

**UROLOGY SERVICES INQUIRY**

An addendum to this witness statement was received by the Inquiry on 27/02/23 and can be found at [WIT-91883](#) to [WIT-91918](#). Annotated by the Urology Services Inquiry.

**USI Ref:** Notice 49 of 2022

**Date of Notice:** 29<sup>th</sup> April 2022

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**Witness Statement of:**

**Mrs. Vivienne Toal, Director of Human Resources & Organisational Development,  
Southern Health & Social Care Trust**

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I, Vivienne Toal, will say as follows:

**General**

- 1. Having regard to the Terms of Reference of the Inquiry, please provide a narrative account of your involvement in or knowledge of all matters falling within the scope of those Terms. This should include an explanation of your role, responsibilities and duties, and should provide a detailed description of any issues raised with you, meetings attended by you, and actions or decisions taken by you and others to address any concerns. It would greatly assist the inquiry if you would provide this narrative in numbered paragraphs and in chronological order.**

- 1(i) I, Vivienne Toal, am employed as the Director of Human Resources & Organisational Development (HR & OD) in the Southern Health & Social Care Trust. I commenced this role on 21<sup>st</sup> September 2016. I have been employed in the HR & OD Directorate since the inception of the Southern HSC Trust in 2007, and prior to that in the HR Directorate of the legacy Craigavon Area Hospital Group HSS Trust from June 1998. As Director, I report to the Chief Executive, I am a member of the Trust's Senior Management Team, and I am



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to the classification of the case, and in hindsight, I could have sought to put the classification part of the grievance to hearing immediately. The remaining aspects of Mr O'Brien's grievance may have been able to be heard later following the outcome of the hearing in respect of the classification. It seems an obvious point to me now, but wasn't at the time in December 2018, however I do appreciate that if I had attempted to proceed in that way at the time, I may well have encountered significant resistance from Mr O'Brien. This approach however would have served to ensure the MHPS process was being visibly driven to its conclusion by the Trust as Mr O'Brien's employer.

### **Statement of Truth**

I believe that the facts stated in this witness statement are true.

*Vivienne Toal*

Signed: \_\_\_\_\_

Date: 25<sup>th</sup> July 2022

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**USI Ref:** Notice 49 of 2022

**Date of Notice:** 29<sup>th</sup> April 2022

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**Addendum Witness Statement of: Mrs Vivienne Toal, Director of Human Resources & Organisational Development, Southern Health & Social Care Trust**

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I, Vivienne Toal, wish to make the following amendments and additions to my response to Section 21 Notice Number 49 of 2022:-

1. At paragraph 5(ii) (WIT – 41018) under ‘*Deputy Director of HR & OD from 1<sup>st</sup> February 2016*’, the sentence, which reads, “*There was separate no job description for this role, and no additional remuneration.*” should be changed to “*There was no separate job description for this role, and no additional remuneration.*”
2. At paragraph 6(iii) (WIT- 41026), under the sub-heading of Mr Stephen McNally the year should be changed from “*15.11.2018*” to “*15.11.2017*”.
3. At paragraph 7(xiii) beginning at WIT – 41034, I wish to add to add a subparagraph (k) as follows:

*“k) Drs 12\*, 13, 14*

*\*Please note Dr 12 is the same clinician as Dr 9 referenced in 7(xiii)(h).*

*This case related to an anonymous concern, which had been raised in the 2014 GMC National Training Survey. This concern had been included as a free text field dedicated to bullying and undermining concerns. NIMDTA forwarded to the Trust at the start of April 2014, the text of the bullying and undermining concern noted in the free text field by one trainee working in a particular speciality in the Trust, to enable the Trust to undertake a local investigation. The trainee specifically named three individual Consultants as displaying behaviours that could be described as bullying and intimidating in nature.*



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Trust. Please see 4. '**Governance Committee \_ update re MHPS improvements Sept 2022**'.

5. '**MHPS Cases December 2022**' - Cover Sheet for Meeting dated 12<sup>th</sup> January 2023 and attached MHPS Formal Cases.

6. '**MHPS CASES FEBRUARY 2023**' - Cover Sheet for Meeting dated 9<sup>th</sup> February 2023 and attached MHPS Formal Cases.

### **NOTE:**

By virtue of section 43(1) of the Inquiries Act 2005, "document" in this context has a very wide interpretation and includes information recorded in any form. This will include, for instance, correspondence, handwritten or typed notes, diary entries and minutes and memoranda. It will also include electronic documents such as emails, text communications and recordings. In turn, this will also include relevant email and text communications sent to or from personal email accounts or telephone numbers, as well as those sent from official or business accounts or numbers. By virtue of section 21(6) of the Inquiries Act 2005, a thing is under a person's control if it is in his possession or if he has a right to possession of it.

### **Statement of Truth**

I believe that the facts stated in this witness statement are true.

*Vivienne Toal*

Signed: \_\_\_\_\_

Date: 24<sup>th</sup> February 2023



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3(i) Please see below, my responses to each question.

### Your position(s) within the SHSCT

**Q4 Please summarise your qualifications and your occupational history prior to commencing employment with the SHSCT.**

4(i) I graduated from Queen's University, Belfast in 1996 with a BSc Hons (2:1) in Business Administration and Computer Science.

4(ii) I obtained a Postgraduate Diploma with commendation (2 years) in Human Resource Management from University of Ulster in 2001. I was an employee of the legacy Craigavon Area Hospital Group Trust whilst undertaking this Postgraduate Diploma.

4(iii)

Employer name	Position held	Dates – From / To
South & East Belfast HSS Trust	Clerical Officer Grade 2	21.4.1997 – 7.6.1998
Craigavon Area Hospital Group HSS Trust	HR Officer Grade 4	8.6.1998 – 31.8.1999
Craigavon Area Hospital Group HSS Trust	HR Officer Grade 5	1.9.1999 – 31.8.2000
Craigavon Area Hospital Group HSS Trust	HR Services Manager (Senior Manager II)	1.9.2000 – 1.7.2007

4(iv) Under the Review of Public Administration, legacy Craigavon Area Hospital Group HSS Trust transferred to the Southern Health & Social Care Trust on 1<sup>st</sup> July 2007.

**5. Please set out all posts you have held since commencing employment with the Trust. You should include the dates of each tenure, and your**

**JOB DESCRIPTION**

<b>JOB TITLE</b>	Director of Human Resources & Organisational Development
<b>INITIAL LOCATION</b>	Trust Headquarters, Craigavon Area Hospital
<b>REPORTS TO</b>	Chief Executive
<b>ACCOUNTABLE TO</b>	Trust Board

**JOB SUMMARY**

The Director of Human Resources & Organisational Development is a Senior Executive Member of the Trust Board and will support the Chief Executive to lead the development and delivery of a high quality professional Human Resource service.

The Director of Human Resources & Organisational Development will provide specialist human resource advice to the Trust Board, share corporate responsibility for the governance of the Trust and compliance with legal requirements and contribute fully to the development, delivery and achievement of the Trust's Corporate Plan, which will be responsive to the needs of the population in line with performance targets established by the HSCB.

The Director of Human Resources & Organisational Development is responsible to the Chief Executive for promoting the corporate values and culture of the Trust through the development and implementation of Human Resource management policies, procedures and good practice, thereby ensuring that the Human Resource Strategy is wholly integrated with the Trust strategic direction and service objectives.

He/she will support the Chief Executive in the development and maintenance of organisational structures and systems for the management of staff which support high quality and responsive services to the local population.

In addition to the Human Resource function the Director of Human Resources & Organisational Development will also be accountable for the Trust's Corporate Bank arrangements, Occupational Health Service, Equality Unit, Health and Safety and Estates. As part of this role he/she is the Executive Director responsible for Fire policy within the Trust.

# HROD Structure

Director of  
Human Resources &  
Organisational Development

Assistant Directors

Heads of Service

Assistant Director of Estates  
**Alan Metcalfe**

Assistant Director of Human Resources  
Directorate of Older People  
& Primary Care  
**Maura Mallon**

Assistant Director of Human Resources  
Directorate of Acute Services  
**Helen Walker**

Assistant Director of Human Resources  
Directorate of Mental Health & Disability  
**Jenny Johnston**

Assistant Director of Human Resources  
Directorate of Children & Young People's Services  
**Lindsay McElrath**

Head of Equality  
**Lynda Gordon**

Head of Medical Staffing  
**Zoe Parks**

Head of Occupational Health  
**Catriona Campbell**

Head of Resourcing  
**Iain Gough**

Head of ELD (vacant)

Head of Employee Relations  
(including Litigation Services)  
**Siobhan Hynds**

Head of Workforce Information  
**Karen Anderson**



Southern Health  
and Social Care Trust

2016 HROD Structure



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- 1(iv) My remit also includes responsibility as Lead Director for Raising Concerns under the Trust's Policy & Procedure for Raising Concerns (Whistleblowing). I have responsibility for ensuring the implementation of the Trust's whistleblowing arrangements. I present bi-annual reports to Governance Committee on case activity, themes, case studies, and lessons learned. **These can be located at Relevant to HR / Reference no 2v.** I also meet with the Trust's designated Non Executive Director lead for Raising Concerns to discuss in more detail on-going cases, timescales for cases, resource capacity issues, training requirements and ways to further grow and promote the Trust's See Something, Say Something campaign. I seek to ensure when concerns are raised that there are arrangements in place to independently investigate concerns raised and so that staff members coming forward to raise concerns are supported throughout the process. I have in the last year secured non-recurrent funding to pilot a specific Senior Raising Concerns Band 7 lead to support the Raising Concerns work, and have also been given approval in June 2022 to progress a number of Freedom to Speak Up Guardian roles across Directorates within the Trust, similar to NHS Trust roles in England. This is to enable additional capacity across the Trust to promote and raise awareness of the importance of raising concerns in the interests of safe, high quality care, and to support individual staff to feel psychologically safe to raise concerns. It is anticipated these roles will be in place in Autumn 2022.

### **CONCERNS IN RESPECT OF UROLOGY SERVICES and MHPS PROCESS**

#### **September 2016 to January 2017**

- 1(v) As outlined in my response to Q12 below, I first became aware of concerns within the Urology Service around late August 2016 or early September 2016. These concerns were in respect of Mr Aidan O'Brien's administrative practices, and were drawn to my attention by the then Medical Director, Dr Richard Wright, in the context of my role as Acting Director to support him in the handling of concerns about Doctors / Dentists. Prior to this, I had no



## DRAFT

**Managing Poor Performance – Consultant Medical Staff  
Southern Health & Social Care Trust (SHSCT)**

1. The SHSCT wish to set out principles which can be applied in relation to the management of poor performance for all Trust staff to minimise potential risk for patients, practitioners, clinical teams and the organisation.
2. One element of this document would specifically describe Trust guidance concerning Consultant Medical Staff (including Associate Specialist grades) and would be based on external best practice guidance including  
*“How to conduct a local performance investigation”* NCAS, 2010  
*“Maintaining High Professional Standards in the Modern NHS”* DHSSPS, 2005
3. This guidance will also seek to take account of the new role of the Responsible Officer which Trust’s in Northern Ireland must have in place by October 2010. The interfaces between this role and the management of poor medical performance must be considered and defined (NCAS, 2010)
4. Before deciding action is required in relation to poor performance all concerns and reports of potential issues should be screened. **Screening** determines whether action, in the form of an investigation, should be taken or not, and if so how this should be done – ie informally or formally
5. MHPS (2005) states:
  - that **all** concerns must be registered with the Chief Executive (CE)
  - An initial verification and assessment of the issues raised should be undertaken by the clinical manager of the practitioner (Clinical Director or Associate Medical Director)
  - This assessment should be presented to decide on whether an informal or formal investigation is required. This is a difficult decision and should not be taken alone but in consultation by key people within the organisation and advice from NCAS and OHS as required.
6. In order to assure and promote fairness, transparency and consistency in approach to the process of performance investigation, and to ensure protection for the Medical Director / Responsible Officer, the SHSCT is proposing that an oversight group (OG) decision-making group (DMG) **is appointed by the Chief Executive, this will normally** comprising of the Medical Director / Responsible Officer, the Director of Human

Resources (DHR as recommended by MHPS, 2005) and the relevant Operational Director (OD) who will consider the initial verification/assessment by the clinical manager of the practitioner / issue and will take the decision to investigate or not and whether this is a formal or informal investigation, while taking advice from NCAS or OHS and the clinical line manager. -The case assessment should be presented to them for a decision by the clinical manager. This decision will be ratified by the Chief Executive. SMT Governance Committee cannot be involved in decisions at this point as Executive representation may be required at a Panel Hearing. **Please note: If the initial report / concern is made directly to the medical director (in error) then the medical director cannot be involved in the oversight group nor can they sit on any formal panel hearing. All staff require to be fully briefed as to how to raise an issue of concern re performance.**

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7. NCAS also recommends that no person involved in one stage of an investigation should take part in subsequent disciplinary proceedings or appeals based on the same set of facts. Separation of roles is an important element of securing fair process. (NCAS, 2010). **Just need to be clear here that as is written above oversight group are guiding principle of whether informal or formal investigation – is this ok??**  
**Kieran**
8. While the Responsible Officer / Medical Director must discharge his statutory role, this is one of establishing and overseeing the process of initiating investigations into potential poor performance.
9. Where a further investigation is likely to lead to conduct or clinical performance proceedings – ie the Trust invoking their disciplinary procedures and/ or onward referral to the police and / or GMC then a formal investigation process should be followed (See Flow Chart 2)
10. The **oversightdecision-making** group should first seek, if possible and appropriate, a local action plan agreed with the practitioner and resolution of the situation (NCAS to advise) via monitoring of the practitioner by the Clinical Manager.
11. The various processes involved in managing performance issues are described in a series of flow charts and text. They include in sequence:
  - An informal process [**Flow Chart 1**] – this can lead to resolution or move to
  - A formal process [**Flow Chart 2**] – this also can lead to local resolution or to
  - A conduct panel OR a clinical performance panel depending on the nature of the issue [**Appendix 2**]

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# 1. Deciding whether to investigate

Performance concerns can come to light in many ways, including routine monitoring of management information, reports from patients and colleagues, appraisal, reports on serious untoward incidents and anonymous complaints or concerns. Anonymous reports may be difficult to verify but should not be dismissed. It is unlikely that on their own they would support formal action, but they may lend support to other evidence.

