

**UROLOGY SERVICES INQUIRY****USI Ref:** Section 21 Notice No. 47 of 2022**Note:** An addendum with amendments to this statement was received by the Inquiry on 16 March 2023 and can be found at WIT-91921 to WIT-91923. Annotated by the Urology Services Inquiry.**Date of Notice:** 29 April 2022

Witness Statement of: Siobhan Hynds

I, Siobhan Hynds, will say as follows:-

SCHEDULE [No 47 of 2022]

I. 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 I was on a period of annual leave from 24 December 2016 to 9 January 2017. When I went on leave on 24 December 2016, I was unaware of any concerns in respect of Mr Aidan O'Brien, Consultant Urologist.

1.2 I was made aware of concerns regarding Mr O'Brien on 28 December 2016 via a phone call from the Director of Human Resources & Organisational Development (HROD), Mrs Vivienne Toal. Mrs Toal was also on a period of annual leave over the Christmas period. I don't recall the detail of the conversation. However, from e-mail correspondence from Mrs Toal to Ms Lynne Hainey on 28



Urology Services Inquiry

problems which were found to have existed in connection with the practice of Mr. O'Brien.

30.1 Having had the opportunity to reflect I feel:

- a) There were early missed opportunities to manage the concerns before the scale of the concerns escalated. More effective and robust management of Mr O'Brien's performance informally over many years may have reduced the risks to patient safety.
- b) Holding to account – opportunities to address and ensure Mr O'Brien was working within the systems that others were e.g. scheduling of patients.
- c) On reflection the formal investigation took too long and Mr O'Brien was at times enabled / permitted to dictate the timescale.
- d) Given the scale of the concerns and what was known early on – release for key individuals to attend to the process should have been given.

Statement of Truth

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

Signed:

Date: 03 August 2022

UROLOGY SERVICES INQUIRY

USI Ref: Notice 47 of 2022

Date of Notice: 29th April 2022

Addendum Witness Statement of: Siobhan Hynds

I, Siobhan Hynds, wish to make the following amendments and additions to my response dated 3rd August 2022 to Section 21 Notice Number 47 of 2022:-

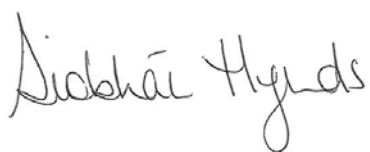
1. At paragraph 1.5 (WIT-42013), the sentence which states '*I can see from e-mail correspondence that I responded to her on 3 January 2017 to ask if she had included private patients as an issue of concern at the meeting on 30 December*' should read '*I can see from e-mail correspondence that I responded to her on 2 January 2017 to ask if she had included private patients as an issue of concern at the meeting on 30 December*'.
2. At paragraph 1.8 (WIT-42014), the sentence which states '*I can also see from e-mail correspondence Ms Hainey sent to me on 28 December 2016, that she had a concern about the agenda for the meeting that had been issued to Mr O'Brien, as the agenda made no specific reference to the matter of exclusion.*' should read '*I can also see from e-mail correspondence Ms Hainey sent to me on 29 December 2016, that she had a concern about the agenda for the meeting that had been issued to Mr O'Brien, as the agenda made no specific reference to the matter of exclusion.*'
3. At paragraph 1.15 (WIT-42015), the sentence which states '*This was the first meeting I had attended in respect of the concerns regarding Mr O'Brien and it was at this meeting that I became of the detail and the extent to which the concerns had already been assessed.*' should read '*This was the first meeting I had attended in respect of the concerns regarding Mr O'Brien and it was at this meeting that I became aware of the detail and the extent to which the concerns had already been assessed.*'

 **Urology Services Inquiry**

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: 16 March 2023



Urology Services Inquiry

4. At paragraph 1.65 (WIT-42026), the sentence which states *'The formal investigated concluded on 21 June 2018 when the case manager, Dr Chada provided the investigation report to Dr Khan.'* should read *'The formal **investigation** concluded on 21 June 2018 when the case **investigator**, Dr Chada provided the investigation report to Dr Khan.'*

5. At paragraph 24.40 (WIT-42089), the sentence which states *'I was the on a period of annual leave 16 to 31 August 2018'* should read *'I was **then** on a period of annual leave 16 to 31 August 2018'*.

6. I would also like to make an addition to paragraph 18.6 (wit-42063) which states *'At the meeting on 24 January 2017, the concerns identified at the 10 January 2017 oversight meeting were put to Mr O'Brien for response'*. I wish to add to this paragraph to include the following statement;

'Mr O'Brien attended the meeting on 24 January 2017 accompanied by his son, Michael O'Brien. The meeting was held in Mrs Vivienne Toal's office in Trust Headquarters at Craigavon Area Hospital. Mr Weir and I were sitting in Mrs Toal's office waiting to begin the meeting when Mr O'Brien and his son arrived accompanied by Mrs Roberta Brownlee, Trust Chair. Mrs Brownlee came to the door of the meeting and made some introductions. Mrs Brownlee left before the meeting commenced. At the meeting on 24 January 2017, the concerns identified at the 10 January 2017 oversight meeting were put to Mr O'Brien for response.'

This statement was not included in my initial response to the Section 21 Notice as I answered the questions asked very directly. On reflection and on foot of hearing evidence provided by other witnesses I feel this was an important omission which should be included.

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



Urology Services Inquiry

4.1 I commenced employment with Newry and Mourne Health and Social Services Trust on 20 June 1997. This Trust, under the Review of Public Administration in 2007, was one of 4 Trusts in Northern Ireland merged to form the Southern Health and Social Care Trust. I have remained in employment with the Trust and its successor from 20 June 1997 to date without break.

4.2 Prior to my employment with the Trust, I obtained:

- a. 9 GCSEs Grade A-C in 1991/92
- b. 3 A Levels Grade A-C in 1993
- c. BA (Hons) Business Studies with Diploma in Industrial Studies (2:1) in June 1997

4.3 During my employment with Newry and Mourne HSS Trust, I obtained:

- a. Post Graduate Diploma in Human Resource Management 1999 - 2001, pass with commendation.
- b. Graduate Membership of the Chartered Institute of Personnel and Development (CIPD) 2001
- c. Chartered Membership of the Chartered Institute of Personnel and Development (CIPD) 2007

4.4 Other qualifications:

- a. RSA Stage 3 Part 1 Word-Processing June 1999
- b. ECDL (European Computer Driving Licence)

4.5 My occupational history prior to commencing employment with the Southern HSC Trust is as follows:

Dates of Employment	Post Held
Approx. 1990 to 1995	Retail Assistant (part-time during school)
June 1995 to June 1996	Administrative Assistant, North Eastern University, Boston, USA (Industrial Placement)
Approx. 1996 to 1997	Retail Assistant (part-time during university)
20 June 1997 – 19 July 1998	Clerical Officer Grade 2 – Personnel

HROD Structure

Director of
Human Resources &
Organisational Development

Assistant Directors

Heads of Service

Assistant Director of Estates
Alan Metcalfe

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

Assistant Director of Human Resources
Directorate of Acute Services
Helen Walker

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

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

Head of Equality
Lynda Gordon

Head of Medical Staffing
Zoe Parks

Head of Occupational Health
Catriona Campbell

Head of Resourcing
Iain Gough

Head of ELD (vacant)

Head of Employee Relations
(including Litigation Services)
Siobhan Hynds

Head of Workforce Information
Karen Anderson



Southern Health
and Social Care Trust

2016 HROD Structure



Urology Services Inquiry

2018 (located at S21 47 of 2022 Attachments 7. Employee Relations Staff in Post 2008 to 2018)

Policies and Procedures for Handling Concerns

7. Were you aware of the 'Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance' published 23 September 2010? If so, when you were aware of concerns, did you implement those Guidelines? If so, please set out in full how you did so on every occasion and with whom you engaged. If not, please explain why not.

