

## 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.

As a minimum, terms of reference should set out:

- the issues to be investigated;
- the period under investigation;
- the timescale for completion.

It may be that as the investigation progresses the terms of reference are found to be too narrow or that new issues emerge that warrant further investigation. In such cases, the investigator(s) should inform the case manager who should seek the agreement of the responsible manager or DMG to a widening of the terms. Such requests should be decided on promptly so that the investigation is not delayed. The practitioner must be informed of any changes to the terms of reference unless, exceptionally, he is kept unaware of the investigation at all.

### 3.2 Appoint a case manager

A case manager is normally appointed by the DMG (in primary care) or the responsible manager (in the H&C sector). Usual practice is for a case manager to be a senior member of the organisation's staff, with a role to:

- ensure that the investigation is conducted efficiently;
- ensure that confidentiality is maintained where appropriate;
- act as the coordinator between investigators, the practitioner and anyone who the investigators need to interview;
- obtain any documentation required;
- ensure that the process is properly documented;
- receive the investigator's report;
- make recommendations to the responsible manager or the DMG on what action might follow, having regard to the contents of the investigator's report.

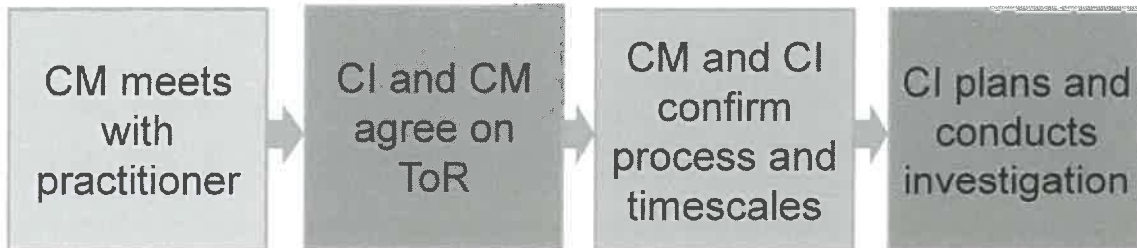
To be seen to be objective, case managers need to be able to demonstrate that they:

- understand the general nature of the concerns raised and the clinical and work contexts in which they occurred;
- are sufficiently senior within the organisation to secure the cooperation of other staff members;
- are familiar with the local policy for investigating concerns and related procedures;
- have, preferably, some training and experience in undertaking performance investigations;
- have access to relevant advice and expertise from colleagues within the organisation;
- have access to relevant external experts and authority to instruct them;
- have the necessary protected time to support the investigation.

The case manager should have no real or perceived conflict of interest in relation to any aspect of the investigation. Given the structure of the NHS and the small size of some organisations, minor conflicts of interest are difficult to avoid. Any reservations about the choice of a case manager ought to be reported to the DMG or responsible officer at the outset so that a decision can be made about their significance. The practitioner's views should also be taken into account.

In England, MHPS requires that the medical director should act as case manager for cases involving clinical directors and consultants.

## The investigation process



Advise / Resolve / Learn

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## Planning your investigation




### AGREE

- That there is no conflict of interest or bias
- The parameters of the investigation and follow up in writing
- What to do if there are issues of immediate concern / patient safety issues
- Time frame (reviewing evidence and producing the report)
- When and where the investigation will take place
- How patient consent is to be treated
- Gaining access to records
- Payment
- Indemnity
- Who keeps copies of the report

Advise / Resolve / Learn


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# Roles and responsibilities and the challenge of being a Case Manager

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Advise / Resolve / Learn 91



## Exploring the difference between roles

| <b>Case Investigator</b>  | <b>Case Manager</b>  |
|---|--|
| <ul style="list-style-type: none"> <li>• Agrees ToR with CM</li> <li>• Decides who needs to be interviewed</li> <li>• Interviews witnesses</li> <li>• Gathers evidence</li> <li>• Documents findings <i>of fact</i></li> <li>• Drafts investigation report</li> </ul> | <ul style="list-style-type: none"> <li>• Determines ToR with CI</li> <li>• Reviews the CI report</li> <li>• Decision making</li> <li>• Recommendations</li> <li>• Presents case to Panel</li> <li>• Offers support for the practitioner</li> </ul> |

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Advise / Resolve / Learn 92

**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.

## Toal, Vivienne

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**From:** Khan, Ahmed [Personal Information redacted by USI]  
**Sent:** 24 May 2018 11:14  
**To:** Toal, Vivienne  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.

Vivienne, I have been receiving it until earlier this year from Ronan Carroll, haven't received it in few months now. Have spoken to him recently & he will forward this to me.  
Is the report ready ?  
Regards,  
Ahmed

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**From:** Toal, Vivienne  
**Sent:** 23 May 2018 07:40  
**To:** Khan, Ahmed  
**Subject:** FW: Return to Work Action Plan February 2017 FINAL.

Ahmed  
See below re AOB

Have you been getting these updates on a regular basis in terms of assurance?

Vivienne

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**From:** Hynds, Siobhan  
**Sent:** 23 May 2018 00:48  
**To:** Toal, Vivienne  
**Subject:** FW: Return to Work Action Plan February 2017 FINAL.

Hope this helps!

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**From:** Corrigan, Martina  
**Sent:** 22 May 2018 17:29  
**To:** Hynds, Siobhan; Carroll, Ronan  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.

Hi Siobhan

Apart from one deviation on 1 February 2018 when Mr O'Brien had to be spoken to regarding a delay in Red Flag Triage and he immediately addressed it, I can confirm that he has adhered to his return to work action plan, which I monitor on a weekly basis.

**CONCERN 1** – one deviation when the red flag was not triaged for 6 days – he was spoken to and it was resolved that evening and his reason was due to the busyness of his oncall week when he had spent quite a bit of it in emergency theatre.

**CONCERN 2** – adhered to – no notes are stored off premises nor in his office

**CONCERN 3** – adhered to – Mr O'Brien uses digital dictation and dictates on all charts after clinics and he has an outcome on all patients including DNA patients

**Gibson, Simon**

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**From:** Carroll, Ronan [Personal Information redacted by USI]  
**Sent:** 18 October 2018 21:10  
**To:** Khan, Ahmed; Gibson, Simon  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.  
  
**Importance:** High

Ahmed  
I am in London tomorrow sorry . I have sent simon some information re backlog  
Ronan

*Ronan Carroll*  
*Assistant Director Acute Services*  
*Anaesthetics & Surgery*  
*Mob* [Personal Information redacted by USI]  
*Ext* [Personal Information redacted by USI]

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**From:** Khan, Ahmed  
**Sent:** 18 October 2018 16:29  
**To:** Gibson, Simon; Carroll, Ronan  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.  
**Importance:** High

Hi, this is clearly unacceptable practice from both the clinician and responsible managers. I am meeting with Siobhan tomorrow regarding this MHPS at 11.30 to 12.30 in DHH , can you attend this ( face to face or Telephone)?  
Thanks  
AK

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**From:** Gibson, Simon  
**Sent:** 18 October 2018 13:12  
**To:** Carroll, Ronan; Weir, Colin; Khan, Ahmed; Haynes, Mark  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.

Dear Ronan

OK – if you can work to find out why the dictation has gone out, I'll pick up with Ahmed in terms of Colin's original questions.

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

[Personal Information redacted by USI]  
[Personal Information redacted by USI]

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**From:** Carroll, Ronan  
**Sent:** 18 October 2018 12:39  
**To:** Gibson, Simon; Weir, Colin; Khan, Ahmed; Haynes, Mark  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.  
**Importance:** High

Simon

I think you are stating the obvious.

With Martina having been off since June the overseeing function has not taken place and in the day to day activities was overlooked

But We need to understand why this the dictation has gone out, this could explain the volume of notes or there may be some other reason

Ronan

*Ronan Carroll*  
*Assistant Director Acute Services*  
*Anaesthetics & Surgery*

*Mob* [Personal Information redacted by USI]  
*Ext* [Personal Information redacted by USI]

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**From:** Gibson, Simon  
**Sent:** 18 October 2018 12:31  
**To:** Weir, Colin; Khan, Ahmed; Carroll, Ronan; Haynes, Mark  
**Subject:** RE: Return to Work Action Plan February 2017 FINAL.

Dear Ronan

What is most concerning here is that there were monitoring and supervision arrangements put in place, which we confirmed to a range of interested parties.

If he has a backlog of clinic letters and discharges going back to June, have these arrangements fallen down?

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

[Personal Information redacted by USI]

[Personal Information redacted by USI]

[Personal Information redacted by USI]

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**From:** Weir, Colin  
**Sent:** 18 October 2018 11:33  
**To:** Khan, Ahmed; Gibson, Simon; Carroll, Ronan; Clayton, Wendy; Haynes, Mark  
**Subject:** FW: Return to Work Action Plan February 2017 FINAL.  
**Importance:** High

Ahmed/Simon

Please for your urgent consideration and action

See email correspondence below. Please see attached excel spreadsheet and go to Oct TAB or see below in email trail



Personal Information redacted by USI

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**From:** Carroll, Ronan  
**Sent:** 23 October 2018 15:34  
**To:** Gibson, Simon; Khan, Ahmed; Hynds, Siobhan; Toal, Vivienne  
**Cc:** Gishkori, Esther  
**Subject:** RE: AOB notes and dictation  
**Importance:** High

Re the outcome of today's meeting can I ask are we to continue monitoring AOB against the 4 elements of the AP?  
Ronan

*Ronan Carroll*  
Assistant Director Acute Services  
Anaesthetics & Surgery

Mob [Personal Information redacted by USI]  
Ext [Personal Information redacted by USI]

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**From:** Carroll, Ronan  
**Sent:** 23 October 2018 15:05  
**To:** Gibson, Simon; Khan, Ahmed; Hynds, Siobhan; Kerr, Vivienne  
**Subject:** RE: AOB notes and dictation

Yes

*Ronan Carroll*  
Assistant Director Acute Services  
Anaesthetics & Surgery

Mob [Personal Information redacted by USI]  
Ext [Personal Information redacted by USI]

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**From:** Gibson, Simon  
**Sent:** 23 October 2018 15:05  
**To:** Carroll, Ronan; Khan, Ahmed; Hynds, Siobhan; Kerr, Vivienne  
**Subject:** RE: AOB notes and dictation

P.S - Maybe should have gone to Viv Toal?

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

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**From:** Carroll, Ronan  
**Sent:** 23 October 2018 15:02  
**To:** Khan, Ahmed; Hynds, Siobhan; Gibson, Simon; Kerr, Vivienne  
**Subject:** FW: AOB notes and dictation  
**Importance:** High

Please see updated position – apologies for the delay

*Ronan Carroll*

## Toal, Vivienne

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**From:** Hynds, Siobhan [Personal Information redacted by USI]  
**Sent:** 18 September 2019 22:51  
**To:** Toal, Vivienne  
**Subject:** FW: AOB concerns - escalation  
**Attachments:** Backlog report (8.87 KB); FW: Red Flag Cystoscopy (134 KB); red flags for triage (351 KB); red flags for Triage (359 KB); FW: Urology TDU triage (9.79 KB); Outstanding triage as of 16 Sept 19 (1.54 MB)

Vivienne

FYI – can we chat urgently tomorrow about this.

Thanks

Siobhan

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**From:** Corrigan, Martina  
**Sent:** 16 September 2019 16:37  
**To:** Khan, Ahmed  
**Cc:** Hynds, Siobhan  
**Subject:** AOB concerns - escalation

Dear Dr Khan

As requested, please see below which I am escalating to you (emails attached showing where I have been asking him to address)

**CONCERN 1 –not adhered to, please see escalated emails. As of today Monday 16 September, Mr O'Brien has 26 paper referrals outstanding, and on Etriage 19 Routine and 8 Urgent referrals.**

**CONCERN 2** – adhered to – no notes are stored off premises nor in his office (this is only feasible to confirm as there have been NO issues raised regarding missing charts that Mr O'Brien had)

**CONCERN 3 – not adhered to – Mr O'Brien continues to use digital dictation** on SWAH clinics but I have done a spot-check today and:

*Clinics in SWAH*

EUROAOB – 22 July and 12 August all patients have letters on NIECR

*Clinics held in Thorndale Unit, Craigavon Area Hospital*

CAOBT DUR - 20 August 2019 had 12 booked to clinic 11 attendances & 1 CND but no letters at all

CAOBUO – 23 August 2019 – 10 attendance and only 1 letter on NIECR

CAOBUO – 30 August 2019 – 12 booked to clinic, 1 CND, 1 DNA and 0 Letters on NIECR

CAOBUO – 3 September – 8 booked to clinic – 0 letters on NIECR

I have asked Katherine Robinson to double-check that these are not in a backlog for typing and I will advise

**CONCERN 4** – adhered to – no more of Mr O'Brien's patients that had been seen privately as an outpatient has been listed,

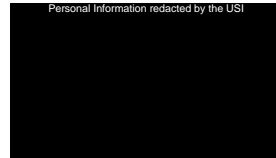
Should you require anything further, please do not hesitate to contact me.



## Urology Services Inquiry

would have had, and continue to have, with Siobhan Hynds, I believe it is very likely we did have a conversation about her email of 18<sup>th</sup> September 2019.

