

**UROLOGY SERVICES INQUIRY**

**USI Ref:** Notice 15 of 2023

**Date of Notice:** 5<sup>th</sup> July 2023

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**Witness Statement of: Eileen Mullan**

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I, Eileen Mullan, will say as follows:-

**General**

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

1.1 I believe that I have set out all of my involvement in relevant matters across the answers I have provided to Questions 4 to 52 below.

- 2. Please also provide any and all documents within your custody or under your control relating to the terms of reference of the Urology Services Inquiry (“USI”). Please also provide or refer to any documentation, held by you or the SHSCT, which you consider relevant to any of your answers, whether in answer to Question 1 or to the questions set out below. The following new documents are reference within this Section 21.**



# Urology Services Inquiry

A handwritten signature in black ink, appearing to be 'Eileen Mullan', written over a horizontal line.

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

Date: 25<sup>th</sup> September 2023



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15 <sup>th</sup> February 2016- 30 <sup>th</sup> November 2020	Southern Health and Social Care Trust	Non-Executive Director
01 <sup>st</sup> November 2014 – 31 <sup>st</sup> October 2021	National Lottery Community Fund	Committee Member (Northern Ireland)
01 <sup>st</sup> December 2020 – current	Southern Health and Social Care Trust	Non-Executive Chair

## 4.3 Employed roles

<b>Dates</b>	<b>Organisation</b>	<b>Role</b>
March 2000 – March 2003	Citywide Training Consortium	Project Manager
March 2003 – October 2005	Training for Women Network	Business Operations Manager
March 2007 – July 2007	Belfast Metropolitan College	Merger, Project Manager
November 2005 – March 2010	Belfast Metropolitan College	Associate Lecturer
April 2010 – 31 <sup>st</sup> August 2020	Eileen Mullan	Self-Employed Trainer & Facilitator
01 <sup>st</sup> September 2020 - current	Strictly Boardroom Ltd	Director

## 4.4 Qualifications

<b>Year</b>	<b>Qualification</b>
1996	BA Hons Degree in Business Studies
1998	Post Graduate Certificate in Management
2001	Diploma in Management Practice



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2010	MSc Management and Corporate Governance
2013	IOD Certification in Company Direction
2014	IOD Diploma in Company Direction

**5. Please set out the dates of your tenure as Member of the Southern Trust Board and your duties, responsibilities and roles as a Member of the Board.**

5.1 I commenced my tenure as a Member of the Southern Trust Board on the 15<sup>th</sup> February 2016, was reappointed from the 15<sup>th</sup> February 2020, and completed my tenure on the 30<sup>th</sup> November 2020. *Please see:*

1. *DoH Public Appointment NED Information Pack 2016*
2. *20160308 - Ltr - Ms Eileen Mullan NED Min of Appt*
3. *20191022 - Ltr - Ms Eileen Mullan NED Min of Re-appt*
4. *20170525 - Doc - Ms Eileen Mullan Perf Appraisal 16-17*
5. *20180625 - Doc - Ms Eileen Mullan Perf Appraisal 17-18*
6. *20190919 - Doc - Ms Eileen Mullan Perf Appraisal 18-19*
7. *20200731 - Doc - Ms Eileen Mullan Perf Appraisal 19-20*
8. *20220124 - Doc - Ms Eileen Mullan Perf Appraisal 20-21*

5.2 The main duties of the role and responsibilities of the Non-Executive Director, as detailed in my letter of appointment of the 8<sup>th</sup> March 2016 and my letter of re-appointment of the 22<sup>nd</sup> October 2019, were as follows:

- a) share in the independent Non-Executive oversight, scrutiny and stewardship of the HSC Trust's work;
- b) hold Executive Directors to account; including assessing the performance of, and appointing, senior management;
- c) sit on Board Committees such as the Governance and Audit Committee;



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2.1. I have referred to documents throughout my statement which I have exhibited to this statement. The documents can be located in 'S21 15 of 2023 – Attachments'.

- 3. Unless you have specifically addressed the issues in your reply to Question 1 above, please answer the remaining questions in this Notice. If you rely on your answer to Question 1 in answering any of these questions, please 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.**

### Qualifications

- 4. Please set out all professional roles held by you and your qualifications**

4.1 I have worked across the community, voluntary, public and private sectors over the last 27 years. These roles have crossed a range of disciplines from officer to management to Director level.

#### 4.2 Board roles

Date	Organisation	Role
September 2009 – September 2011	Northern Ireland Environment Agency	Non-Executive Director
February 2009 – 10th December 2013	Age NI	Trustee
11 <sup>th</sup> December 2013 – 31 <sup>st</sup> March 2018	Age NI	Chair ( & Trustee)
April 2011 – June 2015	Audiences NI	Chair and Trustee
01 <sup>st</sup> January 2015 – 31 <sup>st</sup> December 2020	Health and Care Professions Council	Senior Council Member



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- d) participate in professional conduct and competency inquiries as well as staff disciplinary appeals;
- e) scrutinise decision making on major procurement issues;
- f) scrutinise the handling of complaints.

**6. Please set out the dates of your tenure as Chair of the Governance Committee of the Southern Trust Board and your duties, responsibilities and roles as the Chair of the Governance Committee.**

6.1 I commenced my tenure as Chair of the Governance Committee on the 8<sup>th</sup> September 2016 and completed it on the 30<sup>th</sup> November 2022. *Please see:*

*9. 20200326 Terms of Reference Governance Committee*

*10. 20230525 Terms of Reference Governance Committee*

6.2 There was, to the best of my knowledge, no specific role specification for the Chair of a Committee. The Committee is delegated its authority by the Trust Board through its Terms of Reference (see the 2020 and 2023 Terms of Reference of the Governance Committee). My role, as I carried it out, was to ensure that the Committee fulfilled its remit as outlined in its Terms of Reference.

6.3 The Terms of Reference detail that the remit of the Committee is to ensure that:

- a) There are effective and regularly reviewed structures in place to support the effective implementation and continued development of integrated governance across the Trust.
- b) Assessment of assurance systems for effective risk management which provide a planned and systematic approach to identifying, evaluating and responding to risks and providing assurance that responses are effective.
- c) Principal risks and significant gaps in controls and assurances are considered by the Committee and appropriately escalated to Trust Board



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- d) Timely reports are made to the Trust Board, including recommendations and remedial action taken or proposed, if there is an internal failing in systems or services.
- e) There is sufficient independent and objective assurance as to the robustness of key processes across all areas of governance.
- f) Recommendations considered appropriate by the Committee are made to the Trust Board recognising that financial governance is primarily dealt with by the Audit Committee.

6.4 I endeavoured to ensure that the Committee fulfilled its remit by working with the Board Assurance Manager in preparation on agreeing the Committee Agenda, Annual Work Plan, and the contributors and attendees at the Committee's meetings. My role at the meetings was to ensure all agenda items were discussed and outcomes/actions reached and then to provide assurance on behalf of the Committee to the Trust Board. In practice, this was about providing structure to the meetings, ensuring appropriate time was allocated, and being able to manage the flow of the meeting on the day and create the environment for those attending to be open and honest in their contributions.

6.5 There is an annual work plan for the Governance Committee which sets out the governance area to be covered, the report details, the lead person, frequency of reports, month expected and its purpose. This work plan provides the structure for the Committee in delivering on its role throughout the year. I have outlined below the types of reports received by the committee in 2017 and 2023 to show how the Committee and its work have evolved across the period of my tenure. These reports are presented by Directors from within their realm of responsibility. The Agenda is shared with the Senior Leadership Team approximately 3 weeks ahead of the meeting with a call for their papers.

02 <sup>nd</sup> February 2017	09 <sup>th</sup> February 2023
Medicines Governance Clinical and Social Care Governance Corporate Risk Register	<b>Confidential Meeting</b> Maintaining High Professional Standards report



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7.1 I commenced my tenure as Chair of the Board of the Southern Health and Social Care Trust on the 1<sup>st</sup> December 2020 and I continue to hold this role currently. My tenure is due to complete on the 30<sup>th</sup> November 2024. *Please see:*

*15. Public Appointments Information Booklet Southern Health & Social Care Trust (SHSCT 1/19)*

*16. 20201118 – Ltr – Ms Eileen Mullan Chair Min of Appt*

*17. 20221122 – Doc – Ms Eileen Mullan Perf Appraisal 21-22*

7.2 The main duties and responsibilities of the role of the Non-Executive Chair, as detailed in the letter of appointment dated the 18<sup>th</sup> November 2020, are:

- a) The Non-Executive Chair is responsible for leading the Board and for ensuring that it successfully discharges its overall responsibility for the organisation as a whole.
- b) The Non-Executive Chair shall ensure that the SHSCT policies and actions support the wider strategic policies of the Minister and that the SHSCT affairs are conducted with probity.

7.3 The Non-Executive Chair has a particular leadership responsibility on:

- a) Formulating the Board's strategy for discharging its duties;
- b) Ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Minister, the sponsor Department, the HSCB and/or the PHA;
- c) Ensuring that risk management is regularly and formally considered at Board meetings;
- d) Promoting the efficient, economic and effective use of staff and other resources;
- e) Encouraging and delivering high standards of regularity [*sic*] and propriety;
- f) Representing the views of the Board to the general public;





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- g) Ensuring that the Board meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Board members;
- h) Ensuring that all members of the Board, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, and receive appropriate induction training;
- i) Advising the Department of the needs of the SHSCT when Board vacancies arise, with a view to ensuring a proper balance of professional, financial or other expertise;
- j) Annually assessing the performance of individual Board Members.
- k) Ensuring the completion of the Board Governance Self-Assessment Tool on an annual basis.
- l) Ensuring that Board Members are made aware of the Code of Conduct for Board Members of HSC Bodies (2012) including the Nolan “seven principles of public life”, and the requirement for a comprehensive and publicly available register of Board Members’ interests.
- m) Communications between the Board, Ministers and the Department shall normally be through the Non-Executive Chair who shall ensure that the other Board Members are kept informed of such communications on a timely basis.
- n) Operating the Board and chairing all Board meetings when present. The Non-Executive Chair has certain delegated executive powers and must comply with the terms of appointment and with the SHSCT Standing Orders; and
- o) Working closely with the Chief Executive and ensuring that key and appropriate issues are discussed by the Board in a timely manner with all the necessary information and advice being made available to the Board to inform the debate and ultimate resolutions.

### Training

**8. Who was responsible for (i) identifying, and (ii) organising training for Board members?**



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8.1 The Non-Executive Chair is responsible for identifying and organising training for Board Members. Non-Executive Directors also have a personal responsibility to identify training needs at least annually through the appraisal process.

8.2 Organisation of training for Board Members would be carried out through the Office of the Chair and CEO. This can be arranged as a result of discussions at Trust Board and Committees, through discussions with Chair, CEO and/or all Board and Operational Directors. Currently as Chair I discuss with the Board Assurance Manager training and how best to provide it. Training can be provided in a number of ways:

- a) provision of a training course such as 'On-Board', as was prescribed by the Department of Health for newly appointed members;
- b) through Board workshops in developing the Board's understanding of a given area;
- c) mandatory training provided by the Trust for all staff and Board Members.

8.3 An annual Board Governance Self-Assessment Exercise (requested by the Department of Health) requires the Board to show evidence of training and/or development undertaken by the Board. An example of this can be seen in Section 2.3 of the Board Governance Self-Assessment for 2018/2019 at page 66. This details the undertaking of a Board Development Day on the 15<sup>th</sup> November 2018 with the King's Fund. *Please see 18. Item 14b. Board Governance self assessment 201819.*

8.4 The Board Assurance Manager would make the specific arrangements and preparations in respect of training on behalf of the Office of the Chair and CEO.

**9. What, if any, training did Board members receive during your tenure? Please provide all dates and an outline of the purpose and nature of the training received.**



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9.1 Training for Board Members would have been either formally, through a training programme, or informally, through Board Workshops and contributions made to Trust Board/Committee meetings. For example, 'On-Board' Training was a requirement for all Board Members appointed to Boards of public sector bodies, so all Non-Executive and Executive Members of the Board were required to attend that training once appointed.

9.2 I have outlined below in 9.3 Training provided to Non-Executive Members of the Trust Board. I have identified my attendance as follows:

	I was present
	I was not present

9.3 Training provided to Non-Executive Board Members during my tenure has been as follows:

Date	Training
21 <sup>st</sup> March 2016	Trust Board Induction Induction into Trust Board. Committee Structure. What is expected of a SHSCT Board Member.
13 <sup>th</sup> April 2016	Communications Induction Information session from the Communications Team.
01 <sup>st</sup> June 2016	The external training programme called 'On Board Content' focused on roles, responsibilities and management of key relationships for Board Members.
08 <sup>th</sup> September 2016	Acute Services Induction Information session on the Acute Services Directorate.



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15 <sup>th</sup> September 2016	Children and Young Peoples Services Induction Information session on the Children and Young Peoples Services Directorate.
15 <sup>th</sup> September 2016	Mental Health and Learning Disability Induction Information session on the Mental Health and Learning Disability Directorate.
19 <sup>th</sup> September 2016	Performance and Reform Induction Information session on the Performance and Reform Directorate.
13 <sup>th</sup> October 2016	Finance Induction Information session on the Finance Directorate.
20 <sup>th</sup> October 2016	Older People and Primary Care Induction Information session on the Older People and Primary Care Directorate.
30 <sup>th</sup> November 2016	Human Resources Induction Information session on the Human Resources Directorate.
10 <sup>th</sup> March 2017	Medical Directorate Induction Information session on the Medical Directorate.
27 <sup>th</sup> March 2017	Performance and Reform Induction Information session on the Performance and Reform Directorate.
13 <sup>th</sup> April 2017	Children and Young Peoples Services Induction Information session on the Performance and Reform Directorate.
02 <sup>nd</sup> May 2017	Mental Health and Learning Disability Induction Information session on the Mental Health and Learning Disability Directorate.



