Urology Services Inquiry

Urology Services Inquiry | 1 Bradford Court | Belfast BT8 6RB
T: 02890 251005 | E: info@usi.org.uk | W: www.urologyservicesinquiry.org.uk

Lynne Hainey
C/O
Southern Health and Social Care Trust
Craigavon Area Hospital,
68 Lurgan Road, Portadown,
BT63 5QQ

29 April 2022

Dear Madam,

Re: The Statutory Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust

Provision of a Section 21 Notice requiring the provision of evidence in the form of a written statement

I am writing to you in my capacity as Solicitor to the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust (the Urology Services Inquiry) which has been set up under the Inquiries Act 2005 ('the Act').

I enclose a copy of the Urology Services Inquiry's Terms of Reference for your information.

You will be aware that the Inquiry has commenced its investigations into the matters set out in its Terms of Reference. The Inquiry is continuing with the process of gathering all of the relevant documentation from relevant departments, organisations and individuals. In addition, the Inquiry has also now begun the process of requiring individuals who have been, or may have been, involved in the range of matters which come within the Inquiry's Terms of Reference to provide written evidence to the Inquiry panel.

The Urology Services Inquiry is now issuing to you a Statutory Notice (known as a Section 21 Notice) pursuant to its powers to compel the provision of evidence in the form of a written statement in relation to the matters falling within its Terms of Reference.

The Inquiry is aware that you have held posts relevant to the Inquiry's Terms of Reference. The Inquiry understands that you will have access to all of the relevant information required to provide the witness statement required now or at any stage

throughout the duration of this Inquiry. Should you consider that not to be the case, please advise us of that as soon as possible.

The Schedule to the enclosed Section 21 Notice provides full details as to the matters which should be covered in the written evidence which is required from you. As the text of the Section 21 Notice explains, you are required by law to comply with it.

Please bear in mind the fact that the witness statement required by the enclosed Notice is likely (in common with many other statements we will request) to be published by the Inquiry in due course. It should therefore ideally be written in a manner which is as accessible as possible in terms of public understanding.

You will note that certain questions raise issues regarding documentation. As you are aware the Trust has already responded to our earlier Section 21 Notice requesting documentation from the Trust as an organisation. However if you in your personal capacity hold any additional documentation which you consider is of relevance to our work and is not within the custody or power of the Trust and has not been provided to us to date, then we would ask that this is also provided with this response.

If it would assist you, I am happy to meet with you and/or the Trust's legal representative(s) to discuss what documents you have and whether they are covered by the Section 21 Notice.

You will also find attached to the Section 21 Notice a Guidance Note explaining the nature of a Section 21 Notice and the procedures that the Inquiry has adopted in relation to such a notice. In particular, you are asked to provide your evidence in the form of the template witness statement which is also enclosed with this correspondence. In addition, as referred to above, you will also find enclosed a copy of the Inquiry's Terms of Reference to assist you in understanding the scope of the Inquiry's work and therefore the ambit of the Section 21 Notice.

Given the tight time-frame within which the Inquiry must operate, the Chair of the Inquiry would be grateful if you would comply with the requirements of the Section 21 Notice as soon as possible and, in any event, by the date set out for compliance in the Notice itself.

If there is any difficulty in complying with this time limit you must make application to the Chair for an extension of time before the expiry of the time limit, and that application must provide full reasons in explanation of any difficulty.

Finally, I would be grateful if you could acknowledge receipt of this correspondence and the enclosed Notice by email to Personal Information redacted by USI

Please do not hesitate to contact me to discuss any matter arising.

Yours faithfully

Personal Information redacted by the USI

Anne Donnelly
Solicitor to the Urology Services Inquiry

Tel: Personal Information redacted by USI
Mobile: Personal Information redacted by USI

Issued by the Urology Services Inquiry on 29 April 2022. Annotated by the Urology Services Inquiry.

THE INDEPENDENT PUBLIC INQUIRY INTO
UROLOGY SERVICES IN THE
SOUTHERN HEALTH AND SOCIAL CARE TRUST

Chair's Notice

[No 39 of 2022]

pursuant to Section 21(2) of the Inquiries Act 2005

WARNING

If, without reasonable excuse, you fail to comply with the requirements of this Notice you will be committing an offence under section 35 of the Inquiries Act 2005 and may be liable on conviction to a term of imprisonment and/or a fine.