7.1 Yes, I was aware of the Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance dated 23 September 2010. I was involved in the drafting of this document in conjunction with a range of senior Trust managers at that time including: Mr Kieran Donaghy Director of HROD, Mrs Vivienne Toal, the Head of Employee Relations, Ms Anne Brennan, Senior Manager in the Medical Directors office and Mrs Zoe Parks, Medical HR Manager. Input to the document was also sought from a range of key stakeholders including senior medical managers and NCAS at the time.

7.2 The Trust Guidelines and the Maintaining High Professional Standards (MHPS) Framework is always my guide when I am advised of concerns regarding doctors' or dentists' performance.

7.3 Generally, concerns about the performance of a doctor or a dentist are reported to me and other staff within the HROD directorate from clinical or operational managers. These may be reported directly to individual HR staff members for advice or via the Trust's doctor and dentist oversight group for discussion and advice.

7.4 The oversight group consists of the Medical Director, the Director of HROD and the relevant service Director. I attend in support of the Director of HROD and the Deputy Medical Director attends in support of the Medical Director. The meeting is co-ordinated by the Head of Medical HR and the Medical HR Staffing manager who record notes of the meeting and provide case updates at the



Urology Services Inquiry

and Case Investigator in line with the requirements of MHPS during the course of the investigation including contacts and correspondence with Mr O'Brien as the practitioner.

9. In your role as Head of Employee Relations/ Deputy Director of HR & Organisational Development 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.**

9.1 In my roles as Head of Employee Relations / Deputy Director – HR Services, I received the following training:

- a) I attended the Trust's Development Programme for AMDs and CDs on 7 and 8th March 2017, which covered the MHPS Framework and specifically Case Investigator training by NCAS trainers.
- b) I attended and presented at a training session on 24 September 2010 which was a Trust Medical Leadership Forum facilitated by NCAS. This session provided training to medical managers on the MHPS Framework, Case Scenarios and the Trust Guidelines, which I had been involved in drafting.
- c) I have not attended any specific training on the handling of performance concerns in either of these roles.

9.2 In terms of training wider than the two roles as set out above:

- a) Training in respect of handling performance concerns was part of my training from my Post Graduate Diploma course, my CIPD qualification and developed across more than 20 years' experience working in HR roles.

Hynds, Siobhan

From: Hynds, Siobhan [Personal Information redacted by USI]
Sent: 25 January 2017 11:07
To: Toal, Vivienne
Subject: RE: a couple of things re MHPS case

Vivienne

I'll try to get an hour in the diary next week to do a session with both.

We advised AOB that we would notify him via telephone and follow up in writing in relation to the decision about on-going exclusion. He was happy with that. We also advised we would keep him updated as we progress through the investigation.

I'll speak with Dr Khan about linking in with NCAS after the meeting on Thursday.

Siobhan

From: Toal, Vivienne
Sent: 25 January 2017 09:13
To: Hynds, Siobhan
Subject: a couple of things re MHPS case

Siobhan

Just a couple of thoughts.

Training for CM and CI – could we do something quick so that if we are ever asked we can say they are trained. John is trained.

Are we bringing AOB back on Friday to tell him next steps?

We will need NCAS advice on Thursday / Friday first thing – as their date of review is 27th.

Vivienne

Vivienne Toal (Mrs)
Director of Human Resources & Organisational Development
Trust Headquarters
Craigavon Area Hospital
68 Lurgan Road
Portadown
BT63 5QQ

Tel: [Personal Information redacted by USI]
Mob: [Personal Information redacted by USI]



Urology Services Inquiry

640. I certainly did meet Mr McNaboe once to discuss job planning. That was followed by correspondence by email concerning a job plan. However, that was all upended by the Covid-19 pandemic and by Mr McNaboe going on sick leave. Correspondence with Mr McNaboe is referred to in my comments on job planning.

641. Whilst there were many excellent members of staff that I worked with and alongside, given the nature of the concerns that I (and others) raised throughout my tenure, I did not feel, overall, that I was adequately supported in my role. Nor did I feel that I was suitably supported to try and address the issues raised in March 2016.

(Section 7 – Subsequent Processes)

(Q75)

642. I wish to reiterate my concern and dissatisfaction in respect of the length of time the Trust took to conduct and complete the formal investigation, using the MHPS framework, and which was in breach of the Trust's own policy, namely the Southern Trust Guidelines for handling Concerns about Doctors and Dentists' Performance (September 2010). [see TRU-83685 – TRU-83702]. Under that Trust policy the investigation regarding my practice should have been undertaken and concluded within 4 weeks from the date of exclusion on 30 December 2016. The Trust did not comply with that policy, and indeed during the course of the investigation the Trust ignored it, preferring the MHPS Framework. On raising my concerns regarding this with the Trust, I was advised by Ms Hynds, Assistant to the Case Investigator, that the MHPS framework was "overarching" [see AOB-56443]. It remains my view that the Trust was entitled to use the MHPS framework in conducting such a formal investigation, and to which the Trust's Guidelines referred, but that it was the latter that which related to my contract of employment. I found it remarkable that the Trust could so readily fail to comply with its own Guidelines while alleging that I had failed to comply with the Trust's policy concerning triage of referrals, even though it did not have one.

643. In retrospect, I have also found it concerning that the Case Investigator's



Urology Services Inquiry

bodies.

11.1 The MHPS Framework documents no specific role for HR Manager. There is specific reference to the role of the Director of HR only.

11.2 The Trust's Guidance specifically refers to the role of the HR Manager as part of the process. The HR Manager role is included in this guidance and outlines in practice how cases are managed and supported within the Trust. In general, terms, the role of the HR Manager is to provide advice and administrative support to the various specified roles under the Trust's Guidelines. It is not a decision-making role.