- 20(xi) I do not recall taking any action personally to address or escalate the concerns on the back of Siobhan Hynds email to me on 18<sup>th</sup> September 2019. However, on 18<sup>th</sup> September 2019 Dr Khan as Case Manager had already escalated an email to Dr O’Kane, Medical Director, informing her that he had requested an urgent meeting with Siobhan Hynds and Simon Gibson to discuss the issue and other updates regarding the MHPS case **(this can be located at Relevant to HR / Evidence received after 4 November 2021 / Reference no 77 – S Hynds no 77 /20190923 - Email - RE AOB concerns – escalation)** Dr Khan emailed Dr O’Kane again on 23<sup>rd</sup> September 2019 **(this can also be located at Relevant to HR / Evidence received after 4 November 2021 / Reference no 77 – S Hynds no 77 /20190923 - Email - RE AOB concerns – escalation)** to advise that he and Siobhan Hynds had discussed the case the previous week and that Siobhan Hynds had requested “*more information / clarification*” from Martina Corrigan. On 28<sup>th</sup> September 2019, Siobhan Hynds followed up with Martina Corrigan by email to check if she had received any more information on the backlogs. Martina Corrigan replied to Siobhan Hynds on 29<sup>th</sup> September 2019 to advise “*With the current operational pressures with beds and short staffed wards I didn’t get to look properly at the backlog. I did do a check on a clinic of all of the other consultants and all dictated, and I did look at 2 AOB clinics in July and both have letter dictated on. I will delve deeper when I get back from my leave.*” Later that evening, 29<sup>th</sup> September 2019, Siobhan Hynds emailed Dr Khan with the update from Martina Corrigan and advised him that until Martina had time to give more of an update, she was suggesting that he would need to ask Mr Haynes as AMD to have a conversation with Mr O’Brien about the current status of his work and backlog details. **This can be located at Relevant to HR/Evidence after 4 November HR/Reference 77/S Hynds no 77/20190929 - E-mail Action Plan - A O’B.msg.**



Mrs Martina Corrigan  
Head of ENT, Urology, Ophthalmology and Outpatients  
Craigavon Area Hospital,  
Craigavon.  
BT63 5QQ

07 November 2019.

Dear Martina,

I write in response to your request that I meet with you and Mr. McNaboe tomorrow, Friday 08 November 2019, to discuss deviations from a Return to Work Plan. I am happy to meet with both of you to discuss any issues, though I do find it inappropriate and stressful to do so in the midst of a Cancer Review Clinic.

When I met with the Investigation Case Manager on 09 February 2017, I was advised, in writing, of 'the action plan for Mr. O'Brien's return to work pending conclusion of the formal investigation process under Maintaining High Professional Standards Framework'. The Case Manager concluded the investigation with his Determination of 28 September 2018, and which he presented to me on 01 October 2018. In his Determination, the Case Manager wrote that the 'purpose of this plan was to ensue risks to patients were mitigated during the course of the formal investigation process'.

In the Determination, the Case Manager also recommended that a further 'action plan should be put in place with the input of Practitioner Performance Advice (NCAS), the Trust and Mr. O'Brien for a period of time agreed by the parties'. It was recommended that this 'action plan must address any issues with regard to patient related admin duties and there must be an accompanying agreed balanced job plan to include appropriate levels of administrative time and an enhanced appraisal programme'. The Trust has failed to implement this recommendation to date.

It is evident that the issues that you wish to discuss, cannot be considered deviations from a Return to Work Plan which expired in September 2018.

Yours sincerely,

A handwritten signature in blue ink that reads "Aidan O'Brien".

Aidan O'Brien



## Urology Services Inquiry

23(xiv) At various points during the investigation I checked with Siobhan Hynds that investigation updates to John Wilkinson, Designated Board Member had been provided by Dr Khan, Case Manager. The first of these was 3<sup>rd</sup> April 2017 **(this can be located at Relevant to HR / Evidence received after 4 November 2021 / Reference no 77 – S Hynds no 77 / 20170403 - Email – Aob)**. My responses above from 22(xvi) to 22(xxi) provide further details and document signposting.

23(xv) My responses above at 20(ii), 20(iii) and 20(vii) outline the actions I took in relation to escalation of concerns regarding Mr O'Brien's adherence to the Return to Work Plan.

### **MHPS Determination**

**24. Outline the content of all discussions you had with Dr Ahmed Khan, regarding his Determination under Section I paragraph 38 of MHPS.**

24(i) To the best of my recollection, the only conversation I had with Dr Khan regarding his Determination under MHPS Section I para 38 was on 27<sup>th</sup> September 2018 in the office of Shane Devlin, Chief Executive. Dr Khan forwarded a copy of the Draft Case Manager Determination to Shane Devlin and I on 26<sup>th</sup> September 2018 by email and we then met with Dr Khan the following evening, 27<sup>th</sup> September 2018 to discuss the report **(this can be located at Relevant to HR/ Evidence received after 4 November 2021/ Reference no 77/ V Toal no 77/ 20180926 Email from Dr Khan re case manager determination)**. It was appropriate for Dr Khan to meet with Shane Devlin as Chief Executive given Dr Khan's dual role as Case Manager and Acting Medical Director, to ensure awareness of the Case Determination recommendations at the next level.

24(ii) My comments to Dr Khan centred around checking what the advice from Practitioner Performance Advice (formerly NCAS) had been. Dr Khan

February 2017. The purpose of this action plan was to ensure risks to patients were mitigated and his practice was monitored during the course of the formal investigation process. Mr O'Brien worked successfully to the action plan during this period.

It is my view that in order to ensure the Trust continues to have an assurance about Mr O'Brien's administrative practice/s and management of his workload, an action plan should be put in place with the input of Practitioner Performance Advice (NCAS), the Trust and Mr O'Brien for a period of time agreed by the parties.

The action plan should be reviewed and monitored by Mr O'Brien's Clinical Director (CD) and operational Assistant Director (AD) within Acute Services, with escalation to the Associate Medical Director (AMD) and operational Director should any concerns arise. The CD and operational AD must provide the Trust with the necessary assurances about Mr O'Brien's practice on a regular basis. The action plan must address any issues with regards to patient related admin duties and there must be an accompanying agreed balanced job plan to include appropriate levels of administrative time and an enhanced appraisal programme.

b. An exclusion from work

There was no decision taken to exclude Mr O'Brien at the outset of the formal investigation process rather a decision was taken to implement and monitor an action plan in order to mitigate any risk to patients. Mr O'Brien has successfully worked to the agreed action plan during the course of the formal investigation. I therefore do not consider exclusion from work to be a necessary action now.

### **3. There is a case of misconduct that should be put to a conduct panel**

The formal investigation has concluded there have been failures on the part of Mr O'Brien to adhere to known and agreed Trust practices and that there have also been failures by Mr O'Brien in respect of 'Good Medical Practice' as set out by the GMC.

Whilst I accept there are some wider, systemic failings that must be addressed by the Trust, I am of the view that this does not detract from Mr O'Brien's own individual professional responsibilities.

During the MHPS investigation it was found that potential and actual harm occurred to patients. It is clear from the report that this has been a consequence of Mr O'Brien's conduct rather than his clinical ability. I have sought advice from Practitioner

The response that I comprised (Tab 5) provided an historical background to my work at the Urology Service, detailed a criticism of the investigation and provided a response to the specific terms of reference. In addition, the response provided detail of the points in mitigation that I wished to make. I provided substantial detail of the additional workload that I had undertaken in the years before my exclusion. I provided detail of the physical discomfort that I faced whilst waiting for the opportunity to take time for my own surgery in November 2016. In addition, I noted that I was additionally assisting Mr Suresh, at the Trust's request, by providing support when he was Urologist of the Week.

None of this mitigation finds its way into the Case Manager's determination. The Case Manager did make a solitary note at an earlier part of the document that I had "*provided a detailed context to the history of the Urology Service and the workload pressures he faced*". However, it does not appear that the Case Manager has considered this relevant to his determination whatsoever.

The failure to consider these factors is prejudicial to any determination of these issues, and represents a breach of the Trust Guidelines and of sections 3 and 17 of my contract of employment, a breach of natural justice, and a breach of Article 6 of the European Convention.

#### 2.9.4 Wrongful Classification of Misconduct

It is my view that the determination has wrongly classified the issues of concern as Misconduct. Appendix 3 of the Trust Guidelines states as follows:

*"If the Practitioner considers that the case has been wrongly classified as misconduct, they are entitled to use the Trust's Grievance Procedure or make representations to the designated Board Member"*

Accordingly, this grievance filed pursuant to the Trust Grievance Procedure should also be treated as a Grievance in relation to the classification of the case as a case of misconduct. For the reasons outlined at Paragraph 2.7 above, it would be unreasonable to refer the issue relating to private patients to a Conduct panel in any case. In relation to the other concerns, my reasons follow.

At section 3 of the determination, the Case Manager has found that there are no concerns about my clinical ability. I agree that the concerns should not be considered as concerns about my clinical ability. However, the Case Manager goes on to state:

*"It is clear from the report that this has been a consequence of Mr O'Brien's conduct rather than his clinical ability."*

It is my view that the Case Manager has erred in coming to the view that if the issues are not a related to my clinical ability, then they must be related to conduct. I contend that it does not follow that these issues are acts of misconduct, even taken at their absolute height.

I believe that it should be clear that I have and continue to work extensive hours over and above my job plan to try to meet the needs of patients as part of a service that is known to be severely stretched. Referring back to the letter given to me on 23<sup>rd</sup> March 2016, senior management stated, "We are fully aware and appreciate all the hard work, dedication and time spent during

Subject: Formal Grievance

From: O'Brien, Aidan <[redacted]>

To: Toal, Vivienne <[redacted]>

Sent: 19/12/2018 00:23:41

Dear Mrs. Toal,

Thank you for your letter of 14 December 2018.

I look forward to receiving the requested documents.

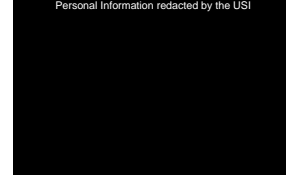
On receipt of the documents, I would be grateful to meet with the Grievance Panel to discuss the format and sequencing of the management of the Grievance.

Yours sincerely,

Aidan O'Brien.



**STRICTLY PRIVATE & CONFIDENTIAL**



Mrs. Vivienne Toal,  
Director of Human Resources,  
Southern Health & Social Services,  
Trust Headquarters  
Craigavon Area Hospital.  
Craigavon.  
BT63 5QQ.

12 March 2019.

Dear Mrs. Toal,

**Request for Further Information**

Since receipt of the information provided by you on 11 January 2019, I submitted all documentation arising from the Investigation, including the Investigator's Report, my Comments relating to the Investigator's Report, the Case Manager's Determination and the Formal Grievance, to the Medical Protection Society for its consideration.

At the request of the Medical Protection Society, I then submitted the same documentation to the Legal Counsel appointed by the Society to act upon my behalf.

Legal Counsel has since submitted a dossier of further information to be requested.

I have attached the further requested information which I look forward to receiving from you.

Following its receipt, you will be advised whether any further information is to be requested, and /or whether the Formal Grievance is to be amended,

Yours sincerely,

A handwritten signature in blue ink that reads "Aidan O'Brien".

Aidan O'Brien.

The formal investigation report does not highlight any concerns about Mr O'Brien's clinical ability. The concerns highlighted throughout the investigation are wholly in respect of Mr O'Brien's administrative practices. The report highlights the impact of Mr O'Brien's failings in respect of his administrative practices which had the potential to cause harm to patients and which caused actual harm in 5 instances.

I am satisfied, taking into consideration advice from Practitioner Performance Advice (NCAS), that this option is not required.

**6. There are serious concerns that fall into the criteria for referral to the GMC or GDC**

I refer to my conclusion above. I am satisfied that the concerns do not require referral to the GMC at this time. Trust processes should conclude prior to any decision regarding referral to GMC.

**7. There are intractable problems and the matter should be put before a clinical performance panel.**

I refer to my conclusion under option 6. I am satisfied there are no concerns highlighted about Mr O'Brien's clinical ability.

**6.0 Final Conclusions / Recommendations**

This MHPS formal investigation focused on the administrative practice/s of Mr O'Brien. The investigation report presented to me focused centrally on the specific terms of reference set for the investigation. Within the report, as outlined above, there have been failings identified on the part of Mr O'Brien which require to be addressed by the Trust, through a Trust conduct panel and a formal action plan.

The investigation report also highlights issues regarding systemic failures by managers at all levels, both clinical and operational, within the Acute Services Directorate. The report identifies there were missed opportunities by managers to fully assess and address the deficiencies in practice of Mr O'Brien. No-one formally assessed the extent of the issues or properly identified the potential risks to patients.

Default processes were put in place to work around the deficiencies in practice rather than address them. I am therefore of the view there are wider issues of concern, to be considered and addressed. The findings of the report should not solely focus on one individual, Mr O'Brien.

In order for the Trust to understand fully the failings in this case, I recommend the Trust to carry out an independent review of the relevant administrative processes

*Investigation Under the Maintaining High  
Professional Standards Framework*

*Case Manager Determination 28 September 2018*

with clarity on roles and responsibilities at all levels within the Acute Directorate and appropriate escalation processes. The review should look at the full system wide problems to understand and learn from the findings.

**Hynds, Siobhan**

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**From:** Wallace, Stephen (Personal Information redacted by USI)  
**Sent:** 21 July 2020 23:02  
**To:** OKane, Maria; Toal, Vivienne; Haynes, Mark; Carroll, Ronan; Hynds, Siobhan; Corrigan, Martina  
**Subject:** FW: General Medical Council - Mr O'Brien  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** Wallace, Stephen **On Behalf Of** OKane, Maria  
**Sent:** 21 July 2020 23:00  
**To:** Chris Brammall (Personal Information redacted by USI) (Personal Information redacted by USI) Joanne Donnelly (Personal Information redacted by USI)  
**Subject:** General Medical Council - Mr O'Brien

Thank you Chris,

Further to previous email below please see an update on additional information has requested.

- Mr O'Brien's solicitor has confirmed that Mr O'Brien will refrain from seeing any private patients at his home or any other setting
- The independent review of relevant administrative processes as recommended by Dr Khan has not yet been completed, this is scheduled for conclusion by September 2020

The medical records for service user A and service user B as identified in the information previously shared in the 'summary of concerns' are still subject to screening for advancement as potential Serious Adverse Incidents, we are awaiting the completion of this process. I will provide an update on this in due course.

I also wish to inform you that Mr O'Brien's contract of employment has now ceased with the Southern Health and Social Care Trust as of the 17<sup>th</sup> July 2020 as a result of Mr O'Brien's planned retirement.