Any performance concern raises the possibility of a need for further investigation. This section outlines how to decide whether to conduct an investigation, by asking:

- What is a performance investigation?
- How might concerns be screened for investigation?
- What should be considered in making a decision to investigate?
- What are the alternatives?
- When is an investigation likely to be appropriate?

## 1.1 What is a performance investigation?

The purpose of a performance investigation is to determine whether or not there is a performance problem requiring action. A performance investigation is not a free-ranging inquiry. It is normally helpful to define the purpose of the investigation using terms of reference.

Terms of reference have to be determined based on what is known at the time an investigation is set up. If, later, a substantial issue comes to light that is outside the initial terms of reference, the terms can be reviewed and, if necessary, changed to ensure that the investigation covers the new issue.

An investigation report then sets out findings and the evidence on which the findings are based. The report informs a decision on whether to take action on the concern and how. It does not make the decision.

A decision to investigate commits the organisation to significant work and expense, so the organisation needs to be sure that a concern is serious enough to warrant an investigation, based on a review of available information.

## 1.2 How might concerns be screened for investigation?

Regardless of how a concern is identified, it should go through a screening process to identify whether an investigation is needed. Anonymous complaints and concerns based on 'soft' information should be put through the same screening process as other concerns.

The form that screening takes will vary from organisation to organisation. The essential requirement is that a consistent process is followed, with decisions made by a person or group with appropriate authority. Decisions made should be appropriately recorded and the practitioner kept informed of progress.

In *Handling performance concerns in primary care*, NCAS suggests the use of a decision-making group (DMG) supported by a professional advisory group (PAG), with membership suggestions made for both groups. In a primary care organisation (PCO) using this structure the DMG would usually make the decision to commission a local investigation or to take some other action such as referral to the police or counter fraud agency. In secondary care, it is the designated responsible manager (often the medical director or deputy) who will determine (in consultation with others, as appropriate) whether or not an investigation is required. In both sectors, the interface with responsible officers for medical practitioners (once appointed) will need to be considered.



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likely to have been Debbie Burns. I can recall from discussions with Kieran Donaghy around that time in August 2010 that there was a view from the Chief Executive and Directors that a form of oversight arrangement would be needed to assure consistency of approach, and fairness across MHPS processes. Therefore, the concept of the 'Oversight Group' was included by me in the Trust Guidelines which were eventually published on 23<sup>rd</sup> October 2010, based on the tracked changes within Debbie Burns' document.

- 11(ii) The role definition and responsibilities of the Oversight Group were detailed in Appendix 6 of the Trust Guidelines 2010:

*"This group will usually comprise of the Medical Director / Responsible Officer, Director of Human Resources & Organisational Development and the relevant Operational Director. The Oversight Group is kept informed by the Clinical Manager and the HR Case Manager as to action to be taken in response to concerns raised following initial assessment for quality assurance purposes and to ensure consistency of approach in respect of the Trust's handling of concerns."*

- 11(iii) The role definitions for and responsibilities of the Director of HR & OD, Medical Director and the Operational Director in the Oversight Group were not detailed in Appendix 6. They should have been, and on reflection now, if I had sought to document these responsibilities in Appendix 6, this may have led me to consider in more detail the appropriateness of having an Oversight Group at all as part of the Trust processes for implementing MHPS. This may subsequently have resulted in me having a discussion with Kieran Donaghy back in 2010 when I was involved in drafting the Trust Guidelines.

- 11(iv) It was intended from the 2010 Trust Guidelines that an Oversight Group would be established for each specific case as per para 2.5 of the document. The Chief Executive was responsible for appointing the Oversight Group for the case. In early September 2016 when I was covering for the vacant Director of HR & OD role and after 21<sup>st</sup> September 2016 when appointed permanently to the Director role, I worked in close proximity to both the Medical Director, Dr



## Southern Health and Social Care Trust Medical Leadership Network

Friday 24<sup>th</sup> September 2010 at 1.30pm

Venue: Board Room, Trust Headquarters, Craigavon Area Hospital

### **Purpose:**

This session provides an opportunity to explore how we handle performance concerns about doctors and dentists.

### **Programme**

**1.30 Welcome and Introductions** – Christine McGowan

**1.40 Background to Workshop Event** – Dr P Loughran

**1:50 NCAS** – Dr Colin Fitzpatrick

**2:50 Southern Trust Guidance on Handling Concerns about Doctors and Dentists** – V Toal/S Hynds

**3.10 Break**

**3:30 Case Studies via Group Work:**

#### **Scenario 1:**

*The Coroner expresses concern that an elective Aortic Aneurysm case was poorly managed resulting in the death of the patient. The Trust has been asked to look at the doctors competence. He is recently appointed. You are the AMD what action would you expect the Trust to take?*

#### **Scenario 2:**

*A member of the multidisciplinary team contacts you as AMD to express concern about the competency of a doctor who carries out procedures. They advise you that*

**SECTION VI. FORMAL PROCEDURES – GENERAL PRINCIPLES****TRAINING**

1. Employers must ensure that managers and Case Investigators receive appropriate training in the operation of formal performance procedures. Those undertaking investigations or sitting on disciplinary or appeals panels must have had formal equal opportunities training before undertaking such duties. The Trust Board must agree what training its staff and its members have completed before they can take a part in these proceedings.

**HANDLING OF ILLNESS ARISING DURING FORMAL PROCEEDINGS**

2. If an excluded employee or an employee facing formal proceedings becomes ill, they should be subject to the employer's usual sickness absence procedures. The sickness absence procedures can take place alongside formal procedures and the employer should take reasonable steps to give the employee time to recover and attend any hearing. Where the employee's illness exceeds 4 weeks, they must be referred to the OHS. The OHS will advise the employer on the expected duration of the illness and any consequences the illness may have for the process. OHS will also be able to advise on the employee's capacity for future work, as a result of which the employer may wish to consider retirement on health grounds. Should the employment be terminated as a result of ill health, the investigation should still be taken to a conclusion and the employer form a judgement as to whether the allegations are upheld.
3. If, in exceptional circumstances, a hearing proceeds in the absence of the practitioner, for reasons of ill-health, the practitioner should have the opportunity to provide written submissions and/or have a representative attend in his absence.
4. Where a case involves allegations of abuse against a child or a vulnerable adult, the guidance issued to the HPSS in 2005, "Choosing to Protect – A Guide to Using the Protection of Children Northern Ireland (POCNI) Service", gives more detailed information.

**PROCESS FOR SMALLER ORGANISATIONS**

5. Many smaller organisations may not have all the necessary personnel in place to follow the procedures outlined in this document. For example, some smaller organisations may not employ a medical director or may not employ medical or dental staff of sufficient seniority or from the appropriate specialty. Also, it may be difficult to provide senior staff to undertake hearings who have not been involved in the investigation.
6. Such organisations should consider working in collaboration with other local HPSS organisations (eg other Trusts) in order to provide sufficient personnel



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**(Attachment folder S21 49 of 2022- Attachment 25- 2010.09.23 b Slides att to Email from S Hynds to V Toal re ML Network next day)**

**(Attachment folder S21 49 of 2022- Attachment 26- 2010.09.23 c Email from VToal to S Hynds with slides for ML Network next day)**

**(Attachment folder S21 49 of 2022- Attachment 27- 2010.09.23 d Slides att to Email from VToal to S Hynds \_ ML Network next day)**

**(Attachment folder S21 49 of 2022- Attachment 28- 2010.09.24 e Email from VToal to S Hynds re ML Network slides with att)**

**(Attachment folder S21 49 of 2022- Attachment 29- 2010.09.24 f Slides att to Email from VToal to S Hynds re ML Network presentation)**

7(x) The Trust Guidelines 2010 were intended to sit alongside and be read in conjunction with “Maintaining High Professional Standards in the Modern NHS” DHSSPSNI (2005) **This can be located at Relevant to HR / Reference no 67 / TC8 6.2005 Maintaining High Professional Standards** and the NCAS 2010 guide “How to conduct a local performance investigation” **This can be found at Attachment folder S21 49 of 2022 - Attachment 30 - 2010.01.01 NCAS publication\_ How-to-conduct-a-local-investigation.pdf,** as per para 1.8 of the 2010 document. Their purpose was to set MHPS as a framework into the Southern HSC Trust context in terms of clarification of who fills which roles within the Trust, and was in response to para 11, page 3 of MHPS, which refers to HSS bodies having procedures in place for dealing with concerns about an individual’s performance. It was never the intention to replace MHPS with the Trust guidelines.

7(xi) I do not believe I obtained legal advice on the Trust Guidelines in 2010. I do not have any email record of a draft being sent to the Directorate of Legal Services. To be clear for the purposes of being definitive in my Section 21 response I asked Siobhan Hynds by telephone on 23<sup>rd</sup> May 2022, if she sought legal advice, and she advised me that she did not have any email record of having done so either. On reflection, I should have requested that



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legal advice be sought on the Trust Guidelines. I can only assume that the upcoming NCAS led training session at the Medical Leadership Network and the short timescale leading up to it prevented us from seeking advice before hand, however, I regret not seeking advice even after the training session on 24<sup>th</sup> September 2010. My usual practice would be to seek legal advice for documents such as this.

7(xii) I have reviewed the informal and formal cases relating to concerns about Doctors which I had an involvement with, and which were within the time period covered by the 2010 Trust Guidelines – i.e. September 2010 up until the 2010 Trust Guidelines were formally replaced by 2017 Trust Guidelines in October 2017. The cases relating to performance concerns about doctors, which I was involved with, are set out below in a) to k). **I would draw to the attention of the USI, the sensitive information contained within the cases outlined below, and whilst I have referred to the Doctors by number, many of the Doctors are likely to be identifiable by the information I have outlined.**

a) Dr 1

The first medical case I was involved in related to a clinical performance case involving a Doctor who had been subject to NCAS assessment. GMC had placed a number of restrictions on the Doctor via an Interim Order. The Doctor had been Personal Information redacted by the USI and subsequently appealed the decision. I chaired the Personal Information redacted by the USI panel in August 2012, and the other panel member was the Medical Director, Dr Simpson.

Personal Information redacted by the USI

Personal Information redacted by the USI

Personal Information redacted by the USI I had no previous involvement in this case, and therefore I have no knowledge of how the Trust 2010 Guidelines were applied.

7(xiii) I was then involved with a number of cases from January 2015, when Zoe Parks was off on sick leave immediately before her maternity leave commenced in February 2015. Zoe Parks was off work on that period of





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do know for sure, however, it took place after Kieran Donaghy started his annual leave in the last 2 weeks in August prior to his retirement date of 31<sup>st</sup> August 2016, or in very early September. I believe it was during this conversation that Dr Wright made me aware that Mr O'Brien was a friend of Mrs Roberta Brownlee, Chair of the Southern HSC Trust. As part of the same conversation, I can recall asking Dr Wright if Francis Rice, Chief Executive knew about the concerns. I cannot recall if Dr Wright said if the Chief Executive had already been alerted or that this still needed to be done, but we definitely discussed the need for the Chief Executive to be aware of the concerns given the possibility that MHPS may need to be implemented.

- 12(ii) On 6<sup>th</sup> September 2016, Dr Wright forwarded me an email **(this can be located at Relevant to HR/ Evidence received after 4 November 2021/ Reference no 77/ V Toal no 77/ 20160906 Email Confidential Screening Investigation\_Dr R Wright)** that Mr Simon Gibson, Assistant Director – Medical Directorate had sent to him on 5<sup>th</sup> September 2016. Simon Gibson's email to Dr Wright stated that he had attached "*as requested*" a "*screening report on Dr A O'Brien*". Simon Gibson went on to ask Dr Wright in that email if he would like him to convene an oversight meeting. Dr Wright forwarded me the email with the screening report **(this can be located at Relevant to HR/ Evidence received after 4 November 2021/ Reference no 77/ V Toal no 77/ 20160906 Attachment\_AOB Screening Report)** so I could review in advance of an Oversight Group meeting that was to be convened as per the Trust 2010 Guidelines.

