Investigation by the Integrated Care Board

Introduction

Include the following:-

- *Who commissioned the investigation*
- *Name and role of the investigator*
- *Dates*

Background

Include the reason the investigation is being carried out

Purpose of the investigation

The purpose of the review is:-

- [Insert]

Issues to be considered in the investigation

[Insert]

The Terms of Reference (TOR) to meet this agenda are as follows:-

- TOR 1- [Insert action]
- TOR 2- [Insert action]
- Etc

Recommendations and learning

The review will provide appropriate advisory recommendations and learnings for the Practice as well as other relevant bodies arising from the identified issues.

Access to documents

[Insert] include whether the practice has agreed to cooperate with the investigation and provide the investigator with access to all relevant information.

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Timeframe

[Insert]

Confidentiality & Documentation

All materials provided to the Investigator and produced by the Investigator in carrying out this investigation, are the property of the ICB and will remain so.

The Investigator will ensure the safe and secure storage of documentation throughout the investigation and upon completion of the investigation will discuss with the ICB secure disposal (both physically and electronically) or delivery up to them of the documentation received and produced during the investigation.

The Investigator will ensure that the investigation is conducted in strict confidence at all times.

Investigator’s Obligations

The Investigator will act fairly and without bias (including disclosing any potential conflicts of interest) and will make all reasonable enquiries before making a finding.

The Investigator will ensure that all individuals who are relevant to the investigation are given a reasonable opportunity to participate and provide information to the investigation.

The Investigator will ensure that each interviewee is advised that the evidence they provide in the investigation may be shared with other relevant individuals as part of any subsequent internal processes conducted by the ICB or any related relevant external process and seek their consent for the information, they provide to be shared for this purpose

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Appendix B- Template- Whistleblowing Concern Investigation Report

Whistleblowing Concern Investigation Report

Confidential

Commissioner/s of the Report:

Lead Investigator/s:

Date Started: DD/MM/YYYY (This is the date the investigation was passed to the lead investigator)

Date Completed: DD/MM/YYYY

Distribution:

Report submitted to [Insert]

Glossary of Terms

Report index

1.0 Background [insert page number]
 2.0 Terms of Reference.....[insert page number]
 3.0 Methodology[insert page number]
 4.0 Findings of the investigation[insert page number]
 5.0 Further considerations.....[insert page number]
 6.0 Conclusion..... [insert page number]
 7.0 Recommendations..... [insert page number]
 8.0 Governance Arrangements..... [insert page number]
 9.0. Appendices[insert page number]

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1.0 Purpose

The purpose of this report is

2.0 Background

Brief outline of the concern raised and with which practice/s and any other relevant contextual information

Include a very brief overview of the practice/s the concern relates to

2.0 Terms of Reference

The investigation was initiated to consider the following:

-
-

What questions will be answered in the report?

3.0 Methodology

Methods used in the investigation (e.g. interviews with employees)

4.0 Findings of the investigation

Include answers to terms of reference

5.0 Further considerations

If relevant, include any mitigating circumstances and any other considerations that need to be taken into account

6.0 Conclusion

7.0 Recommendations

8.0 Governance Arrangements

9.0 Appendices

Terms of Reference

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