Regards

Dr Maria O'Kane  
Medical Director

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**From:** Chris Brammall (Personal Information redacted by USI)  
**Sent:** 15 July 2020 07:30  
**To:** OKane, Maria  
**Subject:** RE: General Medical Council - Mr O'Brien

That's great, many thanks Dr O'Kane

Chris Brammall  
Investigation Officer  
General Medical Council  
3 Hardman Street, Manchester, M3 3AW

Email: (Personal Information redacted by USI)

Website: [www.gmc-uk.org](http://www.gmc-uk.org)

Telephone: Personal Information redacted by USI

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**From:** OKane, Maria Personal Information redacted by USI

**Sent:** 14 July 2020 19:58

**To:** Chris Brammall Personal Information redacted by USI; Toal, Vivienne  
Personal Information redacted by USI; Haynes, Mark Personal Information redacted by USI; Wallace,  
Stephen Personal Information redacted by USI; Joanne Donnelly Personal Information redacted by the USI

**Subject:** RE: General Medical Council - Mr O'Brien

Mr Brammall, I have not yet received a response from Mr O'Brien about any agreement (or otherwise) to cease seeing private patients following correspondence to him sent on Saturday 11<sup>th</sup> July.

His solicitor has been in contact earlier this afternoon to ask that 2 sets of NHS casenotes are collected from his home tomorrow afternoon. She has also stated that "All other matters, including those referred to in Mr Haynes letter of 11 July, are reserved subject to further definitive response". Please ensure any further correspondence is sent to this office".

I have shared the other queries with the relevant colleagues and we will respond by the 21<sup>st</sup> July.

Many thanks

Dr Maria O'Kane  
Medical Director and Responsible Officer

---

**From:** Chris Brammall Personal Information redacted by USI

**Sent:** 14 July 2020 11:52

**To:** OKane, Maria; Toal, Vivienne; Haynes, Mark; Wallace, Stephen; Joanne Donnelly Personal Information redacted by the USI

**Subject:** RE: General Medical Council - Mr O'Brien

Good morning Dr O'Kane, many thanks for arranging for the information to be sent to me, I can confirm safe receipt of this through the secure email system. Please would it be possible to clarify:

- whether you have received a response from Mr O'Brien about any agreement (or otherwise) to cease seeing private patients following your correspondence?
- whether the independent review of relevant administrative processes, recommended by Dr Khan (MHPS case manager determination 28 Sept 2018) has been completed?

Please would it also be possible to send me the relevant medical records for service user A and service user B as identified in the information (these were the cohort 2 patients as identified in the email exchange between yourself and Joanne Donnelly). I appreciate it may take a little longer to get these together but I would be grateful if these could be sent to me by 21 July. If this won't be possible for any reason, please could you let me know?

Many thanks for your help with this Dr O'Kane

Chris Brammall  
Investigation Officer  
General Medical Council  
3 Hardman Street, Manchester, M3 3AW

Email: Personal Information redacted by USI

Website: [www.gmc-uk.org](http://www.gmc-uk.org)

Telephone: Personal Information redacted by USI

## Hynds, Siobhan

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**From:** Corrigan, Martina Personal Information redacted by USI >  
**Sent:** 31 July 2020 12:35  
**To:** Wallace, Stephen; OKane, Maria; Haynes, Mark; McClements, Melanie; Hynds, Siobhan; Toal, Vivienne  
**Subject:** RE: Terms of Reference - Review of Administrative Processes  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Thanks Stephen and just to confirm that Rose and Mary are meeting with me next Thursday afternoon to commence

Regards

*Martina*

Martina Corrigan  
Head of ENT, Urology, Ophthalmology & Outpatients  
Craigavon Area Hospital

Telephone:

EXT Personal Information redacted by the USI (Internal)

Personal Information redacted by the USI (External)

Personal Information redacted by the USI (Mobile)

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**From:** Wallace, Stephen  
**Sent:** 31 July 2020 12:33  
**To:** OKane, Maria; Haynes, Mark; Corrigan, Martina; McClements, Melanie; Hynds, Siobhan; Toal, Vivienne  
**Subject:** Terms of Reference - Review of Administrative Processes

Dear all,

Please see below terms of reference for the review of administration processes as per MHPS recommendation, these have been reviewed by Dr Khan. Dr's Rose McCullagh and Mary Donnelly have agreed to conduct this work and will commence next week.

Regards  
Stephen

## Purpose

The purpose of the review, is to review the Trust urology administrative processes for management of patients referred to the service.

## Objectives

# TRU-292695

The review will consider the present Trust urology administrative processes regarding referrals to the service and recommendations for the future, rather than past and pre-existing processes. The review in particular will consider the following:

- The administration processes regarding the receipt of and triage of patients referred to the urology service from all sources
- The effectiveness of monitoring of the administration processes including how and where this information is reviewed
- The roles and responsibilities of operational management and clinical staff in providing oversight of the administrative processes
- The effectiveness of the triggers and escalation processes regarding non-compliance with administration processes
- To identify any potential gaps in the system where processes can be strengthened

## Outputs

The Reviewer should provide a report which seeks to address the issues listed above. The report should provide recommendations on improvements to Trust urology administrative processes. Any recommendations should be evidence-based and proportionate, with consideration given to their implementation.

## Scope

The review should consider current Trust urology administrative processes for the management of referrals to the service. This is a forward-looking review and, as such, will not consider past decisions.

## Timing

The report, including any recommendations of the review, must be submitted to the Trust Acute Director by end September 2020.

## Governance and Methodology

The Reviewer will be accountable to, the Trust Acute Director for delivery of the review. Details of the governance which achieves this accountability and the methodology for the review - including evidence gathering, consultation with operational and clinical staff - will be agreed between the Reviewer and the Trust Acute Director by 5<sup>th</sup> August 2020.

## Hynds, Siobhan

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**From:** Toal, Vivienne [Personal Information redacted by USI]  
**Sent:** 29 September 2020 13:36  
**To:** Hynds, Siobhan  
**Subject:** RE: Administrative review

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I had no words for it. None at all.

---

**From:** Hynds, Siobhan  
**Sent:** 29 September 2020 12:56  
**To:** Toal, Vivienne  
**Subject:** FW: Administrative review

Surely this can't be it?????

---

**From:** Corrigan, Martina  
**Sent:** 29 September 2020 08:33  
**To:** Carroll, Ronan; Gormley, Damian; Haynes, Mark; Hynds, Siobhan; McClements, Melanie; OKane, Maria; Toal, Vivienne; Wallace, Stephen  
**Subject:** Administrative review

Dear all

Can we discuss please (document 2 is what Mary sent me and I for ease I have attached what the TOR were) as conscious this needs to be complete and sent to RCS by tomorrow

Regards

*Martina*

Martina Corrigan  
Head of ENT, Urology, Ophthalmology & Outpatients  
Craigavon Area Hospital

Telephone:

EXT [Personal Information redacted by the USI] (Internal)

[Personal Information redacted by the USI] (External)

[Personal Information redacted by the USI] (Mobile)

---

**From:** Donnelly, Mary  
**Sent:** 21 September 2020 12:39  
**To:** Corrigan, Martina  
**Cc:** 'rose mccullagh'  
**Subject:** FW: Document2

Hi Martina

Just to let you know Rose is going to complete this as I have taken on some additional duties with Bannview practice.

If you have any comments would you mind emailing them to Rose at her gmail account as above as she is on leave this week.



## Purpose

The purpose of the review, is to review the Trust urology administrative processes for management of patients referred to the service.

## Objectives

The review will consider the present Trust urology administrative processes regarding referrals to the service and recommendations for the future, rather than past and pre-existing processes. The review in particular will consider the following:

- The administration processes regarding the receipt of and triage of patients referred to the urology service from all sources
- The effectiveness of monitoring of the administration processes including how and where this information is reviewed
- The roles and responsibilities of operational management and clinical staff in providing oversight of the administrative processes
- The effectiveness of the triggers and escalation processes regarding non-compliance with administration processes
- To identify any potential gaps in the system where processes can be strengthened

## Outputs

The Reviewer should provide a report which seeks to address the issues listed above. The report should provide recommendations on improvements to Trust urology administrative processes. Any recommendations should be evidence-based and proportionate, with consideration given to their implementation.

## Scope

The review should consider current Trust urology administrative processes for the management of referrals to the service. This is a forward-looking review and, as such, will not consider past decisions.

## Timing

The report, including any recommendations of the review, must be submitted to the Trust Acute Director by end September 2020.

## Governance and Methodology

**Buckley, LauraC**

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**From:** Corrigan, Martina Personal Information redacted by USI  
**Sent:** 25 February 2021 19:25  
**To:** Hynds, Siobhan  
**Cc:** Carroll, Ronan  
**Subject:** Admin Review Process V10 18 Feb 2021  
**Attachments:** Admin Review Process V10 18 Feb 2021.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Siobhan,

As discussed at our last Urology Oversight meeting Ronan and I have revised the Admin Review Process to anonymise/make it more generic to all areas.

This will be tabled on Monday morning and wanted to give you sight of it first to see had you any comments and had we captured what was the original purpose of this?

Happy to discuss/add/amend

Thanks

Martina

**Hynds, Siobhan**

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**From:** Corrigan, Martina Personal Information redacted by USI  
**Sent:** 18 March 2021 15:22  
**To:** Hynds, Siobhan  
**Subject:** Admin Review Process V11 18 March 2021  
**Attachments:** Admin Review Process V11 18 March 2021.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Siobhan

Can you have a look at the revised version of the attached please?

I have tried to capture that it was the result of one consultant in an introduction and I have changed the last column to an escalation for non-adherence.

Hope that this is more what we need?

Thanks

Martina



## Urology Services Inquiry

breakdown in monitoring during periods of sick leave and therefore a lack of an overall robust monitoring arrangement with appropriate fail-safes.

26(viii) Not enough attention was paid to MHPS Section I, Para 29 which sets out that a 'clear audit route must be established for initiating and tracking progress of the investigation, its' costs and resulting action'. The MHPS framework does not specify to whom that role should be designated, and this is an issue that needs to be covered during the review of the Trust's October 2017 Guidelines – see 27(iii) below.

**27. Consider and outline the extent to which you feel you can effectively discharge your role under MHPS and the Trust Guidelines in the extant systems within the Trust and what, if anything, could be done to strengthen or enhance that role.**

27(i) As a follow on from my response at 26(viii), on 13<sup>th</sup> November 2019 Zoe Parks, Head of Medical Staffing, emailed Dr O'Kane, Medical Director and me to advise that she had attended the Northern HSC Trust Doctors & Dentists in Difficulty Meeting, as an observer. Zoe Parks' email outlines a summary of the Northern HSC Trust approach to this meeting. **(This can be located at Attachment folder S21 49 of 2022- Attachment 60)**. This visit was arranged following discussions between Dr O'Kane, Zoe Parks and me at some point earlier in 2019 about what we, in Southern HSC Trust, could do to structure our review of all ongoing MHPS cases, to track progress and to instil greater accountability in our senior medical leaders for professional medical governance. Zoe Parks in November 2019, subsequently developed a Terms of Reference for the Southern Trust's Doctors & Dentists in Difficulty Oversight Group. I believe the operation of these regular meetings has greatly improved the Southern Trust's approach to managing all cases relating to Doctors and Dentists in difficulty, and enables a more robust tracking of progress with cases including action plans. The Terms of Reference for this group means that the Divisional Medical Director must come prepared with updates on cases and action plans within their Division,



## Urology Services Inquiry

7(xiv) Following this meeting, on 5<sup>th</sup> April 2017, Zoe Parks emailed a revised draft version of the Trust Guidelines to Siobhan Hynds, Helen Walker and myself for review. **This can be found at Attachment folder S21 49 of 2022- Attachments 33a, 33b, 33c.** To assist in my response, I asked Zoe Parks on 6<sup>th</sup> June 2022 when she sent the revised draft Trust Guidelines to our solicitor for legal advice. Zoe Parks confirmed on 6<sup>th</sup> June 2022 that she did this on 16<sup>th</sup> June 2017. **This can be found at Attachment folder S21 49 of 2022- Attachment 34.** Our solicitor replied with her comments marked on the document on 4<sup>th</sup> August 2017 (**This can be found at Attachment folder S21 49 of 2022- Attachment 35**), and these were incorporated into the draft Guidelines.

7(xv) On 24<sup>th</sup> November 2017, the revised draft guidelines were sent to the Associate Medical Directors (AMDs) for their review (**This can be found at Attachment folder S21 49 of 2022- Attachment 36**) by Andrea McNeice in Medical Staffing on behalf of Zoe Parks. I know this because I contacted Zoe Parks on 6<sup>th</sup> June 2022 by telephone for the purposes of completing my Section 21 response and asked her to check if the revised draft was issued to AMDs. Zoe forwarded me the email from Andrea McNeice to the AMDs on 6<sup>th</sup> June 2022. On 1<sup>st</sup> December 2017, the guidelines were included on the agenda for the Joint HR Directorate and Medical Directorate meeting for discussion (the 31<sup>st</sup> October 2017 scheduled meeting had been cancelled). The notes (**This can be located at Relevant to HR/ Evidence received after 4 November 2021/ Reference no 77/ V Toal no 77/ 20171201 Notes of medical\_HR directorate meeting**) of the 1<sup>st</sup> December 2017 meeting confirm the following:

**"MHPS revised guidelines**

*It was agreed that the revised guidelines should be added to the next LNC agenda – for information only. Zoe advised that the oversight process had been removed from the guidelines and decision making powers were now with the Case manager.*

**Action:** *Zoe to add to next LNC agenda"*

- Failure to report concerns

2.3 Concerns can also come to light where a member of staff raises a complaint in relation to poor behaviour they find threatening, humiliating, unwanted, unwelcome or unpleasant. In line with the Trust's Conflict, Bullying and Harassment in the workplace policy, harassment can represent a single, serious incident or persistent abuse.

2.4 If it becomes evident that an individual or individuals were aware of a concern(s) but did not escalate or report it appropriately – this in itself can also represent a concern, which may necessitate intervention, particularly where there are patient safety implications.

## 2.5 WHO TO TELL?

2.5.1 A concern of any kind should be raised with the practitioner's immediate Clinical Manager. This will normally be the doctor's supervising consultant e.g:

| Concerns relates to        | Clinical Manager           |
|----------------------------|----------------------------|
| Junior Doctor/SAS Doctor:  | Supervising Consultant     |
| Consultant                 | Clinical Director          |
| Clinical Director          | Associate Medical Director |
| Associate Medical Director | Medical Director           |

2.6 NCAS Good Practice Guide – “How to conduct a local performance investigation” (2010) (the NCAS guide) indicates that regardless of how a concern is identified, it should go through a screening process to identify whether an investigation is needed. The NCAS Guide also indicates that anonymous complaints and concerns based on ‘soft’ information should be put through the same screening process as other concerns.