11.3 My understanding of how the role of the HR Manager was to relate to and engage with each of the specific roles under the Trust Guidelines is:

- a) Clinical Manager – to provide advice and administrative support to any clinical manager with concerns about a doctor's or dentist's performance or conduct. To guide them in line with the MHPS Framework and Trust Guidelines. To assist the Clinical Manager to gather enough information to enable them to assess / screen the seriousness of the concern/complaint.
- b) Case Manager - to provide advice and administrative support to any case manager with responsibility for managing concerns about a doctor's or dentist's performance or conduct. To guide them in line with the MHPS Framework and Trust Guidelines. To assist the Case Manager with matters of restriction of duty / exclusion, process of sharing the formal investigation report with the practitioner for comment and documenting their decision in respect of the actions / next steps following conclusion of the investigation process.
- c) Case Investigator - to provide advice and administrative support to any case investigator investigating concerns about a doctor's or dentist's performance or conduct. To guide them in line with the MHPS Framework and Trust Guidelines. This is not specifically outlined in the Trust guidelines but is in practice the process followed with cases within

		dictated – 1. Results to be dictated – 31. Filing – 2 files Mr Haynes: Results to be dictated – 19. Results to be typed – 20. Filing – 1.5 files Mr O'Brien: Discharges awaiting dictation – 18. Clinic letters to be dictated – 43. Results to be dictated – 10. FILING – 6 files Mr O'Donoghue: Clinic letters to be typed – 12. Results to be dictated – 11. Results to be typed – 12. Filing – 3 files Mr Young: Discharges awaiting dictation – 6. Results to be dictated – 17. Filing – 2.5 files	AOB-08660 – AOB-08739
05.07.2019	Email from [redacted] to Consultants	Re: Urology Schedule – August and updated July	TL4 page 1524 – 1533 AOB-08801 – AOB-08810
05.07.2019	Email from Ms Corrigan to Consultants	Re: Urology rota July 2019 to include new Locum Mr Gyorgy Solt	TL4 page 1534 – 1535 AOB-08811 – AOB-08812
08.07.2019	Email from [redacted] to Mr O'Brien	RE: Patient query/Complaint <i>“Patient was seen by AOB 24/6/19 in SWAH. CT scan and bone scan to be done and review in August in SWAH Thursday he complained of new pain in his back. [redacted] contacted GP on Friday. GP came out on Friday and upped dose of MST from 5mg to 10mg. He said that he could contact radiologist on Saturday which he did and contacted [redacted] to say the Radiologist said it would have to be a clinical call so the GP advised taking him to A&E. Took to A&E on Sunday – No morphine on Sunday.</i> <i>Doctor there said they don't have the equipment or staff to do the examination and couldn't understand why GP sent them to A&E. Told not to give morphine but to give Co-Codamol but co-codamol does nothing for pain. The Doctor in A&E last night said he had been referred to Omagh for CT but Omagh has said that CT scan as near to his review appointment in August so the secretary suggested that [redacted] phone secretary in CAH to see if review appointment can be brought forward so CT scan can be done sooner”</i>	TL4 page 1551 AOB-08828
08.07.2019	Email from [redacted] to Mr O'Brien	No red flag appointments available until August so considering overbooking	TL4 page 1552 AOB-08829
09.07.2019	Email from Mr O'Brien to [redacted]	Re: Patient admission Mr O'Brien notes that patient has been waiting for operation since 2014 and he does not want to cancel due to risk of her waiting a long time for a date	TL4 page 1554 – 1555 AOB-08831 – AOB-08832

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		<i>other specialties.....”</i>	
18.09.2019	Email from <small>Personal Information redacted by USI</small> to Consultants	Re: October rota	TL4 page 1994 – 2002 AOB- 09270 – AOB- 09278
20.09.2019	Letter of complaint	Re: <small>Patient 8</small> Has been waiting almost 5 years for urology procedure. Aware that Trust does not have enough capacity to see all patients on the waiting list and the cancer patients take precedence. However, patient has been waiting 5 years	TL4 Page 2242 AOB- 09519
23.09.2019	Email from Ms Corrigan to Consultants	Re: October rota	TL4 page 2075 – 2076 AOB- 09351 – AOB- 09352
23.09.2019	Email from <small>Personal Information redacted by USI</small> to Consultants	Re: November 2019 rota	TL4 page 2111 – 2115 AOB- 09386 – AOB- 09389
26.09.2019	Email from <small>Personal Information redacted by USI</small> to Mr O'Brien	RE: Patient query Patient calling re date for surgery. Has been on waiting list for TURP since 23 November 2015.	TL4 page 2228 AOB- 09501
28.09.2019	Email from Ms Corrigan to Consultants	RE: October rota	TL4 page 2238 – 2239 AOB- 09511 – AOB- 09512
28.09.2019	Email from Ms Corrigan to Client Liaison	Re: <small>Patient 8</small> complaint Patient added to Mr O'Brien's waiting list for surgery in October 2014. He is currently waiting 256 weeks and the waiting time for a routine patient is 268 weeks. We would like to apologise for the long wait as we currently do not have enough capacity to meet the demand and we are concentrating on treating our cancer patients for which we have a high volume	TL4 page 2240 – 2249 AOB- 09513 – AOB- 09522
October 2019	Achieving the best possible outcomes for men with	<i>“This report also provides advice on how to tackle the increasing burden on healthcare services from this growing prostate cancer population”.</i> <i>“... we believe require particular attention for adequate staffing levels in the future.”</i>	TL2 page 342 – 350 AOB- 04799 -

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Urology Services Inquiry

Mr O'Brien. As part of discussions between 28 December and 10 January 2017, I understood there were previous discussions about concerns in respect of Mr O'Brien. I was not party to those discussions at the time. These discussions had resulted in the decision to meet with Mr O'Brien on 30 December 2016 to discuss his immediate exclusion and that the concerns needed to be formally investigated. I have limited recall of the detail of the initial conversation/s in December 2016 with Mrs Toal or Ms Hainey which were during a period of my leave.

12.3 I was on annual leave and the Director of HROD (Mrs Vivienne Toal) was on a period of leave in or around the same time. I believe I received a telephone call from the Director of HROD regarding who was covering within the Employee Relations team over the Christmas period. I do not specifically recall the detail of this phone call. I understood there was an urgent meeting to be held on 30 December 2016 with a doctor, Mr O'Brien, regarding concerns about his practice. I believe the Director of HROD was seeking to identify appropriate HR support to accompany the Medical Director (Dr Richard Wright) to attend the meeting. I do not recall the conversation, however from e-mail correspondence on 28 December 2016 between Mrs Toal and Ms Hainey, it is clear that Lynne Hainey was covering and was asked to attend the meeting with Dr R Wright and Mr A O'Brien.

12.4 I believe I liaised with Ms Lynne Hainey who was providing the senior, experienced cover within Employee Relations over the holiday period to arrange for her to assist the Medical Director at the 30 December 2016 meeting.