Further, if you fail to comply with the requirements of this Notice, the Chair may certify the matter to the High Court of Justice in Northern Ireland under section 36 of the Inquiries Act 2005, where you may be held in contempt of court and may be imprisoned, fined or have your assets seized.

TO:

Lynne Hainey
Southern Health and Social Care Trust
Headquarters
68 Lurgan Road
Portadown
BT63 5QQ

IMPORTANT INFORMATION FOR THE RECIPIENT

1. This Notice is issued by the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust on foot of the powers given to her by the Inquiries Act 2005.

2. The Notice requires you to do the acts set out in the body of the Notice.

3. You should read this Notice carefully and consult a solicitor as soon as possible about it.

4. You are entitled to ask the Chair to revoke or vary the Notice in accordance with the terms of section 21(4) of the Inquiries Act 2005.

5. If you disobey the requirements of the Notice it may have very serious consequences for you, including you being fined or imprisoned. For that reason you should treat this Notice with the utmost seriousness.

WITNESS STATEMENT TO BE PRODUCED

TAKE NOTICE that the Chair of the Independent Public Inquiry into Urology Services in the Southern Health and Social Care Trust requires you, pursuant to her powers under section 21(2)(a) of the Inquiries Act 2005 ('the Act'), to produce to the Inquiry a Witness Statement as set out in the Schedule to this Notice by **noon on 10th June 2022.**

APPLICATION TO VARY OR REVOKE THE NOTICE

AND FURTHER TAKE NOTICE that you are entitled to make a claim to the Chair of the Inquiry, under section 21(4) of the Act, on the grounds that you are unable to comply with the Notice, or that it is not reasonable in all the circumstances to require you to comply with the Notice.

If you wish to make such a claim you should do so in writing to the Chair of the Inquiry at: **Urology Services Inquiry, 1 Bradford Court, Belfast, BT8 6RB** setting out in detail the basis of, and reasons for, your claim by **noon on 3rd June 2022**.

Issued by the Urology Services Inquiry on 29 April 2022. Annotated by the Urology Services Inquiry.

Upon receipt of such a claim the Chair will then determine whether the Notice should be revoked or varied, including having regard to her obligations under section 21(5) of the Act, and you will be notified of her determination.

Dated this day 29th April 2022

Signed: Personal Information redacted by the USI

Christine Smith QC

Chair of Urology Services Inquiry

SCHEDULE
[No 39 of 2022]

General

1. Having regard to the Terms of Reference of the Urology Services Inquiry, please provide a narrative account of your involvement in or knowledge of all matters falling within the scope of sub-paragraph (e) of those Terms of Reference concerning, inter alia, 'Maintaining High Professional Standards in the Modern HPSS' ('MHPS Framework') and the Trust's investigation. This should include an explanation of your role, responsibilities and duties, and should provide a detailed description of any issues raised with you, meetings attended by you, and actions or decisions taken by you and others to address any concerns. It would greatly assist the inquiry if you would provide this narrative in numbered paragraphs and in chronological order using the form provided.

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

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

Your position(s) within the SHSCT

4. Summarise your qualifications and your occupational history prior to commencing employment with the SHSCT.

5. Please set out all posts you have held since commencing employment with the Trust. You should include the dates of each tenure, and your duties and responsibilities in each post. Please provide a copy of all relevant job descriptions and comment on whether the job description is an accurate reflection of your duties and responsibilities in each post.

6. Please provide a description of your line management in each role, naming those roles/individuals to whom you directly report/ed and those departments, services, systems, roles and individuals whom you manage/d or had responsibility for.

Policies and Procedures for Handling Concerns

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

8. If you were not aware of the '*Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance'* what was your understanding of the reporting of concerns relating to other doctors practices? How, if at all, did this understanding inform your response to concerns you were aware of regarding urology services?

9. In your role as HR Manager what, if any, training or guidance did you receive with regard to:
    I. The MHPS framework*;*
    II. The Trust Guidelines; and
    III. The handling of performance concerns generally.