## 3.0 SCREENING PROCESS / *Preliminary Enquiries* MHPS Section1 para 15

### 3.1 AS CLINICAL MANAGER - WHAT ACTION DO I TAKE?

3.1.1 If you receive a complaint or concerns are raised with you, the first step is to seek advice from the Medical HR Manager and have a “Screening of the Concern” to establish the immediate facts surrounding the complaint. This can include any documentary records such as timesheets/ written statements from the member of staff who raised concern and any other witnesses. At this stage, you are only seeking information that is **readily available**.

3.1.2 **Important:** There is **no** need at this stage to be inviting people to formalised investigative meetings as this would be part of any subsequent investigation process if needed. There may be certain circumstances however where an initial meeting will be necessary to establish facts and

provide an opportunity for the practitioner to hear the concerns and respond which can help determine what, if any action needs to be taken. In any event you will need to inform the practitioner who is the subject of the concerns, advising that you are making them aware of the complaint as part of this process. Do this sensitively and reconfirm that you are establishing the facts and no formal process has been entered into at this time. Assure the individual you will keep them informed and the matter will be progressed at pace.

**3.1.3** The purpose of this stage is to gather enough information to enable the Clinical Manager, supported by a senior HR Manager to assess the seriousness of the concern/complaint raised and help inform and rationalise whether this needs to be resolved through a more formal route or informally.

**3.1.4** It is important that the process is transparent. Early communication and discussion with the practitioner concerned, aimed at improving their performance or conduct may be sufficient to resolve the issue and identify early interventions to facilitate a resolution. The practitioner's early response can be helpful in deciding whether to carry out an investigation.

**3.1.5** Contact with the practitioner who could potentially be subject to a formal investigation may not be appropriate if a counter fraud agency or the police advise early meetings or early disclosure could compromise subsequent investigations. The Director of HR will ensure there is close liaison with the CFPS and/or PSNI in such cases

**3.1.6** In situations where a practitioner's ill health may be a significant contributory factor to their conduct or performance then appropriate advice should be sought from the Occupational Health Department.

## **3.2 DIFFERENCE BETWEEN SCREENING OF CONCERNS AND FORMAL INVESTIGATION**

| <b>Screening / Establishing Facts (Informal)</b>   | <b>Investigation (formal)</b>  |
|--|--|
| Clinical Manager gathering facts /information that has given rise to concern – readily available | Case Investigator – trained in MHPS and equality has been appointed by the Case Manager - this would not ordinarily be the supervising consultant. |
| Information readily available is gathered quickly, surrounding the concern/complaint             | Investigation is directed by Terms of Reference established and agreed by Medical Director/Case Manager  |
| The practitioner has been made aware   | Individual would have been notified formally   |

|  |  |
|--|--|
| informally that there is a concern   | by Med Director /case manager that a formal investigation under MHPS is being commenced    |
| Issue is managed locally with general advice from NCAS or Occupational Health if appropriate | Case has been formally logged with NCAS  |
| No notice is required i.e. no invite to formal meeting                                       | Right to notice to prepare following formal invite to a meeting in writing                 |
| Normally the initial meeting is between the manager and the individual concerned.            | Right of representation applies  |
| Progress is being managed locally with HR support  | Progress is being monitored by a nominated NED – Case manager/ Medical Director and HR/CEO |
| No formal process to follow  | Any action must be in line with MHPS /Trust disciplinary procedure for medical staff       |

**3.3 SUPPORT FOR DOCTORS DURING SCREENING**

Clinical Managers must consider the emotional wellbeing of individuals throughout this process and must not underestimate the impact this may have on a practitioner, so should be encouraged to seek assistance through the Occupational Health department and/or Care Call counselling services. The practitioner should be reminded that support is also available to them through their trade union representative and/or medical defence organisation.

**3.4 WHAT HAPPENS AT THE END OF SCREENING PROCESS**

The Clinical Manager and the nominated senior Human Resources Manager will be responsible for screening the concerns raised and assessing what action should be taken in response. In line with MHPS Section 1 para 15, this decision will be taken in consultation with the Medical Director, Director of HR and operational Director. Possible action could include:

**3.4.1 Action in the event that reported concerns have no substantial basis or are completely refuted by other evidence.**

No further action is required. The reasons for this decision should be documented and held by the responsible clinical manager.

**3.4.2 Action in the event that there are minor shortcomings** Minor shortcomings can initially be dealt with informally. The practitioner’s Clinical Manager will be responsible for discussing the shortcomings with a view to identifying the causes and offering help to the practitioner to rectify them. Such counselling will not in itself represent part of the disciplinary procedures, although the fact and date that counselling was given, should be



## Toal, Vivienne

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**From:** Murphy, Annette [Personal Information redacted by USI]  
**Sent:** 22 February 2017 12:33  
**To:** Hynds, Siobhan; Toal, Vivienne; Parks, Zoe; Hainey, Lynne; Walker, Helen  
**Cc:** McNeice, Andrea; Mallagh-Cassells, Heather  
**Subject:** RE: Review of MHPS

Hi All,

Please see below confirmation of meeting to: **Review recent MHPS Cases and to review Trust Guidance:**

**Date:** Thursday 2<sup>nd</sup> March 2017  
**Time:** 10.00am to 12.00 Noon  
**Venue:** Seminar Room 1, Medical Education Centre, Craigavon Area Hospital

If you have any queries please get back to me.

Regards

**Annette**

Annette Murphy  
HR Assistant  
Employee Relations  
Hill Building  
St Lukes Hospital Site  
Loughgall Road  
Armagh  
BT61 7NQ

---

**From:** Hynds, Siobhan  
**Sent:** 21 February 2017 11:47  
**To:** Murphy, Annette  
**Cc:** Toal, Vivienne; Parks, Zoe; Hainey, Lynne; Walker, Helen  
**Subject:** RE: Review of MHPS

Annette

Sorry – I missed Helen off the list – can you please include her.

Thanks

Siobhan

---

**From:** Hynds, Siobhan  
**Sent:** 21 February 2017 10:16  
**To:** Murphy, Annette  
**Cc:** Toal, Vivienne [Personal Information redacted by USI]; Parks, Zoe [Personal Information redacted by USI]; Hainey, Lynne [Personal Information redacted by USI]  
**Subject:** Review of MHPS  
**Importance:** High



# Training Plan

## Maintaining High Professional Standards (MHPS)

|  |                               |
|--|-------------------------------|
| <b>Lead Author &amp; Job Title:</b>          | Zoe Parks, Head of Medical HR |
| <b>Directorate responsible for document:</b> | HROD                          |
| <b>Issue Date:</b>                           | TBC – once approved           |
| <b>Review Date:</b>                          | TBC – once approved           |

## 5.0 Training Plan – Case Manager (MHPS) Secondary Care

|                           |  |
|---------------------------|--|
| <b>Training Name</b>      | <b>Case Manager Training (Secondary Care).</b> This 2 day course has been designed for anyone who undertakes the case manager role in MHPS investigations about doctors/dentists which may emerge from the processes underpinning revalidation or from concerns raised about performance. <b>*This training (or a recognised equivalent) is considered mandatory for Medical Director, all Divisional/Deputy Medical Directors. The Director of HR must also attend this training for awareness.</b> |
| <b>Refresh required</b>   | Trained case managers are required to attend retraining every 3 years  |
| <b>Externals Involved</b> | NHS Resolution (or a recognised alternative)   |
| <b>Duration</b>           | Min. 1 full day  |
| <b>Date and Time</b>      | This training will be arranged annually or biannually (every 2 years) and communicated to all clinical managers  |
| <b>Logistics Required</b> | This is Face to Face Training requiring suitable venue.<br>Records of Training Attendance to be recorded by facilitator and returned to Medical HR   |
| <b>Room Arrangements</b>  | Computer and Wi-Fi access  |

|                             |  |
|-----------------------------|--|
| <b>Training Objectives:</b> | By the end of course, delegates will be able to:   |
|                             | <ul style="list-style-type: none"> <li>▪ Outline the key principles and frameworks that ensure a fair, proportionate and just response to concerns raised including Maintaining High Professional Standards in the modern NHS (MHPS)</li> <li>▪ Know how to source, gather and analyse data to inform decisions and recommendations</li> <li>▪ Consider when an investigation is and is not appropriate and other options for resolution of performance concerns</li> <li>▪ Explain the role and responsibilities of the Case Manager and how these differ to those of the Case Investigator</li> <li>▪ Write a set of Terms of Reference which are robust, meaningful and effective</li> <li>▪ Plan for and undertake a crucial conversation in a way that balances the protection of patient safety and the support for the practitioner and doesn't jeopardise future working relationships. Opportunity to practice skills including to practice the skills a case manager requires.</li> <li>▪ Manage the investigation, identify bias and manage potential conflicts of interest</li> <li>▪ Describe interventions that may be offered to resolve a performance concern</li> <li>• Formulate high quality, robust reports that can withstand scrutiny and challenge</li> <li>▪ Describe the appeals process</li> </ul> |

- **Course Topics:** Introduction to case management, Understanding performance concerns, Planning for a performance conversation, Preliminary analysis, What do we mean when we say 'investigation'?, Commissioning an investigation, Terms of Reference (ToR), Roles & Responsibilities, Reviewing the case investigation report, Decision making, Writing the management case, Panel hearings, Appeals, Interventions to resolve concerns, Sources of support, Embedding the learning.

## 5.0 Training Plan – Case Investigator (MHPS) Secondary Care

|                           |  |
|---------------------------|--|
| <b>Training Name</b>      | <b>Case Investigator</b> (Secondary Care) MHPS. This 2 day interactive course is designed for anyone who undertakes the case investigator role in investigations about doctors/dentists which may emerge from processes underpinning revalidation or from concerns raised about performance. <b>*This training (or a recognised equivalent) is considered mandatory for all our Clinical Directors and HR Case Support Staff</b> |
| <b>Refresh required</b>   | Trained case Investigators are required to attend retraining every 3 years   |
| <b>Externals Involved</b> | NHS Resolution (or a recognised alternative)   |
| <b>Duration</b>           | 2 full days  |
| <b>Date and Time</b>      | This training will be arranged annually or biannually (every 2 years) and communicated to all consultants  |
| <b>Logistics Required</b> | This is Face to Face Training requiring suitable venue<br>Records of Training Attendance to be recorded by facilitator and returned to Medical HR  |
| <b>Room Arrangements</b>  | Computer and Wi-Fi access  |

|                             |  |
|-----------------------------|--|
| <b>Training Objectives:</b> | By the end of course, delegates will be able to:   |
|                             | <ul style="list-style-type: none"> <li>▪ explore how concerns about a practitioner’s practice arise and identify the most common factors affecting performance</li> <li>▪ explain why the decision to investigate is made and suggest other options to resolve performance concerns</li> <li>▪ describe roles and responsibilities for those involved in investigations</li> <li>▪ plan for an investigation which meets national requirements</li> <li>▪ describe the principles of robust and meaningful terms of reference and know how to work within them</li> <li>▪ collect, review and weight evidence</li> <li>▪ conduct an investigative interview using a structured approach, including the PEACE model.</li> <li>▪ recognise the key skills and attributes of a case investigator</li> <li>• recognise their own limits of competence and access sources of support and expertise</li> <li>▪ reference relevant national/local standards</li> <li>▪ write an investigation report with conclusions</li> <li>▪ describe the potential legal challenges to an investigation</li> </ul> |

- **Course Topics:** Dealing with concerns about a practitioner’s practice; investigation roles and responsibilities; starting the investigation; gathering evidence; interviewing witnesses; report writing; supporting the practitioner; responding to legal challenges; support for case investigators

## 5.0 Training Plan – Managing Low-Level Concerns

|                           |  |
|---------------------------|--|
| <b>Training Name</b>      | Managing low-level Concerns. <b>*This training is considered mandatory for all our Clinical Directors, Clinical Leads and operational Heads of Service, Assistant Directors.</b> |
| <b>Refresh required</b>   | Every 3 years  |
| <b>Externals Involved</b> | No. Trust delivered. Reference to Trust Guidance and systems for managing concerns   |
| <b>Duration</b>           | 1 Half day   |
| <b>Date and Time</b>      | This training will be arranged twice yearly and offered to all Clinical Directors, Clinical Leads and operational Heads of Service, Assistant Directors                          |
| <b>Logistics Required</b> | Face to Face, online or Recorded Webinar Training<br>Records of Training Attendance to be recorded by facilitator and returned to Medical HR                                     |
| <b>Room Arrangements</b>  | Computer and Wi-Fi access  |

|                             |   |
|-----------------------------|---|
| <b>Training Objectives:</b> | By the end of course, delegates will be able to:  |
|                             | <ul style="list-style-type: none"> <li>▪ Understand what to do when a concern first arises</li> <li>▪ Know where to locate guidance and support</li> <li>▪ Describe the clear practical steps to follow to ensure an effective and consistent response in line with accepted standards</li> <li>▪ Know how to use risk templates to help assess and effectively identify if a concern is low-level or needs escalating</li> <li>▪ Understanding of the Just Culture approach to managing concerns</li> <li>▪ Clear on the importance of documentation</li> <li>▪ Aware of the role of the Doctors &amp; Dentists Oversight Group and reporting of all established concerns to Chief Executive</li> <li>▪ Understand what support can be offered to practitioners</li> </ul> |



## Urology Services Inquiry

**practice, and identify the person(s) who were responsible for these? Did these apply to all aspects of his practice and, if not, why not?**

25(xxi) The Return to Work Action Plan, dated 9<sup>th</sup> February 2017, remained in place after the Case Determination was made on 28<sup>th</sup> September 2018. Mr O'Brien continued to be monitored under those arrangements, with Martina Corrigan and Ronan Carroll monitoring, and escalating to Dr Khan as Case Manager, as required. My responses to Q 18, 19 and 20 above provide detail on the implementation of these arrangements after the Case Determination was made. The scope of Mr O'Brien's practice, which was monitored after the Case Determination in September 2018 did not change from the four original areas of concern contained within the Return to Work Action Plan, 9<sup>th</sup> February 2017. This was because there had been no indication from anyone inside or outside of the Trust that there was any reason to monitor more widely.

