

PE1495/BB

NHS Borders

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Andrew Howlett
Assistant Clerk
Public Petitions Committee
The Scottish Parliament
EDINBURGH

Date 25 April 2014
Your Ref
Our Ref JS/mep

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Dear Mr Howlett

Re: Scottish Parliament Public Petition PE1495 on the use of 'gagging clauses' in agreements with NHS staff in Scotland

Thank you for your recent email and letter correspondence to Calum Campbell, Chief Executive of NHS Borders. Please find below the response from NHS Borders regarding the questions posed:

What are your views on what the petition seeks and the discussions that took place at the meeting on 26 November?

It is absolutely essential that staff and former staff feel confident that they can speak up without fear of recrimination about concerns about our health service on matters that affect patient safety and the quality of patient care, as well as employment issues such as workplace bullying. We would not countenance any use of "gagging" clauses in settlement agreements or in any other staff agreements.

There should be no implication in any settlement agreement that prejudices any whistle-blowing rights that an Employee or former Employee has or may have under the Public Interest Disclosure Act (1998). Similarly Employees or former Employees may have obligation to raise concerns about patient safety in accordance with guidance issued by a professional regulator, and this should be similarly unaffected.

We do expect that Employees and former Employees should continue to be bound by the terms and conditions of employment and the agreed codes of practice which relate to confidentiality. In the course of an employee's duties they may have access to personal confidential information about patients and members of staff. The NHS Codes of Practice on Confidentiality and the Caldicott recommendations must be followed by Employees and former Employees. On no account should personal information or data be accessed by or divulged to anyone other than authorised persons.

What management training do you have in place to ensure that all staff are enabled and encouraged to raise matters that may affect patient safety and quality of care, as well as employment issues such as workplace bullying?

We have taken a number of measures, to encourage a culture of openness and support staff to raise concerns about patient safety, quality of care and the staff experience and these include incorporating this key value in appropriate management training. The right culture must exist for staff to feel safe and confident to speak up and challenge the Board if they have concerns and we continue to work towards that objective.

During early 2013 we held a number of focus groups with all Staff Groups and a variety of professions and grades represented. This was a good opportunity for the Directors to consult with our Staff about what our new Corporate Objectives should be. Our number one corporate objective has been reinforced as patient safety. Throughout these sessions (and at other opportunities e.g. regular Director's patient safety walk-rounds) our message to staff is that Directors want to know about any deficits in patient safety in our services or concerns that staff may have about the patient experience.

The Engaging Leadership video from the *Give Respect, Get Respect* campaign which features Professor Beverly Alimo-Metcalfe was initially used in the mandatory training for line managers on the Sickness Absence Policy. All line managers attended this training over a nine month period. The key theme of Engaging Leadership is to enable the development of a culture based on *integrity, openness and transparency*, and the *genuine valuing of staff and their contributions*. This theme has continued into other internal training courses within NHS Borders such as managing difficult conversations, Dignity at Work, mediation, EKSF and appraisal, Senior Charge Nurse Development programme – Leading Better Care.

The next planned *Give Respect Get Respect* campaign within the NHS Borders is due to commence July 2014. This will have a key theme to ensure staff are enabled and encouraged to raise matters that may affect patient safety and quality of care, as well as employment issues such as workplace bullying.

The *Give Respect Get Respect* campaign exists to promote a positive working culture and behaviours. Part of the campaign involved a roadshow around all of our sites with poster displays and policy resource materials available for staff. Managers and staff were able to drop in to discuss matters with Occupational Health and Partnership colleagues. NHS Borders is committed to creating a working environment with equality of opportunity, a diverse workforce and equal respect for each individual's contribution to the aims, values and goals of the organisation.

We have developed an Employment Policy Framework consistent with Scottish Government PIN guidelines and the Staff Governance standards. All managers have been briefed on our employment policy framework and can access on-line resources or directly from the HR, Occupational Health Services or the Partnership Office.

The Whistleblowing Policy (previously “Voicing Concerns”) was reviewed in Partnership and a renewed edition published in 2012 (identical to the PIN Guideline issued by the Scottish Government). The policy was advertised in the Team and Corporate Brief and the

HR newsletter which is widely circulated throughout the organisation and available on the intranet. Whistleblowing is also addressed at Corporate Induction.

Last year, to coincide with the launch of the national pilot Confidential Telephone Hotline for NHS staff (delivered by an independent organisation, Public Concern at Work) a special feature on Whistleblowing appeared in the August 2013 edition of the HR Newsletter. NHS Borders has publicised the hotline and its purpose widely throughout the organisation using the promotional materials provided by Scottish Government, including a featured advert on our intranet site and via the desk top “post it note” facility.

In early 2013 NHS Borders developed an in-house accredited Mediation Service through the training of 6 members of staff by ACAS, plus one member of staff from another Board who would be available for external mediation support if required. The service was developed as a structured resource for staff who might otherwise raise a formal case through Grievance or Prevention of Bullying and Harassment policies.

Whilst the in-house accredited mediation service is a new development the facility for staff to access a Confidential Contact has been long-standing. Although contact officers are not counsellors, they are fully trained to listen and help staff explore possible ways forward to their concerns and to outline options without telling a member of staff what to do or make a decision for them. At present there are five Confidential Contacts within NHS Borders supported by the Occupational Health Service.

I hope that this information is sufficient to respond to your query however please get in touch if you require further details.

Yours sincerely

June Smyth
Director of Workforce & Planning
NHS Borders