12.5 From e-mail correspondence dated 28 December 2016, I note Lynne Hainey and I had a discussion on 28 December 2016 regarding the 30 December 2016 meeting. I don't recall the discussion. Between 28 December and 30 December 2016, Lynne Hainey sent me a number of e-mails. I do not specifically recall the discussions (***located at Relevant to HR/Evidence after 4 November HR/Reference 77/V Toal no 77/20161228 - Email - Action note - 22nd December – AOB***)

Oversight Committee

10th January 2017

Present:

Dr Richard Wright, Medical Director (Chair)

Vivienne Toal, Director of HROD

Esther Gishkori, Director of Acute Services

In attendance:

Simon Gibson, Assistant Director, Medical Director's Office

Siobhan Hynds, Head of Employee Relations

Ronan Carroll, Assistant Director, Acute Services

Tracey Boyce, Director of Pharmacy, Acute Governance Lead

Dr A O'Brien

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

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

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

Issue one - Untriaged referrals

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

Action: Ronan Carroll

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

Issue two – Notes being kept at home

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

88 sets of notes located within Mr O'Briens office

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

Action: Ronan Carroll

Hynds, Siobhan

From: Weir, Colin [Personal Information redacted by USI]
Sent: 12 January 2017 09:32
To: Hynds, Siobhan; Khan, Ahmed; Gibson, Simon
Subject: Re MHPS investigation. CONFIDENTIAL

Siobhan

I am the lead investigator for an investigation. I know an oversight committee met this week to discuss the issues. I have not yet received any official confirmation to commence the investigation but I have been forwarded several emails explaining the issues

My understanding is the process should be completed within 4 weeks of suspension of the Consultant concerned. From 30th Dec in this case

I also understand I would have assistance from Employee relations.

Can you tell me who is helping me and how we can progress this

Colin

Colin Weir FRCSEd, FRCSEng, FFSTEd
Consultant Surgeon | Honorary Lecturer in Surgery | AMD Education and Training | Clinical Director SEC
Southern Health and Social Care Trust

Secretary Jennifer [Personal Information redacted by USI]

Hynds, Siobhan

From: Hynds, Siobhan Personal Information redacted by USI
Sent: 18 January 2017 23:03
To: Gibson, Simon
Subject: Draft letter from Case Manager re initial meeting 19 January 2017
Attachments: Draft letter from Case Manager re initial meeting 19 January 2017.docx

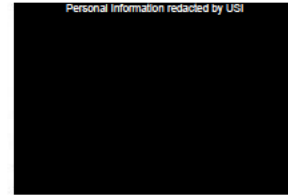
Simon

Do you want to add your information into this and send it back to me. I'll liaise with Dr Khan re the meeting next week.

I am waiting on the TOR being approved by the OS committee.

Siobhan

STRICTLY PRIVATE & CONFIDENTIAL



17 January 2017.

Dr. Richard Wright,
Medical Director,
Southern Health & Social Care Trust,
Southern Trust Headquarters,
Craigavon Area Hospital,
68 Lurgan Road,
Portadown,
BT63 5QQ.

Dear Dr. Wright,

I write to you in relation to my immediate exclusion and the formal investigation of which I was advised when I met with you and Ms. Hainey on Friday 30 December 2016, when I was accompanied by my wife, and of which you formally notified me in your letter of 6th January 2016 (sic) and which I received on 11 January 2017.

Your letter formally notified me of my immediate exclusion, pursuant to Maintaining High Professional Standards in the Modern HPSS (MHPS) and the associated Southern Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance (Trust Guidelines), and which was effective from 30th December 2016 when we met with you and Ms. Hainey.

I write to you at this time as I have become increasingly concerned regarding the procedural conduct of the investigation to date.

When we met with you and Ms. Hainey, you advised that a non-executive member of the Southern Health & Social Care Trust Board (the Board) would be appointed and that I would be advised of the identity of this person. I note that the appointment of a non-executive member of the Board is a requirement of MHPS (Section 1: Paragraphs 8 and 28) and of the Trust Guidelines (Paragraph 2.10 and Appendix 2). Both MHPS and the Trust Guidelines stipulate that the role of the non-executive member is to oversee the case to ensure that momentum is maintained, to ensure that the investigation is completed in a fair and transparent way, and to consider any representations from the practitioner about his or her exclusion, or any representations about the investigation.

Hynds, Siobhan

From: Hynds, Siobhan [Personal Information redacted by USI]
Sent: 22 January 2017 21:27
To: Gibson, Simon; Toal, Vivienne; Wright, Richard
Subject: RE: AOB letter 17-1-17: draft response

Simon

I would suggest confirming again Mr Wilkinson's name and contact details and a note to advise that this response has been shared with Mr Wilkinson. I would advise that should Mr O'Brien wish to raise matters regarding process etc going forward Mr Wilkinson is his point of contact.

Siobhan

From: Gibson, Simon
Sent: 20 January 2017 15:53
To: Toal, Vivienne; Hynds, Siobhan; Wright, Richard
Subject: AOB letter 17-1-17: draft response

Dear Richard

Please find attached a draft response for your consideration in relation to AOBs letter to you, received on Wednesday (also attached).

Viv and Siobhan; given recent issues, I would welcome your views on this approach, and whether it is consistent with other messages. Happy if a different approach is considered.

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 the USI]



Urology Services Inquiry

Outline all steps you took, information you considered and advice you received when finalising those Terms. Describe the various iterations or drafts of the Terms of Reference and the reasons for any amendments, and indicate when and in what manner these were communicated to Mr O'Brien.

20.1 Ms Lynne Hainey copied me into an e-mail she had received from Mr Simon Gibson on 28 December 2016 in which he had shared with her a number of documents including a draft terms of reference (TOR). I understand Mr Gibson had drafted these and had invited Ms Hainey to amend or comment. The initial TOR stated:

- I. To determine whether there has been unreasonable delays in the triaging of outpatient letters by Dr O'Brien, and whether patients may have come to harm as a result of these delays
- II. To determine whether patients notes have been stored at home by Dr O'Brien, whether these have been at home for significant periods of time and whether this has affected the clinical management plans for these patients either within Urology or within other clinical specialties
- III. To determine whether there has been an unreasonable delay by Dr O'Brien in dictating outpatient clinics, and whether there may have been delays in clinical management plans for these patients
- IV. To determine whether Dr O'Brien offered an advantage to NHS patients awaiting a procedure who had previously attended him in a private outpatient capacity, to the disadvantage of other patients awaiting a procedure, by not listing patients in chronological order

20.2 Ms Hainey e-mailed me on 29 December 2016 to advise that she had reviewed the TOR however; she had also received a copy of an NCAS letter from Mr Gibson, which was likely to impact again on the draft TOR (***located at Relevant to HR/Evidence after 4 November HR/Reference 77/S Hynds no 77/20161229 - Email - Terms of Reference for Investigation December 2016***). When Ms

Buckley, LauraC

From: Hainey, Lynne [Personal Information redacted by USI]
Sent: 03 January 2017 17:37
To: Hynds, Siobhan
Subject: Re: Investigation - AOBrien

Siobhan, it has been agreed that we hold off on terms of reference. This is as per guidance from NCAS. It was immediate exclusion and then take some time over the next few weeks to gather further info that will determine tor.

Any queries, just come back to me

Thanks

Lynne

Sent from my BlackBerry 10 smartphone.

From: Hynds, Siobhan
Sent: Monday, 2 January 2017 16:57
To: Hainey, Lynne
Subject: RE: Investigation - AOBrien

Lynne

I see Vivienne was going to ring you about the letter and TOR. Did these go yet? I have a number of comments to add if they haven't been sent. The wording in the TOR I feel needs changed.