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23 <sup>rd</sup> June 2017	Older People and Primary Care Induction Information session on the Older People and Primary Care Directorate.
29 <sup>th</sup> August 2017	Finance Induction Information session on the Finance Directorate.
29 <sup>th</sup> August 2017	Acute Services Induction Information session on the Acute Services Directorate.
30 <sup>th</sup> August 2017	MHPS Training by June Turkington, Solicitor, of DLS.
30 <sup>th</sup> August 2017	Recruitment and Selection Training Training for Non-Executives on the Trusts recruitment and selection processes and policies.
21 <sup>st</sup> September 2017	Human Resources Induction Information session on the Human Resources Directorate.
17 <sup>th</sup> April 2018	Non-Executive Director Development Session (NICON)
24 <sup>th</sup> May 2018	Understanding Medical Data Workshop for Non-Executive Directors.
12 <sup>th</sup> March 2019	Recruitment and Selection Training Training for Non-Executives on the Trusts recruitment and selection processes and policies.
01 <sup>st</sup> December 2021	Regional Training on MHPS Procedure for HSC Non-Executive Directors – Led by June Turkington, Solicitor, of DLS.
16 <sup>th</sup> February 2022	Recruitment and Selection Training Training for Non-Executives on the Trust's recruitment and selection processes and policies.

Please see:

19. February 2016 NED Induction Programme



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20. January 2017 NED Induction Programme
21. 20160601 On Board Training Programme
22. 20160101 - NED Directorate Training Sessions
23. 20170101 - NED Directorate Training Sessions
24. Training on MHPS Procedure for HSC NEDS 2021
25. MHPS slides\_DLS to NEDS
26. 20170829 Acute Presentation for NEDs
27. Chair-NED Training Record

9.4 Training provided to all Trust Board Members (i.e., both Non-Executive & Executive Directors) with Operational Directors is outlined below. I have identified my attendance as follows:

	I was present
	I was not present and had given my apologies.

Date of Trust Board Workshop	Agenda Items
25 <sup>th</sup> February 2016	Non-Executive Director Induction Programme Chief Executive's business – Overview of SH&SCT Introduction and overview of Directorates Finance Report and Financial Plan 2016/17 update Performance Report Quality Improvement Framework update
28 <sup>th</sup> April 2016	Update on Whistleblowing Survey including Training Standards and Guidelines – <i>Presentation</i> Board Governance Self-Assessment Projected Outturn 2015/16 (verbal) Performance Report
15 <sup>th</sup> December 2016	Confidential Section ED, DHH Update Open Section Research & Development Annual Report 2015/2016 Update on Emergency Department, Daisy Hill Hospital Draft SH&SCT Management Statement and Financial Memorandum Action Plan from Board Development Day Board Effectiveness - A Good Practice Guide Endowments & Gifts Committee - Promotional Video Clip and associated Press Release Integrated Passenger Transport Project Presentation
23 <sup>rd</sup> February 2017	Confidential Section



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Date of Trust Board Workshop	Agenda Items
	ED, DHH Update <small>Personal Information redacted by the USI</small> Update Open Section New Non-Executive Director Induction Programme Acting Chief Executive's business – Overview of SHSCT Introduction and overview of Directorates Development of SHSCT Guidelines for the Use of Restrictive Interventions and Restrictive Practices Progress update on draft Corporate Plan 2017/18 – 2020/21 Finance Report (for noting) Performance Report (for noting)
27 <sup>th</sup> April 2017	Sharing the SH&SCT pledge with our young people Board Governance Key Lessons Learned from NIAO Report and Pac Hearing into the Northern Ireland Events Company and elsewhere Board Effectiveness – A Good Practice Guide
31 <sup>st</sup> May 2017	HFMA Northern Ireland branch The Role of Non-Executive Directors in HSC
26 <sup>th</sup> October 2017	Sharing the SHSCT pledge with our young people
25 <sup>th</sup> January 2018	Organisational Structures Review
26 <sup>th</sup> April 2018	Community Information System Project Update: - Corporate Risk Register Quality Improvement - What does it mean for Trust Board? Board Governance Self-Assessment
18 <sup>th</sup> October 2018	Effective Board Reporting
13 <sup>th</sup> December 2018	Living our values, out loud
21 <sup>st</sup> February 2019	Culture, Values and Behaviours. Board Governance and Effectiveness: BSO Internal Audit Review 2018-19
18 <sup>th</sup> April 2019	Strategic Direction Board Behaviours (approval) Direction of Travel of HSC and Trust: Key challenges and opportunities. Reflection on Corporate Plan 2017/18 – 2020/21 Board Assurance Framework
13 <sup>th</sup> June 2019	(Meet with DoH Representatives 2-3pm) Board Effectiveness Internal Audit Report on Board Effectiveness 2018/19 Board Governance Self-Assessment Partnerships between Departments and Arm's Length Bodies: NI Code of Good Practice
17 <sup>th</sup> October 2019	Reflection and learning from SAI <small>Personal Information redacted by the USI</small> and correspondence from the family to the Chair Roles and Responsibilities of Board members as Trustees of Charitable Trust Funds (Ms June Turkington, Directorate of Legal Services)





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Date of Trust Board Workshop	Agenda Items
	Chief Executive's Accountability arrangements and Accountability Dashboard
27 <sup>th</sup> February 2020	Clinical and Social Care Governance Review A qualitative analysis of how learning from Serious Adverse Incident reviews can contribute to reducing deaths by suicide of people in the care of Mental Health Services Young People's Pledge Integrated Care Prototype – Northern Trust Area Strategic Planning
27 <sup>th</sup> August 2020	Chief Executive's business Board Governance Self-Assessment 2019/20 Rebuilding Health and Social Care Services Management Board update to include Stakeholder participation update Rebuild Plans Executive Summary Performance Monitoring Review of Arm's Length Bodies - Correspondence from the DoH dated 8.8.2020 Update from Executive Directors
15 <sup>th</sup> October 2020	Mortality and Patient Safety Data – Training Session
29 <sup>th</sup> April 2021	Muckamore Abbey Hospital – Report of the Independent Leadership and Governance Review Structures Review
17 <sup>th</sup> May 2021	Delegated Statutory Functions (DSF) 2020-2021
26 <sup>th</sup> August 2021	Southern Trust and the Year Ahead Covid-19 and delivering health and social care In conversation with Robin Swann MLA, Minister of Health Preparing for the Public Inquiry Board Governance Self-Assessment 2020/21
7 <sup>th</sup> September 2021	People Plan
27 <sup>th</sup> September 2021	Consultation on Future Planning Model – Integrated Care System NI – draft Framework
9 <sup>th</sup> December 2021	Muckamore Abbey Hospital – Independent Leadership and Governance Review Update Independent Review into the circumstances of the RQIA Board member resignations Review of Operational Clinical and Social Care Governance
27 <sup>th</sup> January 2022	Consultation on draft 3-Year Budget
24 <sup>th</sup> February 2022	General Surgical Model for the Southern Trust Update on Appointment Processes for Chief Executive and Accounting Officer CYP Service pressures
28 <sup>th</sup> April 2022	Southern Trust and the Year Ahead





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Date of Trust Board Workshop	Agenda Items
	Daisy Hill Hospital – its role in the region Internal Audit Report on Board Effectiveness Ockenden Inquiry
13 <sup>th</sup> December 2022	Whistleblowing Training for Trust Board & Senior Management Team
21 <sup>st</sup> February 2023	Financial Planning 2023/24 Financial Sustainability and Productivity review
23 <sup>rd</sup> March 2023	Update from the IHRD Team In conversation with the IHRD Team Implementation of IHRD recommendations in the SHSCT
27 <sup>th</sup> April 2023	Draft Report from the Board Development Day on 25 <sup>th</sup> August 2022 Review of Clinical and Social Care Governance Action Plan (Champion Recommendations) Update on the Clinical and Social Care Governance Structures Update on the Corporate Governance Structure including Steering Groups MHPS Training ( <i>Full Board session</i> ) MHPS – A facilitated discussion for Non-Executive Directors
18 <sup>th</sup> May 2023	Communication and Complaints - Overarching view from the Ombudsman What is the Trust doing to improve communication? Patient and Client Experience/ Care Opinion/Bereavement Service Improving Communication with patients Organisational Development perspective What more can we do? Setting the Trust Board's Risk Appetite

## 10 What, if any, training did you receive to assist you in carrying out your role as Member of the Board?

10.1 Please refer to the tables at paragraphs 9.3 and 9.4 above where I have identified my attendance using Red or Green shading.

	I was present
	I was not present and had given my apologies.



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Committee meetings must report to the next confidential Trust Board meeting with the Chair's update to include items for escalation to Trust Board. Please see:

113a. 20230919 E Committee Chair Reporting To Trust Board

113b. 20230919 E Committee Chair Reporting To Trust Board A1

**19 What were the lines of management providing information on governance issues to the Board? How did this information reach the Board? What, if anything, was in place to bring governance concerns to the Board on an urgent basis?**

19.1 Trust Board is made up of Non-Executive Directors (currently 6 out of 8 in post) along with 5 Executive Directors. The Executive Directors include the Chief Executive, Medical Director, Director of Nursing & AHP, Director of Finance, and Director of Social Work.

19.2 The lines of management for providing information to the Board on governance issues include the following:

- a) *from* Committees to Trust Board (via Chair's report and copy minutes);
- b) *from* Chief Executive and/or their Senior Management Team to Committees and Trust Board (via reports and papers);
- c) *from* Non-Executive Directors *through* to the Board Chair and/or raised with the Chief Executive at the Chair - CEO - Non-Executive Director meetings, or through the Chair - Non-Executive Director Meetings.

19.3 The information would be received either by email or verbally depending on the situation and timing. Where meetings were being arranged to discuss the issues, any papers would be uploaded on to 'Decision Time' (the online portal for all Trust Board papers) in advance or provided on the day for all members to review.



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19.4 What was in place to bring urgent issues to the Trust Board was through the Committee Structure, Directors' Workshops, Confidential Trust Board, and Trust Board itself.

19.5 In my capacity as Chair, the following communication lines currently exist in tandem with the formal touch points outlined in my response to Question 13 above:

- a) Confidential Trust Board meetings, allowing for the CEO and Directors to alert the Trust Board to any issues;
- b) Chief Executive briefings with Non-Executive Directors (which happen every two months), providing the CEO with the opportunity to bring urgent matters to the Non-Executive Directors;
- c) As Chair I can alert the Board on an urgent issue through email or through arranging a meeting of the Board, if required.
- d) Any Board Member or Operational Director can bring to the attention of the Chair or CEO any concern on an urgent basis.

**20 Is the Board appraised of those departments within the Trust which are performing exceptionally well or exceptionally poorly and how is this done? Is there a committee which is responsible for overseeing performance, where does it sit in the managerial structure and hierarchy and how does the Trust Board gain sight of these matters?**

20.1 Before 2019 performance reporting was part of the Public Trust Board Agenda. Areas of underperformance were highlighted frequently. All reports operate on a 'RAG' (i.e., red, amber or green) status and focus was primarily on those areas which were identified as RED.

20.2 A Performance Committee was established in 2019 to give due time and consideration to matters of performance. The remit of the Committee is to: -

- a) Provide oversight of the Trust's Performance Management Framework ensuring that there are effective and regularly reviewed structures in place to support the



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**22 Who provided information on governance issues to the Board? How did this information escalate to the Board? Please answer by way of examples, particularly in relation to urology. Please also attach all documents relevant to your answer.**

22.1 The Chief Executive, Non- Executive/Executive Directors, Operational Directors and those charged with reporting at Trust Board and its committees can, and do, provide information on governance issues to the Trust Board.

22.2 There was, to the best of my knowledge, no formal policy in respect of escalation to Trust Board from its committees. However, the following are methods for escalation that, in my experience, are used:

- a) Early Alerts go to the Department of Health and are shared with all Trust Board Members since 18<sup>th</sup> September 2020. Previous to that, and as mentioned earlier, Early Alerts were shared by the Chair of the Board (or by the Chair's or the CEO's PA) to Non Executives only on request from the Chair.
- b) Confidential Trust Board meetings allow for bringing of governance issues to the Board. These meetings are minuted but not held in public so that issues of concern in relation to individual staff and patients can be raised.
- c) Governance Committee allows for issues of internal governance to be raised and discussed directly with Committee Members and responsible and accountable Directors.
- d) Chief Executive briefings with Non-Executive Directors, which happen monthly/bio-monthly (during the pandemic they occurred weekly), also allow for such issues to be raised.
- e) Internal Audit Reports (which report through to the Audit Committee and then to Trust Board through the Chair's report) similarly allow for such issues to be brought to the Board. Where necessary, Audit Committee reports are shared with the Governance Committee. Both Committee Chair's Reports then go to the Trust Board along with a copy of the minutes of that Committee's meeting.



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- f) Executive and Operational Directors attend Audit Committee to update on Internal Audit Reports and recommendations where limited assurance has been given.
- g) Trust Board workshops also provide an opportunity to raise governance issues.
- h) At the end of each Trust Board Meeting Executive Directors of Medicine, Social Work, Nursing and Finance are asked if there were any other issues relating to their professional roles they wish to bring to the Board's attention.