### **Implementation and Effectiveness of MHPS**

**26. Having regard to your experience as Director of HR & Organisational Development, in relation to the investigation into the performance of Mr. Aidan O'Brien, what impression have you formed of the implementation and effectiveness of MHPS and the Trust Guidelines both generally, and specifically as regard the case of Mr O'Brien?**

26(i) The case relating to Mr O'Brien became known to me in September 2016, with the 13<sup>th</sup> September 2016 Oversight Group meeting occurring just over a week before I took up post as Director of HR & OD on 21<sup>st</sup> September 2016. Whilst I had experience of using the MHPS Framework and the Trust Guidelines in other cases before September 2016 mostly under the direction of HR & OD Director, Kieran Donaghy, Mr O'Brien's case was a complex one to be the first in my role as the newly appointed Director of HR. The complexity, I now believe, was in the most part linked to the fact that his administrative practices had not been addressed over a number of years.



## Urology Services Inquiry

There was also, I believe, a view by many that Mr O'Brien was an otherwise excellent clinician, which resulted in a failure to grasp the real significance of the link between poor administrative practices and patient safety. I was not experienced enough to challenge this thinking at the time, and both of these points have provided significant learning for me as a result of this case.

- 26(ii) In forming an impression of the implementation and effectiveness of MHPS and the Trust Guidelines in Mr O'Brien's case, I have asked myself should MHPS have been implemented earlier? I believe it should have. When it was eventually implemented in December 2016, I knew then that it should have been implemented in September 2016, and the decision should have been made to implement it formally because of the information contained within the Screening Report presented to Oversight Group on the morning of 13<sup>th</sup> September 2016. Furthermore, based on the fact Heather Trouton, Assistant Director of Acute Services and Mr Mackle, Associate Medical Director were seeking to address the same issues in March 2016, consideration should have been given to the implementation of MHPS at that stage. I also know from reading Heather Trouton's statement (Appendix 22 – para 13 of MHPS report) as part of the MHPS investigation – **this can be located at Relevant to HR / Reference no 1 / MHPS Investigation Report / MHPS Investigation / Appendix 22 Witness Statement - Mrs H Trouton 050617**) she had met in January 2016 with Dr Wright as the new Medical Director to seek his advice in relation to concerns about Mr O'Brien. It was following this meeting on 11<sup>th</sup> January 2016 that the letter dated 23<sup>rd</sup> March 2016 was issued to Mr O'Brien. The fact that this meeting took place in January 2016, leads me to conclude that there were, in all likelihood, grounds to consider implementing MHPS in January 2016 rather than issuing the letter of 23<sup>rd</sup> March 2016. Having reflected on the Case Determination by Dr Khan in which it referenced the period of time before 2016 that concerns were known about Mr O'Brien's administrative practices, I am of the view that the timing of MHPS implementation should have been even earlier than January 2016.

30<sup>th</sup> January 2012. This is attached at Tab 49. I never received an explanation as to why those deductions were made. I now formally reactivate this grievance.

## **2.11 Duty of Clinical Care**

Prior to concluding this formal grievance, I wish to take this opportunity to express my concerns regarding the Trust's duty of care to its urological patients, and particularly as that duty of care has been breached by the Investigation itself.

During these past 26 years, I have worked well beyond any expectation to maximise the care that I could possibly provide to those in most need of it. During more recent years, I have carried out additional operating in order to minimise actual and potential harm to patients. During recent years, I did not take annual leave on any available operating day in order to do. A record of the additional sessions for the years 2012 – 2016 were submitted to the Case Investigator who chose not to include the record or refer to it in her Report to the Case Manager. A record of additional clinics during the same five years suffered a similar fate.

During my sick leave in November and December 2016, I continued to work. By the time of my scheduled return to work in January 2017, I had timetabled operating for that month, and had scheduled clinics for January and February 2017. The devastation that I experienced in my meeting with Dr. Wright and Ms. Hainey on 30 December 2016 was exacerbated by my concern for the welfare of the patients whose surgery and review I had scheduled. I pleaded with Dr. Wright to allow me to process the remaining 189 patients, but he refused to allow that to be done, insisting that these patients' charts be returned by 03 January 2018. Dr. Wright subsequently informed me in writing that these charts would be returned to my office so that they could be processed. They never were. Six months later, in June 2017, I learned that their outcomes had still not been processed or implemented. Whilst their outcomes were then implemented on PAS, letters were never dictated.

During the course of the investigation, I was advised that 24 patients referred as urgent or routine, had subsequently been upgraded to Red Flag status, and of these, four had a diagnosis of cancer. The delays between referral and diagnosis of cancer had been 238 days, 207 days, 179 days and 151 days. There had been a period of 282 days between my receipt of the letter of 23 March 2016 and the meeting with Dr. Wright on 30 December 2016. There were 354 days between Ms. Helen Trouton's meeting with Dr. Wright in January 2016 and my meeting with Dr. Wright in December 2016. If the actions of the Trust had been different in during 2016, **none** of these patients would have had a delayed diagnosis.

Scheduled reviews of patients in the early months of 2017 were cancelled as a consequence of my exclusion which was subsequently considered to have been unnecessary. Some of these patients are still awaiting review. Two who have their reviews only recently scheduled have had cancer diagnoses confirmed since 01 October 2018, one of whom has advanced prostatic carcinoma. **These delayed diagnoses have been solely, exclusively and directly a result of the investigation and of my exclusion.**

Meanwhile, the same Trust management personnel have overseen an increasing disparity between urological waiting list and those for other specialties, and to the extent that, in June 2018, there were 597 patients awaiting urgent elective admission for surgery up to 208 weeks, while there were only 28 patients awaiting urgent elective gynaecological surgery, the longest waiting up to 11 weeks. Those awaiting elective admission for urological surgery, now dating



back to August 2014, include approximately 400 patients awaiting prostatic resection. Based on international data it can be expected that at least 10% of these, some 40 patients, will have a delayed diagnosis of prostatic carcinoma.

It has appeared to me that the conduct of Trust management personnel since January 2016 has been a case of purpose replaced by process, conducted improperly.

For the avoidance of all doubt, let it be clearly understood that I am disclosing these facts not merely in my own interests as part of my grievance but in the interests of the public in general and these urological patients in particular.

### **3. The Issues**

In this section of the grievance, I summarise the issues referred to above. References to Paragraphs or Appendices in this section are references to the Trust Guidelines unless expressly stated otherwise.

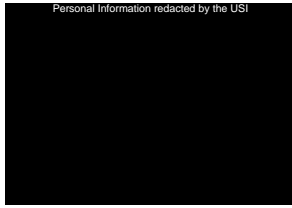
#### **3.1 In respect of the handling of the concerns in March 2016:**

- a) The Trust breached Paragraph 1.5 by failing to handle the concerns in accordance with these procedures.
- b) The Trust failed to raise the concerns with my Clinical Manager, but they were instead raised with the Medical Director in breach of Paragraph 2.2.
- c) Upon receipt of the concerns, the Medical Director failed to direct the concerns to my Clinical Manager in breach of Paragraph 2.2.
- d) An initial verification of the concerns was not undertaken by my Clinical Manager in breach of Paragraph 2.4.
- e) The Trust failed to offer any support to me when addressing the letter to me and when I asked for some guidance, none was provided. This is in breach of the General Mutual Obligations of my Contract of Employment.

#### **3.2 In respect of the frustration of attempts by Clinical Managers to assist me:**

- a) The Trust failed to allow my Clinical Managers to take the lead in handling the concerns and in failing to do so, breached Paragraph 2.2.
- b) Individual servants/agents of the Trust actively frustrated efforts to assist me by informing the Clinical Manager not to address the concerns with me.
- c) The Trust has breached Appendix 1 of the Trust Guidelines by failing to inform me that issues of concern about my practice were being screened.

## STRICTLY PRIVATE & CONFIDENTIAL



18<sup>th</sup> June 2020

**Our Ref** VT/hm-c

Dear Mr O'Brien

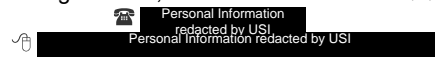
I write in response to your letter, dated 9<sup>th</sup> June 2020, and your follow up letter, dated 12<sup>th</sup> June 2020.

The Southern HSC Trust position on this matter is as follows:

- On 6<sup>th</sup> March 2020, you submitted, for processing, to Medical Staffing Department, an Application for Scheme Retirement Benefits (AW6) with a proposed retirement date of 30<sup>th</sup> June 2020.
- All HR processes have been completed in respect of the processing of your AW6 to Pensions Branch.
- In applying for your Scheme Retirement Benefits, you signed a declaration stating that you were retiring from HSC Employment on 30<sup>th</sup> June 2020 – see the Declaration at the end of the form.
- You wrote to Ms Martina Corrigan on 26<sup>th</sup> March 2020 to confirm that you had 'submitted to the Directorate of Human Resources on Friday 06 March 2020 completed Forms of Application to Withdrawal (sic) from Full Time Employment, and with the intent that my full time employment would end on Tuesday 30 June 2020. In doing so, I formally advised that I would be prepared to return to Part Time Employment from Monday 03 August 2020. It (sic) do hope that I may be able to do so.'
- You sent a text to Ms Corrigan on 31<sup>st</sup> March 2020, asking if she had received your 'letter of notification of retirement'. Ms Corrigan replied the following day



Office of the Director of Human Resources  
Trust HQ, Craigavon Area Hospital,  
68 Lurgan Road, PORTADOWN BT63 5QQ



to confirm that as per 'our conversation yesterday I can confirm I have received this.'

- The Trust's Employee Guide & FAQs on Retiring from the Trust states that 'Requests to return to work, immediately following retirement will be considered on an individual basis.'
- It is the Trust's position that there is no automatic right to return to part time employment following retirement.
- Mr Young, Ms Corrigan and Mr Haynes do not agree with your recollection of discussions during February 2020 when you say they confirmed their support for your return post retirement. Rather, no assurances were given to you in that regard.

Your letter of 26<sup>th</sup> March provided 3 months' notice of termination of your employment on 30<sup>th</sup> June 2020 as required by your contract of employment. Whilst you outlined a "hope" to return to work on a part time basis following your retirement, there was no suggestion whatsoever in your letter that your notice of termination was conditional or dependent on such return. The text sent by you on 31<sup>st</sup> March referred to your letter as "notification of retirement" and the Trust confirmed receipt of same.

Since receipt of your letter, the Trust has taken a number of steps on foot of your notice of termination, such as seeking College approval for the Job Description to replace your post and organisation of locum cover.

It is also clear that since March 2020 you have also proceeded on the basis that you would be retiring from your employment with the Trust on 30<sup>th</sup> June 2020. In the circumstances, the Trust considers that your employment will terminate on 30<sup>th</sup> June pursuant to the notice of termination given by you in your letter dated 26<sup>th</sup> March and it is not open to you to withdraw that notice of termination unilaterally. The Trust appreciates that you are disappointed that your "hope" to return to work on a part time basis post retirement will not be fulfilled, but this does not affect the position in relation to termination of your employment on foot of the notice given by you.

Yours sincerely



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**VIVIENNE TOAL (MRS)**  
**Director of Human Resources**  
**& Organisational Development**



## UROLOGY SERVICES INQUIRY

**USI Ref:** Notice 5 of 2022

**Date of Notice:** 30<sup>th</sup> March 2022

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**Witness Statement of: Ronan Carroll**

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I, Ronan Carroll, will say as follows:-

**[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. The Southern Trust came into existence in April 2007. I was appointed as Assistant Director for Cancer & Clinical Services in April 2007 to April 2016, job description located in *S21 5 of 2022 – 20070301 doc Number 5 JD AD for CCS*. The services contained within this clinical portfolio included Cancer Services, Radiology Services, Laboratory Services, Anaesthetists, Theatres and Intensive Care (ATICS) and Allied Health Professionals (AHP)
2. In April 2016, Acute Services were restructured under the guidance of Esther Gishkori, Director of Acute Services and my Assistant Director portfolio changed to becoming Assistant Director for ATICS and Surgery and Elective Care (SEC). As AD the responsibility for ATICS continued on as it had been between 2007 and 2016. I now had the additional responsibility for the operational management of SEC. SEC included the following surgical services General Surgery, Urology, Ear Nose and Throat (ENT), Trauma and Orthopaedics (T&O), Ophthalmology and Outpatients. The Surgical services were delivered across three hospital sites; Craigavon, Daisy Hill and South Tyrone Hospital with Outpatient services delivered over five sites; Craigavon, Daisy Hill, South Tyrone, Armagh and Banbridge Hospitals.



## Urology Services Inquiry

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.

*Ronan Carroll*

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

Date: \_\_\_\_\_ 16.05.2022 \_\_\_\_\_

- B. To the best of your knowledge, outline what steps were taken to ensure that each of these actions were implemented; and
- C. If applicable, what factors prevented that implementation.
- D. If the action plan as per 16(l) was not implemented, outline what steps or processes were put in place to monitor Mr O'Brien's practice? Did these apply to all aspects of his practice and, if not, why not?

## **Implementation and Effectiveness of MHPS**

27. Having regard to your experience as Assistant Director, Anaesthetics and Surgery, in relation to the investigation into the performance of Mr. Aidan O'Brien, what impression have you formed of the implementation and effectiveness of MHPS and the Trust Guidelines both generally, and specifically as regard the case of Mr. O'Brien?
28. Consider and outline the extent to which you feel you can effectively discharge your role as Director of Acute Services under MHPS and the Trust Guidelines in the extant systems within the Trust and what, if anything, could be done to strengthen or enhance that role.
29. Having had the opportunity to reflect, outline whether in your view the MHPS process could have been better used in order to address the problems which were found to have existed in connection with the practice of Mr. O'Brien.