- II If different, also state when you became aware that there would be an investigation into matters concerning the performance of Mr O'Brien?**
- III Who communicated these matters to you and in what terms?**

- 12(iii) I became aware that there would be a formal investigation into matters concerning the performance of Mr O'Brien on 22<sup>nd</sup> December 2016. Simon Gibson contacted me by telephone on 21<sup>st</sup> December 2022 to advise that a meeting of the Oversight Group would be needed the following day. Please

## **2.0 SCREENING OF CONCERNS – ACTION TO BE TAKEN WHEN A CONCERN FIRST ARISES**

- 2.1 NCAS Good Practice Guide – “How to conduct a local performance investigation” (2010) indicates that regardless of how a concern is identified, it should go through a screening process to identify whether an investigation is needed. The Guide also indicates that anonymous complaints and concerns based on ‘soft’ information should be put through the same screening process as other concerns.
- 2.2 Concerns<sup>1</sup> should be raised with the practitioner’s Clinical Manager – this will normally be either the Clinical Director or Associate Medical Director. If the initial report / concern is made directly to the Medical Director, then the Medical Director should accept and record the concern but not seek or receive any significant detail, rather refer the matter to the relevant Clinical Manager. Such concerns will then be subject to the normal process as stated in the remainder of this document.
- 2.3 Concerns which may require management under the MHPS Framework must be registered with the Chief Executive. The Clinical Manager will be responsible for informing the relevant operational Director. They will then inform the Chief Executive and the Medical Director, that a concern has been raised.
- 2.4 The Clinical Manager will immediately undertake an initial verification of the issues raised. The Clinical Manager must seek advice from the nominated HR Case Manager within Employee Engagement & Relations Department prior to undertaking any initial verification / fact finding.
- 2.5 The Chief Executive will be responsible for appointing an Oversight Group (OG) for the case. This will normally comprise of

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<sup>1</sup> Examples of Concerns may include: - when any aspect of a practitioner’s performance or conduct poses a threat or potential threat to patient safety, exposes services to financial or other substantial risks, undermines the reputation or efficiency of services in some significant way, are outside the acceptable practice guidelines and standards.

the Medical Director / Responsible Officer, the Director of Human Resources & Organisational Development and the relevant Operational Director. The role of the Oversight Group is for quality assurance purposes and to ensure consistency of approach in respect of the Trust's handling of concerns.

2.6 The Clinical Manager and the nominated HR Case Manager will be responsible for investigating the concerns raised and assessing what action should be taken in response. Possible action could include:

- No action required
- Informal remedial action with the assistance of NCAS
- Formal investigation
- Exclusion / restriction

The Clinical Manager and HR Case Manager should take advice from other key parties such as NCAS, Occupational Health Department, in determining their assessment of action to be taken in response to the concerns raised. Guidance on NCAS involvement is detailed in MHPS paragraphs 9-14.

2.7 Where possible and appropriate, a local action plan should be agreed with the practitioner and resolution of the situation (with involvement of NCAS as appropriate) via monitoring of the practitioner by the Clinical Manager. MHPS recognises the importance of seeking to address clinical performance issues through remedial action including retraining rather than solely through formal action. However, it is not intended to weaken accountability or avoid formal action where the situation warrants this approach. The informal process should be carried out as expeditiously as possible and the Oversight Group will monitor progress.

2.8 The Clinical Manager and the HR Case Manager will notify their informal assessment and decision to the Oversight Group. The role of the Oversight Group is to quality assure the decision and recommendations regarding invocation of the MHPS following

**Role definitions and responsibilities****Screening Process / Informal Process****Clinical Manager**

This is the person to whom concerns are reported to. This will normally be the Clinical Director or Associate Medical Director (although usually the Clinical Director). The Clinical Manager informs the Chief Executive and the Practitioner that concerns have been raised, and conducts the initial assessment along with a HR Case Manager. The Clinical Manager presents the findings of the initial screening and his/her decision on action to be taken in response to the concerns raised to the Oversight Group.

**Chief Executive**

The Chief Executive appoints an appropriate Oversight Group and is kept informed of the process throughout. (The Chief Executive will be involved in any decision to exclude a practitioner at Consultant level.)

**Oversight Group**

This group will usually comprise of the Medical Director / Responsible Officer, Director of Human Resources & Organisational Development and the relevant Operational Director. The Oversight Group is kept informed by the Clinical Manager and the HR Case Manager as to action to be taken in response to concerns raised following initial assessment for quality assurance purposes and to ensure consistency of approach in respect of the Trust's handling of concerns.

**Formal Process****Chief Executive**

The Chief Executive in conjunction with the Oversight Group appoints a Case Manager and Case Investigator. The Chief Executive will inform the Chairman of formal the investigation and requests that a Non-Executive Director is appointed as "designated Board Member".



## Urology Services Inquiry

Richard Wright and Interim Chief Executive, Mr Francis Rice in Trust Headquarters at Craigavon Area Hospital. Our offices were next to each other in the same corridor, which meant there were opportunities to have ad hoc conversations without requiring diary appointments with each other. In my time working alongside Dr Wright in my capacity as Director of HR &OD, it is my understanding and recollection that Dr Wright, as Medical Director and Responsible Officer, alerted the Chief Executive to any concerns in relation to the performance of doctors and the need for an Oversight Group meeting.

- 11(v) In terms of the practical outworking of the Trust 2010 Guidelines, there was never any documented communication issued from either Francis Rice or Stephen McNally, as interim Chief Executives, directly to me about the establishment of any Oversight Group. Instead, the Medical Director would have alerted me to any emerging concerns, and either my Personal Assistant, Mrs Heather Mallagh-Cassells or Dr Wright's Personal Assistant, Mrs Laura White, would have arranged the establishment of the Oversight Group meeting, depending on which one of them was available.
- 11(vi) The Medical Director acted as Chair of the Oversight Group meeting and led the discussions about concerns relating to Doctors. The Medical Director usually outlined the nature of the concerns at the initial Oversight Group Meeting brought to his attention and invited the Operational Director to add any further background if appropriate. The Assistant Director – Medical Directorate, was usually in attendance at Oversight Meetings, and he took forward any relevant actions to the Medical Director's Office, and may have been the note-taker at the meeting.
- 11(vii) Having been involved in drafting the 2010 Guidelines, I understood my role as Director of HR & Organisational Development during the Oversight Meetings, and outside of Oversight Meetings, to be primarily a support role to the Medical Director in terms of professional HR advice in relation to their responsibilities under MHPS. The Medical Staffing Manager was usually in attendance at Oversight Meetings, to take forward any actions relevant to the



## Urology Services Inquiry

26(iii) The lack of Clinical Management input to the Oversight Group in the 2010 Trust Guidelines was problematic, and meant that the Oversight Group was driving the decision making in relation to the early actions in September 2016, as opposed to the Clinical Manager. Whilst the role of the Oversight Group as outlined in para 2.5 of the 2010 Trust Guidelines, was described as a quality assurance role, the absence of the Clinical Manager at the meetings meant that the Oversight Group determined the actions to be taken. On reflection, this resulted in an approach in September 2016, which was, in effect, contrary to Section I Para 15 MHPS, which outlines that the role of the Clinical Manager is to identify the nature of the problem or concern and to assess the seriousness of the issue on the information available. What happened in the Mr O'Brien case was that a non-medical Assistant Director, Simon Gibson took the lead in the Preliminary Enquiries in September 2016 in conjunction with, I assume, Acute Services' staff such as Martina Corrigan and Ronan Carroll, and presented the report at the Oversight Group meeting without the Clinical Manager, Mr Weir, Clinical Director, there. The absence of the Clinical Manager, Mr Weir also permitted a divergence from what was the agreed course of action at the Oversight Meeting on 13<sup>th</sup> September 2016 by Directors. Those agreed actions were subsequently debated outside of the meeting by the Clinical Managers, Mr Weir, Clinical Director, and Dr McAllister, Associate Medical Director, with Esther Gishkori, Director of Acute Services. As a result, the agreed actions from 13<sup>th</sup> September 2016 Oversight Group meeting subsequently changed after further discussion between Esther Gishkori, Francis Rice, Interim Chief Executive and Dr Wright, Medical Director, a number of days after. If Mr Weir, as Clinical Manager had been present in the Oversight Group meeting in September 2016 there may have been greater discussion, about not only clearing the backlogs, but also more about checking and reviewing if any of the patients in those backlogs had come to harm. I very much regret that those discussions did not happen robustly enough and there was not more focus on ensuring that work commenced urgently after the meeting on 13<sup>th</sup> September to check if the patients in the backlogs had come to any harm. This issue was further exacerbated by the fact that both Mr Weir and Dr McAllister were off on sick

- 3.4 Develop and implement mechanisms to capture the health of the workforce ranging from attitude surveys, focus groups, exit interviews, questionnaires' etc.
- 3.5 In conjunction with the Head of Communications to develop and implement effective HR communication policies to enable the promotion of an effective employee relations environment.
- 3.6 Ensure that the information and filing systems relevant to the Employee Engagement & Relations service are appropriately managed in accordance with data protection principles e.g. Personal File system, Job Evaluation system – CAJE.

## **4.0 Quality**

- 4.1 To promote good practice in monitoring of relevant Performance Management Targets, eg Priorities for Action.
- 4.2 To contribute information to the monitoring of HR Controls Assurance Standards, preparing responses and updating relevant Action Plans.

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## **5.0 Financial and Resource Management**

- 5.1 Manage the Employee Engagement & Relations budget.
- 5.2 To assist senior staff in costing specific interventions.

## **6.0 People Management and Development**

- 6.1 To lead and empower a highly specialist team of Human Resource staff, providing expert advice to Trust senior managers and general advice through the business partnering model.
- 6.2 To delegate appropriate responsibility and authority to the level of staff within his/her control consistent with effective decision making whilst retaining responsibility and accountability for results.
- 6.3 To participate in the Trust's performance appraisal system reviewing the performance of direct reports on a regular basis.
- 6.4 To ensure all staff develop an annual Personal Development Plan and that development needs are met using a variety of methods.
- 6.5 To contribute as an effective member of the Senior Human Resources Team.
- 6.6 To take responsibility for his/her own performance and take action to address identified personal development areas.

## **HUMAN RESOURCE MANAGEMENT RESPONSIBILTIES**

## Southern Health & Social Care Trust

### Medical Directors Office

#### Screening report on Dr Aidan O'Brien

#### **Context**

The Medical Director sought detailed information on a range of issues relating to the conduct and performance of Dr O'Brien. This report provides background detail and current status of these issues, and provides a recommendation for consideration of the Oversight Committee.

#### **Issue one – Un-triaged outpatient referral letters**

When a GP refers a patient into secondary care, the referral is triaged to consider the urgency of the referral. If triage does not take place within an agreed timescale as per the Integrated Elective Access Protocol (IEAP), then health records staff schedule the referral according to the priority given by the GP. This carries with it the risk that a patient may not have their referral “upgraded” by the consultant to urgent or red flag if needed, if triage is not completed. This may impact upon the outcome for a patient.

In March 2016, Dr O'Brien had 253 untriaged letters, which was raised in writing with him and a plan to address this was requested. No plan was received and at August 2016, there were 174 untriaged letters, dating back 18 weeks; the rest of the urology team triage delay is 3-5 working days.

#### **Issue two – Outpatient review backlog**

Concerns have been raised that there may be patients scheduled to be seen who are considerably overdue their review appointment and could have an adverse clinical outcome due to this delay.

In March 2016, Mr O'Brien had 679 patients in his outpatient review backlog, which was raised in writing with him and a plan to address this was requested. No plan was received and at August 2016, there were 667 patients in his outpatient review backlog, dating back to 2014: whilst outpatient review backlogs exist with his urological colleagues, the extent and depth of these is not as concerning.

#### **Issue three – Patients notes at home**

Mr O'Brien has had a working practice of taking charts home with him following outpatient clinics. These charts may stay at his home for some time, and may not be available for the patient attending an appointment with a different specialty, making the subsequent consultation difficult in the absence of the patients full medical history.



For a period in 2013/14, instances when charts were not available were recorded on the Southern Trusts Adverse Incident Reporting (IR) system: there were 61 consultations where charts were not available. In speaking to the Health Records Manager, Mr O'Brien is currently continuing this practice although this is not now recorded on the IR system.

Mr O'Brien was spoken to about this issue in 2012 by Dr Rankin, and twice in 2014 by Mrs Burns, the Directors of Acute Services at the time, seeking a change in behaviour, although none of these meetings were formally recorded.

## Issue four – Recording outcomes of consultations and inpatient discharges

Whilst there has been no formal audit of this issue, concern has been raised by his urological colleagues that Mr O'Brien may not always record his actions or decisions regarding a patient following a period of inpatient care or outpatient consultation. This may cause subsequent investigations or follow up not to take place or be delayed.

## Summary of concerns

This screening report has identified a range of concerns which may be counter to the **General Medical Councils Good Medical Practice** guidance of 2013, specifically paragraphs 15 (b), 19 and 20:

15. ***You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:***
  - a. *Adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
  - b. ***Promptly provide or arrange suitable advice, investigations or treatment where necessary***
  - c. *Refer a patient to another practitioner when this serves the patient's needs.*
19. *Documents you make (including clinical records) to formally record your work must be clear, accurate and legible. **You should make records at the same time as the events you are recording or as soon as possible afterwards.***
20. ***You must keep records that contain personal information about patients, colleagues or others securely, and in line with any data protection requirements.***

## Conclusion

This report recognises that previous informal attempts to alter Dr O'Brien's behaviour have been unsuccessful. Therefore, this report recommends consideration of an NCAS supported external assessment of Dr O'Brien's organisational practice, with terms of reference centred on whether his current organisational practice may lead to patients coming to harm.