Let me know.

Thanks

Siobhan

From: Hainey, Lynne
Sent: 28 December 2016 16:09
To: Hynds, Siobhan
Subject: FW: Investigation - AOBrien

Siobhan

I will have a look at the letter and the Terms of Reference but note the letter (4th attachment) dating back to March 2016

Thanks

Lynne

From: Gibson, Simon
Sent: 28 December 2016 15:34
To: Hainey, Lynne; Wright, Richard
Subject: Investigation - AOBrien

Dear Lynne

I was drafting correspondence for Richard to pass to Dr O'Brien on Friday. However, having just met Richard, he briefed me on advice from NCAS and that the discussion with Dr O'Brien may be purely verbal, with the information attached used by yourselves only as an aide memoire, pending fuller scoping of the facts.

Hynds, Siobhan

From: Hynds, Siobhan [Personal Information redacted by USI]
Sent: 18 January 2017 13:53
To: Toal, Vivienne; Wright, Richard; Gishkori, Esther
Cc: Gibson, Simon
Subject: Terms of Reference for Investigation
Attachments: Terms of Reference for Investigation January 2017 DRAFT FINAL.docx

Importance: High

Dear All

Please find attached draft terms of reference for Mr A O'Brien investigation for your comment / approval.

Many thanks

Siobhan

Vivienne

Mrs Siobhan Hynds

Head of Employee Relations
Human Resources Department
Hill Building, St Luke's Hospital Site
Armagh, BT61 7NQ

Tel: [Personal Information redacted by USI] **Direct Line:** [Personal Information redacted by USI]
Mobile: [Personal Information redacted by USI] **Fax:** [Personal Information redacted by USI]



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

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

Chief Executive

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

Oversight Group

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

Formal Process**Chief Executive**

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

UROLOGY SERVICES INQUIRY

USI Ref: Notice 47 of 2022

Date of Notice: 29th April 2022

Addendum Witness Statement of: Siobhan Hynds

I, Siobhan Hynds, wish to make the following amendments and additions to my response dated 3rd August 2022 to Section 21 Notice Number 47 of 2022:-

1. At paragraph 1.5 (WIT-42013), the sentence which states '*I can see from e-mail correspondence that I responded to her on 3 January 2017 to ask if she had included private patients as an issue of concern at the meeting on 30 December*' should read '*I can see from e-mail correspondence that I responded to her on 2 January 2017 to ask if she had included private patients as an issue of concern at the meeting on 30 December*'.
2. At paragraph 1.8 (WIT-42014), the sentence which states '*I can also see from e-mail correspondence Ms Hainey sent to me on 28 December 2016, that she had a concern about the agenda for the meeting that had been issued to Mr O'Brien, as the agenda made no specific reference to the matter of exclusion.*' should read '*I can also see from e-mail correspondence Ms Hainey sent to me on 29 December 2016, that she had a concern about the agenda for the meeting that had been issued to Mr O'Brien, as the agenda made no specific reference to the matter of exclusion.*'
3. At paragraph 1.15 (WIT-42015), the sentence which states '*This was the first meeting I had attended in respect of the concerns regarding Mr O'Brien and it was at this meeting that I became of the detail and the extent to which the concerns had already been assessed.*' should read '*This was the first meeting I had attended in respect of the concerns regarding Mr O'Brien and it was at this meeting that I became aware of the detail and the extent to which the concerns had already been assessed.*'



Urology Services Inquiry

4. At paragraph 1.65 (WIT-42026), the sentence which states *'The formal investigated concluded on 21 June 2018 when the case manager, Dr Chada provided the investigation report to Dr Khan.'* should read *'The formal **investigation** concluded on 21 June 2018 when the case **investigator**, Dr Chada provided the investigation report to Dr Khan.'*

5. At paragraph 24.40 (WIT-42089), the sentence which states *'I was the on a period of annual leave 16 to 31 August 2018'* should read *'I was **then** on a period of annual leave 16 to 31 August 2018'*.

6. I would also like to make an addition to paragraph 18.6 (wit-42063) which states *'At the meeting on 24 January 2017, the concerns identified at the 10 January 2017 oversight meeting were put to Mr O'Brien for response'*. I wish to add to this paragraph to include the following statement;

'Mr O'Brien attended the meeting on 24 January 2017 accompanied by his son, Michael O'Brien. The meeting was held in Mrs Vivienne Toal's office in Trust Headquarters at Craigavon Area Hospital. Mr Weir and I were sitting in Mrs Toal's office waiting to begin the meeting when Mr O'Brien and his son arrived accompanied by Mrs Roberta Brownlee, Trust Chair. Mrs Brownlee came to the door of the meeting and made some introductions. Mrs Brownlee left before the meeting commenced. At the meeting on 24 January 2017, the concerns identified at the 10 January 2017 oversight meeting were put to Mr O'Brien for response.'

This statement was not included in my initial response to the Section 21 Notice as I answered the questions asked very directly. On reflection and on foot of hearing evidence provided by other witnesses I feel this was an important omission which should be included.

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



Urology Services Inquiry

18.12 Based on Mr O'Brien's response to the issues of concern at the meeting on 24 January 2017, it was evident that further and fuller investigation of the matters was required. The meeting did not provide sufficient assurance in respect of the concerns.

18.13 On this basis and following discussion with Mr Weir, I drafted a Case Conference report for consideration and amendment by Mr Weir. I shared this draft in an e-mail to Mr Weir dated 26 January 2017 at 12.39AM. Mr Weir responded to me by e-mail at 10:23 AM on 26 January 2017 with some minor changes for me to adopt (*located at Relevant to HR/Evidence after 4 November HR/Reference 77/S Hynds no 77/20170126 - Email - RE Preliminary report from Case Investigator 26 January 2017 - STRICTLY CONFIDENTIAL*). Once the changes were made, I forwarded the report to Dr Ahmed Khan as the Case Manager and advised him to seek NCAS advice to inform the decision of the case conference, which was due to take place at 2.30PM on 26 January. I also shared the report with all parties attending the case conference via e-mail at 1.20PM (*located at Relevant to HR/Evidence after 4 November HR/Reference 77/S Hynds no 77/20170126 - Email - Preliminary report from Case Investigator 26 January 2017 FINAL*)

19. With reference to specific provisions of Section I of the MHPS and the Trust Guidelines, outline all steps taken by you once a decision had been made to conduct an investigation into Mr. Aidan O'Brien's practice in line with that Framework and guidelines. Outline any engagement with Mr. O'Brien, the designated Board member, Case Manager and Case Investigator and any other relevant individuals.

19.1 In line with Section I of the MHPS and Trust Guidelines, I became involved in the MHPS process at the point that a formal investigation was required.

a) MHPS Section I Pt 5 and 6

I had no involvement in the preliminary screening of the concerns or the decision to exclude.

Hynds, Siobhan

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

Esther,

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

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

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

Many thanks
Vivienne

Sent from my BlackBerry 10 smartphone.