22.3 A non-urology example of escalating an issue to Trust Board was in relation the Invited Review into Bluestone and Gillis in 2019 conducted by the Royal College of Psychiatrists.

22.4 This began in 2018 with Mrs. Carmel Harney, Interim Director Mental Health and Disability, bringing a paper to the Confidential Trust Board at its meeting on the 27<sup>th</sup> September 2018. The paper was entitled 'Bluestone and Dorsy Workforce Action Plan to support safe care and whole system patient flow'. A formal Early Alert had already been issued in respect of the matter on the 24<sup>th</sup> August 2018.

22.5 The journey of this concern from the 27<sup>th</sup> September 2018 onwards was as follows. It then was on the Confidential Board Agenda for 29<sup>th</sup> November 2018 and 24<sup>th</sup> January 2019, and was then discussed at a confidential Directors' workshop on the 21<sup>st</sup> February 2019. The new Director of Mental Health and Disability Services, Mr. Barney McNeany, then presented to the Confidential Trust Board in respect of it on the 28<sup>th</sup> March 2019. The presentation was entitled 'Building a progressive Inpatient Mental Health Service'. The Director outlined his concerns and that he was seeking to bring in the Royal College of Psychiatrists to undertake an Invited Review. He was requesting this to provide assurance as to the safety and effectiveness of the service.

22.6 What the above shows, is a concern being raised through the confidential Trust Board meeting and it being monitored and progressed over a number of months to an action in the form of an invited review to provide assurance (or not) on the safety and effectiveness of the relevant service. Following the invited review, the



**21 What was the Board's attitude to risk and risk management? What processes were in place to assist the Board in identifying and responding to risks related to clinical concerns and patient safety?**

21.1 The Governance Committee has been the committee that receives and discusses the Corporate Risk Register at its quarterly meetings. During my tenure as Chair of the Governance Committee, 'deep dives' on Corporate Risks were instigated from 2019. These allow for risks and mitigations to be further explored to ensure that the right measures are in place in relation to a risk. Senior Management Team review the Risk Register on a regular basis and update it accordingly. Each Directorate carries its own Risk Register and, where risks can no longer be managed at Directorate level, they are escalated to the Senior Management Team.

21.2 The Board receives the Chair's Report from the Governance Committee and, yearly, receives the Corporate Risk Register in full.

21.3 The Chief Executive and Accounting Officer is the Accountable Director and holder of the Risk Register.

21.4 The Risk Register should be a fluid document which should (and does) change as risks are mitigated and removed and as new risks come into existence.

21.5 The Trust has not in my time had a 'Risk Appetite Statement'. However, work has begun on this, with a dedicated workshop in November 2021 externally facilitated by Dr John Bullivant FRCPE. This has been further developed through a Trust Board workshops on the 18<sup>th</sup> May 2023 and 18<sup>th</sup> September 2023. The current work on establishing an appropriate level of risk appetite will further support the Board.

21.6 Although there is, as yet, no Risk Appetite Statement, my experience on the Board has been that it takes the question of risk generally very seriously and that it has no appetite for any risks that relate to clinical concerns and patient safety.



# **HSC BOARD MEMBER HANDBOOK**

**A resource to support the  
delivery of  
safe and effective care**

**May 2021**

## Foreword from Robin Swann MLA

### Minister of Health

On 31 January 2018 the report of the Inquiry into Hyponatraemia Related Deaths (IHRD) was published. In his report into the deaths of five children in hospitals in Northern Ireland, Mr Justice O'Hara concluded that the culture of the health service, the arrangements in place to ensure the quality of services and the behaviour of individuals at the time were not acceptable.

Ultimate accountability for the quality and safety of health and social care rests with me as Minister and with my Department. I am committed to addressing the serious failings of the past and ensuring that care is safe and accountable now and in the future. It is essential that those of us with leadership responsibilities take action to address the issues raised in the report and make sure that we support the great many Health and Social Care staff who strive to do the right thing every day, often in very challenging circumstances. We owe this to the families of those five children first and foremost but also to all those who use our services.

Mr Justice O'Hara made 96 recommendations in his report, including 16 specifically in relation to leadership and governance. In response, the Department of Health set up an extensive programme involving over 200 individuals from a range of backgrounds, including service users and carers, health and social care staff and Board members, and representatives from the third sector to take these recommendations forward. I acknowledge that it has taken some time for implementation of the recommendations to start. This is regrettable, but sadly inevitable owing to the need to deal with the Covid-19 crisis. This handbook is the first product to emerge from the IHRD report and I intend, now that the worst of the pandemic is hopefully behind us, that the pace of implementation will increase.

The Duty of Quality workstream has been responsible for taking forward the key recommendations on leadership, clinical and social care governance and Board effectiveness and has developed this handbook as a resource to assist Boards to



accountable to the Department for the discharge of the functions set out in their founding legislation.

While ALBs should operate with a level of autonomy to deliver their services, the Minister is answerable to the Assembly for the overall performance and delivery of its ALBs and, therefore, ultimate accountability for the exercise of proper control of financial, corporate, clinical and social care governance in the HSC system rests with the Minister.

As set out in Managing Public Money NI, the ALB Chief Executive is the designated Accounting Officer for the ALB, responsible to the Department's Accounting Officer for the sponsoring branch. They are also accountable to the ALB Board for their stewardship of the organisation. The Department's Accounting Officer will make arrangements to satisfy themselves that the ALB Accounting Officer is carrying out their responsibilities and that their organisation (and any organisation funded by them) operates effectively and to a high standard of probity.

It is, therefore, important that the Department engages with ALB Boards and Chief Executives to assure itself that the requisite governance systems are in place to ensure delivery of the ALB's prescribed functions and compliance with statutory responsibilities.

The Executive's outcome-based approach (as set out in the Programme for Government) relies on collaborative working and a joined-up approach. The Department and its ALBs must have a strategic alignment between their aims, objectives and outcomes and both partnership and effective engagement between them is critical to the delivery of high-quality public services.

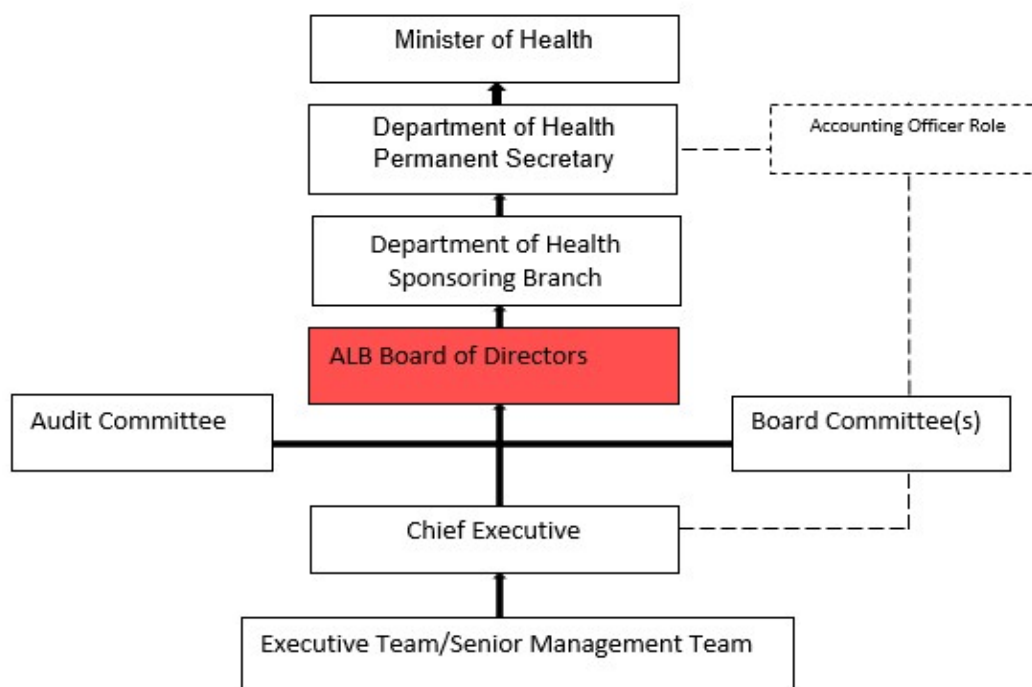


Figure 2: Accountability process for HSC ALBs

### 1.5.2 Autonomy for ALBs

The Guidance on Proportionate Autonomy for Arm's Length Bodies is set out in DAO (DoF) 06/19 and summarised in Appendix 5 (i) and Annex A of the guidance in Appendix (ii).

#### Proportionate autonomy

The guidance on proportionate autonomy provides guiding principles, rather than being detailed and prescriptive, due to the different nature and challenges across all ALBs. It will therefore be for individual Departments and ALBs to develop their relationship and approach to partnership working, and associated departmental activities in a way that is consistent with the principles set out in the guidance, whilst focusing on the delivery of agreed outcomes. The agreed approach and level of autonomy should be reflected in the engagement plan within the partnership agreement.

It is important to note that some ALBs may already operate with an appropriate degree of autonomy from Departments. It is also important to highlight that as autonomy is continuous and ongoing, this means it is flexible and should be regularly reviewed as appropriate.

Departments should also engage with their finance divisions (who in turn should engage with DoF as appropriate) to give effect to the principles outlined, and to identify where it is possible to streamline processes and monitoring requirements, while maintaining an appropriate level of assurance.

### ***1.5.3 Accountability of individual HSC Board Members***

To what extent can a Board Member be held liable at law for their actions?

Basically, if an individual Board Member incurs a civil liability in the course of carrying out their responsibilities for the Board, they will not have to pay anything out of their own pocket provided that they have acted **honestly and in good faith**.

However, it should be noted that this indemnity does not protect any Board Member who has acted recklessly, criminally or in bad faith. The issue of Board Member indemnity cover should be covered in the letter of appointment and in the ALB's code of conduct for Board Members.

In many cases, the founding legislation or standing orders will set out the grounds on which a Board Member may be removed and these may include the following:

- Bankruptcy;
- Being unable, unfit or incapable of performing their duties as a Board Member;
- Poor attendance; and
- Being convicted of an indictable offence which has not expired.

### **Principle 3 – Conduct**

Board Members have a responsibility to set an example by demonstrating the highest standards of behaviour and complying fully with the Seven Nolan Principles of Public Life, summarised in Appendix 3:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership.

It is important that nothing a Board Member does or says when acting as a Board Member tarnishes in any way the reputation of the organisation or the Board.

If a Board Member has specific concerns about the manner in which the organisation is being run, these should be raised with the Chair in the first instance. If the Board Member fails to achieve resolution with the Chair, it is open to him or her to take their concerns to the relevant senior civil servant in the DoH – but Board Members should appreciate that this is a significant step and should not be taken lightly.

#### ***3.2.4 Being an effective Board Member***

Effective Board Members (Executive and Non-Executive) are critical to achieving safe and excellent health and care services for patients and people in the community.

Effective Board Members are expected to constructively challenge and be a critical friend. However, it is not the role of the Chair and Non-Executive Board Members to have a detailed involvement in the day-to-day management of the organisation.

In order to be effective in their role, Board Members should:

**HSC Board Member Handbook**

- Actively participate in collective decision-making, and chair, or participate in, where required, one or more of the committees of the Board;
- Act in accordance with the principle of collective responsibility for decisions of the Board – no Board Member is appointed on a representative basis for any HSC body or group and Members are expected to bring an impartial judgement to bear on the business of the HSC Board;
- Question intelligently, challenge rigorously, debate constructively and decide dispassionately;
- Be sensitive to the views of others, inside and outside the boardroom;
- Be an ambassador for the organisation and support public involvement and engagement, demonstrating the ability to undertake a representational role across health services in Northern Ireland;
- Actively work with stakeholders in the local community, other Boards, regional support organisations and beyond to achieve the aims of the HSC body;
- Work with all other interested parties and fully represent the Board's activities, in an honest and positive way, whilst encouraging and maintaining good relationships;
- Put into action the Minister's policies and priorities in the context of the Board's area and remit;
- Develop an effective working relationship with other Board Members and staff within the health and care system;
- Gain the trust and respect of other Board Members;

Discussion continued and the Chair asked where Emergency preparedness is discussed at Senior Management level. The Chief Executive assured members the Trust SMT are regularly updated on and discuss the matter. Mr Morgan advised that at Directorate level CYP discussion takes place through their SMT Governance meeting and his Directorate undertake test exercises periodically. Mr McNeany and Mr Beattie also responded from their respective Directorates.

Mrs Rooney asked what learning had been identified following the EU Exit planning exercises. The Chief Executive acknowledged the exercises to have been helpful and stated the Trust will reflect on any learning post Brexit. Mrs McClements assured members the Director of Pharmacy is very actively involved with the associated preparations and the Trust has a robust system in place to respond to the impact of Brexit.

**The Board approved the Emergency Planning/Business Continuity Annual Report 2018/19 (ST971/19)**

## **14. BOARD COMMITTEES**

By way of introduction, the Chair advised of the implementation of a new standardised format for how each sub-committee Chair communicates the work of their Committee to Trust Board. She stated each report will be taken as read, unless there is an urgent issue the Committee considers the Board should be taking action on.

### **i) Patient & Client Experience Committee**

#### **– Committee Chair Report from meeting held on 19<sup>th</sup> September 2019**

Mr Wilkinson presented the Committee Chair Report which demonstrated the key issues raised at the meeting held on 19<sup>th</sup> September 2019.