## Urology Services Inquiry

- 13(i) Please see my responses at 12(i), 12(ii) and 12(iv) as they are also relevant to my response to this question.
- 13(ii) The notes of the Oversight Group meeting (**this can be located at Relevant to HR / Reference no 1 / Oversight documentation Mr O'Brien / 2016 9 13 Oversight Group Notes Action Points**), taken by Malcolm Clegg, Assistant Medical Staffing Manager on 13<sup>th</sup> September 2016, state the following: *"The oversight group was informed that a formal letter had been sent to AOB on 23/3/16 outlining a number of concerns about his practice. He was asked to develop a plan detailing how he was intending to address these concerns, however no plan had been provided to date and the same concerns continue to exist almost 6 months later."* While the notes do not make it clear who 'informed' those at the Oversight Group meeting about the concerns raised by letter to Mr O'Brien in March 2016, I assume that both Dr Wright and Mrs Esther Gishkori contributed to the sharing of this information by way of background. I do not recall reading a copy of the letter of 23<sup>rd</sup> March 2016 (**this can be located at Relevant to HR / reference no 33 / GRIEVANCE PANEL 1 / 20160323 - Grievance Panel 1 Tab 8 Letter from EM and HT to AOB**) at the meeting on the 13<sup>th</sup> September 2016, nor do I recall that a copy of the letter was actually available at the meeting. For my own clarity and in the interests of thoroughness in relation to my advice as Director of HR &OD, I should have asked to see a copy of the letter at the Oversight Group meeting.
- 13(iii) The process by which we were discussing the concerns about Mr O'Brien on 13<sup>th</sup> September 2016 was as per Oversight Group arrangements outlined in para 2.5 of the Trust 2010 Guidelines. As outlined above in 12(ii), on 6<sup>th</sup> September 2016, Dr Wright had forwarded me an email that had been sent to him from his Assistant Director, Simon Gibson the day before. The email contained a copy of a document entitled 'Screening Report on Dr O'Brien'. Mr Gibson, at Dr Wright's request, summarised the concerns in respect of Mr O'Brien, and I recall he did so with the assistance of staff within Acute Services Directorate, although I do not know who exactly he worked with to

**AOB:**

The oversight group was informed that a formal letter had been sent to AOB on 23/3/16 outlining a number of concerns about his practice. He was asked to develop a plan detailing how he was intending to address these concerns, however no plan had been provided to date and the same concerns continue to exist almost 6 months later. A preliminary investigation has already taken place on paper and in view of this, the following steps were agreed;

- Simon Gibson to draft a letter for Colin Weir and Ronan Carroll to present to AOB
- The meeting with AOB should take place next week (w/c 19/9/16)
- This letter should inform AOB of the Trust's intention to proceed with an informal investigation under MHPS at this time. It should also include action plans with a 4 week timescale to address the 4 main areas of his practice that are causing concern i.e. untriaged letters, outpatient review backlog, taking patient notes home and recording outcomes of consultations and discharges
- Esther Gishkori to go through the letter with Colin, Ronan and Simon prior to the meeting with AOB next week
- AOB should be informed that a formal investigation may be commenced if sufficient progress has not been made within the 4 week period

**ACTIONS:**

- 1. Simon Gibson to draft a letter for Colin Weir and Ronan Carroll to present to AOB next week**
- 2. Esther Gishkori to meet with Colin Weir, Ronan Carroll and Simon Gibson to go through the letter and confirm actions required**

Irrelevant information redacted by USI

Irrelevant information redacted by USI



National Clinical Assessment Service

NCAS  
NI office  
HSC Leadership Centre  
The Beeches  
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Belfast  
Co Antrim  
BT7 3EN

Tel: 028 90 690 791

[www.ncas.nhs.uk](http://www.ncas.nhs.uk)  
Personal Information redacted by the USI

13 September 2016

**PRIVATE AND CONFIDENTIAL**  
*Sent by email only*

Mr Simon Gibson  
Assistant Director  
Southern Health and Social Care Trust  
Craigavon Area Hospital  
68 Lurgan Road  
Portadown  
Craigavon  
BT63 5QQ

NCAS ref: Personal Information redacted by the USI (Please quote in all correspondence)

Dear Mr Gibson

I am writing following our telephone discussion on 7 September. Please let me know if I have misunderstood anything as it may affect my advice.

You called to discuss a consultant urologist who has been in post for a number of years. You described a number of problems. He has a backlog of about 700 review patients. This is different to his consultant colleagues who have largely managed to clear their backlog.

You said that he is very slow to triage referrals. It can take him up to 18 weeks to triage a referral, whereas the standard required is less than two days.

You told me that he often takes patient charts home and does not return them promptly. This often leads to patients arriving for outpatient appointments with no records available.

You told me that his note-taking has been reported as very poor, and on occasions there are no records of consultations.

To date you are not aware of any actual patient harm from this behaviour, but there are anecdotal reports of delayed referral to oncology.

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*Please ensure that any information provided to NCAS which contains personal data of any type is sent to us through appropriately secure means.*



The doctor has been spoken to on a number of occasions about this behaviour, but unfortunately no records were kept of these discussions. He was written to in March of this year seeking an action plan to remedy these deficiencies, but to date there has been no obvious improvement.

We discussed possible options open to you. The Trust has a policy on removing charts from the premises and it would appear that this doctor is in breach of this policy. This could lead to disciplinary action. He was warned about this behaviour in the letter sent to him in March so it would be open to you to take immediate disciplinary action; however, I would suggest that he is asked to comply immediately with the policy.

With regard to the poor note-taking it would be useful to conduct an audit. If there is evidence of a substantial number of consultations for either inpatients or outpatients with no record in the notes, this is a serious matter which may merit disciplinary action and possible referral to the GMC. If, after the audit, it appears that the concern is more about the quality of the notes rather than whether there are any notes at all, a notes review by NCAS may be appropriate. If you wish us to consider that, please get back to me.

The problems with the review patients and the triage could best be addressed by meeting with the doctor and agreeing a way forward. We discussed the possibility of relieving him of theatre duties in order to allow him the time to clear this backlog. Such a significant backlog will be difficult to clear, and he will require significant support. I would be happy to attend such a meeting, if this was considered helpful.

**Relevant regulations/guidance:**

- Local procedures;
- General Medical Council Guide to Good Medical Practice;
- Maintaining High Professional Standards in the Modern HPSS (MHPS).

**Review date:**

7 October 2016.

As it seems likely that further NCAS input will be required, we will keep this case file open and review the situation in about one month. If you require further advice in the meantime, please do not hesitate to contact me.

If you have any further issues to discuss, or any difficulties with these arrangements, please contact the Northern Ireland office on the direct line above.

I hope the process has been helpful to you.

Yours sincerely



Dr Colin Fitzpatrick  
**NCAS Senior Adviser**

cc: Jill Devenney, Case Officer (N I)



*Please ensure that any information provided to NCAS which contains personal data of any type is sent to us through appropriately secure means.*

*Draft letter*

21<sup>st</sup> September 2016

Dear Mr O'Brien

**Formal notification of investigation under Maintaining High Professional Standards (MHPS)**

I am writing to inform you of the Southern Trusts intention to proceed with an investigation under MHPS with regard to a range of issues in relation to your practice. At this stage, we will be taking an informal approach as outlined within MHPS, but following the outcome of this we may proceed with a formal investigation.

This investigation should be seen in the context of the letter written to you on 23<sup>rd</sup> March (copy attached), in which a number of concerns were raised and a plan was sought from you to address these concerns. No plan was provided and the same concerns still exist.

This informal approach will consider four areas of your practice, and be time bound as indicated below.

**Area 1 – Untriaged letters**

In August 2016, you had 174 untriaged outpatient referral letters, dating back 18 weeks. It is the expectation of the Trust that by the time you commence your next Urologist of the Week session, on 21<sup>st</sup> October, this backlog is eliminated. Furthermore, it is the expectation of the Trust that at the end of your week as Urologist of the Week, you are completing the triage of outpatient referral letters within the Trust standard of 72 hours.

**Area 2 - Outpatient review backlog**

As at 31<sup>st</sup> August 2016, you had 658 patients on your outpatient review backlog, including 229 going back to 2014. It is the expectation of the Trust that this 2014 backlog is reduced to zero by the end of the calendar year, with a reduction of a minimum of 70 patients per month.

Southern Trust Headquarters, Craigavon Area Hospital, 68 Lurgan Road, Portadown, BT63 5QQ

Tel: Personal Information redacted by USI / Email: Personal Information redacted by USI

## Toal, Vivienne

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**From:** Clegg, Malcolm [Personal Information redacted by USI]  
**Sent:** 16 September 2016 09:02  
**To:** Toal, Vivienne  
**Subject:** RE: meeting re Mr O'Brien.

Yes of course Vivienne.

I'll send a draft to you in case I have missed anything important.

Malcolm

---

**From:** Toal, Vivienne  
**Sent:** 16 September 2016 08:58  
**To:** Clegg, Malcolm  
**Subject:** FW: meeting re Mr O'Brien.

Malcolm

See below....

Is there any chance that you could type the notes of the oversight meeting up....we are definitely going to need notes going forward particularly if goalposts keep trying to be changed.

Vivienne

---

**From:** Wright, Richard  
**Sent:** 15 September 2016 14:52  
**To:** Gishkori, Esther  
**Cc:** Toal, Vivienne  
**Subject:** Re: meeting re Mr O'Brien.

Hi Esther. As director of the service naturally we have to listen to your opinion. Before I would consider conceding to any delay in moving forward with what was our agreed position after the oversight meeting I would need to see what plans are in place to deal with the issues and understand how progress would be monitored over the three month period.

Perhaps when we have seen these we could meet again to consider. regards Richard

Sent from my iPad

On 15 Sep 2016, at 14:40, Gishkori, Esther [Personal Information redacted by USI] wrote:

Dear Richard and Vivienne,  
Following our oversight committee on Tuesday 13<sup>th</sup> September I had a meeting with Charlie McAllister and Ronan Carroll, my AMD and AD for surgery.  
I mentioned the case that was brought to the oversight meeting in relation to Mr O'Brien and the plan of action.

Actually, Charlie and Colin Weir already have plans to deal with the urology backlog in general and Mr O'Brien's performance was of course, part of that.

Now that they both work locally with him, they have plenty of ideas to try out and since they are both relatively new into post, I would like try their strategy first.

I am therefore respectfully requesting that the local team be given 3 more calendar months to resolve the issues raised in relation to Mr O'Brien's performance.

I appreciate you highlighting the fact that this long running issue has not yet been resolved. However, given the trust and respect that Mr O'Brien has won over the years, not to mention his life-long commitment to the urology service which he built up singlehandedly, I would like to give my new team the chance to resolve this in context and for good. This I feel would be the best outcome all round.

Happy to discuss any time and I will of course brief the oversight committee of any progress we make.

Many thanks  
Best  
Esther.

**Esther Gishkori**  
**Director of Acute Services**  
**Southern Health and Social Care Trust**

<image001.png> **Office** Personal Information redacted by USI **Mobile** Personal Information redacted by USI

<image002.png> Personal Information redacted by USI

<image003.png><image004.png><image005.png>



## Toal, Vivienne

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**From:** Wright, Richard [Personal Information redacted by USI]  
**Sent:** 16 September 2016 13:44  
**To:** Toal, Vivienne  
**Subject:** RE: meeting re Mr O'Brien.

Hi Vivienne. I had a meeting scheduled with Francis and Esther this am and this topic came up. Esther agreed in principle to provide the info requested and to ensure that there was a documented meeting with Me OB outlining the implications of not getting this sorted within 3 months. Francis was keen to pursue this a under those circumstances but not to let it run further than the three months if still non compliant. Happy to discuss further.  
Richard

---

**From:** Toal, Vivienne  
**Sent:** 16 September 2016 08:57  
**To:** Wright, Richard; Gishkori, Esther  
**Subject:** RE: meeting re Mr O'Brien.

Esther – I am conscious you go off on leave today; how do you wish to handle Richard's request below?

Vivienne

---

**From:** Wright, Richard  
**Sent:** 15 September 2016 14:52  
**To:** Gishkori, Esther  
**Cc:** Toal, Vivienne  
**Subject:** Re: meeting re Mr O'Brien.

Hi Esther. As director of the service naturally we have to listen to your opinion. Before I would consider conceding to any delay in moving forward with what was our agreed position after the oversight meeting I would need to see what plans are in place to deal with the issues and understand how progress would be monitored over the three month period.

Perhaps when we have seen these we could meet again to consider. regards Richard

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Actually, Charlie and Colin Weir already have plans to deal with the urology backlog in general and Mr O'Brien's performance was of course, part of that.  
Now that they both work locally with him, they have plenty of ideas to try out and since they are both relatively new into post, I would like try their strategy first.

I am therefore respectfully requesting that the local team be given 3 more calendar months to resolve the issues raised in relation to Mr O'Brien's performance.