### **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.

**UROLOGY SERVICES INQUIRY**

**USI Ref:** Notice 44 of 2022

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

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**Witness Statement of: MR RONAN CARROLL**

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I, RONAN CARROLL, will say as follows:-

**GENERAL**

**1. Having regard to the Terms of Reference of the Urology Services Inquiry, please provide a narrative account of your involvement in or knowledge of all matters falling within the scope of sub-paragraph (e) of those Terms of Reference concerning, inter alia, 'Maintaining High Professional Standards in the Modern HPSS' ('MHPS Framework') and the Trust's investigation. 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 using the form provided.**

1.1. The Southern Trust came into existence in April 2007. I was appointed as Assistant Director for Cancer & Clinical Services in April 2007 and remained in post to April 2016. In April 2016, Acute Services were restructured under the guidance of Esther Gishkori, Director of Acute Services, and my Assistant Director portfolio changed to becoming Assistant Director for ATICS and Surgery and Elective Care (SEC). As AD, the responsibility for ATICS continued on as it had been between 2007 and 2016. I now had the additional responsibility for the operational management of SEC. SEC included the following surgical services General Surgery, Urology, Ear Nose and Throat (ENT), Trauma and Orthopaedics (T&O), Ophthalmology and Outpatients. The Surgical services were delivered across three hospital sites; Craigavon, Daisy Hill and South Tyrone Hospital with Outpatient services delivered over five sites; Craigavon, Daisy Hill, South Tyrone, Armagh and Banbridge Hospitals.

1.2. My role, responsibilities, and duties in respect of the issues raised in sub-paragraph (e) of the Inquiry's Terms of Reference are addressed in detail in my answers to Questions 4 to 29 (inclusive) below and in my response to Section 21 Notice No.5 of 2022, in particular, in responses to Questions 1, 40, 45, 47 and 55.



## Urology Services Inquiry

underperforming and to monitor their adherence to the necessary requirements, it should be other members of the medical profession who hold the underperforming Doctor to account.

**29. Having had the opportunity to reflect, outline whether in your view the MHPS process could have been better used in order to address the problems which were found to have existed in connection with the practice of Mr. O'Brien.**

29.1. I do not believe that I have sufficient knowledge or experience with the MHPS Framework to provide an opinion as to whether it (MHPS) could have been used in a better way. My understanding and experience on this occasion was that the MHPS framework and accompanying processes were managed within the Medical Director's Office with support and advice from HR. As the operational AD, I was not advised or consulted with as to the progress of the investigation.

29.2. Having had the opportunity to reflect, I would say that the formal application of the MHPS framework could and should have been much earlier enacted. I have also reflected on the number of Chief Executives, Medical Directors and Directors of Acute Services the Trust has had since its inception in 2007 until Mr O'Brien retired in 2020, and I query whether this high turnover in staff and roles could have contributed in any way to action not being taken earlier.

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

**Ronan Carroll**

**Dated this 24<sup>th</sup> day of June 2022.**





## UROLOGY SERVICES INQUIRY

**USI Ref:** Notice 5 and 44 of 2022

**Date of Notices:** 30<sup>th</sup> March 2022 and 29<sup>th</sup> April 2022

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### Addendum Witness Statement of: Ronan Carroll

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I, Ronan Carroll, wish to make the following amendments to my response to Section 21 Notice Number 5 of 2022:-

1. Throughout my statement, I have stated that I do not recall having a meeting with Mr O'Brien during my tenure. This is incorrect as I met with Mr O'Brien on 25<sup>th</sup> July 2017 with Mr Colin Weir and Martina Corrigan in attendance. I would therefore like the following sentences removed from my statement:-

a. At paragraph 321 (WIT – 13155), the sentence '*I do not recall meeting or communicating directly with Mr O'Brien during my tenure.*' should be removed.

b. At paragraph 328 (WIT – 13157) the sentence '*I do not recall being part of any meeting or discussion to have this addressed and resolved.*' should be removed.

c. At paragraph 362 (WIT – 13163) sentence '*I did not have any conversations or discussions directly with Mr O'Brien*' should be removed.

I, Ronan Carroll, wish to make the following amendments to my response to Section 21 Notice Number 44 of 2022:-

2. At paragraph 13.3 (WIT-21121), the start of the sentence which states *I had no direct engagement with Mr O'Brien to resolve matters informally as I was aware that Mrs Corrigan (HoS) was the contact with Mr O'Brien.* should be removed.



## Urology Services Inquiry

**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.

Signed:

Date: 27/2/2023

## Witness Statement

|                                 |  |
|---------------------------------|--|
| <b>NAME OF WITNESS</b>          | <b>Mr Ronan Carroll</b>  |
| <b>OCCUPATION</b>               | Assistant Director, Anaesthetics and Surgery                       |
| <b>DEPARTMENT / DIRECTORATE</b> | Directorate of Acute Services, Craigavon Area Hospital             |
| <b>STATEMENT TAKEN BY</b>       | Dr Neta Chada, Associate Medical Director / Case Investigator      |
| <b>DATE OF STATEMENT</b>        | Thursday 6 April 2017  |
| <b>PRESENT AT INTERVIEW</b>     | Mrs Siobhan Hynds, Head of Employee Relations                      |
| <b>NOTES</b>                    | The terms of reference were shared prior to the date of statement. |

1. My name is Ronan Carroll. I am employed by the Southern Health and Social Care Trust as Assistant Director for Anaesthetics and Surgery. I have been in this position since 1<sup>st</sup> April 2016. Prior to this date, I was employed as Assistant Director for Cancer and Clinical Services between 2007 and 2016 within the Southern HSC Trust. I came into my recent position following a restructure with the Acute Services Directorate.
2. I have been asked to provide this witness statement in respect of an investigation into concerns about the behaviour and / or clinical practice of Mr Aidan O’Brien, Consultant Urologist being carried out in accordance with the Trust Guidelines for Handling Concerns about Doctors and Dentists and the Maintaining High Professional Standards Framework.
3. I agreed to answer questions specifically related to the terms of reference previously shared with me.
4. I have always been aware of issues of concern in respect of Mr O’Brien’s practice. I previously had responsibility for cancer performance within the Trust as well as the booking centre / cancer unit. Referrals to urology went to the Consultant of the week and would be sent to the relevant Consultant secretary for triage. Staff within the booking centre would expect to receive the referrals the next day or relatively soon thereafter and so would arrange a pre-determined time to go to collect the triaged referrals. On and off since 2007 I would have been made aware of problems with Mr O’Brien’s triage. The booking centre staff wouldn’t get the referrals back in the time scales needed.

|                  |                      |
|------------------|----------------------|
| <b>SIGNATURE</b> | <i>Ronan Carroll</i> |
| <b>DATE</b>      | 17.8.17              |

**Southern Health and Social Care Trust  
Assistant Director of Cancer and Clinical  
Services  
Band 8C**

**Job Description**

**JOB SUMMARY**

The jobholder will be responsible to the Director of Acute Services for the delivery of high quality care to patients in the Trust's Cancer and Clinical Services Division. He/She will be responsible for the operational management of all specialties and departments in the division. In addition to cancer, this will incorporate clinical services such as critical care, theatres, anaesthetics, radiology, pharmacy, laboratories, psychology, outpatients and infection control in Craigavon Area Hospital, Daisy Hill Hospital and other settings as appropriate. He/She will collaborate closely with senior clinicians and other disciplines to implement the objectives of the Trust's Delivery Plan and ensure effective multidisciplinary working. He/She will provide clear leadership to all staff in the division and will be responsible for effective financial management and the efficient use of all resources. The jobholder will also support the Director of Acute Services with long term planning and service reform initiatives.

As an Assistant Director, the jobholder will be a member of the directorate's senior management team and will therefore contribute to policy development in the directorate and the achievement of its overall objectives.

**KEY RESULT AREAS**

**Service Delivery**

- lead multidisciplinary teams and oversee the co-ordination of all processes to ensure the delivery of high quality and equitable care to patients in the Trust's cancer and clinical services division.
- ensure the successful implementation of all DHSSPS, HSSA and commissioning priorities and targets in the division with a particular emphasis on those relating to waiting times and the establishment of agreed treatment schedules.
- work closely with senior clinicians and other senior managers in the Trust to secure an appropriate balance between hospital and community based services and achieve an integrated approach in reducing inappropriate hospital admissions and lengths of stay.



## Urology Services Inquiry

3. My role involves me working closely with Medical and non-medical managers in the delivery of services to the population in the Southern Trust. I was responsible for the operational management of all these specialities, ensuring that performance, financial and governance targets and required standards were managed.
4. The urology issues that I became aware of can be divided into three broad categories (all of which, including my role in respect of them, are addressed in more detail below from Question 4 onwards). However, for the purpose of Question 1, I shall offer an overview in the following paragraphs, before going on to provide detailed answers to Question 4 to Question 70.
5. The first issue centres on the performance of the Urology Service concerning those performance standards as detailed in the Integrated Elective Access Protocol (IEAP). As detailed in my response to Question 48 below, the performance issues and challenges for the Urology Service have been present for many years. The reasons for not being able to achieve the IEAP targets are multifactorial and not easily resolved; please see my response to Question 48h below.
6. From 2016 (please see my response to Question 48a below) there have been many meetings, internal and external with the Health and Social Care Board (HSCB), to monitor, discuss, understand and agree actions that could go some way to reducing the excess waiting times within the Urology Service.
7. From 2016, each year has seen the HSCB allocate non recurrent monies to the Urology Service. These non-recurrent monies have enabled some limited additional outpatient activity; please see table 1 in response to Question 48h. A meaningful reduction in the waiting times and volumes of patients has only been possible with monies being allocated to the Trust by the HSCB to enable a contract with Independent Service (IS) providers being agreed; please see response Question 48(h). With the transfer of Urology new outpatient referrals (red flag and urgent) to the IS, it is anticipated that the waiting times will be reduced significantly to approximately 52 weeks for new urgent referrals and 21 days for red flag referrals if non recurrent monies continue throughout the financial year.
8. The second issue that I became aware of was the workforce challenge for the Urology Service. Similar to the Urology Service performances against the IEAP targets, the workforce issue was, and continues to be, a chronic recurring issue, with the causes being complex and the solutions to fix it to date being unachievable with respect to a full complement of Consultant Urologists and ward-based nursing team. Please see further my responses to Q18 in this regard.



## Urology Services Inquiry

9. The third issue, Mr O'Brien's administrative practices, came to my attention in April 2016 when I became the AD for ATICs/SEC. Mrs Trouton advised that Mr O'Brien had received a letter (the letter dated 23<sup>rd</sup> March 2016) from Mr Mackle, Associate Medical Director (AMD) and herself. The letter was asking Mr O'Brien for a commitment and an immediate plan to address the issues highlighted in this letter. The letter was dated 23<sup>rd</sup> March 2016 and in this letter reference was made to four governance issues that were causing concern. The issues were:
- a Untriaged Outpatient Referral Letters
  - b Current Review Backlog up to 29 February 2016
  - c Patient Centre letters and recorded outcomes from Clinics
  - d Patient Notes at home
10. I acknowledge that I did not take immediate action to deal with the content of this letter. On reflection, after a reasonable period of time (approximately 4-6 weeks) along with the Clinical Director / CD (Mr Weir) we should have communicated with Mr O'Brien to ascertain what plan he had or was proposing to address the issues highlighted in the letter of the 23<sup>rd</sup> March 2016. By way of explanation, this was at the start of my AD tenure with SEC and I was occupied with understanding all the challenges that were present across all SEC.
11. On the 16<sup>th</sup> and 23<sup>rd</sup> of December 2016, I received two separate emails. The first email was from Dr Tracey Boyce (Director of Pharmacy with responsibility for acute governance) to Mrs Esther Gishkori (Director of Acute Services) and myself. Mr Glackin raised three concerns: the first concern was the default triage system, the second concern was patient notes leaving the Trust, and the third concern was the patient letters not being dictated in a timely manner.
12. The second email (23<sup>rd</sup> December) was from Mr Mark Haynes expressing concern that, following his review of a patient who had been seen privately by Mr O'Brien, this patient had been placed on the waiting list for an operation far sooner than other patients waiting for the same operation on Mr O'Brien's waiting list. I forwarded this email onto Dr Wright (Medical Director) for discussion and possible action.
13. As a result of these emails a series of oversight meetings were held on the 22 December 2016, 10 January 2017 and 26 January 2017. I attended two oversight meetings, 22<sup>nd</sup> December 2016 and the 10<sup>th</sup> January 2017. For a list of attendees, please see my response to Question 68 below.



## Urology Services Inquiry

**2. Provide any and all documents within your custody or under your control relating to paragraph (e) of the Terms of Reference except where those documents have been previously provided to the Inquiry by the SHSCT. Provide or refer to any documentation you consider relevant to any of your answers, whether in answer to Question 1 or to the questions set out below. If you are in any doubt about the documents previously provided by the SHSCT you may wish to contact the Trust's legal advisors or, if you prefer, you may contact the Inquiry.**

2.1. All documents relating to this S21 response are cited herein and signpost provided.

**3. Unless you have specifically addressed the issues in your reply to Question 1 above, answer the remaining questions in this Notice. If you rely on your answer to Question 1 in answering any of these questions, specify precisely which paragraphs of your narrative you rely on. Alternatively, you may incorporate the answers to the remaining questions into your narrative and simply refer us to the relevant paragraphs. The key is to address all questions posed. If there are questions that you do not know the answer to, or where someone else is better placed to answer, please explain and provide the name and role of that other person. When answering the questions set out below you will need to equip yourself with a copy of *Maintaining High Professional Standards in the Modern HPSS' framework ('MHPS')* and the *'Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance' ('Trust Guidelines')*.**

### **POLICIES AND PROCEDURES FOR HANDLING CONCERNS**

**4. In your role as Assistant Director, Anaesthetics and Surgery what, if any, training or guidance did you receive with regard to:**

- I. The MHPS framework**
- II. The Trust Guidelines; and**
- III. The handling of performance concerns generally.**

4.1. I did not receive any training or guidance, formal or self-directed, in respect of the MHPS framework.

4.2. I did not receive any training or guidance, formal or self-directed, in respect of the Trust Guidelines.

4.3. With regards to training, I have a Postgraduate Certificate and a Master of Science (MSc) degree in Health Service Management. From 1995 until 2007 I was a manager at various levels within the Newry & Mourne Trust. Since 2007 I have been a manager within the Southern Trust. I have been involved in performance review including disciplinary proceedings for non- medical staff. During my management career, I would have undertaken several Regional Leadership Courses, which would have included such topics as motivation,





## Urology Services Inquiry

underperforming and to monitor their adherence to the necessary requirements, it should be other members of the medical profession who hold the underperforming Doctor to account.