#### **– Annual Report 2018/19 (ST973/19)**

Mr Wilkinson presented the Annual Report 2018/19 for approval.

**The Board approved the Annual Report 2018/19 (ST973/19)**

#### **– Minutes of meeting held on 13<sup>th</sup> June 2019 (ST974/19)**

Mr Wilkinson presented the minutes for approval and highlighted the key discussion points.

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**From:** Mullan, Eileen  
**Sent:** 15 November 2021 11:03  
**To:** Devlin, Shane  
**Cc:** Donaghy, Geraldine; Leeson, Pauline; McCartan, Hilary; McDonald, Martin; Wilkinson, John  
**Subject:** FW: Internal Audit Report on Mr AOB Urology Private Patients and his compliance with Relevant Guidance

Shane

As you know there are a number of Non Executives (Pauline, Geraldine and myself) who do not sit on the Audit Committee.

Audit Committee has referred the 'Internal Audit Report Mr AOB Urology Private Practice' to the Governance Committee due to the Clinical Management issues it raises. This is will be discussed under the confidential agenda.

Geraldine has noted she had a number of questions, and I encouraged her to send them in advance. Geraldine has raised a series of questions from the report (see below email).

I appreciate the operational challenges with the ED divert yesterday evening, the number of patients in ED waiting on a bed today and hospital capacity and overall system pressures. To manage time tomorrow, if these could be answered/reflected on in advance.

As I understand it the Audit Committee and Internal Audit Forum will be responsible for the tracking of the recommendation's (until February 2022) which have all been accepted by Management. I would be keen to hear tomorrow the actions already in place and how as a Trust we can be assured that this practice is not being undertaken by other Consultants and the clinical management of consultants has been strengthened as a result of these lessons.

Eileen

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Eileen Mullan  
Southern Trust Board Chair

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**From:** Donaghy, Geraldine  
**Sent:** 14 November 2021 13:02  
**To:** Mullan, Eileen  
**Cc:** McDonald, Martin; Wilkinson, John; Leeson, Pauline; McCartan, Hilary  
**Subject:** Internal Audit Report on Mr AOB Urology Private Patients and his compliance with Relevant Guidance

Dear Chair/Eileen

Further to our brief chat last Thurs Nov 11th (in the margins of the Trust Development Day) I indicated to you that I thought the 15 mins allocated to discuss the above Paper at the Confidential Governance meeting on 16<sup>th</sup> Nov may be inadequate as this was the first time I and a number of NEDs including yourself had sight of this Report. You said there was little opportunity to extend this time as a Governance Meeting was scheduled for 10.15 immediately following and you suggested I submit my queries in writing to the relevant director. Given the IA Report's recommendations cross a number of Directorates and to avoid multiple e mails I am setting out my queries below and perhaps you can decide to whom they are best directed. I would appreciate if sufficient time were provided at the meeting to hear and discuss the responses.

## Internal Audit Report



## Urology Services Inquiry

16.5 An Annual Board Governance Self-Assessment is required to be undertaken and a copy of the report shared with the Department of Health. Once in every three years, this exercise should be conducted via an external provider. In 2019 and 2022 therefore the Business Services Organisation's Internal Audit undertook the assessment as part of the internal audit programme of work. *Please see:*

97. 1819 IA Board Effectiveness

98. IA Final Report - Board Effectiveness 21-22

99. See Management Statement SHSCT

16.6 The 2021/2022 Board Governance Self-Assessment recognised the risk to the stability and effectiveness of Trust Board as a direct consequence of vacancies at Senior Executive and Non-Executive Director level. Actions to address this included: all Senior Executive positions to be advertised and appointed by December 2022 and Non-Executive Director positions competition programme, including SH&SCT vacancies, to be advertised by Public Appointments Unit in October 2022.

16.7 In my experience, having instability in the Board and Senior Executive Team directly impacts on the effectiveness of the governance structures. During the period 2016 – 2018 there were interim Chief Executives and interim Executive Directors who were members of the Trust Board. In addition, six out of eight Non-Executive Directors were newly appointed during the 2016/2017 year. The appointment of Mr Shane Devlin as Chief Executive in 2018 allowed for the beginning of a process to make substantive appointments to the Senior Team. August and November 2020 saw the end of tenures for two long-standing Non-Executive Directors. This created two vacant positions which, as I write, remain vacant. The appointment of Dr Maria O'Kane as Chief Executive in 2022 has seen the follow through on completing the restructure and recruitment of permanent and substantive posts across the Senior Leadership Team. *Please see 100. 20230802 Trust Board Membership 2010 – Present.*

16.8 In relation to the Health and Social Care Board (the former commissioner of services), reporting on governance of the Trust goes directly from the Trust to the





## Urology Services Inquiry

30.5 In short, the actions taken by the Trust have been a mixture of steps that the Trust could take for itself (e.g., international recruitment) along with short term actions reliant upon non-recurrent funding which have temporarily addressed a symptoms but not the root cause of the problem. On reflection, these actions have had limited effect as the issues have continued to develop. Fundamentally, the whole system of health and social care needed reform in line with the Bengoa Report 2016 (Systems Not Structures) and the 10 year plan published by the Department of Health in response to it “Health and Wellbeing 2026: Delivering Together”.

### **Board actions regarding urology and Mr. O’Brien**

**31. Please provide full details of when, how and by whom (i) you and (ii) the Board (if different or at different times) were first made aware of issues and concerns regarding the practice of Mr. O’Brien, to include all information about what was said and/or documentation provided?**

31.1 At a Confidential Trust Board Meeting on the 27<sup>th</sup> January 2017, Mrs Vivienne Toal raised (under agenda item 6, Maintaining High Professional Standards) the following:

‘Mrs Toal advised that under the MHPS framework, there is a requirement to report to Trust Board any medical staff who have been excluded from practice. She reported that one Consultant Urologist was immediately excluded from practice from 30<sup>th</sup> December 2016 for a four-week period. Mrs Toal reported that the immediate exclusion has now been lifted and the Consultant is now able to return to work with a number of controls in place. Dr Wright explained the investigation process. He stated that Dr Khan has been appointed as the Case Manager and Mr C Weir, as Case Investigator. Mr J Wilkinson is the nominated Non-Executive Director. Dr Wright confirmed that an Early Alert had been forwarded to the Department and the GMC and NCAS have also been advised.’

31.2 The Consultant’s name was not disclosed to us at that time.

31.3 There were no documents provided to us either. Information was provided verbally by Mrs Toal and Dr Wright.



## Urology Services Inquiry

31.4 I know now that the Consultant being referred to at this meeting was Mr O'Brien. I believe that I only became aware of this in or about August/September 2020.

31.5 Up until that point – 27<sup>th</sup> January 2017 - I was not aware of any issues or concerns regarding the practice of Mr O'Brien.

31.6 After that, I do not believe that I or the Board was made aware of any other issues and concerns until the Board Workshop and Confidential Meeting held on the 27<sup>th</sup> August 2020 (mentioned in various answers above).

When	How	By Whom	Information
27 <sup>th</sup> August 2020	Through an Executive Director Update at a Trust Board workshop	Medical Director Dr Maria O'Kane	Notes from Trust Board workshop held on the 27 <sup>th</sup> August  <i>Dr O'Kane brought to the Board's attention SAI investigations into clinical concerns involving a recently retired Consultant Urologist. Members asked that this matter be discussed at the confidential Trust Board meeting following the Workshop.</i>
27 <sup>th</sup> August 2020	Through Agenda Item Any Other Business at the Confidential Trust Board Meeting.	Medical Director Dr Maria O'Kane	Minute from Trust Board workshop held on the 27 <sup>th</sup> August  <i>Dr O'Kane brought to the Board's attention SAI investigations into concerns involving a recently retired Consultant Urologist. Members request a written update for the next confidential Trust Board Meeting.</i>



## Urology Services Inquiry

**32 Please detail all subsequent occasions any concerns and issues regarding Mr. O'Brien were discussed by or with (i) you and (ii) the Board, to include the detail of those discussions, including dates and who those discussions were with.**

### Discussions by or with me

32.1 At 1:1 meetings between myself, as Chair, and Shane Devlin, as CEO, during 2020 and 2021 urology would have been discussed, usually in terms of brief updates. I have summarised these in the table below:

<b>Date</b>	<b>Notebook entry</b>
17 <sup>th</sup> December 2020	Chief Executive confirmed Anything else found will go to the Public Inquiry.
14 <sup>th</sup> January 2021	Update on SAI's, early learning, and Chief Executive meeting with the urology team.
21 <sup>st</sup> January 2021	Confirmation received from AOB solicitors not to destroy records from private practice. Inquiry Chair not appointed. All SAI's complete.
10 <sup>th</sup> March 2021	SAI updates, timeline for sharing with families and AOB, for comment.
16 <sup>th</sup> March 2021	AOB not responding.
19 <sup>th</sup> April 2021	Increasing cases. Director of Nursing now director responsible for Urology Inquiry. Lookback, delivery improvement relationships with inquiry.

32.2 At meetings between myself, as Chair, and Dr Maria O'Kane, as CEO, Urology would have been discussed in terms of brief updates in regard to the Urology Services Inquiry, External Reference Group (ERG), and/Lookback review:

<b>Date of meeting</b>	<b>Agenda item</b>
01.03.2022	Notebook entry Urology
30.01.2023	3 Urology Services Inquiry
28.02.2023	5 Urology Services Inquiry

✘ Initial call made to  (DoH) on  DATE

**Follow-up Pro-forma for Early Alert Communication:**

**Details of Person making Notification:**

Name  Organisation   
Position  Telephone

Criteria (from paragraph 1.3) under which event is being notified (tick as appropriate)

1. Urgent regional action
2. **Contacting patients/clients about possible harm**
3. Press release about harm
4. **Regional media interest**
5. Police involvement in investigation
6. Events involving children
7. Suspension of staff or breach of statutory duty

Brief summary of event being communicated: *\* If this relates to a child please specify DOB, legal status, placement address if in RCC. If there have been previous events reported of a similar nature please state dates and reference number. In the event of the death or serious injury to a child - Looked After or on CPR - Please confirm report has been forwarded to Chair of Regional CPC.*

On 7<sup>th</sup> June 2020 the Trust became aware of potential concerns regarding delays of treatment of surgery patients who were under the care of a Trust employed Consultant Urologist. As a result of these potential patient safety concerns a lookback exercise of the Consultants work was conducted to ascertain if there were wider service impacts. The lookback which considered cases over a 17 month period (period 1<sup>st</sup> January 2019 - 31<sup>st</sup> May 2020), the following was found:

- The emergency lookback concentrated on whether the patients had a stent inserted during procedure and if this had been removed. 147 patients taken to theatre that was listed as being under the care of the Consultant during the lookback period with concerns identified in 46 of these cases.
- There were 334 elective-in patients reviewed where 120 of cases were found to have experienced a delay in dictation ranging from 2 weeks to 41 weeks, a further 36 patients who had no record of care noted on the regional NIECR system. To date one of the elective in-patient cases has been identified for screening for Serious Adverse Incident review.

In addition two recent cases managed by this consultant have been identified which are being screened as Serious Adverse Incidents involving two prostatic cancer patients that indicate potential deficiencies in care provided by the consultant in question where these deficiencies potentially had an impact on patient prognosis. The following actions have been taken:

- Discussions with the GMC employer liaison service have been conducted
- This case has been discussed with NHS Resolutions who have recommended restrictions of clinical practice including a request to the Consultant not to undertake private practice in his own home or other premises pending further exploration
- Restrictions have been placed by the Trust that they no longer to undertake clinical work and that they do not access or process patient information either in person or through others either in hard copy or electronically. A request has also been made they voluntarily undertake to refrain from seeing any private patients at their home or any other setting and confirm the same in writing.
- A preliminary discussion has been undertaken with the Royal College of Surgeons invited Review Service regarding the consultants practice and potential scope and scale of any lookback exercise

**Appropriate contact within the organisation should further detail be required:**

Name of appropriate contact:

**Contact details:**

Email address (work or home)  :

Mobile (work or home)  Telephone (work or home)

Forward pro-forma to the Department at: [earlyalert@health-ni.gov.uk](mailto:earlyalert@health-ni.gov.uk) and the HSC Board at: [earlyalert@hscni.net](mailto:earlyalert@hscni.net)

**FOR COMPLETION BY DoH:**

Early Alert Communication received by: ..... Office: .....

Forwarded for consideration and appropriate action to: ..... Date: .....

Detail of follow-up action (if applicable) .....



**Comac, Jennifer**

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**From:** Wallace, Stephen [Personal Information redacted by the USI]  
**Sent:** 03 August 2020 10:29  
**Subject:** CONFIDENTIAL - Early Alert - Urology July 2020  
**Attachments:** 31072020 EA JULY 2020 20.pdf

Dear Roberta,

Please find attached an early alert regarding Urology for your information. As per regional Early Alert processes the Board and Department have been provided with the attached information, Dr O’Kane has spoken to the CMO office to advise of the content, the CX has also been made aware.

Please note given the sensitivities and ongoing processes surrounding this issue the internal circulation list has been limited and we ask that this is not shared wider at this stage.