## Urology Services Inquiry

**20160916 Email Dr R Wright to VT re oversight meeting re AOB** to advise me that he had been in a scheduled meeting with Mr Francis Rice, Interim Chief Executive and Esther Gishkori that morning and the “*topic*” was discussed. He advised me that Esther had agreed in principle to provide the information he had requested the day before and to ensure that there was a documented meeting with Mr O’Brien outlining the implications of not getting the concerns addressed within 3 months. He went on to advise me that Francis Rice was keen to address the matter in this way but not to let it run further than the three months if still non-compliant. Dr Wright ended his email to advise that he was happy to discuss further with me. I do not recall if we did discuss the matter further, however it is possible we would have had an ad hoc conversation given the proximity of our offices in Trust HQ. Esther Gishkori also replied to me around the same time on 16<sup>th</sup> September 2016 to confirm she had spoken with Dr Wright that morning and he was “*happy with the direction of travel*” she had outlined, and that she would be asking the Associate Medical Director (Dr C McAllister) and Clinical Director (Mr C Weir) “*to record their plans and actions*”. Esther Gishkori went on to advise that work would “*begin immediately to address the backlog*”, she promised Dr Wright a written plan and asked for a period of 3 months to address. I did not take any further action following this email exchange. **This can be located at Relevant to HR/ Evidence received after 4 November 2021/ Reference no 77/ V Toal no 77/ 20160916 EMail E Gishkori to VT re oversight meeting re AOB.**

13(xvii) Given that the plan agreed at the Oversight Group meeting on 13<sup>th</sup> September 2016 had changed as outlined above, I did not make any amendments to Simon Gibson’s letter, as it was no longer going to be sent.

13(xviii) I attended the next Oversight Group meeting arranged for 12<sup>th</sup> October 2016, arranged by Ms Laura White, PA to Dr Wright. At this meeting, Esther Gishkori advised that Mr O’Brien was about to commence a period of sick leave for planned surgery at the beginning of November and would be off work for a period of time. Esther Gishkori also reported that a meeting with Mr



## Urology Services Inquiry

O'Brien had not yet taken place to speak with him about the concerns regarding his administrative practices and backlogs. Esther Gishkori did not wish to speak with Mr O'Brien in advance of his planned sick leave as she thought it would cause him distress in advance of surgery. Esther Gishkori gave assurances to Dr Wright that plans for the backlogs were in place to clear these during his absence. I cannot recall the detail that Esther provided in relation to those plans at the meeting.

13(xix) To assist with my Section 21 response, I asked the Trust Public Inquiry Team on 15<sup>th</sup> June 2022, if there were any emails in relation to the plan developed by either Dr McAllister or Mr Weir; I was provided with two emails later that day, which outline discussions on the Acute Directorate's plan to address the concerns. The first email was drafted by Mr Weir to Dr McAllister dated 16<sup>th</sup> September 2016 and outlines an 8 point plan; Dr McAllister replied to that email on 21<sup>st</sup> September 2016 indicating he was in agreement with the plan, and he copied Esther Gishkori and Ronan Carroll into his response. **This can be found at Attachment folder S21 49 of 2022- Attachment 49.** The second email contained Ronan Carroll's comments on the plan back to Esther Gishkori, Mr Weir and Dr McAllister on 21<sup>st</sup> September 2016 in respect of suggestions for how the actions could be monitored. **This can be found at Attachment folder S21 49 of 2022- Attachment 50.** I do not know when or if this plan was emailed to Dr Wright. I have checked my email archive and I did not receive a copy.

**14. Outline when and in what circumstances you became aware of the following Serious Adverse Incident investigations and that they raised concerns about Mr O'Brien, and outline what action you took upon becoming aware of those concerns:**

- I Patient Patient 10
- II The care of five patients Personal Information redacted by USI; and
- III Patient Personal Information redacted by USI.

**Gibson, Simon**

---

**From:** Wright, Richard [Personal Information redacted by USI]  
**Sent:** 06 December 2016 10:52  
**To:** Gishkori, Esther  
**Subject:** RE: Confidential

Thanks Esther. That sounds very reasonable. Any ideas when that is likely to be? Richard

-----Original Message-----

**From:** Gishkori, Esther  
**Sent:** 06 December 2016 09:31  
**To:** Wright, Richard  
**Cc:** Toal, Vivienne  
**Subject:** RE: Confidential

Dear Richard,

I can confirm that Mr O'Brien has had surgery and that sick lines are being submitted appropriately. I do not think that an occupational health referral is indicated at this point although it may well be in the coming weeks as Mr O'Brien is likely to return before he is well. We shall see in due course.

Patient notes are being returned as requested from Mr O'Brien however, Trudy Reid (governance facilitator) is not sure if all notes taken off the premises have been returned. The governance team are in the process of checking this out. It is difficult to be completely sure until notes cannot be found but we are doing our best.

The SAI review continues and will no doubt produce its own recommendations.

I have been having conversations in relation to Mr O'Brien's "return to work" interview. We thought that this would be a good time to set out the ground rules from the start.

Since Colin and Charlie are both off sick, Mark wondered if you and I could do this. Since there are both professional and operational issues here, I feel that this is entirely reasonable.

Will chat to you about it as we will have until the new year to think about it.

Best,  
Esther.

Esther Gishkori  
Director of Acute Services  
Southern Health and Social Care Trust

Office [Personal Information redacted by USI] Mobile [Personal Information redacted by USI]  
[Personal Information redacted by USI]

-----Original Message-----

**From:** Wright, Richard  
**Sent:** 30 November 2016 09:36  
**To:** Gishkori, Esther  
**Cc:** Toal, Vivienne  
**Subject:** Confidential

Hi Esther.

**Southern Health & Social Care Trust****Oversight Committee****22<sup>nd</sup> December 2016****Present:**

Dr Richard Wright, Medical Director (Chair)

Vivienne Toal, Director of HROD

Ronan Carroll, on behalf of Esther Gishkori, Director of Acute Services

**In attendance:**

Simon Gibson, Assistant Director, Medical Director's Office

Malcolm Clegg, Medical Staffing Manager

Tracey Boyce, Director of Pharmacy, Acute Services Directorate

**Dr A O'Brien****Context**

On 13<sup>th</sup> September 2016, a range of concerns had been identified and considered by the Oversight Committee in relation to Dr O'Brien. A formal investigation was recommended, and advice sought and received from NCAS. It was subsequently identified that a different approach was to be taken, as reported to the Oversight Committee on 12<sup>th</sup> October.

Dr O'Brien was scheduled to return to work on 2<sup>nd</sup> January following a period of sick leave, but an ongoing SAI has identified further issues of concern.

**Issue one**

Dr Boyce summarised an ongoing SAI relating to a Urology patient who may have a poor clinical outcome due to the lengthy period of time taken by Dr O'Brien to undertake triage of GP referrals. Part of this SAI also identified an additional patient who may also have had an unnecessary delay in their treatment for the same reason. It was noted as part of this investigation that Dr O'Brien had been undertaking dictation whilst he was on sick leave.

Ronan Carroll reported to the Oversight Committee that, between July 2015 and Oct 2016, there were 318 letters not triaged, of which 68 were classified as urgent. The range of the delay is from 4 weeks to 72 weeks.

**Action**

**A written action plan to address this issue, with a clear timeline, will be submitted to the Oversight Committee on 10<sup>th</sup> January 2017**

**Lead: Ronan Carroll/Colin Weir**

---

**Subject:** FW: Urgent MHPS case - Mr Aidan O'Brien

**From:** Vivienne.Toal [Personal Information redacted by the USI]  
**Sent:** 28 December 2016 09:51  
**To:** Hailey, Lynne  
**Cc:** Siobhan Hynds; Wright, Richard; Gibson, Simon  
**Subject:** Urgent MHPS case - Mr Aidan O'Brien

Lynne

Hope you had a lovely Christmas.

Unfortunately we have now another MHPS case which will require some action this week. See attached copy of note from oversight last Thursday re Mr O'Brien, a long serving consultant urologist. The history is more or less contained in the attached.

Mr O'Brien has been on sick leave due to surgery however is indicating he is coming back on 3rd Jan. Malcolm was checking if there was ever involvement of indeed if he was ever recorded as being on sick leave.

Irrespective based on oversight decision he needs to be excluded to allow investigation to run and to ensure patient safety.

Richard is hoping to meet with him this week to advise if issues and to advise him of exclusion, possibly Friday. Would you please accompany him? (Richard - when contact is being made with him he should be advised of being able to bring work colleague or BMA rep if he chooses)

Mr Colin Weir is the identified case investigator (although I understand he has a #humorous,) however in work to a degree we think.

As there is currently no AMD for surgery Ahmed Khan from Paeds will act as case manager.

Richard spoke to NCAS on Friday, I understand.

Mr O'Brien should be advised of nature of investigation; exact terms of reference can follow next week - priority is telling him basis for exclusion as per attached i.e. SAI patient, potential second patient, 318 untriaged and 600 indicated notes. He should be asked if he has case notes / dictation at home that these are returned without delay. The report from the case note tracking system which Ronan is running should identify which notes are tracked out to him.

In terms of an identified NED we can action after new year when Chair returns and notify him of who this is.

Sorry Lynne to leave this with you. Richard's mobile number is [Personal Information redacted by the USI] Simon's number is [Personal Information redacted by USI]

Richard - Lynne's number is [Personal Information redacted by USI]

My mobile is on if you need me.

**Southern Health & Social Care Trust****Oversight Committee****10<sup>th</sup> January 2017****Present:**

Dr Richard Wright, Medical Director (Chair)  
Vivienne Toal, Director of HROD  
Esther Gishkori, Director of Acute Services

**In attendance:**

Simon Gibson, Assistant Director, Medical Director's Office  
Siobhan Hynds, Head of Employee Relations  
Ronan Carroll, Assistant Director, Acute Services  
Tracey Boyce, Director of Pharmacy, Acute Governance Lead

**Dr A O'Brien**

Dr Wright summarised the progress on this case to date, following the meeting with Mr O'Brien on 30<sup>th</sup> December, including the following appointments to the investigation:

- John Wilkinson is the Non-Executive Director
- Ahmed Khan is the Case Manager
- Colin Weir is the Case Investigator
- Siobhan Hynds is the HR Manager supporting the investigation

Ronan Carroll summarised the meeting with Urologists, who were supportive of working to resolve the position. Ronan Carroll updated the Oversight Committee in relation to the three issues identified, plus a fourth issue subsequently identified.

**Issue one - Untriaged referrals**

It was reported that, from June 2015, there are 783 untriaged referrals, all of which need to be tracked and reviewed to ascertain the status of these patients in relation to the condition for which they were referred. All 4 consultants will be participating in this review, which was now commencing.

**Action: Ronan Carroll**

There are 4 letters which hadn't been recorded on PAS which have been handed over by Dr O'Brien (consultant to consultant referrals).

**Issue two – Notes being kept at home**

307 notes were returned by Mr O'Brien from his home.

88 sets of notes located within Mr O'Briens office

27 sets of notes, tracked to Mr O'Brien, were still missing, going back to 2003. Work is continuing to validate this list of missing notes. It was agreed to allow an additional seven days to track these notes down, in advance of informing the CEx and SIRO, and Information Governance Team.

**Action: Ronan Carroll**

**National Clinical Assessment Service**

NCAS  
NHS Litigation Authority  
2<sup>nd</sup> Floor, 151 Buckingham Palace Road  
London  
SW1W 9SZ

Website: [www.ncas.nhs.uk](http://www.ncas.nhs.uk)

General Enquiries and Advice Line: 020 7811 2600  
Direct Fax: 020 7931 7571  
Email: [casosupport@ncas.nhs.uk](mailto:casosupport@ncas.nhs.uk)

29 December 2016

**SENT VIA EMAIL ONLY**

**PRIVATE AND CONFIDENTIAL**

Dr Richard Wright  
Medical Director  
Southern Health And Social Care Trust  
68 Lurgan Road  
Portadown  
BT63 5QQ

**NCAS ref: 18665 (Please quote in all correspondence)**

Dear Dr Wright

Further to our telephone conversation on 28 December 2016, I am writing to summarise the issues which we discussed for both of our records. Please let me know if any of the information is incorrect.

In summary, this case which my colleague Dr Fitzpatrick had previously discussed with Mr Gibson, involves Dr 18665, a senior consultant urologist about whom there have been increasing performance concerns. The allegations are of poor record keeping, and slowness of triaging referrals and arranging reviews. Dr 18665 is also reported to have removed a very substantial numbers of charts from the Trust's premises without bringing them back; despite requests that these be returned many charts remain outstanding. Dr 18665's colleagues have, on occasions, seen patients for whom there have been no notes. Dr 18665 is currently on sick leave, but has indicated that he is returning to work in January 2017.

A recent Serious Adverse Incident (SAI) has caused concern that there is potential for patients to be harmed by the ongoing situation. You are awaiting the report of the SAI but on the information available to date, you feel the Trust will need to undertake a formal investigation of Dr 18665. The Trust is also considering exclusion.

As you are aware, the concerns about Dr 18665 should be managed in line with local policy and the guidance in Maintaining High Professional Standards in the Modern HPSS (MHPS). We discussed that as the information to date - no noted improvement despite the matter having been raised with Dr 18665 - suggests that an informal approach (as per paragraphs 15-17 of Section I of MHPS) is unlikely to resolve the situation, a more formal process is now warranted.