10. Specifically, what if any training or guidance did you receive with regard to:

    I. The conduct of "*preliminary enquiries*" under Section I paragraph 15 of MHPS or the undertaking of an *"initial verification of the issues raised"* under paragraph 2.4 of the Trust Guidelines.
    II. Decision making by the Clinical Manager as to whether to adopt an informal approach or initiate a formal investigation.
    III. Considerations of imposition of Immediate Exclusion or restrictions under Section I paragraphs 18-27 of MHPS.
    IV. The conduct of Formal Investigations under Section 1 paragraphs 28-38 of MHPS

Handling of Concerns relating to Mr O'Brien

11. In respect of concerns raised regarding Mr Aidan O'Brien:

    I. When did you first become aware that there were concerns in relation to the performance of Mr O'Brien?
    II. If different, also state when you became aware that there would be an investigation into matters concerning the performance of Mr O'Brien?
    III. Who communicated these matters to you and in what terms?
    IV. Upon receiving this information what action did you take?

12. When, and in what circumstances, did you first became aware of concerns, or receive any information which could have given rise to a concern, regarding Mr O'Brien's advantageous scheduling of private patients.

13. With reference to specific provisions of Section I of the MHPS and the Trust Guidelines, outline all steps taken by you once a decision had been made to conduct an investigation into Mr Aidan O'Brien's practice in line with that Framework and guidance. Outline any engagement with:

    I. Mr O'Brien;
    II. the designated Board member;

III. Case Manager;
IV. Case Investigator;
V. HR Director;
VI. Medical Director; and
VII. Any other relevant individuals.

14. What role or input, if any, did you have in relation to the formulation of the Terms of Reference for the formal investigation to be conducted under the MHPS Framework and Trust Guidelines in relation to Mr O'Brien? Outline all steps you took, information you considered and advice you received when finalising those Terms. Describe the various iterations or drafts of the Terms of Reference and the reasons for any amendments, and indicate when and in what manner these were communicated to Mr O'Brien.

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

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

Outline what actions, if any, you took to ensure that momentum was maintained during the process, as required by Section I paragraph 8 of MHPS and paragraph 2.10 of the Trust Guidelines. Outline and provide all documentation relating to any interaction which you had with any of the following individuals with regard to any delays relating to matters (I) – (IV) above, and in doing so, outline any steps taken by you in order to prevent or reduce delay:

A. Case Investigator;
B. Case Manager;
C. the designated Board member;
D. Mr Aidan O'Brien; and

E. Any other relevant person under the MHPS framework and the Trust Guidelines.

16. Outline what steps, if any, you took during the MHPS investigation, and outline the extent to which you were kept appraised of developments during the MHPS investigation?

MHPS Determination

17. On 28 September 2018, Dr Ahmed Khan, as Case Manager, made his Determination with regard to the investigation into Mr O'Brien. This Determination, inter alia, stated that the following actions take place:

I. The implementation of an Action Plan with input from Practitioner Performance Advice, the Trust and Mr O'Brien to provide assurance with monitoring provided by the Clinical Director;
II. That Mr O'Brien's failing be put to a conduct panel hearing; and
III. That the Trust was to carry out an independent review of administrative practices within the Acute Directorate and appropriate escalation processes.

With specific reference to each of the determinations listed at (I) – (III) above address,

A. Who was responsible for the implementation of each of these actions?
B. To the best of your knowledge, outline what steps were taken to ensure that each of these actions were implemented; and
C. If applicable, what factors prevented that implementation.
D. If the Action Plan as per 27(I) was not implemented, fully outline what steps or processes, if any, were put in place to monitor Mr O'Brien's practice, and identify the person(s) who were responsible for these? Did these apply to all aspects of his practice and, if not, why not?

Implementation and Effectiveness of MHPS

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

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

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

NOTE:

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

Urology Services Inquiry

UROLOGY SERVICES INQUIRY

USI Ref: Notice 39 of 2021

Date of Notice: 29th April 2022

Witness Statement of: Lynne Hainey

I, Lynne Hainey, will say as follows:

1. **General**

   Having regard to the Terms of Reference of the Urology Services Inquiry, please provide a narrative account of your involvement in or knowledge of all matters falling within the scope of sub-paragraph (e) of those Terms of Reference concerning, inter alia, 'Maintaining High Professional Standards in the Modern HPSS' ('MHPS Framework') and the Trust's investigation. This should include an explanation of your role, responsibilities and duties, and should provide a detailed description of any issues raised with you, meetings attended by you, and actions or decisions taken by you and others to address any concerns. It would greatly assist the inquiry if you would provide this narrative in numbered paragraphs and in chronological order using the form provided.