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

Dear all

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

Many Thanks
Emma

Emma Stinson

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



Direct Line: [Personal Information redacted by USI]

Direct Fax: [Redacted]



[Personal Information redacted by USI]



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Maintaining High Professional Standards Framework

During the initial 4 week period following immediate exclusion of Mr O'Brien, investigations continued within the Acute Services Directorate to determine the scale of the concerns regarding Mr O'Brien's administrative practices, to inform the scope of the investigation under MHPS Framework and the Terms of Reference for the investigation.

A meeting was held with Mr O'Brien, who was accompanied by his son, on Tuesday 24 January 2017 at which an update was provided in terms of the preliminary investigation. Mr O'Brien was updated in respect of the initial 3 concerns notified to him on 30 December and was notified of a fourth issue of concern identified during the preliminary investigation.

The update position as at 24 January was:

- that, from June 2015, 783 GP referrals had not been triaged in line with the agreed / known process for such referrals. All referrals require to be tracked and reviewed to ascertain the status of these patients in relation to the condition for which they were referred. This work is being undertaken by 4 Trust Consultants and the review is not yet complete.
- that 668 patients have no outcomes formally dictated from Mr O'Briens outpatient clinics over a period of at least 18 months. Again this review is still on-going.
- That, 307 sets of patient notes were returned by Mr O'Brien from his home, 88 sets of notes located within Mr O'Brien's office, 13 sets of notes, tracked to Mr O'Brien, are still missing. Work is continuing to validate this list of missing notes.

The fourth issue of concern identified during the initial scoping exercise relates to Mr O'Brien's private patients. A review of Mr O'Brien's TURP patients identified 9 patients who had been seen privately as outpatients, then had their procedure within the NHS. The waiting times for these patients are significantly less than for other patients. Further investigations are on-going.

Prior to the meeting with Mr O'Brien, a further update had been requested by the Case Investigator. This information was not available for discussion at the meeting with Mr O'Brien. On review of the update received following this request, early initial review of the un-triaged patients suggest that a number of patients required upgrading to red flag status, a number of others required upgrading from routine to urgent.

3.0 Statement of Case – Mr A O'Brien

Mr O'Brien was provided with an opportunity at the meeting on 24 January to state his case to Case Investigator. Mr O'Brien advised that he will make a written submission as part of the investigation in due course.

Hynds, Siobhan

From: Toal, Vivienne [Personal Information redacted by USJ]
Sent: 25 January 2017 21:28
To: Hynds, Siobhan

Follow Up Flag: Follow up
Flag Status: Flagged

Siobhan in advance of meeting tomorrow I think Colin needs to get update on where things are at with SAI

I understand that he was asked to comment on the final draft of the SAI report so to that end the process has not concluded. I wouldn't respond with anything until Colin gets verbal update.

V

Sent from my BlackBerry 10 smartphone.

From: Hynds, Siobhan
Sent: Wednesday, 25 January 2017 21:10
To: Toal, Vivienne
Subject: RE: Meeting of Oversight Committee - Mr A O'B

Will do.

Firstly as investigators we haven't seen the information to determine its relevance, the case manager hasn't seen it to determine its relevance to the matter of on-going exclusion and surely any response is only relevant as one part of the wider investigation which hasn't gotten off the ground as yet. I fully agree that the meeting tomorrow is not the forum for this response to be considered (particularly for the first time).

Should I respond to advise that we need to see this as part of the investigation process and not relevant for tomorrow?? Has the SAI concluded? Any final outcome might be relevant if we have it?

Siobhan

From: Toal, Vivienne
Sent: 25 January 2017 20:10
To: Hynds, Siobhan
Subject: Fw: Meeting of Oversight Committee - Mr A O'B

Siobhan,

I am keen to ensure we stay within process tomorrow at our case conference meeting. I do not believe that we should be bringing any additional information into the case conference meeting outside of the preliminary report from the case investigator. Therefore I am asking for confirmation as to the relevance of Mr O'B's response to the SAI - if it is relevant it should be brought forward by the Case Manager. If it isn't, we should not be concerning ourselves with it tomorrow and it should not be brought to Case Conference by Anne tomorrow. Could you discuss with Mr Weir?

Thanks
Vivienne

Southern Health & Social Care Trust

Oversight Committee

26th January 2017

Present:

Dr Richard Wright, Medical Director (Chair)

Vivienne Toal, Director of HROD

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

Apologies

Esther Gishkori, Director of Acute Services

In attendance:

Dr Ahmed Khan, Case Manager

Simon Gibson, Assistant Director, Medical Director's Office

Colin Weir, Case Investigator

Siobhan Hynds, Employee Relations Manager

Dr A O'Brien

Context

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

Preliminary investigation

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

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

Secondly, it was noted that there were 668 patients who have no outcomes formally dictated from Mr O'Brien's outpatient clinics over a period of at least 18 months. A review of this backlog is still on-going. In relation to the lack of dictated letters following outpatient consultations, it was not felt there was not a satisfactory explanation provided. Mr O'Brien indicated that he often waited until the full outcome of the patient's whole outpatient journey to communicate to GPs. It was agreed that this would not be in line with GMCs guidance on Good Medical Practice, which highlighted the need for timely communication and contemporaneous note keeping.

Thirdly, there were 307 sets of patients notes returned from Mr O'Brien's home, and 13 sets of notes tracked out to Mr O'Brien were still missing. Mr O'Brien was sure that he no longer had these notes; all patients had been discharged from his care, therefore he felt he had no reason to keep these notes. Mr Weir felt that there was a potential of failure to record when notes were being tracked back into health records, although it was noted that an extensive search of the health records library had failed to locate these 13 charts.

Historical attempts to address issues of concern.

It was noted that Mr O'Brien had been written to on 23rd March 2016 in relation to these issues, but that no written response had been received. There had been a subsequent meeting with the AMD for Surgery and Head of Service for Urology to address this issue. At this meeting, Mr O'Brien asked Mr Mackle what actions he wanted him to undertake. Mr O'Brien stated Mr Mackle made no comment and rolled his eyes, and no action was proposed.

It was noted that Mr O'Brien had successfully revalidated in May 2014, and that he had also completed satisfactory annual appraisals. Dr Khan reflected a concern that the appraisal process did not address concerns which were clearly known to the organisation. It was agreed that there may be merit in considering his last appraisal.

Discussion

In terms of advocacy, in his role as Clinical Director, Mr Weir reflected that he felt that Mr O'Brien was a good, precise and caring surgeon.

At the meeting on 24th January, Mr O'Brien expressed a strong desire to return to work. Mr O'Brien accepted that he had let a number of his administrative processes drift, but gave an assurance that this would not happen again if he returned to work. Mr O'Brien gave an assurance to the Investigating Team that he would be open to monitoring of his activities, he would not impede or hinder any investigation and he would willingly work within any framework established by the Trust.

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

Decision

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

This decision was agreed by the 3 members of the Oversight Committee, and therefore a formal investigation would now commence, with formal Terms of Reference now required.