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*Please ensure that any information provided to NCAS which contains personal data of any type is sent to us through appropriately secure means*





Any formal investigation should be undertaken to robust and specific Terms of Reference (ToR) and in line with the guidance in paragraphs 28-40 of MHPS Section II. The Case Manager should write to Dr 18665 as per paragraph 35 informing him of the name of the Case Investigator and Designated Board Member; any objections by Dr 18665 to the appointment of nominated individuals should be given serious consideration. The investigation should not be an unfocused trawl of Dr 18665's work but we discussed that if there are concerns that patients may not have received appropriate treatment, or that there are patients with inadequate records, then this could be managed separately with an audit/ look back to ensure that patients have received the appropriate standard of care. We noted that further preliminary information (such as from the SAI and taking account of Dr 18665's comments) may be helpful in deciding the scope of the investigation and therefore the ToR.

As well as being outwith the Trust's Information Governance policies, the allegations, if upheld, may mean that the legislation (DPA) has been breached, and once more information is available you may wish to take further advice on this. Paragraphs 20 and 21 of the GMC's Good Medical Practice also set out standards for record keeping including a requirement that records are kept in line with data protection duties.

Dr 18665 is due to attend Occupational Health to ascertain whether he is fit for work; if he is not, we noted that there would be no need at this time to consider exclusion but you may then wish to ask the Occupational Physician whether/when Dr 18665 would be fit to participate in an investigative process.

If Dr 18665 is deemed fit for work, we discussed the criteria for formal exclusion, and the option of an interim immediate exclusion for a maximum of 4 weeks (as per paragraphs 18-27 of Section I MHPS). The latter would allow for further information to be collated and to take account of Dr 18665's comments about the allegations, before deciding whether there are reasonable and proper grounds for formal exclusion such as a concern that the presence of the practitioner in the workplace would be likely to hinder the investigation. I note that there had been a concern expressed previously about a record missing for 2 years inexplicably appearing on a secretary's desk. In line with paragraph 22 of Section II MHPS, there is an obligation to inform other organisations, including the private sector, of any restriction or exclusion of a practitioner and a summary of the reasons for it.

Dr 18665 should be encouraged to contact his defence organisation/ BMA for help and advice. He may also benefit from staff support such as counselling, at what is likely to be a stressful time for him. Dr 18665 should be told of the involvement of NCAS and you are welcome to share this letter with him if you think this would be helpful.

As discussed, and as Dr 18665 may be excluded, NCAS will keep this case open and I will review it with you in approximately 1 month. Please call in the interim if you have any queries.

#### Relevant regulations/guidance:

- Local procedures
- General Medical Council Guide to Good Medical Practice
- Maintaining High Professional Standards in the Modern HPSS (MHPS)

#### Review date:

27 January 2017

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# How to conduct a local performance investigation



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## 3. Managing the investigation

The investigation starts once its terms of reference are finalised and when a case manager and investigator(s) have been appointed. Once the decision is taken to hold an investigation there should normally be discussion with the practitioner to secure as much engagement as possible. The practitioner should be made aware of the terms of reference and who the proposed case manager and investigator(s) are so that any objections can be raised.

The organisation can then:

- finalise terms of reference;
- appoint a case manager;
- appoint case investigator(s).

The investigator(s) will:

- collect evidence;
- interview the practitioner;
- weigh the evidence and identify the facts of the case.

### 3.1 Finalise terms of reference

These will have been agreed in outline at the time a decision was made to carry out the investigation, but some final drafting may be needed. The terms of reference as finally drafted should be agreed by the organisation's relevant decision-maker(s). The case manager and investigator(s) appointed to manage and carry out the investigation (see next sections) would not normally be involved in this process.

Terms of reference should be tight enough to prevent an unfocused general investigation of everything concerning the practitioner. It may be appropriate to specify areas not to be investigated as well as the areas where evidence and commentary are expected. Box 4 suggests a format.

#### Box 4 – Terms of reference for an investigation

An investigation is commissioned into the performance of [practitioner's name], working as a [practitioner's job title] for [organisation's name], at [workplace address].

The matters to be investigated are [ ].

The following matters are excluded from the investigation [ ].

It is expected that the investigation will be completed by [date] and that a report will be submitted to [named manager] by [date].

The report should detail the investigation's findings of fact and include a commentary on how the performance of [practitioner's name] compares with that expected from a practitioner working in similar circumstances.

**From:** Boyce, Tracey  
**Sent:** 23 December 2016 12:30  
**To:** Carroll, Ronan  
**Subject:** FW: Complaint - ?SAI  
**Attachments:** file.pdf; [Patient 16] 1.doc; [Patient 16]  
**Importance:** High

Hi Ronan  
See below - David Escalated this complaint to Trudy yesterday for an opinion as to whether it might need to be considered under the SAI process. (David doesn't know anything about our other AOB concerns).

What do you think?

Would the delay in the stent issue be down to the urologist or is that a process under radiology's control?

Kind regards

Tracey

Dr Tracey Boyce  
Director of Pharmacy

[Personal Information redacted by USI]

Learn more about mental health medicines and conditions on the Choiceandmedication website  
<http://www.choiceandmedication.org/hscni/>

-----Original Message-----

**From:** Reid, Trudy  
**Sent:** 22 December 2016 16:05  
**To:** Boyce, Tracey  
**Subject:** FW: Complaint - ?SAI

Tracey please see attached and below -, David has asked is this a potential SAI?

Episode Enquiry

Select Episode 22/12/16 13:56 CA

Name

[Patient 16]

\*MRSA\* 03/07/12 Casenote [Personal Information redacted by USI]

**TERMS OF REFERENCE FOR INVESTIGATION**

A formal investigation has been initiated into concerns relating to Mr Aidan O'Brien, Consultant Urologist. The concerns relate to Mr O'Brien's administrative practices, and the potential for patients to have come to harm as a result of those administrative practices. The under noted terms of reference set out the scope of the investigation.

<b>Grade:</b>	Consultant, Urology
<b>Base Hospital:</b>	Southern Health & Social Care Trust Craigavon Area Hospital
<b>The matters to be investigated:</b>	<p><i>The below outlines the issues of concern to be investigated, this does not preclude investigation of any further issue of concern which may arise during the course of the investigation.</i></p> <p><b><i>Matters to be investigated:</i></b></p> <ol style="list-style-type: none"> <li>1. (a) To determine if there have been any patient referrals to Mr A O'Brien which were un-triaged in 2015 or 2016 as was required in line with established practice / process.</li> <li style="margin-left: 40px;">(b) To determine if any un-triaged patient referrals in 2015 or 2016 had the potential for patients to have been harmed or resulted in unnecessary delay in treatment as a result.</li> <li style="margin-left: 40px;">(c) To determine if any un-triaged referrals or triaging delays are outside acceptable practice in a similar clinical setting by similar consultants irrespective of harm or delays in treatment.</li> <li style="margin-left: 40px;">(d) To determine if any un-triaged patient referrals or delayed triages in 2015 or 2016 resulted in patients being harmed as a result.</li> <li>2. (a) To determine if all patient notes for Mr O'Brien's patients are tracked and stored within the Trust.</li> <li style="margin-left: 40px;">(b) To determine if any patient notes have been stored at home by Mr O'Brien for an unacceptable period of time and whether this has affected the clinical management plans for these patients either within Urology or within other clinical specialties.</li> <li style="margin-left: 40px;">(c) To determine if any patient notes tracked to Mr O'Brien are missing.</li> <li>3. (a) To determine if there are any undictated patient outcomes from patient contacts at outpatient clinics by Mr O'Brien in 2015 or 2016.</li> <li style="margin-left: 40px;">(b) To determine if there has been unreasonable delay or a delay outside of acceptable practice by Mr O'Brien in dictating outpatient</li> </ol>



## Urology Services Inquiry

1.8 I was informed by Dr Wright that Mr Colin Weir, Consultant Surgeon, was initially appointed as a Case Investigator assisted by Mrs Siobhan Hynds. I was told Dr Wright sought advice from the National Clinical Assessment Service in December 2016, noting there had been a failure to resolve issues informally. Following advice from the National Clinical Assessment Service, Mr O'Brien was immediately excluded in line with Maintaining High Professional Standards Framework to allow for preliminary inquiries/investigation to be undertaken. Dr Khan, Associate Medical Director in Maternity and Children's Services was appointed as the Case Manager and Mr Weir as the Case Investigator.

1.9 I was told Mr O'Brien was asked to return all case-notes and all undictated outcomes from clinics. Mr O'Brien did so, though there remained some missing sets of case records which the Trust continued to pursue with him.

1.10 I was advised to speak to Mrs Hynds who had been involved and was aware of details of the process to date. I was advised at the end of the four-week immediate exclusion period, and the completion of the preliminary investigation by Mr Weir, it was felt there was a case to answer in respect of the concerns identified. The matter of the immediate exclusion was also considered, and it was felt this could be lifted provided there was a clear management plan in place to supervise and monitor particular aspects of Mr O'Brien's work. (This is all information I was told by either Dr Khan or Mrs Hynds, and then later confirmed from reading the file information that was provided.)

1.11 I was appointed as Case Investigator in place of Mr Weir in approximately February 2017. I was advised Mr Weir had been a manager within the specialty and therefore might have been required to be interviewed, and therefore it was felt appropriate he should step aside.

1.12 The Terms of Reference (ToR) had already been formulated and were shared with me. These are included in the Trust's discovery and in my Investigation Report. Mrs Hynds asked the Case Manager, Dr Khan, to share these ToR with Mr O'Brien.

**Southern Health & Social Care Trust****Case Conference  
26<sup>th</sup> January 2017****Present:**

Vivienne Toal, Director of HROD, (Chair)

Dr Richard Wright, Medical Director

Anne McVey, Assistant Director of Acute Services (on behalf of Esther Gishkori)

**Apologies**

Esther Gishkori, Director of Acute Services

**In attendance:**

Dr Ahmed Khan, Case Manager

Simon Gibson, Assistant Director, Medical Director's Office

Colin Weir, Case Investigator

Siobhan Hynds, Head of Employee Relations

**Dr A O'Brien****Context**

Vivienne Toal outlined the purpose of the meeting, which was to consider the preliminary investigation into issues identified with Mr O'Brien and obtain agreement on next steps following his period of immediate exclusion, which concludes on 27<sup>th</sup> January.

**Preliminary investigation**

As Case Investigator, Colin Weir summarised the investigation to date, including updating the Case Manager and Oversight Committee on the meeting held with Mr O'Brien on 24<sup>th</sup> January, and comments made by Mr O'Brien in relation to issues raised.

Firstly, it was noted that 783 GP referrals had not been triaged by Mr O'Brien in line with the agreed / known process for such referrals. This backlog was currently being triaged by the Urology team, and was anticipated to be completed by the end of January. There would appear to be a number of patients who have had their referral upgraded. Mr Weir reported that at the meeting on 24<sup>th</sup> January, Mr O'Brien stated that as Urologist of the Week he didn't have the time to undertake triage as the workload was too heavy to undertake this duty in combination with other duties.

Secondly, it was noted that there were 668 patients who have no outcomes formally dictated from Mr O'Brien's outpatient clinics over a period of at least 18 months. A review



## Hynds, Siobhan

---

**From:** McVey, Anne [Personal Information redacted by USI]  
**Sent:** 25 January 2017 17:06  
**To:** Gishkori, Esther; Toal, Vivienne; Stinson, Emma M; Hynds, Siobhan; Wright, Richard; Stinson, Emma M  
**Cc:** Weir, Colin; Khan, Ahmed; White, Laura; Mallagh-Cassells, Heather  
**Subject:** Re: Meeting of Oversight Committee - Mr A O'B

Esther I will attend as your representative Anne

Sent from my BlackBerry 10 smartphone.

---

**From:** Gishkori, Esther  
**Sent:** Wednesday, 25 January 2017 16:24  
**To:** Toal, Vivienne; Stinson, Emma M; Hynds, Siobhan; Wright, Richard; McVey, Anne; Stinson, Emma M  
**Cc:** Weir, Colin; Khan, Ahmed; White, Laura; Mallagh-Cassells, Heather  
**Subject:** RE: Meeting of Oversight Committee - Mr A O'B

Anne,

I know I spoke to you about this yesterday so I'm hoping you can still go to this in my place.

The thing is that Tracey and Ronan are both involved in this and Heather was before so you are one of the few who isn't.

I understand that Mr O'Brien hand delivered his response to the SAI into my office today so can you bring it to the meeting.

Emma,

Please scan and send through to Vivienne's office before the meeting.

Could you also pull together the info to date for Anne so she can quickly brief herself in advance of the meeting.

Sorry about this but my leave tomorrow is unavoidable.

Many thanks

Esther.

**Esther Gishkori**  
**Director of Acute Services**  
**Southern Health and Social Care Trust**



Office

[Personal Information redacted by USI]

Mobile

[Personal Information redacted by USI]



[Personal Information redacted by USI]



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**From:** Toal, Vivienne  
**Sent:** 23 January 2017 21:51  
**To:** Stinson, Emma M; Hynds, Siobhan; Wright, Richard  
**Cc:** Weir, Colin; Khan, Ahmed; White, Laura; Mallagh-Cassells, Heather; Gishkori, Esther  
**Subject:** Re: Meeting of Oversight Committee - Mr A O'B

Esther,

This is a very important meeting and requires senior representation from Acute Services.