1.1 At the time of my involvement with regards the above process relating to Mr O'Brien (which was December 2016), I was employed in the Southern HSC Trust as an 'Acting' Human Resources Manager within the Employee Engagement and Relations Department of the Human Resources Directorate (my involvement is as detailed in Paragraphs 1.3-1.16). At that time (December 2016), I had been employed in the 'Acting' HR Manager role since 14 July 2014 and my full employment history is as detailed in Section 5 of this statement. In order to

provide some context, I was not employed in the Medical Staffing HR Section of the Trust, and therefore it was not a routine part of my job to deal with concerns about doctors and dentists. The responsibilities of my job at that time are as detailed in Paragraph 5.3 of this statement. It is my understanding that concerns about doctors and dentists were routinely dealt with within the Medical Staffing HR Section which Zoe Parks, Head of Medical Staffing Unit manages. However on limited occasions, I would have been asked through my line management structure to assist in this area. My recollection is that this would have been asked of me by either Mrs. Siobhan Hynds, who is now Deputy Director of HR or Mrs. Vivienne Toal, who is now Director of HR. To the best of my ability I have to tried to identify any such cases by looking at my electronic diary and trying to recall from memory, and believe I would have assisted in this area on a few occasions in 2015/2016. Examples of my experience prior to meeting with Mr O'Brien, would have been providing HR support to medical management in dealing with concerns relating to doctors about their interactions/conduct with their work colleagues. My vague recall is the reason I was asked to assist with those particular cases was because of capacity issues within the Medical Staffing HR Section and because of my experience in dealing with conduct and working well together matters generally. Mrs. Toal or Mrs. Hynds may be able to elaborate further on why I was asked to assist, if required.

1.2 I was employed in the Employment Law and Case Management Section of the Employee Engagement and Relations Department since 2008, and I routinely would have had responsibility for dealing with employee relations matters relating to other professions employed within the Trust e.g. Nursing, Social Services, Allied Health Professions, admin and clerical, support services etc.

1.3 My involvement with regards the Maintaining High Professional Standards Framework and the Trust's investigation relating to Mr O'Brien was limited to providing support to the then Medical Director, Dr Richard Wright at a meeting with Mr O'Brien on 30 December 2016 (the background of how I became involved is as detailed in Paragraphs 1.5 and 1.6). Whilst I have some memory of this, I have relied primarily on e-mail documentation in order to be as specific

as possible as my recall is vague given the time that has elapsed since my involvement. The purpose of that meeting (as communicated to me via e-mail from Mrs. Vivienne Toal on 28 December 2016) was to advise Mr O'Brien that a formal investigation would be undertaken in relation to concerns about his practice, to advise him of those concerns and the nature of the investigation and to notify him that a decision had been made to immediately exclude him from the workplace as a precautionary measure. I provided HR support to Dr Wright, Medical Director including taking written notes of the meeting, and subsequently typing these for Dr Wright's approval. In addition, I typed a letter for issue to Mr O'Brien, again for Dr Wright's approval, confirming formal notification of immediate exclusion and investigation under MHPS. Any documents I have referred to in this paragraph are referred to later in this statement. Following my involvement as described above, my line manager, Mrs. Siobhan Hynds, who was then Head of Employee Relations took over management of the case.

1.4 I had no further involvement save for requesting an Occupational Health appointment for Mr O'Brien and forwarding to Mrs. Hynds copies of Occupational Health reports received to the Attendance Management Team, whom I managed. My last involvement related to queries raised by Mr O'Brien about the contents of the notes of the meeting of 30 December 2016 that had been issued to him from Dr Wright's office. I am not sure of the exact date that these were issued however Mr O'Brien raised queries about the content in a letter to Dr Wright dated 14 February 2017. The queries were brought to my attention by both Mrs. Hynds and Mrs. Vivienne Toal, Director of Human Resources. Mrs. Hynds informed me via e-mail on 1 March 2017 (19.53) that Mr O'Brien had queries about the contents of the notes of the meeting of 30 December 2016. I was also advised of same via an e-mail from Mrs. Toal dated 7 March 2017 (20.51). I have elaborated further on this in Paragraph 1.15. I have also provided more detail of my involvement in the following paragraphs. Any documents that I have referred to in this paragraph are also referred to later in this statement.