Regards  
Stephen

Stephen Wallace  
Interim Assistant Director of Clinical and Social Care Governance  
Mob: [Personal Information redacted by the USI]

**Stinson, Emma M**

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**From:** Mullan, Eileen Personal Information redacted by the USI  
**Sent:** 27 August 2020 12:17  
**To:** Brownlee, Roberta; Devlin, Shane  
**Cc:** Judt, Sandra; Comac, Jennifer; Wright, Elaine  
**Subject:** Blind spots

Both

The Muckamore Report provides a great opportunity for the Trust Board to take a look at its blind spots. If a workshop could be planned, I think that would be a great use of time for all. We don't know what we don't know and it is good to hear if anything is keeping out Directors awake, or is bubbling up for them.

Regarding the Board Composition and the pending loss of yourself, Siobhan, Martins time out and first terms ending for some, this needs to be flagged (and I know you do). Last year, the Commissioner for Public Appointments initiated a process where Non-Executive Directors would not be offered a reappointment without running a recruitment competition. That then brings its own challenges as we are not sitting at the end of August, and a typical process can take 6-9 months.

Eileen



14.8 The revised corporate committee structure came into effect from the 1<sup>st</sup> September 2023.

14.9 This revised approach is intended to enable a deeper system view of governance, along with the ability to triangulate information which will allow for the committees to be focused on the areas that need attention and not to be overwhelmed by information (such that they are not seeing the wood for the trees).

**15 How do you ensure that the Board is appraised of both serious concerns as well as current Trust performance against applicable standards of clinical care and safety? What is your view of the efficacy of these systems?**

15.1 As Chair of the Trust Board I ensure that the Board is appraised of both serious concerns as well as current Trust performance against applicable standards of clinical care and safety through the mechanisms outlined in my response to Question 13 above.

15.2 As Chair I have adopted a firm position on the need for the Trust Board to be notified first of any significant issues arising outside of the scheduled Board meetings. I understand fully that a balance needs to be struck in that a certain level of validated information is required before escalation of a concern to Board. Nevertheless, I have operated a 'no surprises' approach with the current and previous Chief Executives. Chair and CEO meetings provide for a formal and informal space for CEO to raise concerns or issues. I am content with this approach.

15.3 Prior to the 18<sup>th</sup> September 2020, Early Alerts were shared only with the former Chair. These Alerts are issued through the Corporate Governance Team by email. Since the 18<sup>th</sup> September 2020, Early Alerts are now shared with all Board Members. I have set out below some examples of Early Alerts received by the former Chair which were shared with the Non-Executive Directors (along with the date of such sharing).



## Urology Services Inquiry

Early Alert Reference	Sent to Roberta Brownlee	Forwarded to Non-Executive Directors
20200804 EA Aug 2020 02	04 <sup>th</sup> August 2020	04 <sup>th</sup> August 2020
21072020 EA July 2020 16 Update	21 <sup>st</sup> July 2020	27 <sup>th</sup> July 2020
23072020 EA July 2020 17	23 <sup>rd</sup> July 2020	23 <sup>rd</sup> July 2020
2020.07.07 Early Alert UPDATE EA JULY 2020.05	07 <sup>th</sup> July 2020	07 <sup>th</sup> July 2020

Please see:

85. 20200804 E re Early Alert
86. 20200804 E re Early Alert A1
87. 20200727 E re Early Alert
88. 20200727 E re Early Alert A1
89. 20200723 E re Early Alert
90. 20200723 E re Early Alert A1
91. 20200707 E re Early Alert
92. 20200707 E re Early Alert A1

15.4 Prior to the 18<sup>th</sup> September 2020, the sharing of Early Alerts with Non-Executives other than the Chair was *ad hoc* and appeared to depend on the personal judgement of the Chair. This meant that members of the Board were sometimes unaware of issues that were notified to the Department about the workings of the Trust under the following categories:

- a) Urgent regional action;
- b) Contacting patients/clients about possible harm;
- c) Press release about harm;
- d) Regional media interest;
- e) Police involvement in investigation;
- f) Events involving children;





## Urology Services Inquiry

g) Suspension of staff or breach of statutory duty.

15.5 In my view, this was not an adequate approach. As indicated above, however, as of the 18<sup>th</sup> September 2020 all Board Members have been copied into Early Alerts.

15.6 The corporate governance structure and, in particular, meetings with the CEO provide the opportunity to raise with the Board and members of it issues of concern and progress on those. The expectation is that Executive and Operational Directors will bring forward areas of concern at the earliest moment. The Early Alert in respect of some of the issues giving rise to this Public Inquiry was issued on the 31<sup>st</sup> July 2020. The next formal meeting of the Trust Board was not until the 27<sup>th</sup> August 2020 and that is when Dr Maria O’Kane alerted us to concerns in respect of a recently retired Consultant Urologist (initially at the Trust Board workshop and then at the confidential Trust Board meeting that day). I believe that the Early Alert should, in fact, have been shared with all Board Members on the 31<sup>st</sup> July 2020, although I acknowledge that the August confidential meeting might have been the first formal meeting at which concerns relating to Mr O’Brien could have been considered. I believe Dr O’Kane rightly brought the concerns to the attention of Trust Board on the 27<sup>th</sup> August (albeit that the fact that an Early Alert had been issued in respect of concerns relating to Mr O’Brien was not revealed to the Board until 24<sup>th</sup> September 2020 – see further paragraph 22 below). At subsequent Board meetings detailed papers and further information were provided as matters unfolded.

15.7 Having an open, honest and psychologically safe environment is critical to enabling the bringing of issues early to the Trust Board without fear or worry. I believe that I have worked in creating this environment since taking up the post of Chair from the 1<sup>st</sup> December 2020. I shared a ‘thought paper’ as the newly appointed Chair with Board Members and Operational Directors on 3<sup>rd</sup> February 2021. This was my platform for changing the culture within and outside the Boardroom. I have just completed a review of that paper and, on 6<sup>th</sup> July 2023, shared a revised document, ‘The Next 18 Months’, with Trust Board and broader leadership team and support staff. *Please see:*



## Urology Services Inquiry

Trust Board were provided with updates and actions plans in respect of the outworking's of the review. *Please see:*

- 114. *Item 6. Bluestone Dorsy update TB 270918 (3)*
- 115. *Item 3. Final confidential minutes - 27.9.2018*
- 116. *Item 4i. Bluestone Dorsy revised update TB 251018 (3) Final*
- 117. *Confidential minutes - 25.10.2018*
- 118. *Item 4. MH In-Pt Units WF pressures revised update TB 291118 (3)*
- 119. *Item 4. Confidential minutes - 29.11.2018*
- 120. *Item 5i. Bluestone and Dorsey Update*
- 121. *Item 4. Confidential minutes - 24.1.2019*
- 122. *Item 6. Building a progressive Inpatient Mental Health Service*
- 123. *Item 4. Confidential minutes - 28.3.19*
- 124. *Item 3. Draft Confidential minutes - 29.8.2019*
- 125. *Item 7a. Bluestone Dorsy update TB 260919*
- 126. *Item 11iia. Report Template Bluestone Dorsy update TB 300120*
- 127. *Item 11iib. Bluestone Action Plan Jan 2020 Update*
- 128. *Item 11iic. NHS Safety Thermometer Bluestone*

22.7 In relation to urology specifically (and as mentioned at Question 15 above), an Early Alert was issued on 31<sup>st</sup> July 2020. I have no record of receiving this Early Alert during July or August. However, I have received confirmation that the former Chair, Roberta Brownlee, was notified with a copy of the Early Alert on the 3<sup>rd</sup> August 2020.

22.8 As also mentioned above at Question 15, at a Trust Board workshop on the 27<sup>th</sup> August 2020, under Agenda Item 6 'Update from Executive Directors (Verbal)', the (then) Medical Director, Dr Maria O'Kane, brought a governance issue to the Board's attention, namely, an SAI investigation into clinical concerns involving a recently retired Consultant Urologist. Members asked that this matter be discussed at the confidential Trust Board meeting immediately following the Workshop.

22.9 At the ensuing confidential Trust Board meeting on the 27<sup>th</sup> August 2020, Dr O'Kane brought to the Board's attention the SAI investigation into concerns involving



## Urology Services Inquiry

the Urologist in question. Members requested a written update for the next confidential Trust Board Meeting.

22.10 This item was then brought to the next Confidential Trust Board Meeting on the 24<sup>th</sup> September 2020, with a detailed paper provided by Dr O’Kane and presented by Dr Damian Gormley. This is also when Board Members (other than the Chair) were first notified that an Early Alert had been submitted (although the date of its submission was not clarified until the meeting of 22<sup>nd</sup> October). Further updates were provided to the Board on the 12<sup>th</sup> November 2020 and 10<sup>th</sup> December 2020 and the issue has subsequently remained on the confidential Trust Board agenda.

*Please see:*

*129. 20200803 - E - S Wallace re Early Alert*

*75. 20200827 Directors Workshop Notes*

*131. 20200924 Confidential TB minutes*

*132. 20201022 Confidential TB Minutes*

*133. 20201112 Confidential TB minutes*

*134. 20201210 Confidential TB Minutes*

### **23 How was this information recorded and communicated to the Board? How did the Board assure itself of the accuracy and completeness of this information?**

23.1 The way in which information on governance issues is communicated to the Trust Board can be:

- a) Verbally, as in the case of Dr O’Kane raising urology concerns at the confidential Trust Board workshop on the 27<sup>th</sup> August 2020 (see further Questions 15 and 22 above);
- b) In written format, as in the Case of Mrs. Carmel Harney raising concerns (regarding the Bluestone and Dorsy workforce) at the confidential Trust Board meeting on the 27<sup>th</sup> September 2018 (see further Question 22 above);
- c) By notification from a Committee Chair, as in the Case of Mrs. Pauline Leeson (email of the 11<sup>th</sup> March 2022) raising concerns from the Performance



## Urology Services Inquiry

Letter from Southern Trust to the Permanent Secretary DOH and Chief Executive HSCB – see confidential minutes of 14 <sup>th</sup> March 2017	Request from Trust Board Chair for letter to be sent to the DOH and HSCB outlining concerns regarding Daisy Hill Hospital Emergency Department.	Stephen McNally Acting Chief Executive
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**25 Are the issues of concern and risk identified in urology services of the type the Board would be expected to have been informed about at an early stage? Was the Board informed of concerns regarding urology, and Mr. O'Brien in particular, at the appropriate time? If not, what should have happened, when, and why did it not?**

25.1 Significant issues in respect of Patient Safety and Clinical Concerns are indeed the type of matters about which the Board would expect to be informed by its Chair and/or by the Chief Executive and/or by one of the relevant Executive or Operational Directors.

25.2 The Trust Board were made aware of a Consultant being excluded from practice at its meeting on the 27<sup>th</sup> January 2017 (I now know the Consultant in question was Mr. O'Brien, but did not know that in January 2017). This was, I believe, an appropriate point at which to raise an issue of potential concern with the Board. The issue having been raised, Trust Board members, including me, did not question or dig deeper into the situation and, on reflection, perhaps we ought to have been more curious, if not on the 27<sup>th</sup> January then perhaps in the months that followed, when no further updates were provided.

25.3 Between 2016 and 2018 there was a churn in Interim/Acting CEO and Interim Directors. I am not sure whether this churn impeded the flow of information to the Board about the progress and outcome of the matter we were advised of on the 27<sup>th</sup> January 2017. The fact is that I do not believe that any further updates were provided and my view is that this was unsatisfactory. We ought to have received at least some periodic updates regarding the progression of the matter (including the



## Urology Services Inquiry

163a. 20220929 Confidential TB Minutes & 163b. Urology update paper

164. 20220929 RQIA Review of Urology Structured Case Record Review

165a. 20221213 Confidential TB Minutes & 165b. Urology update paper

167a. 20230126 Confidential TB Minutes & 167b. Urology update paper

**34 Were you/the Board made aware of any concerns raised by Mr. O'Brien? If so, what were those concerns? Were those concerns reflected in Board governance documents, such as the Risk Register? Please provide any documents referred to. If the concerns raised were not reflected in governance documents and raised in Board meetings relevant to governance, please explain why not.**

### **Concerns Raised by Mr O'Brien**

34.1 I received by email (from Sandra Judt Board Assurance Manager on instruction from Mrs. Roberta Brownlee) on the 11<sup>th</sup> June 2020), with other Non-Executive Directors, a copy of a letter sent by Mr O'Brien to the former Chair, Mrs. Roberta Brownlee, on the 10<sup>th</sup> June 2020. This letter raised concerns in relation to the ongoing HR process, Mr O'Brien's request for retirement and his request to return on a part-time basis post retirement. This was an operational HR issue which was being dealt with through the Director of HROD, Mrs. Vivienne Toal, in conjunction with the Medical Director, Dr Maria O'Kane.

34.2 The former Chair Mrs. Roberta Brownlee raised receiving the letter at the Confidential Meeting dates 22<sup>nd</sup> October 2020.

### **Other Potentially Relevant Concerns Regarding Urology**

34.3 In my answer to Questions 26 to 30 I have provided details of all the points in time of which I am aware where urology concerns or issues (other than those related to Mr O'Brien) were raised through Trust Board Meetings, Confidential Trust Board Meetings, and Performance Committee Meetings. It is clear that some of those



## Urology Services Inquiry

Please see:

230. NIAO Conflict of Interest Good Practice Guide 2015

231. 20170109 Email trail between R Brownlee and J Wilkinson re Designated Board Member

### 48 Having had the opportunity to reflect, do you have an explanation as to what went wrong within urology services and why?