**29. Having had the opportunity to reflect, outline whether in your view the MHPS process could have been better used in order to address the problems which were found to have existed in connection with the practice of Mr. O'Brien.**

29.1. I do not believe that I have sufficient knowledge or experience with the MHPS Framework to provide an opinion as to whether it (MHPS) could have been used in a better way. My understanding and experience on this occasion was that the MHPS framework and accompanying processes were managed within the Medical Director's Office with support and advice from HR. As the operational AD, I was not advised or consulted with as to the progress of the investigation.

29.2. Having had the opportunity to reflect, I would say that the formal application of the MHPS framework could and should have been much earlier enacted. I have also reflected on the number of Chief Executives, Medical Directors and Directors of Acute Services the Trust has had since its inception in 2007 until Mr O'Brien retired in 2020, and I query whether this high turnover in staff and roles could have contributed in any way to action not being taken earlier.

Signed:           *Ronan Carroll*          

**Ronan Carroll**

**Dated this 24<sup>th</sup> day of June 2022.**



## Urology Services Inquiry

9.1. In answer to this question, I rely upon my answer to Question 54 of my first Section 21 Notice (No.5 of 2022). I repeat that answer below, albeit structuring it so that I am addressing the two limbs of Question 9.

**I. When and in what circumstances did you first become aware of concerns, or received information which could have given rise to concerns?**

9.2. I believe that I have been aware since in or around 2007/2008, in my role as Assistant Director for Cancer and Clinical Services ('AD for CCS'), that Mr O'Brien presented challenges to the Trust. I recall specific concerns for the RBC and Mrs Corrigan with regards to referrals (particularly 'Red flag' Referrals) being returned for onward processing as this caused delay to patients in starting on their cancer pathway.

9.3. I ask Mrs Corrigan to do whatever she could to address this issue. I also escalated my concerns to Mrs Trouton so as to ensure Mr O'Brien complied with the triaging rules. Any further action I would have assumed lay with Mr O'Brien's managers within SEC.

9.4. As I was an Assistant Director, I was aware that Dr Gillian Rankin and Mrs Debbie Burns had had conversations with Mr O'Brien during their tenures.

9.5. In or around 2008 I recall meeting with each cancer multidisciplinary team, including urology, to communicate the new regional cancer guidance. This was the first time I met Mr O'Brien following transfer from the legacy Newry and Mourne Trust to the Southern Trust in June 2007. I had no prior knowledge of him. Mr O'Brien said that he didn't agree with the new Cancer Standards and that he would continue to practise as he had always practised. I do not recall everyone who was present at the meeting but the Head of Cancer Services (Alison Porter) and the Operational Support Lead (Wendy Clayton) would have accompanied me. Mr O'Brien's comment at the time did not raise concerns with me as I understood that the Cancer Standards and the processes involved to achieve the required outcome (i.e., 31/62 days) were new to everyone, that is, to the clinical teams and administrative teams alike. When we met with other clinical teams we were not always received with applause; there would have been clinicians who grumbled but who did adhere. Throughout my career and working with medical staff it was never my experience that a doctor would wilfully not adhere to guidance that would benefit patients.

9.6. Therefore, as I recall, I viewed Mr O'Brien's comment as that of a clinician who was reluctant to change. The new regional cancer guidance was a big change in 2008. I knew the patient pathway involved a tracking element which ensured patients were tracked and/or managed during their first definitive treatment and there was an escalation process embedded into this new system.

**II. If you did not implement or apply MHPS and/or the Trust Guidelines notwithstanding the existence of performance concerns, explain why not.**



## Urology Services Inquiry

9.7. As an operational Assistant Director I did not implement or apply MHPS and/or the Trust Guidelines. It is my understanding that an MHPS investigation could only be initiated by the Medical Director in consultation with the Director of HR and Chief Executive.

9.8. As I have stated in my response to Question 9.I above, I did not raise any concerns when I was the AD for CCCS as Mr O'Brien was managed with the Surgical Directorate and any action required would be progressed through the senior managers. I was also aware that Dr Rankin and Mrs Debbie Burns had had meetings and interaction with Mr O'Brien.

9.9. On becoming the AD for ATICs/SEC in April 2016, the meeting of the Oversight Committee in 13<sup>th</sup> September 2016 did discuss a formal approach being adopted to address Mr O'Brien's administrative issues. Formal MHPS proceedings did not, I believe, commence until the 26<sup>th</sup> January 2017 oversight meeting.

### **10. On becoming Assistant Director, Anaesthetics and Surgery:**

- I. What was your understanding of the nature of any concerns which had previously been raised in relation to the performance of Mr O'Brien?**
- II. Were you aware of correspondence which issued in March 2016 (see attached)?**
- III. If you were not aware of the March 2016 correspondence at that time, when and in what circumstances did you become aware?**
- IV. What did you understand had been done to address concerns which had previously been raised in relation to Mr O'Brien's practice?**

- I. What was your understanding of the nature of any concerns which had previously been raised in relation to the performance of Mr O'Brien?**

10.1. As stated in my response to Question 9 above (particularly at 9.1. – 9.5.) and in my responses to Questions 54 and 55 of my first Section 21 Notice (No.5 of 2022), I was aware there were longstanding issues with Mr O'Brien, particularly with regards to the timely triaging of referrals and the return of referrals back to the RBC.

- II. Were you aware of correspondence which issued in March 2016 (see attached)?**
- III. If you were not aware of the March 2016 correspondence at that time, when and in what circumstances did you become aware?**

10.2. When I became the AD for ATICS/SEC in April 2016, Mrs Trouton told me that Mr O'Brien had been issued with a letter from her and the Associate Medical Director (Mr



## Urology Services Inquiry

Mackle). This letter was in relation to governance concerns associated with four elements of Mr O'Brien's administrative practices, namely, (1) Untriaged outpatient referrals, (2) Current review backlog, (3) Patient Centre letters and recorded outcomes from clinics and (4) Patients' notes at home.

#### **IV. What did you understand had been done to address concerns which had previously been raised in relation to Mr O'Brien's practice?**

10.3. In my role as AD for CCS I had sent emails to Mrs Corrigan and Mrs Trouton over a number of years highlighting delays in referrals being returned by Mr O'Brien. As an AD I had an awareness that previous Directors of Acute Services (Dr Gillian Rankin and Mrs Debbie Burns) had had discussions with Mr O'Brien during their tenures as Directors. Prior to April 2016, I was never part of any meeting or consultation concerning Mr O'Brien.

#### **11. Were the concerns which were the subject of correspondence in March 2016 raised, registered or escalated to the Chief Executive as required by Section I paragraph 8 of MHPS and paragraph 2.3 of the Trust Guidelines? If not, why not?**

11.1. I did not raise those concerns detailed in the letter of 23<sup>rd</sup> March 2016 to the Trust's Chief Executive as I was not aware that this escalation to the Chief Executive was my responsibility in my role as Assistant Director. I note in this regard that paragraph 2.3 of the Guidelines suggests that concerns which may require management under MHPS must be reported upwards through Clinical Manager to Operational Director to Chief Executive. My interpretation of the 23<sup>rd</sup> March letter at that time was that it was an attempt to afford Mr O'Brien an opportunity to address his administrative issues in a supportive manner. Having read and considered the letter of March 2016 I did not believe the intention was to initiate the MHPS process.

#### **12. Outline the circumstances and the process by which you understand concerns in relation to Mr O'Brien came to be discussed by the Oversight Group on 13th September 2016 and address the following:**

- I. From what source did the concerns and information discussed at that meeting emanate?**
- II. What do you understand to have been decided at that meeting?**
- III. What if any action did you take on foot of same?**
- IV. If no action was taken, please explain why and refer to all relevant correspondence.**

## Corrigan, Martina

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**From:** Corrigan, Martina  
**Sent:** 28 April 2016 16:25  
**To:** Carroll, Ronan  
**Subject:** FW: Confidential letter to AOB - updated March 2016  
**Attachments:** Confidential letter to AOB - updated March 2016.docx; Actions from AMD and Mr Suresh Meeting; Actions from AMD and Urology Consultant Meeting

Ronan,

Conscious that we are currently without an AMD and a CD in our division and there were a few issues that were been taken forward by Eamon and I want to make sure that they are not forgotten about. The Medical Director is aware of these.

Attached is joint letter from Eamon and Heather to Aidan. Eamon and I met with him and on 30 March 2016 and discussed the issues and gave him the letter, we were to get a response in 4 weeks (nothing as of yet).

There is also an on-going issue with Personal Information redacted by USI and I will update you about this when we next see each other, again Eamon and I have been taking this forward and I attach some emails regarding this, again now that we have no AMD and CD, this still needs to be actioned, because yet again he is oncall this week and no formal cover.

There is also the issue of Job Plans. Mark Haynes has firstly been trying to get his job plan put on Zicardian since he started 2 yrs ago (11 May 2014). It has now been put on and he is waiting for sign-off and there was to be a meeting with Eamon to get this signed off. He is constantly asking me about it as he needs it sorted – again not sure how to progress?

Happy to discuss further but wanted to make sure so that you are aware of these.

Martina

Martina Corrigan  
Head of ENT, Urology and Outpatients  
Southern Health and Social Care Trust  
Craigavon Area Hospital

Telephone: Personal Information redacted by USI  
Mobile: Personal Information redacted by USI  
Email: Personal Information redacted by USI

23 March 2016

Mr Aidan O'Brien,  
Consultant Urologist  
Craigavon Area Hospital

Dear Aidan,

We are fully aware and appreciate all the hard work, dedication and time spent during the course of your week as a Consultant Urologist. However, there are a number of areas of your clinical practice causing governance and patient safety concerns that we feel we need to address with you.

### **1. Untriaged outpatient referral letters**

There are currently 253 untriaged letters dating back to December 2014. Lack of triage means we do not know whether the patients are red-flag, urgent or routine. Failure to return the referrals to the Booking Centre means that the patients are only allocated on a chronological basis with no regard to urgency.

### **2. Current Review Backlog up to 29 February 2016**

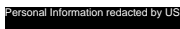
Total in Review backlog = 679

|      |     |
|------|-----|
| 2013 | 41  |
| 2014 | 293 |
| 2015 | 276 |
| 2016 | 69  |

We need assurances that there are no patients contained within this backlog that are Cancer Surveillance patients. We are aware that you have a separate oncology waiting list of 286 patients; the longest of whom was to have been seen in September 2013. Without a validation of the backlog we have no assurance that there are not clinically urgent patients on the list. Therefore we need a plan on how these patients will be validated and proposals to address this backlog.

### **3. Patient Centre letters and recorded outcomes from Clinics**

Consultant colleagues from not only Urology but also other specialties are frustrated that there is often no record of your consultations/discharges on Patient Centre or in the patients' notes. Validation of waiting lists has also highlighted this issue. If your

Surgical And Elective Division, Acute Directorate, Craigavon Area Hospital, 68 Lurgan Road,  
Portadown, Craigavon, Co Armagh BT63 5QQ Telephone: 

**Stinson, Emma M**

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**From:** Carroll, Ronan [Personal Information redacted by the USI]  
**Sent:** 09 May 2016 22:37  
**To:** McAllister, Charlie  
**Subject:** RE: Problems

**Importance:** High

I think it is safe to say you have a good handle on things  
Ronan

*Ronan Carroll*  
*Assistant Director Acute Services*  
*ATICs/Surgery & Elective Care*

[Personal Information redacted by USI]

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**From:** McAllister, Charlie  
**Sent:** 09 May 2016 15:41  
**To:** Carroll, Ronan; Gishkori, Esther; Wright, Richard  
**Subject:** Problems

Dear All

Since being asked to take over responsibility for Surgery as AMD I have been trying to get my head around as many of the issues as possible. To date:

1. There is no real functioning structure for dealing with governance. Mr Reddy is the Gov laed for surgery so is supposed to attend weekly meetings with AD and HOS to review IR1s that have come in, however the AD routinely missed the meeting (Before RC) so no actions tended to come from them.
2. There were supposed to be monthly meetings with the clinical leads, AD, HoS and AMD to discuss issues but attendees poor at keeping the date so frequently cancelled.
3. FY1 rota issues. Not enough so non-compliant.
4. Paeds interface very poor and not resolved.
5. Largely each specialty left to manage themselves, reliance on HoS to escalate issues.
6. Urology. Issues of competencies, backlog, triaging referral letters, not writing outcomes in notes, taking notes home and questions being asked re inappropriate prioritisation onto NHS of patients seen privately.
7. Not enough CAH lists so very inefficient extended days (not enough beds to service these) and spare theatre capacity in DHH with underutilised nursing and anaesthetic capacity.
8. Middle grade cover is scant so unable to provide a urology rota at night thus gen surgery regs cover this. G Surg regs occasionally have to help with urology elective lists.
9. ENT – not enough theatre time so extended lists – with problems as per urology. Problem with junior doc rotas.
10. Ortho. Job plans still not agreed.
11. SOW handover – variable – some consultants don't attend – but is in job plan as far as I know.
12. NIMDAT middle grade allocation – never get our full allocation on either site. Becoming increasingly difficult to find suitable locums to fill gaps. Likely to hit the point in the next year to 18 months where running two acute middle grade rotas isn't feasible. DHH rota particularly shaky.
13. If junior doc numbers particularly low then build up a backlog in dictation and results – governance risk.
14. I am not aware that sign-off of results is secure. Governance risk.
15. Colorectal issue – dysfunctional relationship between CAH and DHH. Possibly agenda to collapse DHH in order to have two Surgical rotas on the CAH site – one colorectal and one for everything else.
16. Interface between gastroenterology and GI surgeons.
17. Breast service teetering. Radiology support precarious.
18. Significant backlog of IR1s/SAls. Governance risk.

19. Issues around timely surgical reviews of referrals/daily consultant reviews/DNAR discussions.
20. M&M meeting dysfunctional.
21. JOB PLANS

That's what has appeared so far. Basically a very disturbing picture. Significant governance risks.

I'd be interested in your thoughts.

