

PE1495/S

RESPONSE TO PUBLIC PETITIONS COMMITTEE – NHS Fife

T3.40, Scottish Parliament, Edinburgh EH99 1SP

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PETITION [PE1495](#)

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

NHS Fife does not support the use of any measure that seeks to prevent the legitimate raising of a concern by any current or former employee, nor do we apply any clause within a settlement agreement or any other arrangement that restricts the right to raise such a protected disclosure.

The use of settlement agreements by NHS Fife is limited to resolution of otherwise difficult employment related matters, primarily in relation to a breakdown in working relationships. In the main these agreements are reached on economic grounds, after careful consideration with the NHS Scotland legal advisory service (Central Legal Office), and against an assessment of best use of public funds. Any settlement agreement is subject to regular prudent scrutiny through the NHS Board governance committee structure for assurance purposes.

All settlements reached must be agreed by both parties. The individual employee or former employee is specifically advised and required to ensure that they have received full and separate independent legal advice on the content of a settlement agreement before its signing.

The terms of settlement agreements used by NHS Fife as prepared by Central Legal Office, make clear the separate right of an individual to make a protected disclosure irrespective of their signing a settlement agreement.

The use of confidentiality clauses within settlement agreements are solely intended to offer mutual protection of both parties around their future conduct. Any inclusion of a confidentiality clause by the Board takes the form of wording prepared by employment law specialists within the Central Legal Office, and which ensures the Board's full legal compliance.

Agreeing the application of a confidentiality clause within a settlement agreement cannot legally restrict, or otherwise 'gag', an individual from raising a 'whistle blowing' concern. Any move to do so would not be supported by NHS Fife.