48.1 I have attempted to summarise what I believe are a number of key problems in this regard below.

<ul style="list-style-type: none"> <li>• Not dealing with the issues fully or in a timely way</li> </ul>	<ul style="list-style-type: none"> <li>➤ Issues in Mr O'Brien's practice, which were known about prior to 2016, appear never to have been properly addressed in the period prior to 2016.</li> <li>➤ On the 30<sup>th</sup> March 2016, whilst Mr. O'Brien was advised in writing by both his AMD and AD of clinical governance and patient safety concerns, the issues raised with him continued to go unresolved.</li> <li>➤ An MHPS process, not commenced until very late 2016 / early 2017, was protracted and failed to examine what we now believe were all of the issues with Mr O'Brien's practice.</li> <li>➤ A number of related SAI investigations (those chaired by Dr Johnston) appear also to have been unnecessarily protracted.</li> <li>➤ There appear to have been delays in addressing and/or escalating issues with Mr O'Brien following completion of the MHPS process in late 2018 including, for example, his failure to adhere to the standards expected of him in his return-to-work action plan.</li> </ul>
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## Urology Services Inquiry

	<ul style="list-style-type: none"> <li>➤ Across all of this time, there appears to have been a failure to triangulate information about issue with Mr O'Brien's practice.</li> </ul>
<ul style="list-style-type: none"> <li>• Doctor unwilling to be managed</li> </ul>	<ul style="list-style-type: none"> <li>➤ It appears to me that Mr O'Brien did not want to be managed and was resistant to changing any of his problematic practices.</li> <li>➤ I believe he attempted to thwart processes that were begun to address some of his issues, including threatening legal action.</li> <li>➤ I also believe that he used his close relationship with the Chair of the Board as a tool to directly/indirectly warn people off.</li> </ul>
<ul style="list-style-type: none"> <li>• Conflict of interest between Chair of the Board and the Consultant</li> </ul>	<ul style="list-style-type: none"> <li>➤ This conflict of interest was not declared in full and on time by the former Chair.</li> <li>➤ The conflict of interest was not appropriately managed once it was known by both the Chair and the full Board.</li> <li>➤ The Chair declared herself in and out of meetings, which she should not have been allowed to do.</li> <li>➤ It is difficult to know what impact (if any) the mismanagement of this conflict of interest had on relevant events. It may be that it had none. It may be that affected some of the cultural issues mentioned below. It may also be that having a friend who was Chair of the Board and involved in at least some discussions relevant to him made Mr O'Brien feel protected or that he did not have to change. Ultimately, however, this issue is one for the Inquiry once it has explored</li> </ul>



## 1. CHAIR'S WELCOME

The Chair welcomed everyone to the meeting and reminded members of the principles of Board meeting etiquette and asked that mobile phones are turned to silent and laptops/IPads are to be used for accessing Trust Board papers only during the meeting.

Before commencing with the business of the meeting, the Chair advised that UNISON had previously indicated to the Trust their plans to protest outside the Trust Board meeting venue to register publically their objection to any plan to implement the Single Pay Frequency. The Chair advised that Standing Orders were being stood down to allow UNISON the opportunity to address the Board and for members to listen to the views of staff undertaking the protest.

## 2. DECLARATION OF INTERESTS

The Chair requested members to declare any potential conflicts of interest in relation to any matters on the agenda. Ms Eileen Mullan declared an interest in UNISON.

## 3. SINGLE PAY FREQUENCY

UNISON members welcomed the opportunity to address the Board. They registered their resistance to the regional plan to transfer staff who are currently paid on a weekly or fortnightly basis to a monthly payroll.

## 4. MINUTES OF PREVIOUS MEETINGS

The Minutes of the meetings held on 28<sup>th</sup> January 2016 and 25<sup>th</sup> February 2016 were agreed as accurate records and duly signed by the Chair.

## 5. MATTERS ARISING FROM PREVIOUS MEETINGS

There were no matters arising that were not addressed elsewhere on the agenda.



## 1. **CHAIRMAN'S WELCOME AND APOLOGIES**

The Chairman welcomed everyone to the meeting, in particular, elected representatives and members of the public. On behalf of Board members, she thanked the staff at Mourne Grange for their welcome and hospitality.

Mr McManus, on behalf of the Mourne community, extended a warm welcome to Trust Board members and thanked them for responding to his previous invitation to hold a Board meeting in Killeel. He paid tribute to the work of the Trust in delivering health and social care services to the local population and commended the Trust Board for always listening and taking on board the views of the local population.

In response, the Chairman thanked Mr McManus for his kind words and stated that the Trust Board very much values the views of its local population and their elected representatives as it strives to improve the health, wellbeing and care of people in the Southern area. However, to continue to develop services to meet need requires difficult decisions to be made.

The Chairman outlined the format of the meeting and welcomed the input from those with speaking rights.

The Chairman sought and received confirmation from members that they had read their papers in advance of the meeting.

## 2. **DECLARATION OF INTERESTS**

There were no declarations of interest in relation to any items on the agenda.

## 3. **CHAIRMAN'S BUSINESS**

### i) **Revised Codes of Conduct and Accountability**

Revised Codes of Conduct and Accountability had been issued to Board members on 19<sup>th</sup> July 2012, together with a covering letter from the Chairman. The Chairman reminded Board members of the

importance of subscribing to these codes and demonstrating high standards of corporate and personal conduct.

ii) **Board Meeting Etiquette**

The Chairman had written to Board members on 9<sup>th</sup> August 2012 outlining good practice principles for Board and Committee meetings.

iii) **Ten Elements: Board-to-ward assurance on healthcare associated infections**

The above-named guidance, together with a covering letter from the Chairman, had been issued to Board members on 26<sup>th</sup> July 2012. The Chairman restated the Trust's commitment to a culture of zero tolerance of avoidable HCAs. Infection prevention and control is high on both Trust Board and Governance Committee agendas and is an integral part of the Leadership Walkaround Tool used by the Non Executive Directors.

iv) **Events attended by the Chairman since the last meeting**

- 27 July 2012: Presentation of prizes at Appleby Social Education Centre's Olympic Games
- 18 August 2012: Cross-Border Autism Project, 'Turning the Curve'
- 21 August 2012: Official opening of new High Dependency Unit, Daisy Hill Hospital by Minister.

#### 4. **CHIEF EXECUTIVE'S BUSINESS**

- i) The Chief Executive advised that the focus on finance and performance issues continues unabated. There is a strong message from both the DHSSPS and the HSCB on the need to achieve financial breakeven in 2012/13. The Chief Executive advised that later that day, the Director of Finance and herself were meeting with the HSCB Chief Executive and Director of Finance on financial plans. In terms of performance, there are a number of areas of risk predominantly with respect to elective access and the associated requirement to meet interim targets set by the HSC and to hold

From the Director of Corporate Management  
**La'Verne Montgomery**



Department of  
**Health**

An Roinn Sláinte

Mánnystrie O Poustie

[www.health-ni.gov.uk](http://www.health-ni.gov.uk)

Chairs of HSC ALBs & NIFRS

Room C5.18  
Castle Buildings  
Stormont Estate  
Belfast BT4 3SQ

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

Date: 24 March 2017

Dear Chairs

## CONFLICTS OF INTEREST

In response to a query raised at the Departmental Board, I wish to take the opportunity to remind Non Executive Directors (NEDs) of the requirement for Board members of Public Bodies to act appropriately when a conflict of interest situation arises. All NEDs must discharge their duties in line with the seven principles of public life and any conflict of interest must be identified and managed in a way that safeguards the integrity of Board members and maximises public confidence in the organisation's delivery of Public Services.

I would draw your attention to the attached Codes of Conduct and Accountability that all NEDs will have received on appointment. In particular I draw your attention to paragraph 8 on Public Business and Private Gain. I ask that all your Non Executive Directors take the opportunity to re-familiarise themselves with the contents of the codes. More detailed guidance on conflicts of interest is available at: [https://www.niauditoffice.gov.uk/sites/niao/files/media-files/conflicts\\_of\\_interest\\_good\\_practice\\_guide.pdf](https://www.niauditoffice.gov.uk/sites/niao/files/media-files/conflicts_of_interest_good_practice_guide.pdf)

If you require any further information on this matter, please contact Joanne Elliott Personal Information redacted by the USI in the first instance.

Yours sincerely

**LA'VERNE MONTGOMERY**  
**DIRECTOR OF CORPORATE MANAGEMENT**

cc Chief Executives ALBs & NIFRS  
Sponsor Branches  
Deborah McNeilly



Working for a Healthier People

- compliance with statutory requirements, guidance and codes of conduct.

## Reporting and Controls

18. It is the board's duty to present, through the timely publication of an annual report, annual accounts and other means, a balanced and readily-understood assessment of the organisation's performance to:
- the Department, on behalf of the Minister;
  - external auditors appointed by the Department; and
  - the local community.
19. The detailed financial guidance issued by the Department, including that concerning the role of internal and external auditors, must be scrupulously observed.

## Declaration of Interests

20. It is a basic requirement that chairs and all board members should declare any conflict of interest that arises in the course of conducting HSC business. Chairs and board members must declare on appointment any business interests, position of authority in a charity or voluntary body in the field of health and social care, and any connection with a voluntary or other body contracting for HSC services. These should be formally recorded in the minutes of the board. Directorships and other significant interests held by members of HSC boards must be declared on appointment, kept up to date, and set out in the annual report.
21. In addition, HSC boards must keep a register of interest appropriate to the body's activities. The register should, as a minimum, list direct or indirect pecuniary interests which members of the public might reasonably think could

informed members that the Trust has secured the services of a part time Breast Radiologist until 31<sup>st</sup> December 2016 in the first instance to support service provision. Further discussions are planned with other Trusts regarding the potential for a more sustainable network. There are plans by the Health and Social Care Board to review Breast services from a regional perspective with a view to supporting a sustainable service design.

Mrs Brownlee particularly welcomed the upskilling of radiographers into the service and asked about the timescale. Mrs Trouton stated that 2 radiographers will be trained up in the first instance.

Dr Wright thanked Dr Johnston and Mrs Trouton and commended the service on the high level of service delivery during a difficult year for staff.

***Mrs Brownlee left the meeting at 12.15pm***

## **11. INFORMATION GOVERNANCE REPORTS**

### **i. Freedom of Information, Environmental Information and Subject Access Requests – Summary Report for the period 1 April 2016 – 30 June 2016**

Mrs Magwood presented the summary report for the period 1 April 2016 – 30 June 2016. In relation to Freedom of Information (FOI) and Information Regulation (EIR) requests, a total of 65 requests were received and responded to in this period. Of these, 50 were processed within the 20 day deadline. Members noted that the majority of requests were received from the public, businesses and the media. Details of the individual requests for information are included within the report.

Mrs Magwood highlighted the 20 day response timeframe dipped for this quarter, however it has increased annually. It was also noted requests have increased by 10% compared to this time last year.

Members noted that 115 Subject Access Requests were received during the period and of these, 96 responses were processed within the 40 day deadline. The majority of Data Protection Act information requests were received from the public, insurance companies and family members.



## Urology Services Inquiry

<p>MHPS Process</p>	<p>The absence of detailed reporting of MHPS cases, and providing the right route for this information to make its way to the Trust Board, is a concern of which I am now aware.</p> <p>The Trust Board or its Governance Committee should have been made aware of the progress of the MHPS process, the difficulties experienced in the MHPS process, the issues with Mr O'Brien's adherence to his action plan, the outcome of the MHPS process, the implementation of the Case Manager's recommendations, and the issues with Mr O'Brien's adherence to the action plan after the Determination.</p>
<p>Under-resourcing with governance support functions</p>	<p>Whilst it is correct that the Chief Executive (Shane Devlin) had raised concerns about under-investment in governance within the Trust and that the Champion Review along with Dr O'Kane had started the process to identify where governance needed strengthening and change, I believe that I wasn't aware of the scale of governance deficit that has become apparent through the Inquiry.</p> <p>This information ought to have been brought to the attention of the Trust Board.</p>
<p>Early Alerts</p>	<p>Early Alerts were not consistently issued to all Board Members prior to September 2020.</p> <p>I believe that the Early Alert system is as important to the Trust Board as it is to the Department of Health. The Trust Board should therefore have received all Early Alerts including, in particular, that dated 31<sup>st</sup> July 2020.</p>
<p>Declaration of conflict of interest and</p>	<p>I was unaware of the extent and depth of the relationship between Mrs Brownlee and Mr O'Brien. When I now consider the</p>



## Urology Services Inquiry

management of it	<p>Confidential Trust Board meetings and the meetings between Chair, CEO, and NEDs, between August 2020 and the end of November 2020, I see an inconsistent approach by the former Chair - from making no declaration of interest at one meeting to declaring an interest and leaving another meeting to denying an interest yet still leaving yet another meeting.</p> <p>As a result of evidence now before the Inquiry, it appears to me that there was a clear conflict of interest for the former Chair.</p> <p>The Trust Board should have been made aware of the extent and fullness of the relationship between her and Mr O'Brien. At the October 2020 meeting, when I realised there was more to this issue, a very simple Google search revealed to me that the former Chair and Mr. O'Brien had governance roles in a charity. At this point, the Chief Executive (Shane Devlin) raised the conflict with the former Chair.</p> <p>The Northern Ireland Audit Office defines a conflict of interest as:</p> <p><i>“A conflict of interest involves a conflict between the public duty and the private interest of a public official in which the official’s private-capacity interest could improperly influence the performance of his/her official duties and responsibilities.”</i></p> <p>It further explains:</p> <p><i>a) The interest in question need not be that of the public official or Board member themselves. It can also include the interests of close relatives or friends and associates who have the potential to influence the public official or Board member’s behaviour.</i></p>
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## Urology Services Inquiry