Action: Mr Weir

Formal investigation

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

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

Mr Weir reflected that there had been no concerns identified in relation to aspects of the clinical practice of Mr O'Brien's practice. For example in operating, writing contemporaneous operating notes, clinical assessment and undertaking clinical duties of Urologist of the week and On call.

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

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

Action: Esther Gishkori / Ronan Carroll

Hynds, Siobhan

From: Hynds, Siobhan [Personal Information redacted by USI]
Sent: 25 January 2017 21:38
To: Weir, Colin
Subject: Tomorrow's meeting

Hi Colin

Apologies for what might be a series of e-mails this evening as I work through the issues we need to have covered for tomorrow.

I am still working on the report and will have this with you as soon as possible.

I have been advised that AO'B has submitted his response / comment on the SAI investigation to Esther today. It will be important that we are clear about where this is at in terms of completion and outcome. Can you see if you can get a verbal update tomorrow on this to determine the relevance of it for tomorrow's discussion.

Happy to discuss in the morning if necessary.

Siobhan

Mrs Siobhan Hynds

Head of Employee Relations
Human Resources & Organisational Development Directorate
Hill Building, St Luke's Hospital Site
Armagh, BT61 7NQ

Tel: [Personal Information redacted by USI] Direct Line: [Personal Information redacted by USI]
Mobile: [Personal Information redacted by USI] Fax: [Personal Information redacted by the USI]



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Hynds, Siobhan

From: Toal, Vivienne [Personal Information redacted by USI]
Sent: 26 January 2017 22:20
To: Hynds, Siobhan
Subject: Fw: MHPS case

For your file

Sent from my BlackBerry 10 smartphone.

From: Wilkinson, John [Personal Information redacted by USI]
Sent: Thursday, 26 January 2017 22:03
To: Toal, Vivienne
Subject: Re: MHPS case

Vivienne
Thanks for this information.
Issues are being expedited within the timescales of the process.
Regards
John

Sent from my iPad

On 26 Jan 2017, at 21:31, Toal, Vivienne [Personal Information redacted by USI] wrote:

John,

I just wanted to give you a very quick update ahead of tomorrow's Trust Board meeting in relation to the AOB case.

The case conference took place today from 2 to 4 pm. A preliminary report from Mr Weir, Case Investigator was considered by those present.

Dr Khan determined that there was indeed a case to answer and a formal investigation would now be required under MHPS. All those present were in agreement.

In relation to the decision regarding whether there could be restrictions placed on Mr AOB to allow his return to work or if there was a need to formally exclude him from the workplace, it was agreed by all that the case could be managed by restrictions on his practise with robust monitoring in place around the areas of concern to ensure patient safety. Therefore we will be reporting tomorrow at Trust Board that exclusion has been lifted.

Dr Khan agreed to contact Mr AOB immediately after the case conference by telephone to advise him of the lifting of the exclusion in an effort to alleviate his anxiety and will meet him personally next week to go through the restrictions in more detail.

You will of course receive a copy of the correspondence to Mr AOB following the case conference for your records.

I hope this update is helpful in advance of TB tomorrow to enable you to provide the necessary assurance that we have complied with our obligations under MHPS.



Urology Services Inquiry

21.3 I was aware that Mrs Corrigan was undertaking the monitoring of the plan and overseen by Mr Carroll. Mrs Corrigan initially provided updates to Dr Khan about compliance with the plan. At a point, Dr Khan advised that he only needed to be informed of any deviation and therefore the regular updates ceased.

21.4 Mrs Corrigan and I did have discussions on the monitoring plan and the monitoring process but I did not have sight of or access to the mechanisms by which Mrs Corrigan was monitoring compliance. I am not familiar with the systems, mechanisms or processes involved however, I understood Mrs Corrigan was:

I. Un-triaged referrals to Mr O'Brien

Tracking all referrals that came in during the week Mr O'Brien was Consultant of the Week and ensuring each referral had been returned at the end of his week, triaged by Mr O'Brien and each was added to the Trust's waiting list as per Mr O'Brien's assessment of priority.

II. Patient notes tracked out to Mr O'Brien

Monitoring of patient notes required Mrs Corrigan to monitor the notes tracked out to Mr O'Brien and his secretary and to do a check on the volume of notes periodically sitting in Mr O'Brien's office. Mr O'Brien was not permitted to have notes at home.

III. Undictated patient outcomes from outpatient clinics by Mr O'Brien

Mr O'Brien was moved to a digital dictation system used by his colleagues and Mrs Corrigan monitored dictation electronically against each patient contact.

IV. Scheduling of private patients by Mr O'Brien

I understood that Mr O'Brien was unable to schedule patients as had been his practice and scheduling was taken over by the scheduling team as was the process for his consultant colleagues.

22. What is your understanding of the period of time during which this Return to Work Plan/Monitoring Arrangements remained in operation, and



Urology Services Inquiry

23.2 Mrs Corrigan replied to me in an e-mail dated 22 May 2018, copied also to Mr Carroll (*located at S21 47 of 2022 Attachments, 9. RE Return to Work Action Plan February 2017 FINAL.*) and advised:

“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

Concern 4 – adhered to – no more of Mr O’Brien’s patients that had been seen privately as an outpatient has been listed,”

23.3 During June 2018, Mrs Corrigan also provided weekly updates on Mr O’Brien’s adherence to the monitoring plan with no issues of concern reported prior to conclusion of the investigation and sharing of the report.

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

- I. The conduct of the investigation;**
- II. The preparation of the investigation report;**
- III. The provision of comments by Mr. O’Brien; and**
- IV. The making of the determination by the Case Manager.**

Outline what actions, if any, you took to ensure that momentum was

Gibson, Simon

From: Carroll, Ronan [Personal Information redacted by USI]
Sent: 11 July 2017 17:57
To: Khan, Ahmed
Cc: Hynds, Siobhan
Subject: FW: MHPS case update on 11 July 2017

Importance: High

Ahmed

Please see update. I have highlighted an area which is a variance to his action plan. As stated Martina has emailed AOB for a resolution.

Ronan

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

[Personal Information redacted by USI]

From: Corrigan, Martina
Sent: 11 July 2017 17:41
To: Carroll, Ronan
Cc: Weir, Colin
Subject: FW: MHPS case update on 11 July 2017

Update as of today 11 July 2017

Concern 1

Mr O'Brien was last oncall from 29 June until 7 July and I can confirm all letters on etriaged were triaged however the booking centre advises that there are still 30 outstanding 'paper' referrals that he has not returned although I do know that he is working this week on his Annual Leave as has been emailing me about theatre lists and he did return some triage today. I have sent him an email about this, this afternoon.

Concern 2

Apart from the 13 already identified missing notes Mr O'Brien has 90 further charts in his office. This amount has been increasing each week and whilst some are moving on there are now quite a few that haven't been actioned. I have emailed Mr O'Brien again today and I again reminded him that as part of the action plan that *Notes should never be stored off site and should only be tracked out and in your office for the shortest time possible* and I asked him to please address as many of these as he could. There are no other missing charts and no evidence of charts being taken off-site.