1.5 By way of background as to how I became involved in the meeting of 30 December 2016 and therefore became aware of the concerns in relation to Mr

O'Brien, as outlined above whilst I have some memory of this, I have relied primarily on e-mail documentation in order to be as specific as possible as my recall is vague given the time that has elapsed since my involvement. Mrs. Vivienne Toal, Director of Human Resources e-mailed me on 28 December 2016 (09:51) (*20161228 – E-mail trail re request to meet Mr O'Brien* ***Bates Reference TRU-00O41 – TRU-00043***) to request that I accompany Dr Wright, then Medical Director to a meeting with Mr O'Brien that was to be arranged for that week (and which subsequently took place on 30 December 2016).

1.6 I believe, from memory, that this request was made to me due to a lack of availability/capacity from within the HR Medical Staffing Section over the Christmas holiday period, and because of my experience in supporting managers across the Trust with similar situations i.e. conveying messages about concerns related to employment; advising about and undertaking formal investigations and, where required, to notify staff in relation to precautionary suspension. The capacity issue could possibly be confirmed by Mrs. Toal, whom I had received the request from. Whilst (as per my understanding), concerns about doctors would normally be dealt with by staff employed in the Medical Staffing Section (a section within HR who deal with employment issues regarding doctors and dentists), I had previously been asked to provide assistance in this area as referred to in Paragraph 1.1.

1.7 Having reviewed documentation, I note that Mrs. Toal copied others into the e-mail she sent to me on 28 December 2016, to include Dr Wright; Mr Simon Gibson, Assistant Director – Medical Director's Office and my line manager, Mrs. Hynds. Mr Gibson subsequently forwarded documents to me via e-mail on 28 December 2016 (09:59 and 15:34 x2) (*20161228 – E-mail trail re request to meet Mr O'Brien Bates Reference* ***TRU-00O41 – TRU-00043***) and *20161228 – Attachment to Email from SG 09:58* ***Bates Reference TRU-00033-TRU-00034***); (*20161228 – E-mail and attachments from S Gibson* ***Bates Reference TRU-00044 – TRU - 00053****)*; (*20161228 – Further e-mail and attachment from S Gibson Bates Reference* ***TRU-00054-00056***). The documents included a note from the Oversight Committee Meeting held on 22 December 2016 which stated

"… *it was agreed to exclude Dr O'Brien for the duration of a formal investigation under the MHPS guidelines using an NCAS approach. It was agreed for Dr Wright to make contact with NCAS to seek confirmation of this approach and aim to meet Dr O'Brien on Friday 30th December to inform him of this decision, and follow this decision up in writing*". The e-mail attachments forwarded to me by Mr Gibson on 28 December 2016, along with Mrs. Toal's e-mail of 28 December 2016 provided me with information for the forthcoming meeting with Dr Wright and Mr O'Brien. There appears to have been a sufficient level of detail provided in those e-mails for me to prepare for the meeting on 30 December 2016 i.e. Mrs. Toal's e-mail outlined the reason for the meeting with Mr O'Brien and what needed to be discussed with him, and Mr Gibson's e-mail included amongst other things notes from the Oversight Committee Meeting as referred to above. Due to the passage of time, I do not recall if I discussed receipt of these e-mails with Mrs. Toal or Mr Gibson prior to the meeting of 30 December 2016.

1.8 I note from a review of e-mail documentation that I forwarded those three e-mails received from Mr Gibson to my line manager, Mrs. Hynds on 28 December 2016 (16:08) – *20161228 – E-mail from LH to SH – note from Oversight Committee (16:09)* ***Bates Reference TRU00057-TRU000059***– 20161228 – E-mail and attachments from SG (16:10) **Bates Reference TRU-00044 –TRU-00053** – *20161228 – E-mail from LH, HR to SH, HR with attachment* ***Bates Reference TRU-00070 – TRU-00072***. I note from the e-mail of 28 December 2016 at 16.08 that I sent to Mrs. Hynds that it refers to us having had a discussion. I do not have a memory of the discussion but I believe from my experience of our working relationship, that we would have discussed what needed to be conveyed to Mr O'Brien at a forthcoming meeting that week, and that if I had any queries, she would have provided me with advice in relation to those. As outlined, however, I do not have a memory of the discussion. I also note from e-mail documentation (specifically my reply to Mrs. Toal's request of 28 December 2016 – 09:54 - *(20161228 – E-mail trail re request to meet Mr O'Brien* ***Bates Reference TRU-00O41 – TRU-00043***) that I had agreed to ring Dr Wright. I do not recall the phone call to Dr Wright but believe if I did speak to him, this would have been to agree arrangements for me to meet with Dr Wright and Mr O'Brien. I note, from

