

PE1832/B

Petitioner submission of 23 November 2020

INWO

This position was created after numerous workshops where whistleblowers were only consulted at initial stages. This working group continued until the standards were set, all other interested parties had representatives but unfortunately it was deemed not necessary for the whistleblowers to be included until resolution.

Whilst the Scottish government claim the INWO is the first of its kind in the UK, they would be correct, unfortunately this role deviates from the role put forward by Robert Francis QC.

Given Scottish government claim it supports PIDA legislation gives rise to question that the Scottish government has not researched flaws in PIDA or indeed taken account of the European legislation which would have been implemented if it were not for BREXIT. In short, they have not sought to go beyond current legislation despite undoubtedly being aware of the impending changes within whistleblowing legislation.

The Whistleblowing Standards

Unfortunately, without changing the law standards are merely policies with no redress to any organisation other than a letter stating the breaches and publication on the ombudsman website

This does not adequately protect staff in law and I do question impact these new standards will have on an employee's right to redress at an employment tribunal

Non-Executive Whistleblowing Champions

These roles have been introduced since 2015 and deviate greatly from the recommendations of Robert Francis QC. Why Scottish government has chosen only implement scrutiny roles and not staff support roles is unclear

Non-Executive Whistleblowing Champions may have a direct escalation route to the health secretary, but we do not have any route to the whistleblower. They rely exclusively on information given to them, have no opportunity to validate this information or indeed have the opportunity to establish if they have been furnished with all relevant documentation. At no point is the whistleblower allowed comment on this information. In short, this system is flawed as the opportunity to mislead or indeed hold back information from the whistleblowing champion has been established. And in essence the whistleblowing champion is only aware of whistleblowers when they are told which again creates another flaw in the system. There is no mechanism to ensure that the whistleblowing champion receives notification of whistleblowing or the correct information any case.

Advice Line

A confidential advice line should be as Robert Francis QC stated independent. This will not be the case as it is linked to the INWO office

Health Improvement Scotland

Health Improvement Scotland (HIS) have no powers within any NHS board in Scotland. I am baffled as to why the NHS regulator has not been mentioned at all by the Scottish government in their response.

Healing Process

This process only came about by the efforts of a group of determined whistleblowers. No individual whistleblower as ever able to achieve this and as such given the amount of bullying and reported whistleblowing cases this process only serves to undermine treatment of all the staff within any other NHS board. In 2012 NHS Lothian was subject to Bowles report and subsequently recently a report by Prof Bell, despite both reports uncovering behaviour similar NHS Highland no effort was ever made heal. And whilst the Scottish government hold up healing process as a way of convincing others that they are committed to the NHS it in fact demonstrates the opposite. They only acted because they were forced to by a group who would not be silenced.

Surely all staff wherever they work within the NHS and entitled a healing process

EU and reserved legislation

Whilst the EU recognised PIDA within the UK it has never stated that this was a sufficient law and the facts put forward by the Scottish government lack any substance. Any government wishes to protect workers have implemented EU legislation regardless. As stated above both the UK and Scottish governments new at the EU legislation had been planned for many years for implementation.

Wider context

Linking this to above it is bizarre that Dr Whitford, an SNP MP, is calling for the repeal of PIDA enable the establishment of a national office of the whistleblower which will include Scotland.

It would appear Scottish government contradicts the work of their own MPs.

Conclusion

I am astonished government seem to think they go further than the current PIDA legislation given that this is a preserved UK law. They have supplemented policy by addressing Robert Francis QC and his recommendations in a unique way as they have diverted at every possible stage.

Staff in the Scottish NHS deserve much better from government and that can only be achieved by protecting them in law and repealing PIDA.

Relevant hyperlinks

- https://www.cqc.org.uk/sites/default/files/20171115_ngo_annualreport201617.pdf
- <https://www.gov.scot/binaries/content/documents/govscot/publications/progress-report/2018/07/independent-national-whistleblowing-officer-nhs-scotland-engagement-events-outcomes-2018/documents/00538416-pdf/00538416-pdf/govscot%3Adocument/00538416.pdf>
- <https://www.careinspectorate.com/images/documents/2702/Item%2016-Appendix%201.pdf>