- b) *As a benchmark a 'close relative' would usually refer to the individual's spouse or partner, children (adult and minor) , parent, brother, sister, in-laws and the personal partners of any of these . For other relatives it is dependent upon the closeness of the relationship and degree to which the decisions or activity of the public entity could directly or significantly affect them.*
- c) *Where an individual has to declare interests of this nature they may wish to seek advice from a senior public official or the Board Chairman to ensure all potential conflicts are identified.*
- d) *A 'friend or associate' should be considered as someone with whom the individual has a longstanding and/or close relationship, socialises with regularly or has had dealings with which may create a conflict of interest.*

The NIAO provides a checklist in their good practice guide as shown below:





# Urology Services Inquiry

## Part Two: Recognising a Conflict of Interest

Figure 1: Checklist for public officials and Board members

**Do you think you have an actual, perceived or potential conflict of interest?**  
The following questions may help when assessing an issue being considered and the situation in which you are involved<sup>5</sup>:

- 
- Would I or anyone associated with me benefit from, or be detrimentally affected by, my proposed decision or action?
  - Could there be benefits for me in the future that could cast doubt on my objectivity?
  - Do I have a current or previous personal, professional or financial relationship or association of any significance with an interested party?
  - Would my reputation or that of a relative, friend or associate stand to be enhanced or damaged because of the proposed decision or action?
  - Do I or a relative, friend or associate stand to gain or lose financially in some covert or unexpected way?
  - Do I hold any personal or professional views or biases that may lead others to reasonably conclude that I am not an appropriate person to deal with the matter?
  - Have I contributed in a private capacity in any way to the matter my organisation is dealing with?
  - Have I made any promises or commitments in relation to the matter?
  - Have I received a substantial gift, benefit or hospitality from someone who stands to gain or lose from my proposed decision or action?
  - Am I a member of an association, club or professional organisation or do I have particular ties and affiliations with organisations or individuals who stand to gain or lose by my proposed decision or action?
  - Could this situation have an influence on any future employment opportunities outside my current official duties?
  - Could there be any other benefits or factors that could cast doubt on my objectivity?

<sup>5</sup> Managing Conflicts of Interest in the Public Sector toolkit, Independent Commission Against Corruption and Crime and Misconduct Commission [Queensland], Sydney and Brisbane, 2004

Below is a summary of the Chair’s declaration or non-declaration of interests:

Confidential Trust Board Meetings	Declaration or Non-declaration of Conflicts of interest
Confidential Trust Board 27 <sup>th</sup> August 2020	No declaration made by Chair.



## Urology Services Inquiry

	24 <sup>th</sup> September 2020	Chair declared an interest in item 7 urology and left the meeting at that point.
	22 <sup>nd</sup> October 2020	No declarations of interest made by Chair.
	12 <sup>th</sup> November 2020	Chair declared an interest in item 7 Urology and left the meeting for that discussion.
	Meetings with Chair, CEO and Non-Executive Directors	Declaration of conflicts of interest
	08 <sup>th</sup> October 2020	No declarations of interest by made by the Chair.
	15 <sup>th</sup> October 2020	No declarations of interest made by Chair.
	05 <sup>th</sup> November 2020	Chair advised that in relation to item 6 Urology, whilst she had no interest to declare in the subject matter, she would not remain in the meeting for personal reasons.
	19 <sup>th</sup> November 2020	Chair advised that, in relation to item 8 Urology, whilst she had no interest to declare in the subject matter, she would not remain in the meeting for personal reasons.
	26 <sup>th</sup> November 2020	Chair advised that in relation to item 7 Urology, whilst she had no interest to declare in

## 1. CHAIR'S WELCOME

The Chair welcomed everyone to the virtual meeting. She particularly welcomed Mr Eoin McAnuff, Boardroom Apprentice 2020 and Mr Ajay Mirakhur – CPANI/QUB Mentoring Scheme.

## 2. DECLARATION OF INTERESTS

The Chair requested members to declare any potential conflicts of interest in relation to any matters on the agenda.

The Chair declared an interest in item 7) Urology and left the meeting for discussion on this item.

## 3. MINUTES OF PREVIOUS MEETING

The Minutes of the meetings held on 30<sup>th</sup> June 2020 and 27<sup>th</sup> August 2020 were agreed as accurate records and duly signed by the Chair.

## 4. MATTERS ARISING

### i) Update on Personal Information redacted by the USI

Mr McNeany spoke to the progress update in members' papers. He referred to the meeting between the Trust and representatives from the Department of Health and the Health and Social Care Board in July 2020 which reaffirmed their view of the need for the Trust's ongoing action with regard to Personal Information redacted by the USI and the fact the original issues of safeguarding concern had not been resolved satisfactorily.

Mr McNeany advised that the Trust has had direct contact from parties interested in purchasing Personal Information redacted by the USI as a going concern in their efforts to effect due diligence. The Trust is now aware the proposed sale of Personal Information redacted by the USI is now at an advanced legal stage whereby the new owners have advised they will shortly be writing to the Trust seeking a novation of contract. Mr McNeany stated that it was his understanding, on this basis, that the sale will conclude in the coming weeks.

and advised that this position assumes that full funding will be secured for the cost of Covid-19 incurred to date at a value of £20m and that Transformation funding will be received for all schemes supported by DoH to continue with the exception of the known pay pressure associated with 20/21 Pay uplifts.

Mrs Rutherford reported that Pay expenditure exceeds budget by £6.7m and this is largely between medical and nursing. Flexible payroll arrangements have now cost the Trust £28.6m with 1133wte employed in August 2020. Mrs Rutherford also reported that Non Pay expenditure was under budget by £5.9m and explained that this unplanned expenditure benefit has accrued as a direct result of the Trust's response to Covid-19.

Members noted that Prompt payment performance, at 94.03% in August, has improved on July and is significantly better than the prior year.

Mrs Rutherford advised that the Trust is predicting a year-end deficit of £7m at this stage and a draft financial plan has been submitted to the HSCB on this basis. Mrs McCartan referred to the predicted year end deficit and asked that the large variances are highlighted on the report summary sheet in future. In response to a question from Mrs McCartan on the possibility of additional funding from the Department, Mrs Rutherford advised that discussions are ongoing with the Department and HSCB in this regard.

## **Board members approved the Finance Report.**

The Chair left the meeting for the discussion on the next item.

Mrs Leeson took over as Chair.

## **7. UROLOGY**

The Chief Executive set the context to this item by advising that there is likely to be significant media interest and reputational issues with this case.

Dr Gormley stated that the situation remains fluid and he spoke to a paper which outlines a summary of the clinical concerns relating to Consultant A, the actions taken to review aspects of their practice and the development of appropriate management plans to minimise the risk of harm to patients. Mrs Leeson raised the previous SAIs from 2016 and asked about new SAIs to which Mrs McClements spoke of the potential for an additional 6 SAIs at this point. Dr Gormley advised that an External Chair has been appointed and Terms of Reference are in the process of being drafted. Mrs Leeson asked how far back the review process would go. Mrs McClements advised that the focus of the review has been on immediate concerns, but as the Trust has worked through these, other concerns have arisen, leading to further scrutiny. Ms Donaghy asked at which point was the Early Alert to the Department submitted. The Chief Executive undertook to clarify.

***Action: Chief Executive***

Mrs Toal referred members to the timeline included with the report. She advised that as the Consultant was no longer employed in the Trust, the Conduct Hearing under the MHPS process, cannot be concluded. The Grievance process remains ongoing with the Grievance Panel due to conclude by October 2020. Ms Donaghy asked about Consultant A's appraisals. Mrs Toal stated that there were issues relating to Consultant A's appraisals not being completed in a timely manner, Mrs McCartan asked about the timeline for this case to be in the public domain. The Chief Executive advised that the Minister is required to share details of this case with the Assembly and this is likely to be mid October 2020, subject to the outcomes of the review exercise.

In terms of future reporting to Trust Board, members asked that where there had been progress/actions taken by the Trust since the previous Board meeting, that the paper would be updated accordingly and presented to Trust Board.

The Chair returned to the meeting at this point.

overcrowded Emergency Department at Craigavon Area Hospital. Mrs McClements acknowledged that the biggest risk period was between the swab test and the result and she spoke of measures in place such as more fast swabs, optimising community care and discharge, promoting safety in hospital flow etc.

## ii) SAI Outbreak

The Chief Executive reported that the Panel Chair has given a commitment to feedback any immediate learning to the Trust. An early learning report has been produced and shared. Mrs McClements highlighted three key learning points; i) communication with families and relatives; ii) restricting visiting and iii) looking after staff.

## 7. UPDATE ON CLINICAL CONCERNS WITHIN UROLOGY

The Chief Executive informed members of discussions with the Department in relation to an intended statement by the Minister for Health to the NI Assembly. The Trust has advised that a public statement at this stage would be premature as the Trust has not completed a review of processes to the detail it requires. The Chief Executive therefore sought Trust Board approval to request a delay in the Ministerial announcement.

Members discussed the fact that there is likely to be significant media interest in this case with the potential for significant reputational risk to the Trust. Members emphasised the Trust's duty of care to patients and the importance of the Trust completing its investigative work to ensure that the information it provides is complete and accurate.

Dr Gormley spoke to a report which provides a summary of the clinical concerns relating to Consultant A, the actions taken to review aspects of his practice and the development of appropriate management plans. He reminded members that Early Alerts submitted to the Department of Health have been part of this process advising them of the professional performance and patient safety concerns. Dr Gormley advised that in relation to the SAI process, the Panel Chair has been appointed as well as a Subject Matter Expert.

He informed members of an issue that has recently arisen regarding the Consultant's prescribing of the medication Bicalutamide which appears to be outside established NICE guidance. A review is underway to identify patients receiving this treatment.

The Chair advised that Consultant A had written to herself in June 2020, the content of which she had shared with the Non Executive Directors in which Consultant A raised concerns at how the HR processes were being managed and requesting that his formal grievance and its included Appeal are addressed. The Chair was advised that this matter was being progressed through HR processes. The Chair also raised the fact that a number of different Urology Consultants had been in place over the years and asked why they had not raised concerns about Consultant A's practice and similarly, why had his PA not raised concerns regarding some delays in dictation of patient discharges. The Chair also asked should a GP not have recognised the prescribing of Bicalutamide as an issue?

Dr Gormley stated that patients remained under this one Consultant's care and this will be examined under the SAI process. The Chair then asked about Consultant A's appraisals and asked if performance issues had been identified through this process and if so, were professional development and training needs then identified. Dr Gormley advised that Consultant A's appraisals were also part of the review process.

In terms of systems and processes, Mrs McClements spoke of the SAI process since 2016 when a robust action plan was put in place at that time to address such issues as triaging, communication etc. and the work since June 2020 to scope and review the patient records of Consultant A's cases. Mr McAnuff noted that when performance issues were identified, additional measures were put in place and asked if these additional measures had not effected positive change, what further controls would need to be put in place should there be concerns raised about other Consultants. Mrs McClements referred to the query as to whether such clinical concerns could happen elsewhere and she advised that the Trust required more time to conduct its review and scoping exercises.

In response to a question from the Chair as to whether one Consultant Urologist reviewing the patient files was sufficient, Mrs



McClements provided assurance that in addition to Mr Mark Haynes' involvement, there is some clinical nurse specialist input and the Head of Service is involved in reviewing systems and pathways. She referred to the multi-disciplinary aspect of this work as detailed in the paper. In addition, there has been Independent Sector Consultant sessions reviewing oncology patients and Subject Matter Experts engaged as part of SAI process.

Mr Wilkinson stated that this was a complex case with various strands. He advised that whilst he supported the Trust's request for a delay in a Ministerial announcement, it was important that this was not a prevaricated delay.

Ms Donaghy referred to this case coming into the public arena and asked about natural justice and Consultant A's right of reply. She raised her concern at the issues Consultant A had raised in his grievance around his appraisals, pressure of work etc. and she asked that these are addressed as part of any review. Mrs McCartan restated the importance of the Trust releasing information only when it is assured it is accurate. Mrs Leeson highlighted the importance of due process being followed with SAIs completed as a priority to ensure learning from this case for the benefits of patients.

Following discussion, the consensus view of Trust Board was to approve the Trust's request to seek a delay in the Ministerial announcement. Members emphasised the importance of a robust timeline to conclude the review processes. It was agreed that following the Trust Board meeting, the Chief Executive would informally advise the Department of Health of the Trust Board's decision followed by a formal letter.

***Action: Chief Executive***

## 8. **FINANCE REPORT**

Ms O'Neill presented the Finance report for the 6 months ending 30 September 2020. Ms O'Neill reported a deficit at month 6 of £1.6m and advised that this position assumes that full funding will be secured for the cost of Covid-19 incurred to date at a value of £24m and that Transformation funding will be received for all schemes



1 regard, to Mrs. Brownlee as Trust Chair, was given from  
2 me. Our relationship did not alter my behaviours with  
3 regards to sharing information with the Chair and the  
4 Board and I am of the view that the actions  
5 Mrs. Brownlee chose to take were not affected by our  
6 relationship."

7  
8 Some questions arising out of all of that. First of  
9 all, you've alluded to the fact that after this  
10 meeting, the concerns that you had about her attendance  
11 and participation were shared with you by members of  
12 the SMT, and that was then the subject of conversation  
13 before speaking to Mr. Pengelly. Who specifically  
14 within the SMT did you speak to?