Given Ronan's involvement in the parallel process in relation to the scoping of the impact (actual or potential) on patients I think it is more appropriate to keep him separate from the oversight committee role in relation to deputising for you to ensure there is clear separation in relation to these processes.

Could you please arrange for another AD to deputise for you on Thursday to ensure Acute Services input to this process.

Many thanks  
Vivienne

Sent from my BlackBerry 10 smartphone.

---

**From:** Stinson, Emma M  
**Sent:** Monday, 23 January 2017 08:59  
**To:** Toal, Vivienne; Hynds, Siobhan; Wright, Richard  
**Cc:** Weir, Colin; Khan, Ahmed; White, Laura; Mallagh-Cassells, Heather; Gishkori, Esther  
**Subject:** RE: Meeting of Oversight Committee - Mr A O'B

Dear all

Unfortunately Esther will be unable to attend as she is on annual leave on Thursday however is happy for the meeting to go ahead in her absence and be updated later.

Many Thanks  
Emma

*Emma Stinson*

**PA to Mrs Esther Gishkori**  
**Director of Acute Services**  
**SHSCT, Admin Floor, Craigavon Area Hospital**



**Direct Line:** Personal Information redacted by USI

**Direct Fax:** Personal Information redacted by USI



Personal Information redacted by USI



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**From:** Toal, Vivienne  
**Sent:** 22 January 2017 20:33  
**To:** Hynds, Siobhan; Wright, Richard; Gishkori, Esther  
**Cc:** Weir, Colin; Khan, Ahmed; White, Laura; Mallagh-Cassells, Heather; Stinson, Emma M  
**Subject:** Re: Meeting of Oversight Committee - Mr A O'B

Great, thanks very much.  
V

Dr Khan asked whether there was any historical health issues in relation to Mr O'Brien, or any significant changes in his job role that made him unable to perform the full duties of Urologist of the Week. There was none identified, but it was felt that it would be useful to consider this.

**Decision**

As Case Manager, Dr Khan considered whether there was a case to answer following the preliminary investigation. It was felt that based upon the evidence presented, there was a case to answer, as there was significant deviation from GMC Good Medical Practice, the agreed processes within the Trust and the working practices of his peers.

This decision was agreed by the members of the Case Conference, and therefore a formal investigation would now commence, with formal Terms of Reference now required.

**Action: Mr Weir****Formal investigation**

There was a discussion in relation to whether formal exclusion was appropriate during the formal investigation, in the context of:

- Protecting patients
- Protecting the integrity of the investigation
- Protecting Mr O'Brien

Mr Weir reflected that there had been no concerns identified in relation to the clinical practice of Mr O'Brien.

The members discussed whether Mr O'Brien could be brought back with either restrictive duties or robust monitoring arrangements which could provide satisfactory safeguards. Mr Weir outlined that he was of the view that Mr O'Brien could come back and be closely monitored, with supporting mechanisms, doing the full range of duties. The members considered what would this monitoring would look like, to ensure the protection of the patient.

The case conference members noted the detail of what this monitoring would look like was not available for the meeting, but this would be needed. It was agreed that the operational team would provide this detail to the case investigator, case manager and members of the Oversight Committee.

**Action: Esther Gishkori / Ronan Carroll**

It was agreed that, should the monitoring processes identify any further concerns, then an Oversight Committee would be convened to consider formal exclusion.



## Urology Services Inquiry

Mr Weir and Esther Gishkori. This has been a significant learning point for me as Director of HR, and I am very sorry that my experience back in September 2016 was not at the level it should have been to challenge this in the best interests of our patients.

- 28(iii) The Return to Work Action Plan, dated 9<sup>th</sup> February 2017 as a means of protecting the public as per MHPS Section I Para 5, needed to be much more robust in my view, with greater clarity around reporting and escalation arrangements to the Case Manager and Medical Director. The arrangements should not have been dependent on a single person to monitor.
- 28(iv) I believe greater reporting to the Board of MHPS case data would have added greater accountability into our Trust system, including for example: numbers of cases; case context; timelines; adherence to process; reasons for any suspensions/exclusions; outcomes of cases; impact on patient care and employees; and lessons learnt. The rigor of that type of regular reporting could have assisted in pressing for conclusion of the process in respect of Mr O'Brien's case more quickly. Zoe Parks is currently progressing work for the Medical Director's Office to put in place a report to ensure improved Board level oversight of cases. The template for reporting is currently being developed for September 2022, and I will provide evidence of a Case Report submitted to the Board, when complete, to the Urology Services Inquiry as further discovery.
- 28(v) Ultimately the conduct panel which was determined as the appropriate action by the Case Manager following the MHPS investigation was never convened. Mr O'Brien was entitled to raise a grievance about the classification of the case under MHPS Section III Para 8. Mr O'Brien exercised his right to submit a grievance and did so by submitting an extensive 40 page grievance on 30<sup>th</sup> November 2018. That grievance covered many points throughout the lifespan of the process and submitting that grievance along with substantial subject access requests, had the effect of obfuscating the process and thereby delaying the conduct panel. Only one part of Mr O'Brien's grievance related

The Chair left the meeting for the next item.

6. **MAINTAINING HIGH PROFESSIONAL STANDARDS (MHPS) EXCLUSIONS**

Mrs Toal advised that under the MHPS framework, there is a requirement to report to Trust Board any medical staff who have been excluded from practice. She reported that one Consultant Urologist was immediately excluded from practice from 30<sup>th</sup> December 2016 for a four-week period. Mrs Toal reported that the immediate exclusion has now been lifted and the Consultant is now able to return to work with a number of restrictions in place.

Dr Wright explained the investigation process. He stated that Dr Khan has been appointed as the Case Manager and Mr C Weir, as Case Investigator. Mr J Wilkinson is the nominated Non Executive Director. Dr Wright confirmed that an Early Alert had been forwarded to the Department and the GMC and NCAS have also been advised.

7. **WAITING LIST INITIATIVES – RADIOLOGY**

The Chair informed members of a letter she had received from the Radiology Department expressing their concern at the Internal Audit review of Waiting List Initiative Payments 2016/17. Dr Wright explained the scope of this assignment which was undertaken by Internal Audit at the request of the Trust to carry out a review of the payments made to the Consultants earning the most from WLI work within the Trust in the period 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016. This review was set in the context of an initial review by the Trust following a FOI request and media coverage regarding WLI payments that identified the Southern Trust as having the highest WLI earners within Northern Ireland with one Consultant making it into the top 5 UK national list of highest earners.

Members were advised that the IA Report will be discussed at the forthcoming Audit Committee. Dr Wright explained that this has identified issues around the process and there appears to be a degree of confusion between payment for activity and payment for time, resulting in individuals being paid for more than they worked. The Trust has sought legal advice on the recovery of these alleged

McMurray confirmed that the Trust met with Senior and Junior Counsel on 15<sup>th</sup> December 2016 and has provided them with information to assist in their preparation of a responding Affidavit. He advised that [Personal Information redacted by USI] has been instructed as Senior Counsel and [Personal Information redacted by USI] as Junior Counsel for the Trust and both are very experienced in these matters. The Chair asked Mr McMurray if he was satisfied that there was appropriate support for Trust staff to prepare for and during Judicial Review proceedings. Mr McMurray advised that it is senior staff who will be attending and they are well prepared. Additional support has been offered to them, but they do not wish to avail of this at this point.

Mr McMurray updated members on the Nursing and Midwifery Council (NMC) referral relating to one of the Home Owners, who is a registered nurse. The NMC is now taking this forward as case review.

ii) [Personal Information redacted by USI]

Mr McMurray verbally updated members on the current position. He advised that the gentleman has been transferred to Muckamore Hospital for a period of assessment. There has been no confirmation as to whether the Judicial Review will be heard and he reminded members that this is based on the gentleman's solicitor's view that the Trust is obliged to provide a suitable secure accommodation bail address, which despite significant efforts, the Trust has been unable to secure. The Trust is attempting to procure a bespoke care package which is likely to be at a significant cost.

The Chair left the meeting for the next item.

## 6. **MAINTAINING HIGH PROFESSIONAL STANDARDS (MHPS) EXCLUSIONS**

Mrs Toal advised that under the MHPS framework, there is a requirement to report to Trust Board any medical staff who have been excluded from practice. She reported that one Consultant Urologist was immediately excluded from practice from 30<sup>th</sup> December 2016 for

 **Urology Services Inquiry**

query. It was at this point that I recalled my involvement in this case, and realised I had omitted it from my response to this question in my Section 21 response. The report had been saved in a different folder in my filing system to the other MHPS cases I had been involved in.

I forwarded the report to Miss Stinson on 14<sup>th</sup> February 2023.

I apologise to the Inquiry for this oversight.

4. At paragraph 7(xiv) (WIT - 41047), the last sentence which states *'Our solicitor replied with her comments marked on the document on 4th August 2017 (This can be found at Attachment folder S21 49 of 2022- Attachment 35), and these were incorporated into the draft Guidelines'* should be replaced with *'We obtained legal advice on this matter.'*

5. At paragraph 27(ii) (WIT – 41142), I indicated that a training plan would be provided once complete to the Urology Services Inquiry. I now attach a copy of the completed training plan. Please see **'1. SHSCT - Training Plan MHPS 2022 FINAL 18.9.2022 Version 1.0'** and **'2. Trust Board\_Committee Cover Sheet MHPS Training Plan 18.9.2022'**.

6. At paragraph 28(iv) (WIT – 41147), I indicated that I would provide evidence of a Case Report submitted to the Board when complete to the Urology Services Inquiry. I now attach the following:

**3. 'MHPS Cases Sept 22 Final Agreed'** – which includes Cover Sheet for Meeting dated 8<sup>th</sup> September 2022 and attached MHPS Formal Cases.

The September 2022 Case Report at 3. above was submitted to the Governance Committee meeting dated 8<sup>th</sup> September 2022 alongside an accompanying summary report from the Medical Director outlining the improvements made to date regarding implementation of MHPS within the

**Case Manager**

This role will usually be delegated by the Medical Director to the relevant Associate Medical Director. S/he coordinates the investigation, ensures adequate support to those involved and that the investigation runs to the appropriate time frame. The Case Manager keeps all parties informed of the process and s/he also determines the action to be taken once the formal investigation has been presented in a report.

**Case Investigator**

This role will usually be undertaken by the relevant Clinical Director, in some instances it may be necessary to appoint a case investigator from outside the Trust. The Clinical Director examines the relevant evidence in line with agreed terms of reference, and presents the facts to the Case Manager in a report format. The Case Investigator does not make the decision on what action should or should not be taken, nor whether the employee should be excluded from work.

**Note:** Should the concerns involve a Clinical Director, the Case Manager becomes the Medical Director, who can no longer chair or sit on any formal panels. The Case Investigator will be the Associate Medical Director in this instance. Should the concerns involve an Associate Medical Director, the Case Manager becomes the Medical Director who can no longer chair or sit on any formal panels. The Case Investigator may be another Associate Medical Director or in some cases the Trust may have to appoint a case investigator from outside the Trust. Any conflict of interest should be declared by the Clinical Manager before proceeding with this process.


**Non Executive Board Member**

Appointed by the Trust Chair, the Non-Executive Board member must ensure that the investigation is completed in a fair and transparent way, in line with Trust procedures and the MHPS framework. The Non Executive Board member reports back findings to Trust Board.



**COVER SHEET**

Meeting Date	9 <sup>th</sup> February 2023	
Agenda item	MHPS – Open Formal Cases	
Accountable Director	Name	Dr S Austin
	Position	Medical Director
Report Author	Name	Zoe Parks: Head of Medical HR
	Email Address	<small>Personal Information redacted by the USI</small>
This paper sits within the Trust Board role of: <b>Accountability</b>		
This paper is presented for: <b>Information</b>		
Links to Trust Corporate Objectives	<input checked="" type="checkbox"/>	Promoting Safe, High Quality Care
	<input type="checkbox"/>	Supporting people to live long, healthy active lives
	<input type="checkbox"/>	Improving our services
	<input type="checkbox"/>	Making best use of our resources
	<input type="checkbox"/>	Being a great place to work – supporting, developing and valuing our staff
	<input type="checkbox"/>	Working in partnership

	<p><i>The report author will complete this report cover sheet fully. The Accountable Director must satisfy themselves that the cover sheet is accurate and fully reflects the report. The expectation is that the Accountable Director has read and agreed the content (cover sheet and report).</i></p>
	<p><i>Its purpose is to provide the Trust Board/Committee with a clear summary of the report/paper being presented, how it impacts on the people we serve and the key matters for attention and the ask of the Trust Board/Committee</i></p>

**1. Detailed summary of paper contents:**

The purpose of this paper is to provide a report to Governance Committee summarising the formal Maintaining High Professional Standards cases. (Medical & Dental staff)

- There are currently 0 exclusions in place; there are 2 doctors are currently subject to restrictions on practice.
- There is currently 1 formal MHPS case [Personal Information redacted by USI] actively undergoing investigation.
- There is 1 formal MHPS case [Personal Information redacted by USI] which had been on hold. The Trust is now proceeding to a disciplinary hearing having obtained clearance from PSNI and fraud investigations. Awaiting engagement from the doctor, who is out of the country until [Personal Information redacted by USI].
- There are 2 formal MHPS cases which have concluded but continue to work through NHS Resolution action plans to facilitate return to full practice. (detailed below)
  - [Personal Information redacted by the] – This consultant is reintegrating back into full remit of their role on a different site. A new action plan addressing behavioural aspects is currently being considered (designed by NHS Resolution) to help reintegrate back into their role.
  - [Personal Information redacted by the] – This consultant is participating in a 9 month action plan (approved by NHS Resolution) to reintegrate them back into full remit of role by [Personal Information redacted by the USI].

