

Proposals for the introduction of the role of an Independent National (Whistleblowing) Officer (INO)

RESPONDENT INFORMATION FORM



Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Scottish Social Services Council (SSSC)

Title Mr ☐ Ms ☒ Mrs ☐ Miss ☐ Dr ☐ **Please tick as appropriate**

Surname

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3. Permissions - I am responding as...

Individual

/

Group/Organisation

☐

Please tick as appropriate

☒

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

☐

Yes

☐

No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

☒ Yes ☐ No

Yes, make my response, name and address all available ☒

or

Yes, make my response available, but not my name and address ☐

or

Yes, make my response and name available, but not my address ☐

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

☒ Yes

☐ No

Questions

Question 1: What should the role of the INO be?

Option 1 – To consider complaints about the application of the local whistleblowing process only.

Option 2 – To consider complaints about the application of the whistleblowing process, including examination on the decision making and outcome of the whistleblowing complaint.

Please explain your answer.

This response is from the Scottish Social Services Council (SSSC).

We are in favour of Option 1, that the INO should consider complaints about the application of the local whistleblowing process only. Our view is that decisions are for the relevant organisation and any external review by the INO should be whether they had followed their own processes properly, not to reopen the substance of the case.

The SSSC is the regulator for the social service workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce.

We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We:

- publish the national codes of practice for people working in social services and their employers
- register people working in social services and make sure they adhere to our codes of practice
- promote and regulate the learning and development of the social service workforce
- are the national lead for workforce development and planning for social services in Scotland.

Question 2: Do you agree with the principles and process for raising concerns with the INO?

Yes ☒ No ☐

Please explain your answer.

We support the principles and suggested process for raising concerns with the INO.

Question 2a: Do you feel that there should be any additional principles or changes to the process for raising concerns with the INO?

Yes ☐ No ☒

If yes, what do you feel these should be?

We do not see the need for any additional principles or changes to the suggested process for raising concerns with the INO.

Question 2b: Do you agree with the proposed INO whistleblowing complaint criteria?

Yes ☒ No ☐

Please explain your answer.

The proposed criteria appear sensible to us.

Question 2c: Do you feel that there should be any additional complaint criteria?

Yes ☐ No ☒

If yes, what do you feel these should be?

We do not see the need for any additional complaint criteria.

Question 3: Do you agree that consideration should be given to the INO having prescribed powers?

Yes ☒ No ☐

Please explain your answer.

We support the proposed prescribed powers. In our experience, not having such powers can be a problem.

We query what exactly is meant by the phrase 'and more widely' in relation to the recognition of the INO's independence and impartiality, in the text introducing question 3. We believe that this needs to be clarified and spelled out explicitly.

Question 3a: If yes, what do you feel these powers should be?

To compel a public body to provide evidence only? ☐

To enforce recommendations, if required, only? ☐

Both? ☒

Do you have any views on any other powers you think the INO should have?

Our experience as a regulator underlines the importance of the ability to enforce the decisions that are made.

Question 4: Where should the INO be hosted?

Option 1 – Healthcare Improvement Scotland (HIS).

Option 2 – Scottish Public Services Ombudsman (SPSO)

Do you feel there are alternative options for where the INO could be hosted, and if so where?

We support the hosting of the INO within the Scottish Public Services Ombudsman (SPSO).

While setting up a dedicated body might be an ideal solution, we note the comments about the lack of funding for such an alternative.

Please explain your answer.

We are of the view that the role of the INO should extend beyond NHS Scotland staff to include social care workforce. In this case, we suggest it would be more appropriate to host the INO in a body that has expertise in public interest disclosure than in a body whose expertise is focused on healthcare.

The INO should be viewed as independent and impartial when considering cases. We agree that the post should not duplicate existing systems and processes. We note that the SPSO currently has a role as the final stage in investigating complaints from service users and note that their remit extends beyond health boards to include some care providers who provide services on behalf of the NHS and also to local authorities who provide and commission social care services.

This suggests that hosting the INO within the SPSO would be more appropriate than hosting it within Healthcare Improvement Scotland (HIS).

Question 5: Do you think employees of adult health and social care services, who are not employed by NHSScotland, should have access to the INO?

Yes ☒ No ☐

Please explain your answer.

At its heart, health and social care integration is about ensuring that those who use services get the right care and support whatever their needs, at any point in their care journey. We welcome moves to explore extending the remit of the INO beyond NHS Scotland staff to include workers in the wider social care sector in Scotland. This would mean the INO would consider the whistleblowing policies of other bodies and organisations in the social care sector that are not health boards.

We query why the question is restricted to adult health and social care services only. This could create anomalies for organisations who deliver services to children as well as adults.

It will be important to consider the particular circumstances in the social service sector when setting up the INO. The sector is very diverse and differs from the health sector in many ways. Notably, the majority of staff in this sector are employed by the private and voluntary sector. Another source of diversity within the social care sector is the size of the different organisations that provide services, from very large

strategic organisations down to very small individual businesses. These organisations will have their own governance structures. Their capacity to deal with whistleblowing will vary.

Clear governance systems are essential. We agree that the INO should not become an alternative avenue for employee grievances. The post should only investigate staff concerns that have already been through the employer's internal whistleblowing processes. The exception to this would be where the INO has sufficient evidence that a case is not being handled by an organisation in line with established procedures and good practice. In this context, it is important for employers to have clear and comprehensive whistleblowing systems in place.

Question 5a: If yes, which IJB services should be covered?

Please explain your answer.

We believe that all the Integrated Joint Board services to do with the major health and social care services for adult services should be covered. We consider that this has to include those staff working for voluntary and independent sector organisations providing commissioned services. They are funded by local authorities and are providing a publicly-funded service.

Question 5b: If yes to question 5, do you have a view on how employees who have access to INO could be defined?

We recognise that it will be a very difficult task, but it will be essential to define clearly which employees would have access to the INO and the routes available for securing that access. This is an essential element of defining the scope of the INO.

Question 6: What do you feel would be an appropriate title for the INO in Scotland?

We make no comment on this question.

Question 6a: What do you feel would be an appropriate title for the INO in Scotland if the role also covered staff not employed by NHSScotland who deliver health and social care services in Scotland?

We make no comment on this question.

Question 7: Do you have any other comments to make on the proposals for the introduction of the role of INO?

We query why the consultation proposals are restricted to adult health and social care services only. This could create anomalies for organisations who deliver services to children as well as adults.

The key principle behind the introduction of the INO should be clarity.

It should be clear to the staff working in the relevant services to have clarity about who can access the INO and how to do so.

It should also be clear to:

- people using services
- carers
- the wider public

how their interests are being protected by a strengthened whistleblowing regime in Scotland.

SSSC February 2016