- 15 A. It would have been generally SMT. So I can remember  
16 talking to the Director of HR, the Medical Director,  
17 etc. There was also a conversation with one of the  
18 Non-Execs as well, with Eileen Mullen who is one of the  
19 Non-Execs who also felt as I felt in the meeting. I am  
20 very conscious that I was aware that the Chair was not  
21 going to declare a conflict of interest, because she  
22 had e-mailed me to say so, and I'm very conscious that  
23 I thought that that would be okay. I suppose the  
24 frustration I had at the end of the meeting was I think  
25 that was the wrong decision because actually in the  
26 meeting I felt that it was not as balanced as it should  
27 have been. Certainly after the meeting, initially  
28 after the meeting there would have been conversations,  
29 across all of SMT, and then explicitly I had



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	pace of the MHPS process) as well as a route to escalate issues through to the confidential Governance Committee should have been in place from the start.
Culture	In order for Trust staff at any level to speak up, raise a concern, or share an issue, we need to have the right culture so that people feel able to raise issues without fear. The appropriate culture was not in place in the Southern Trust. In order to minimise impact on patient safety and quality of care, it is important that the organisational culture is one that is open, honest, and just in its approach.
Instability at Senior Management Team level	Succession planning for these senior roles needs to be embedded within the Trust itself and the broader system of Health and Social Care. No Trust should be left without a substantive CEO and Directors.

51.2 Governance systems are only as good as the individuals applying them. On reflection, the systems during this time were not robust enough and that can be easily evidenced through the MHPS process (then and now) and its reporting through to the Governance Committee. However, a thread through all of this was individuals either not doing what was expected of them, or not being or feeling empowered to raise the issues or deal with them themselves. This comes back to having in place the right culture, and clear guidelines, to enable the raising and escalation of a concern, no matter who the subject of the concern is.

**52 Given the Inquiry's terms of reference, is there anything else you would like to add to assist the Inquiry in ensuring it has all the information relevant to those Terms?**

52.1 I am including below details of an exchange of emails/communication between Mrs. Roberta Brownlee and myself on the 8<sup>th</sup> and 9<sup>th</sup> September 2020. I do not recall the content of the voice message left on my phone that is referred to in the below email trail. Urology and Mr O'Brien are not mentioned in these emails, however, this happened between the Trust Board workshop on the 27<sup>th</sup> August and the next scheduled Trust Board meeting on the 24<sup>th</sup> September 2020.



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Date	Details of the discussions	Who the discussions were with
7 <sup>th</sup> September 2020 <u>09:05</u>	Email from Trust Board Chair Roberta Brownlee noting that she plans to attend Governance meeting on (most of) Thursday morning. Hopes this is acceptable.	Email from Roberta Brownlee to me as Governance Committee Chair Eileen Mullan
8 <sup>th</sup> September 2020  08:55	Email sent from Roberta Brownlee, Trust Board Chair, asking <i>“at the beginning of the confidential section when all members present may I speak to the Board on a few areas. As Chair, and after you do the welcome, I need to speak”</i>	Email was sent to me as Chair of the Governance Committee and Sandra Judt, Board Assurance Manager.
8 <sup>th</sup> September 2020  15:51	Email from me as Chair of Governance to Roberta Brownlee, Chair of the Board.  I advised that there was not going to be a confidential section of the governance committee. I offered the Chair five minutes at the start of the meeting before moving on the agenda items.	Email advising no confidential governance committee taking place. Busy agenda, happy to give a few minutes but must move onto Covid 19 outbreak and other substantial items.
8 <sup>th</sup> September 2020  <u>18:41</u>	Email from Roberta Brownlee, Chair of the Board to me, as Chair of the Governance Committee.  <i>“Eileen</i>	



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	<p><i>Message noted.</i></p> <p><i>I could not address my comments in 5 mins as Chair of the Board. Several serious matters. Will ensure my points is highlighted and asked to be addressed/actioned in the full agenda.</i></p> <p><i>Roberta”</i></p>	
9 <sup>th</sup> September 2020	Missed telephone call from Roberta Brownlee, Board Chair, to me as Chair of the Governance Committee.	I did not speak with Roberta Brownlee by phone. I had missed the call and a vague memory of a message being left. I did return the call, however there was no answer. I then used my follow up email (summarised immediately below) as a guide to the message left. Chair indicated significant issues she wanted to bring to the Board's attention.
9 <sup>th</sup> September 2020 15:23	I advised the Board Chair Roberta Brownlee that if she had several serious matters she wished to share as Chair of the Board then it might be prudent for her to hold an Emergency Trust Board Meeting. That would mean all Non-Executive and Executive Members	Email from me to Roberta Brownlee.



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	<p>would be in attendance.</p> <p>Governance Committee has other staff attending and two absent Executive Members.</p>	
<p>9<sup>th</sup> September 2020 20:25</p>	<p>Roberta Brownlee responded to my previous email that morning and copied in the Chief Executive and Board Assurance Manager.</p> <p>She noted that the the Chief Executive and she would be updating the following day's meetings on issues that were all well known to the Trust Board members at that time. Further, she went on to say she did not wish to delay the start of the meeting. She stated that she did not see the need for an emergency Trust Board meeting as all Trust Board Members would be present for the Confidential Section (excluding those on holidays and the absence of one NED).</p>	<p>Email from Roberta Brownlee to Eileen Mullan. CEO Shane Devlin and Board Assurance Manager Sandra Judt copied in.</p>

52.2 It was not uncommon for the Chair of the Board to attend Governance Meetings. However, I found the above exchange strange at the time on a number of fronts:

- a. First, there appeared to me to be an air of anxiousness from the Chair of the Board – e.g., “I need to speak” and referring to “several serious matters” but not being specific about what those matters were.



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2. On 19<sup>th</sup> January 2017 I was appointed as the Designated Non-Executive Director ('NED') by the Chair of SHSCT, Mrs. R. Brownlee ('RB'). The primary purpose of my role was to liaise with Mr Aidan O'Brien ('AOB') and ensure the momentum of the Maintaining High Professional Standards ('MHPS') process in respect of AOB was maintained by ensuring timely responses to requests made by AOB. I met with Vivienne Toal ('VT'), Director of Human Resources and Organisational Development, to review the role of Designated NED.
3. On 24th January 2017 a meeting (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170206 - E - S Hynds to J Wilkinson.) was held with AOB, Mr Weir ('CW') and Mrs Siobhan Hynds ('SH'). CW was the Case Investigator and SH is the Head of Employee Relations who was assisting Mr Weir with the investigation.
4. On 25th January 2017 I sent a letter to AOB introducing myself as the Designated NED (see appendix) and I made him aware that I was informed about his immediate exclusion which became effective on 30th December 2016. At this time the Case Manager was Dr A Khan ('AK') and the Case Investigator was CW. The relevant documents can be located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170125 - Doc - J Wilkinson to AOB re MHPS
5. On 25th January 2017 I received an email from VT outlining the next steps in the process I received another email from VT providing me with an update prior to the Trust Board meeting (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170125 E V Toal to J Wilkinson re Confidential Mr AOB and located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170126 - E - V Toal to J Wilkinson re MHPS Case).
6. On 26th January 2017 I met with RB and we discussed the case. RB expressed her opinion about the case. She explained that she had known AOB for a number of years and that he had been her consultant; that he was an excellent surgeon and that he had helped many people; that he had built up the urology department



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in SHSCT and had worked hard to meet patients' needs as they awaited surgery or a diagnosis. She asked me to make contact with AOB. I received an email (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170126 - E - V Toal to J Wilkinson re MHPS Case) from VT who advised that AOB's exclusion would be lifted subject to the implementation of controls and restrictions on his practice. I was also advised that a formal investigation would be undertaken. This would be reported to Trust Board at its monthly meeting.

7. On 2nd February 2017 I telephoned AOB and arranged a date to meet.
8. On 6th February 2017 SH shared notes (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170206 - E - S Hynds to J Wilkinson.) with me for my information which were from a meeting with AOB regarding his exclusion. Having considered these notes it was apparent that AOB and the Trust that a significant interaction between the Trust and AOB had been ongoing. A letter sent by email to AOB was also copied to me indicating that the panel had agreed that there was a formal case to answer and that a decision was taken to lift the immediate exclusion. A meeting between Dr Khan and AOB to discuss an action plan to enable him to return to work was planned for 9th February 2017. An Occupational Health appointment was also arranged for that day.
9. On 7th February 2017 I attended a meeting with AOB in his office at Craigavon Area Hospital, Craigavon. His son Michael O'Brien was also in attendance. AOB provided us with his view of the situation. He was annoyed at the way in which he had been 'treated'. He cited various concerns, including, appraisal, revalidation, workload, workload imbalance, why immediate exclusion had been exercised without him being given the opportunity to address the issues, SHSCT not following their own guidelines, and the lack of response to concerns he had expressed regarding process and timescales not being adhered to. AOB speculated that if he was to be found wanting in his practice then he would bring a degree of embarrassment to the SHSCT. I remember him citing a few names but I do not have a record of these. In my opinion this was a difficult meeting. There was reference made to a number of matters which I was unfamiliar with including positions and internal procedures within the Trust. I felt that I did not have a full understanding of the situation. I assured AOB that Trust was



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the availability of the people to answer the questions (a number of individuals were on holiday).

14. On 22nd February 2017 AOB forwarded an email and attached a letter (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170222 - E - AOB to J Wilkinson) he had sent to Dr. Wright who was the Medical Director at the time. He had requested that amendments be made to the notes from a meeting which had taken place on 30th December 2016. I was concerned that I would not be able to deal with this matter since I was not appointed at the time and my understanding of the issues would be limited. I took this matter up with VT who subsequently contacted June Turkington ('JT') at the Department of Legal Services ('DLS'). JT provided legal advice. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170222 - E - V Toal to J Wilkinson and Dr Wright). SH sent me a copy of the letter to be issued to AOB from AK (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170224 - E -S Hynds to J Wilkinson).
15. I was aware that VT was to request/had requested a meeting with AOB and I was satisfied that the momentum of the case would be maintained, matters would be addressed and the reasons for the delays outlined.
16. On 23rd February 2017 I was made aware that a new Case Investigator had been appointed, namely, Dr Neta Chada ('NC'). I understand that there had been a conflict of interest with the previous Case Investigator, CW. AOB was content with this change.
17. On 23rd February 2017 I met with VT and Dr Wright to discuss the case. I did not take a note at this meeting.
18. On 24th February 2017 SH sent me a copy of the letter to be issued to AOB from AK (See appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170224 - E -S Hynds to J Wilkinson).
19. On 2nd March 2017 RB telephoned me and expressed her concerns about case progression and timescales. She stated that AOB was a highly skilled surgeon who had built up the urology department and was well respected by service





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users. She further expressed concern about the handling of the case by Human Resources. RB pointed out that the case was having an adverse effect on AOB and his wife. She asked me to contact AOB.

20. On 2nd March 2017 I telephoned and texted AOB seeking a meeting to discuss progress and any other concerns that he might have had. I received no response.
21. On 6th March 2017 AOB made contact with myself and raised the following concerns:-
  - a. He stated he was disappointed with AK's letter and that he felt that the reply should have come from myself or the Case Manager.
  - b. He further explained that he believed that the needs of the process was taking over rather than the needs of the case itself and in particular cited important points of clarity. AOB was concerned about the needs of his patients and he believed that he was taking every possible measure to expedite their needs even though it was causing him significant additional work.
  - c. He believed that the process had already come to an opinion.
  - d. He stated that the Trust Guidelines re the handling of MHPS were being overlooked and that the Serious Adverse Incident sequence had not been clarified.
  - e. He expressed concern that other measures had not been explored prior to him being excluded.
  - f. He also believed that the process that he was undergoing was being driven by Human Resources and not clinicians.

I explained to AOB that I was meeting VT from HR and that I would bring his concerns forward. AOB asked me to also:

- i. Enquire about case progress;
- ii. Request that the Terms of Reference for the Inquiry be shared if they were agreed and available;
- iii. Clarify whether the scoping exercise was complete and if the Inquiry had begun (and, if so, on which date it began). Appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022,



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33. On 21<sup>st</sup> November 2017, 15<sup>th</sup> and 22<sup>nd</sup> February 2018, and 4<sup>th</sup> and 29<sup>th</sup> March 2018, AK provided updates on the case (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180329 - E - S Hynds to J Wilkinson and located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180215 - E - S Hynds to J Wilkinson).
34. There were delays in AOB's ability to make a return regarding notified areas so that the report could be completed.
35. On 15th February 2018 RB had made an informal oral inquiry to me regarding the AOB case. (see diary entry located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180215 - Diary Entry JW)
36. On 10th June 2018, after receiving a copied email from AOB dated 10<sup>th</sup> June 2018, I was concerned that AOB required to get the information he had requested. As a result I emailed SH, who in turn copied me into an email reply to AOB. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180610 - E - AOB to S Hynds cc J Wilkinson and 20180610 - E - S Hynds to J Wilkinson)
37. On 14th August 2018 I received an email (see appendix S21 No 38 Of 2022, 20180814 Letter to AOB re Update MHPS Investigation) signalling to AOB the next steps following the conclusion of the investigation report. Dr Khan was going to make his determination after consideration of all of the documentation and information.
38. On 11th September 2018 I received a telephone call from AOB at 12.18 but I was working in a school. I responded as soon as I could at 12.50. The call lasted approximately 40 minutes. I was unsure as to the reason for the call but I was able to distil the following and made a contemporaneous note:
  - a. The SHSCT continued to act outside of the legal framework.