**2. Areas of improvement/achievement:**

- All training for those currently in designated roles for active cases has been completed.

**3. Areas of concern/risk/challenge:**

Timescales: 4 weeks timescales as expected within MHPS for the completion of a case investigation is extremely challenging, given our investigators are also full time clinicians.

- Case [Personal Information] This case reissued Terms of Reference on [Personal Information redacted by USI] following a requested change from the practitioner. Given the Christmas holidays and some pre planned leave of the investigator, it was agreed with the individual and their representative that the case investigation would aim to complete by end of [Personal Information redacted by USI].
- Case [Personal Information] This case has been on-hold pending update from PSNI fraud investigators but the Trust has now shared counter fraud report with the doctor prior to a disciplinary hearing. This doctor has not worked locum shifts in the Southern Trust since [Personal Information redacted by USI].

**4. Impact: Indicate if this impacts with any of the following and how:**

Corporate Risk Register	N/A
Board Assurance Framework	
Equality and Human Rights	No

# Maintaining High Professional Standard Formal Cases

January 2023



FORMAL MHPS CASES – AS AT JANUARY 2023

No New Cases this Quarter

Previous Formal Cases reported

Ref	Case Opened	Summary	Case Manager	Case Investigator	NED assigned	Any restrictions/exclusions?	Is NHS Resolution involved?	Has GMC been informed?	Impact on Patient Care / associated SAI	Timescales
Personal Information	14.10.22	Personal Information redacted by USI CAH Conduct/behaviour concerns	Personal Information redacted by USI Trained Oct 22	Personal Information redacted by USI Trained Oct 22	Personal Information redacted by USI	Consultant Supervision No on-call No teaching	Yes REF Personal Information redacted by USI	ELA Advice 15.9.22 No referral	N/A	MHPS Case investigator report due 31 January 23  Terms of Reference issued on 22 Nov 22
Personal Information redacted by USI	24/7/20	Involved: Personal Information redacted by USI Medicine (Trust Bank)  Concerns re responsiveness of Personal Information redacted by USI out of hours Medicine Daisy Hill.  Also concerns re fraud with overlap of shifts between Belfast and Daisy Hill.	Personal Information redacted by USI  Trained Oct 20	Personal Information redacted by USI Psychiatrist  Trained Jan 20	Personal Information redacted by USI	Not currently working in SHSCT	Yes  Personal Information redacted by the USI	GMC 30.6.21 GMC investigating	SAI in relation to clinical case. SAI REF Personal Information redacted by USI	MHPS process determined on Personal Information redacted by USI referral to a Disciplinary Hearing. Could not proceed due to PSNI investigation.  Counter Fraud Report now shared with doctor in Personal Information redacted by the USI for comment. No response to date. Doctor out of country until Personal Information redacted by USI. If no engagement will proceed to Disciplinary Hearing in absence to determine final outcome.



## Urology Services Inquiry

21(iii) I consider that the role of the Non-Executive Director within MHPS is not clear in respect of the handling of representations about the investigation. MHPS gives no other guidance other than what is included in MHPS paragraph 8 of Section I i.e. *'to oversee the case to ensure that momentum is maintained and consider any representations from the practitioner about his or her exclusion or any representations about the investigation.'* Given the nature of the questions asked by Mr O'Brien on both occasions, it is difficult for me to see how the role of the Designated Board Member could have done anything other than ensure responses were provided to Mr O'Brien by those who had the knowledge to respond. I am still of the view that Mr Wilkinson fulfilled his role under MHPS by considering the representations and ensuring the responses were made to Mr O'Brien. I am, however, very open to learning if Mr Wilkinson's role should have gone further in terms of considering the responses to Mr O'Brien's representations provided to him by Dr Khan and Dr Wright respectively.

**22. Section I paragraph 37 of MHPS sets out a series of timescales for the completion of investigations by the Case Investigator and comments from the Practitioner. From your perspective as Director HR & Organisational Development, what is your understanding of the factors which contributed to any delays with regard to the following:**

**I. The conduct of the investigation;**

22(i) At the meeting of the Oversight Group on 22<sup>nd</sup> December 2016, I was very clearly of the view that the formal investigation was not going to be one that could be completed within four weeks as per Section I Para 37 of Maintaining High Professional Standards. The reason I knew this was at that stage, there were three concerns that required further exploratory work within Acute Services Directorate to understand the extent of the backlogs and missing notes. The four-week period of immediate exclusion during January 2017 allowed for the initial investigation and exploration of what the extent of the concerns were at that stage. This period led to the identification of a fourth

**Neves, Joana**

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**From:** Wilkinson, John  
**Sent:** 07 March 2017 18:53  
**To:** Aidan O'Brien  
**Cc:** Wilkinson, John  
**Subject:** RE: Update

Dear Aidan

Further to my meeting today, to receive an update as agreed, I can report the following:

1. I was given assurances that the case is progressing.
2. The terms of reference re the investigation will be issued to you imminently .
3. In addition you will be provided with a list of the people, at this stage, with whom the Case Investigator will interview.
4. I am assured that you will be given the opportunity to state your case as part of the process.
5. As the list of people being interviewed will take place over the next 3-4 weeks you could expect to be interviewed by mid to late April '17.
6. The questions you emailed to me last night I have passed on to HR for a response. The questions will be addressed by appropriate persons. I am assured these will be responded to as quickly as possible.

As per my role I will continue to ensure that the momentum is maintained.

If you have any further representations which you would like me to make on your behalf re the investigation, you should forward them to me using this email or using [johnwilkinson@usj.com](mailto:johnwilkinson@usj.com) Personal Information redacted by the USJ

I hope this is helpful.

Regards

John

**From:** Aidan O'Brien Personal Information redacted by the USJ  
**Sent:** 06 March 2017 20:08  
**To:** Wilkinson, John  
**Subject:** Questions to be asked

Dear John,

I thank you for taking my call earlier today and I regret disturbing you during your other work commitments.

I wish to emphasise to you how much I appreciate your efforts on my behalf.

However, I had expected or assumed that I would receive a communication from you informing me of answers which you had received to the questions which we had raised with you when we met on 07 February 2017.

I was entirely taken aback and disappointed that a response should come from the Case Manager.

That it did implied to me that your role on my behalf does not enjoy an autonomy.

Since speaking with you earlier today, I have reviewed the Trust Guidelines forensically.

I have attached a list of questions which I require to be answered concerning the conduct of the Trust in handling the concerns raised prior to the decision to formally investigate and immediately exclude.

As these questions pertain to the period prior to the appointment of the Case Manager, I will regard any reply from the Case Manager to be entirely inappropriate,

Many thanks,

## Toal, Vivienne

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**From:** Toal, Vivienne [Personal Information redacted by USI]  
**Sent:** 15 March 2018 13:52  
**To:** Parks, Zoe; 'Hynes, Liz' [Personal Information redacted by USI]  
**Cc:** Walker, Helen; Hynds, Siobhan; Mallagh-Cassells, Heather  
**Subject:** Re: Review of Maintaining High Professional Standards Policy.

Liz

Can I also add to this that I have some difficulty with the role of the NED in MHPS cases - the document is not clear and at times we have got completely muddled as to what their role actually is and how far they can go when contacted by a doctor going through a process. I think this needs explored as part of any review.

Vivienne

Sent from my Samsung Galaxy smartphone.

----- Original message -----

**From:** "Parks, Zoe" [Personal Information redacted by USI]  
**Date:** 15/03/2018 13:24 (GMT+00:00)  
**To:** "'Hynes, Liz' [Personal Information redacted by USI]"; [Personal Information redacted by USI]  
**Cc:** "Walker, Helen" [Personal Information redacted by USI]; "Toal, Vivienne" [Personal Information redacted by USI]; [Personal Information redacted by USI], "Hynds, Siobhan" [Personal Information redacted by USI], "Mallagh-Cassells, Heather" [Personal Information redacted by USI]  
**Subject:** Review of Maintaining High Professional Standards Policy.


Liz,

Please find attached some comments from the Southern Trust. Please do not hesitate to contact me if you have any queries.


Many thanks

Zoë

Zoe Parks  
Head of Medical Staffing HROD  
Southern Health & Social Care Trust

 [Personal Information redacted by USI]

My working days are Tuesday-Friday

 [Personal Information redacted by USI] (Internal: [Personal Information redacted by USI] if dialling from legacy telephone)

Blackberry [Personal Information redacted by USI]

**You can follow us on:**



## 5.0 Training Plan – Trust Board Training – MHPS

Training Name	MHPS Procedures for full Trust Board
Refresh required	Every 2 years
Externals Involved	DLS – Legal Adviser with Trust support
Duration	1 Half Day
Date and Time	This training will be arranged as required and communicated to Trust Board
Logistics Required	Online or Face to Face. Records of Training Attendance to be recorded by facilitator and returned to Medical HR
Room Arrangements	Computer and Wi-Fi access

<b>Training Objectives:</b>	By the end of course, delegates will:
	<ul style="list-style-type: none"> <li>▪ Have an understanding of the Maintaining High Professional Standards Framework and the Trust Guidelines 2022</li> <li>▪ Understand the Informal &amp; Formal procedures outlined with MHPS and Trust Guidelines 2022</li> <li>▪ Know how MHPS interfaces with appraisal &amp; revalidation, NHS Resolution/PPA, Remedial Action/Back on Track</li> <li>▪ Gain an overview of how risk and patient safety is managed under MHPS Framework</li> <li>▪ Be clear on expectations of role and responsibilities as Chief Executive, Medical Director, Director of HR, Designated Board member and /or Panel member within MHPS</li> <li>▪ Know the specific arrangements that apply when a formal exclusion is implemented</li> <li>▪ Gain an overview of the legal challenges that can result from MHPS cases</li> <li>▪ Be clear on MHPS reporting to governance committee</li> </ul>



**Hynds, Siobhan**

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**From:** Hynds, Siobhan [Personal Information redacted by USI]  
**Sent:** 21 February 2017 13:47  
**To:** Khan, Ahmed; Wright, Richard  
**Subject:** RE: Confidential

Yes - I'll get something arranged asap.

Siobhan

-----Original Message-----

From: Khan, Ahmed  
Sent: 21 February 2017 12:52  
To: Wright, Richard  
Cc: Hynds, Siobhan  
Subject: RE: Confidential

Richard, Thanks. I am content with this arrangement. From our last meeting with Mr O'Brien, An urgent job planning meeting is required within first week or so of his return . I am sure Dr Weir would be able to facilitate this.

Siobhan, I am sure you will update Neeta for this case and her role as investigator. Can a short meeting be arranged in next couple of weeks for 3 of us.

Regards,  
Ahmed

-----Original Message-----

From: Wright, Richard  
Sent: 21 February 2017 11:40  
To: Khan, Ahmed  
Cc: Hynds, Siobhan  
Subject: Confidential

Hi Ahmed

Thanks for your help so far with the AOB investigation. On Friday last Vivienne and I [LPP Information redacted by the USI] after AOB approached John Wilkinson (NED) In short we are content that we continue with formal MHPS process and have lifted the immediate exclusion.

However [LPP Information redacted by the USI] given Colin Weir's role as his CD at the time this broke there is a potential conflict of interest even though from our perspective he was doing a great job. [LPP Information redacted by the USI] we need to reappoint a different case investigator who is not involved with AOB.

To that end I have asked Neta Chada to take over as case investigator and she has agreed. If you are content with this can you arrange to meet her to discuss. Siobhan is drafting a letter to AOB on your behalf. I would be happy to let Colin Weir know, if your are content with this approach.

Apologies for the inconvenience.

regards  
Richard

Sent from my iPad

**Toal, Vivienne**

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**From:** Toal, Vivienne [Personal Information redacted by USI]  
**Sent:** 07 February 2018 23:24  
**To:** Hynds, Siobhan  
**Subject:** FW: Aob

Siobhan – can you please update me in the morning? Governance committee on.  
Vivienne

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**From:** Toal, Vivienne  
**Sent:** 05 February 2018 07:49  
**To:** Hynds, Siobhan  
**Subject:** Aob

Siobhan

Any further developments with aob?

Has letter gone to him to bring this to an end?

Could you also ring Ronan.. .Mark Haynes advised on Thursday that his triaging was slipping.

Please can you send me an update and also can you ask Ahmed Khan to send John Wilkinson an update before Thursday if he hasn't already? Governance Committee on Thursday and John will def want to know an update if it hasn't gone already.

Thanks  
Vivienne

Sent from my Samsung Galaxy smartphone.