Concern 3

I can confirm that all clinics that Mr O'Brien has done since his return to work have been dictated on by digital dictation and all patients have a plan and outcome included.

Concern 4

Mr O'Brien has had one theatre list since the last report on 28 June which had 5 patients listed and I can confirm none were previous private patients

Hynds, Siobhan

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

Yes - I'll get something arranged asap.

Siobhan

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

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

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

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

Regards,
Ahmed

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

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

Hi Ahmed

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

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

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

Apologies for the inconvenience.

regards
Richard

Sent from my iPad



Urology Services Inquiry

factual accuracy of the report, following which, Dr Khan considered the investigation report along with Mr O'Brien's comments to make a determination on next appropriate steps.

l) MHPS Section I Pt 37

The formal investigation process was not completed within 4 weeks. The formal investigation process commenced in March 2017 and was completed with a report to the Case Manager on 12 June 2018. A letter to Mr O'Brien dated 21 June 2018 from Dr Khan was sent advising that the report was available for him to collect from the Trust's Headquarters. Dr Khan notified me via e-mailed on 21 June 2018 that he was not in a position to review the report until his return from leave during the first week of August 2018 and would require release from his role to so. The report however was shared with Mr O'Brien for his comments on the factual accuracy of the report and any mitigation in line with MHPS.

In my experience of supporting clinical managers with MHPS cases, completion of a formal investigation within 4 weeks has never been achieved. The concerns relating to Mr O'Brien were multiple, involving many hundreds of patient records / notes and many witnesses. It was complex and very resource intensive. It was entirely impractical that such an investigation could be completed within a 4-week period. Added to this, the 4-week requirement for completion of a formal investigation is at odds with the 4-week immediate exclusion timescale providing the opportunity to establish facts during that initial 4-week period.

m) MHPS Section I Pt 38

The report provided to the Case manager on 12 June 2018 provided extensive information and evidence to support his decision-making role in line with MHPS.

20. What role or input, if any, did you have in relation to the formulation of the Terms of Reference for the formal investigation to be conducted under the MHPS Framework and Trust Guidelines in relation to Mr. O'Brien?



Urology Services Inquiry

highlight the factors, which contributed to delays, and the action I took to ensure momentum was maintained during the process. All documentation referred to has been previously provided.

24.3 The decision to move to a formal investigation process was communicated to Mr O'Brien on 30 December 2016. Mr O'Brien was also placed on immediate exclusion, which under MHPS provides a 4-week period '*to allow sufficient time for initial investigation to determine a clear course of action, including the need for formal exclusion*'.

24.4 I have previously commented on how this sits at odds with the requirement to '*complete the investigation within 4 weeks of appointment*' of the case investigator.

24.5 During the period of 30 December 2016 to 26 January 2017 when the case conference meeting was held, time was spent with the operational team gathering initial information, oversight discussions, initial discussions between myself and Mr Weir, co-ordination of the meeting with Mr O'Brien and from my perspective generally gathering an understanding of the issues of concern.

24.6 It is necessary to put this into the context whereby all parties involved in the oversight discussions, the operational and clinical staff in Acute Services, HR, the case manager, the case investigator were all undertaking exceptionally busy roles at the same time. From my perspective, I was in my first year of taking over responsibility for the ER service, I had staffing gaps and pressures and a significant workload requiring staff within the team and myself to work many additional hours over normal contracted hours on a very regular basis. I returned from a period of leave from 24 December to 9 January 2017 with a large backlog of e-mails and other deadlines for existing cases however, because of staffing pressures and gaps, including the Personal Information redacted by USI leave of Mrs Parks, it resulted in me assuming responsibility for this case when it was always going to be hugely challenging. Mrs Toal and I discussed these challenges at the time but options were limited. This was from the outset, a complex case with a history going back some years and involving vast volumes of data.

At that meeting we had outlined that we would require your first statement to be agreed and returned. You indicated that you had comments to make and undertook to do that before returning it to us. I am checking to see if you have this now finalised and are in a position to return this to us?

You had also indicated that you wished to make comment on the witness statements shared with you and you indicated you would also do this and provide those comments to us. Can you advise if this is complete and if you are in a position to share this with us.

I appreciate that when we met you had indicated you had a number of priorities to deal with in December outside of the MHPS process and would not be in a position to return your comments prior to January. We would like to try to bring this process to a conclusion and I would be grateful if you could come back to me as soon as possible on these matters.

I have the notes of our meeting in November to share with you which will also require your agreement. We do however have your written statement on those issues in full so that is a smaller matter to be finalised.

I look forward to hearing from you.

Kind Regards,

Siobhan

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Urology Services Inquiry

am aware that discussions started between DoH and Trusts about a review of the MHPS Framework but this did not complete. I feel it is important and necessary to progress this review as a matter of priority.

28.3 The MHPS Framework is the document setting out the requirements for managing concerns about performance and is the document relied on when a concern arises. The Trust Guidelines were put in place, as a requirement under MHPS, setting out how cases are practically managed.

28.4 The MHPS Framework:

- a) Is a lengthy framework, difficult to read and follow as it is not always in a logical sequence.
- b) It is a mix of statement and process, which is unhelpful and I feel the document could be much better structured to give a step by step process for employers and employees.
- c) Because of the length and structure, it is complicated and as someone with experience in my role using the document, I find I need to read the document carefully every time, many times over to understand each step and what needs to be actioned.
- d) For clinical managers who don't often use the Framework, I have found they require significant support to navigate the process.
- e) The Framework refers to 'all concerns' when it points to when it should be used to manage performance concerns and registered with the Chief Executive. There is always on-going management of performance and it is impractical to suggest that the Framework will be used for every single concern.
- f) The intention of the Framework, as it is set out, is to tackle blame culture and to ensure for swift and timely resolution of concerns. I agree with



Urology Services Inquiry

this, however in practice, it doesn't always work. The case of Mr O'Brien had a historical 'tail' to it so when it came to being managed under MHPS that, along with the scale and volume of patient records involvement, meant that a quick process was unrealistic.

- g) The timescale for completion of formal investigations is entirely unrealistic. For this to be achievable in any way, individuals with roles under the process would require to be released from their normal day to day roles. The co-ordination of diaries alone to commence a process when individuals already have full diary commitments is hugely problematic. The seniority of those individuals with specific roles under the Framework makes this impractical.
- h) The timescale for completion of the investigation is the same as the timescale for completion of the fact finding during a period of immediate exclusion – this is a clear contradiction in timescales.
- i) The term 'clinical performance' is broad and can be interpreted differently by different users of the Framework. In my experience, separating conduct issues from clinical impacts or decisions can be difficult. I feel that the clinical performance process is overly cumbersome and doesn't necessarily assist employers to easily deal with conduct matters.
- j) It is challenging to navigate cases when local Procedures for managing absence, conduct and conflict should be used and how they link with MHPS.
- k) The role of the designated Board member is unclear under the Framework, specifically when representations are made to the Board member. What is their role in dealing with such representations? In the case of Mr O'Brien this was a challenge.