a review of documentation, that an agenda was issued to Mr O'Brien on 28 December 2016 from the Medical Director's Office. I was not involved in the drafting of this agenda but note I forwarded a copy of this to my line manager, Mrs. Hynds via e-mail on 29 December 2016 (*20161229 e-mail 09.04 LH to SH re agenda for meeting on 30th Dec* ***Bates Reference TRU-00073-TRU00074****)*

1.9 My review of the e-mail documentation shows that Mr Gibson e-mailed Dr Wright and I on 29 December 2016 (11.28) attaching a letter received from the National Clinical Assessment Service (NCAS) summarizing issues Dr Wright had discussed with the NCAS Adviser (*20161229 11.28 e-mail from SG enc NCAS letter* ***Bates Reference TRU00075-TRU00078***). I have also noted that on 29 December 2016, I sent an e-mail to Mrs. Hynds at 14.04 attaching a draft Terms of Reference for investigation (*20161229 – E-mail 14.04 LH to SH enc TOR* ***Bates Reference TRU00079-TRU00081***), but stated to her that the letter received from NCAS (referred to above) was likely to impact on this. I cannot recall whether I had drafted these Terms of Reference but presume that I had given that I have no evidence of being sent this document by anyone else and given that I forwarded these to Mrs. Hynds. I imagine I would have drafted these at the request of someone in my management structure, likely Mrs. Hynds given that the evidence suggests I had spoken to her on 28 December 2016, that I stated to her in e-mail 28 December 2016 (16.09) (*20161228 – E-mail and attachments from SG* ***Bates Reference TRU-00044 – TRU-00053)*** that I would look at draft terms sent by Simon Gibson as per attachments in his e-mail of 28 December 2016 (*20161228 – E-mail and attachments from S Gibson,* ***Bates Reference TRU-00044 – TRU-00053***), and also because I sent the draft Terms of Reference to her but I cannot be entirely sure of this because of the passage of time and my lack of memory in relation to this. However, the advice as outlined in the letter from NCAS dated 29 December 2016 stated "*we noted that further preliminary information (such as from the SAI and taking account of Dr 18665's comments) may be helpful in deciding the scope of the investigation and therefore the ToR".* Terms of Reference were not therefore issued to Mr O'Brien at the meeting on 30 December 2016. I cannot recall who decided upon this but presume that this would have been Dr Wright following the advices of NCAS as

referred to above (*20170103 – E-mail 17.37 LH to SH HR* ***Bates Reference TRU-00106-TRU-00107***). I had no further involvement with regards the Terms of Reference nor in the investigation.

1.10 I attended the meeting of 30 December 2016 with Dr Wright, and Mr O'Brien, who was accompanied by his wife Personal Information redacted by the USI O'Brien. It was just the four of us in attendance at that meeting. Having reviewed the typed notes of that meeting that were sent to Mr O'Brien thereafter, I note that Mr O'Brien was informed of the nature of the concerns that were to be investigated formally in accordance with the Maintaining High Professional Standards Framework and associated local guidance (and that he was given a copy of both documents). The concerns communicated to Mr O'Brien were those issues documented as per the Oversight Committee Meeting of 22 December 2016. I do note that I had queried in an e-mail to Mrs. Hynds on 28 December 2016 (16:10) whether an issue in relation to private patients was to be advised to Mr O'Brien at the meeting on 30 December 2016. From review of e-mails, I did not receive a response (there may have been annual leave over this period due to the gap in e-mail communication from Mrs. Hynds). I note that on 2 January 2017 (17:07), Mrs. Hynds e-mailed me to enquire if this issue was included and I advised in a reply e-mail of 3 January 2017 (17:38) that it had not been because it had not been agreed upon by the Oversight Committee but rather agreed that other concerns could be included as required (*20170103 – e-mail 17.38 LH response to SH* ***Bates Reference TRU-00108-TRU-00109***). Mr O'Brien was informed at the meeting on 30 December 2016 that as an interim precautionary measure, he was being placed on immediate exclusion with full pay (I cannot recall whether it was Dr Wright or me that stated this at the meeting) and he was advised of support services available to him at that time i.e. Care-call counselling services and Occupational Health. I had taken written notes of the meeting which I subsequently typed and forwarded to Dr Wright on 5 January 2017 (15:35) for approval (*20170105 – email 1535 LH, HR to VT and RW* ***Bates Reference TRU00116 – TRU00120***) providing the detail of discussion at the meeting. In writing this statement, I do not have access to any written notes that may have been taken by me during the course of the period 28 December 2016 – 30