Charlie



## Gibson, Simon

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**From:** Carroll, Ronan  
**Sent:** 23 August 2016 14:28  
**To:** Gibson, Simon  
**Cc:** McAllister, Charlie  
**Subject:** RE: Confidential - AOB

**Importance:** High

I have received nothing from Mr O'Brien

*Ronan Carroll*  
*Assistant Director Acute Services*  
*ATICs/Surgery & Elective Care*

Personal Information redacted by the USI

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**From:** Gibson, Simon  
**Sent:** 23 August 2016 12:22  
**Cc:** Carroll, Ronan  
**Subject:** RE: Confidential - AOB

Dear Ronan

Would appreciate a response to the below please.

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

Personal Information redacted by USI

Mobile:

Personal Information redacted by USI

DHH:

Personal Information redacted by USI

Ext

Personal Information redacted by USI

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**From:** Gibson, Simon  
**Sent:** 22 August 2016 15:54  
**To:** Mackle, Eamon; McAllister, Charlie  
**Cc:** Carroll, Ronan [Personal Information redacted by USI]; Trouton, Heather  
**Subject:** Confidential - AOB

Dear all

I have been asked by the Medical Director to consider a range of issues in relation to Mr O'Brien. As part of this, I would be grateful if each of you could confirm back to me if you have received any plans or proposals from Mr O'Brien to address the issues outlined in the attached letter.

I am asking all four of you due to the changing roles and responsibilities you have all had between 23<sup>rd</sup> March and today, as at some point you would have had responsibilities with regard to Mr O'Brien and/or the service he delivered.

*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

**Gibson, Simon**

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**From:** Gibson, Simon  
**Sent:** 13 September 2016 14:12  
**To:** Gishkori, Esther; Toal, Vivienne; Clegg, Malcolm; Wright, Richard  
**Cc:** Stinson, Emma M; White, Laura; Mallagh-Cassells, Heather  
**Subject:** CONFIDENTIAL - Letter to AO'B - first draft  
**Attachments:** Letter to AOB - 1st draft 13-9-16.docx

Dear all

Draft of letter for comments back please.

**Esther** – I phoned Martina with regard to what is a realistic yet challenging target with regard to the outpatient review backlog. Her view was 229 in the month of October (19 additional clinics) would not be achievable, and we don't want to set him a target we know he can't reach, and then penalise him. So, we have gone with 70 per month, every month, until end of December. Operationally, this is your call, but just wanted you to be aware of the thought processes behind the target chosen

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

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DHH: Personal Information redacted by USI



## Urology Services Inquiry

12.6. I do not recall taking any action in the wake of this oversight committee meeting. However, I do recall the following:

- i. Attending a meeting with Mrs Gishkori where Dr McAllister (AMD) and myself were present. Dr McAllister and Mr Weir (CD) wished to 'work locally' with Mr O'Brien to see could this style improve Mr O'Brien's administrative practices.
- ii. Mrs Gishkori writing to Dr Wright (Medical Director) and Mrs Toal (HR Director) and asking for a postponement of the actions detailed from the Oversight Committee's meeting on 13<sup>th</sup> September 2016 for 3 months. In addition, Dr Wright (Medical Director) asked to see the plan and how progress would be monitored.
- iii. A list of actions were proposed by Mr Weir (CD) and supported by Dr McAllister (AMD). In my email reply of the 22<sup>nd</sup> September 2016 I offered some operational suggestions against a number of points.

*20160921- Q47 (12iv) v E meeting Mr O'Brien bates reference WIT-14277-WIT14283*

### 13. With specific regard to Section I Paragraph 15 of MHPS:

- I. **Outline any attempts you, or those within your Directorate, made to resolve concerns in relation to the performance of Mr O'Brien informally in accordance with Section I Paragraph 15 of MHPS.**
- II. **Did you seek and obtain any advice with a view to attempting to resolve the concerns informally, or was an informal approach otherwise discussed? If so, outline any advice received and/or describe any discussions which took place, and identify those who provided the advice or engaged in discussions on this issue?**
- III. **What, if any, engagement, did you have with Mr O'Brien in an attempt to resolve matters informally?**

13.1. In my response to Question 12.IV above I have referenced a plan that was devised by Mr Weir and Dr McAllister. The aim of this plan was to be take a 'locally' supportive approach to address Mr O'Brien's administrative issues. This plan was never enacted or discussed with Mr O'Brien as he was going on sick leave soon after, therefore the plan was to be deferred until his return from sick leave.

13.2. I am not aware of any advice being sought along the lines of those detailed in Section I Paragraph 15 of MHPS, that is, the Medical Director and Director of HR taking advice from the NCAS or Occupational Health Service.

13.3. I had no direct engagement with Mr O'Brien to resolve matters informally as I was aware that Mrs Corrigan (HoS) was the contact with Mr O'Brien.

**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

**Stinson, Emma M**

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**From:** Gishkori, Esther <[Personal Information redacted by USI]>  
**Sent:** 14 September 2016 13:17  
**To:** McAllister, Charlie  
**Subject:** FW: Confidential - AOB  
**Attachments:** Confidential letter to AOB - updated March 2016 final.docx

Thanks Charlie.

At least you have a starting point.

I am clear that I wish you and Colin to take this forward and explore the options and potential solutions before anyone else gets involved.

We owe this to a well respected and competent colleague.

I can confirm that you will have communication in relation to this before the end of the week.

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]



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**From:** McAllister, Charlie  
**Sent:** 14 September 2016 12:25  
**To:** Gishkori, Esther  
**Subject:** FW: Confidential - AOB

Hi Esther

Further to our meeting today here is the only communication that I have received on this subject.

Regards

Charlie

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**From:** Gibson, Simon  
**Sent:** 22 August 2016 15:54  
**To:** Mackle, Eamon; McAllister, Charlie  
**Cc:** Carroll, Ronan; Trouton, Heather  
**Subject:** Confidential - AOB

Dear all

I have been asked by the Medical Director to consider a range of issues in relation to Mr O'Brien. As part of this, I would be grateful if each of you could confirm back to me if you have received any plans or proposals from Mr O'Brien to address the issues outlined in the attached letter.

**From:** Gibson, Simon  
**Sent:** 15 September 2016 15:25  
**To:** Stinson, Emma M  
**Subject:** FW: \*HOLD\* Meeting with Simon, Colin Weir and Ronan re Investigation  
**Importance:** High

Dear Emma

Please see below – is this meeting not proceeding?

Kind regards

Simon

Simon Gibson  
Assistant Director – Medical Directors Office  
Southern Health & Social Care Trust

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DHH: Personal Information redacted by USI Ext Personal Information redacted by USI

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**From:** Carroll, Ronan  
**Sent:** 15 September 2016 13:31  
**To:** Gibson, Simon; Weir, Colin  
**Subject:** FW: \*HOLD\* Meeting with Simon, Colin Weir and Ronan re Investigation  
**Importance:** High

I received an email from Esther to say this meeting was cancelled

*Ronan Carroll*  
Assistant Director Acute Services  
ATICs/Surgery & Elective Care

Personal Information redacted by USI

**Stinson, Emma M**

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**From:** Carroll, Ronan <[redacted] Personal Information redacted by USI >  
**Sent:** 22 September 2016 15:41  
**To:** McAllister, Charlie; Gishkori, Esther; Weir, Colin  
**Subject:** RE: meeting re Mr O'Brien.

**Importance:** High

Charlie/Colin

So can I ask and offer some suggestions/solutions as to how we may monitor progress against the action listed below. The clock is ticking now toward December  
Come back to me if you wish me to action anything/all

1. That I (initially) have a series of face to face meetings with Mr O'Brien and aim to have resolution or plan for resolution in next 3 months. That is by mid December. I propose the first meeting would involve you me and Mr O'Brien – *At the first meeting obviously after the context of the meeting being explained the proposed plan/actions need to be shared with AOB and agreed*
2. To implement a clear plan to clear triage backlog. – *is this the outpatient referral letters, including RF's? How are you planning to monitor that this is cleared? I would propose with regard to the RF's that I would ask the cancer team to monitor the triage turnaround, with regard to outpatients I would ask Anita to put a process in place to monitor*
3. Make arrangements to validate the review backlog and adapt clinic new to review ratios to reduce this – *RBL validation – are we offering additional Pas for this to be done? If not, then something in his job plan will have to stop for this clinical validation to happen. Then when this task has been completed the remaining on the RBL can only be dealt by as your suggestion the template being adjusted, this has a lead in time of 6 weeks due to partial booking process. When this is implemented we will monitor the progress of AOBs RBL (I can have this run at anytime)*
4. All correspondence to GPs and copies for patient centre /ECR to be done at time of consultation – *I will speak to Anita to ensure AOBs secretary receives digital dictation following any consultation*
5. All patient notes to be return from home without exception *NA*
6. These meetings will report back regularly to Dr McCallister as AMD and he will be involved in some further meeting to assist me and provide support when needed *absolutely*
7. Throughout the process we want to encourage full engagement and have Mr O'Brien understand that if we achieve these aims through these processes that will satisfy the Trust and no further actions would be taken
8. That monitoring would continue to ensure there is no drift with an understanding that if this happened further investigations would take place.

*Ronan Carroll  
Assistant Director Acute Services  
ATICs/Surgery & Elective Care*

Personal Information  
redacted by USI

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**From:** McAllister, Charlie  
**Sent:** 21 September 2016 11:55  
**To:** Gishkori, Esther; Weir, Colin; Carroll, Ronan  
**Subject:** RE: meeting re Mr O'Brien.

Hi Colin

Thank you very much for this. Apart from the fact that you spelt my name wrong (!) this is absolutely excellent and I agree completely. It would be important to do this in a positive/constructive/supportive role and that Mr O'Brien would be aware of this. I think that this approach will give the best chance to achieve this. And for improving the current situation.





## Urology Services Inquiry

12.6. I do not recall taking any action in the wake of this oversight committee meeting. However, I do recall the following:

- i. Attending a meeting with Mrs Gishkori where Dr McAllister (AMD) and myself were present. Dr McAllister and Mr Weir (CD) wished to 'work locally' with Mr O'Brien to see could this style improve Mr O'Brien's administrative practices.
- ii. Mrs Gishkori writing to Dr Wright (Medical Director) and Mrs Toal (HR Director) and asking for a postponement of the actions detailed from the Oversight Committee's meeting on 13<sup>th</sup> September 2016 for 3 months. In addition, Dr Wright (Medical Director) asked to see the plan and how progress would be monitored.
- iii. A list of actions were proposed by Mr Weir (CD) and supported by Dr McAllister (AMD). In my email reply of the 22<sup>nd</sup> September 2016 I offered some operational suggestions against a number of points.

*20160921- Q47 (12iv) v E meeting Mr O'Brien bates reference WIT-14277-WIT14283*

### 13. With specific regard to Section I Paragraph 15 of MHPS:

- I. **Outline any attempts you, or those within your Directorate, made to resolve concerns in relation to the performance of Mr O'Brien informally in accordance with Section I Paragraph 15 of MHPS.**
- II. **Did you seek and obtain any advice with a view to attempting to resolve the concerns informally, or was an informal approach otherwise discussed? If so, outline any advice received and/or describe any discussions which took place, and identify those who provided the advice or engaged in discussions on this issue?**
- III. **What, if any, engagement, did you have with Mr O'Brien in an attempt to resolve matters informally?**

13.1. In my response to Question 12.IV above I have referenced a plan that was devised by Mr Weir and Dr McAllister. The aim of this plan was to be take a 'locally' supportive approach to address Mr O'Brien's administrative issues. This plan was never enacted or discussed with Mr O'Brien as he was going on sick leave soon after, therefore the plan was to be deferred until his return from sick leave.

13.2. I am not aware of any advice being sought along the lines of those detailed in Section I Paragraph 15 of MHPS, that is, the Medical Director and Director of HR taking advice from the NCAS or Occupational Health Service.

13.3. I had no direct engagement with Mr O'Brien to resolve matters informally as I was aware that Mrs Corrigan (HoS) was the contact with Mr O'Brien.

6. Dr McAlister first mentioned to me that there were concerns about Mr O'Brien's triage, keeping notes at home and undictated clinics in or around August 2016. He put it in terms of there being a bit of an issue with charts, triage and clinics but it wasn't put to me as a really serious problem.
7. I met with the Head of Service, Martina Corrigan around the end of September 2016 and I got further information about charts that were tracked to Mr O'Brien but were not in the Trust, that Mr O'Brien was way behind with triage of GP referrals and a backlog needing to be addressed. AT this point the intention was very much to deal with the issues informally. There was no formality about the matter. The approach to managing the issues was all informal and it was about how we could help Mr O'Brien to get him back on track. No-one knew the enormity of the problem.
8. I was appointed as Clinical Director around April 2016 and the issues of concern were not immediately brought to my attention. I recall discussions between Mark Haynes and Dr McAlister at the weekly Thursday meetings about the concerns but it was not addressed directly with Mr O'Brien because he may not have been at the meetings. I think I first became aware there were issues around the summer of last year. I discussed the concerns with Michael Young who is the clinical lead in Urology and he was aware of the concerns.
9. I remember that the intention was for Martina and Ronan to discuss with Mr O'Brien but I do recall it was always meant to be on an informal basis. This meeting didn't happen as far as I understand. I had discussed the matter with Martina and Michael Young and then I was made aware that it had gone to the Medical Director's office and that Dr Wright was looking at it.
10. I don't think people knew the enormity of the problem or how far back it was going on. I know I was told at a point not to meet with Mr O'Brien about this issue. I can't recall who said this to me, it may have been Ronan.
11. In terms of TOR 1, I know now that there is a problem with Mr O'Brien not triaging patients but I didn't know the extent of the problem at the time.
12. In respect of the issue to do with notes, again I was aware there was an issue with Mr O'Brien having notes at home but not the extent of the problem.
13. In relation to the undictated clinics I was broadly made aware of an issue by Dr McAlister but I did not know the detail or extent of the problem.
14. In relation to TOR 4, I was not aware of any issue related to private patients.
15. I know managers within the Trust were aware of the problems with Mr O'Brien and I was shown a letter dated March 2016 addressed to Mr O'Brien. Dr McAlister felt the correspondence in March 2016 had not addressed the problem and he wanted to manage it in a different way. I recall Dr McAlister saying that Mr O'Brien was a good surgeon and he felt could help him get back on track. This was all without the knowledge of the enormity of the problems.