December 2016. It would have been my normal practice to take a brief note of who I spoke to when and what was discussed. Any such notes would have been kept in a folder along with other relevant information e.g. hand-written notes from the meeting. I believe that I passed this information to Mrs. Hynds as she was subsequently involved in providing HR support to the management of this case. I cannot recall the date that I handed this information over given the passage of time. For the purpose of trying to be as specific as possible for this statement, I double-checked with Mrs. Hynds whether the notes/folder that I had handed over to her were available and I was advised that they were not retained with any information that she had and so were not available, and that she would respond to any queries there may be in relation to the hand-written notes. In checking this with Mrs. Hynds, I queried the date that she took over the case and she advised that this was after a period of leave over Christmas/New Year. She advised that she had returned from leave on 9 January 2017.

1.11 I note an e-mail from Mr Gibson to Mrs. Martina Corrigan, then Head of Urology Services sent on 30 December 2016 that I was copied into, in which he refers to the meeting with Mr O'Brien having concluded and refers to having had a discussion with me (*20161230 – email 11.44 from SG to M Corrigan* ***Bates Reference TRU-00082***). I have a vague memory of providing a verbal update to Mr Gibson following the meeting of 30 December 2016. I cannot recall who initiated the conversation but do have a vague memory of Mr Gibson being in Trust Headquarters (the meeting had taken place in Dr Wright's office in Trust Headquarters) and providing an update to him. I can't, however, recall the precise office location of the conversation due to faded memory. I note from review of e-mail documentation that Mr Gibson subsequently e-mailed Mrs. Corrigan on 30 December 2016 to advise that the meeting had concluded, and to advise of operational issues e.g. the organization of an Occupational Health referral for Mr O'Brien, and arrangements for the return of charts from Mr O'Brien.

1.12 I note an e-mail from me to Mrs. Toal and Mrs. Hynds on 30 December 2016 at 12.06 (*20161230 – Email 12.06 LH to SH + VT confirming exclusion* ***Bates***

Reference TRU00083 –TRU00086) attaching a draft letter to Mr O'Brien formally confirming exclusion. In it, I advised of being conscious that the decision regarding exclusion needed to be communicated in writing asap, and that given this was my first exclusion, I was seeking their input. I believe the reason I linked in with them specifically was because they were my managers. I note that Mrs. Toal said she would give me a call (*20161230 – Email 13.21 acknowledgement from VT* ***Bates Reference TRU-00092***). I do not recall the telephone conversation but assume that she provided feedback on the letter. I then e-mailed the draft letter to Dr Wright on 30 December 2016 at 14.15 for his approval and issue to Mr O'Brien (*20161230 – E-mail 14.15 LH to Medical Director enc draft letter* ***Bates Reference TRU-00093-TRU-00096***) I understand that the final letter was issued from Dr Wright dated 6 January 2017 as per Dr Wright' e-mail (*20170106 1714 e-mail from RW confirming issue of letter located in Section 21 39 of 2022, Attachments*). In the draft letter I had sent to Dr Wright, I had highlighted a query raised by Mr O'Brien at the meeting on 30 December 2016 about him not having involvement in the SAI process. I believe that Dr Wright updated that section of the draft letter before it was issued to Mr O'Brien to advise that the commencement of the SAI had coincided with Mr O'Brien's sick leave, but that it remained ongoing and that Mr O'Brien would be contacted as part of that process. I believe that Dr Wright also amended the content of the letter to reflect that by the time the letter was issued, Mr O'Brien had returned the case notes that he had been requested to return. The letter was also amended to reflect that as at the date of issue, Mr O'Brien's Occupational Health appointment had taken place [05 January 2017]. Dr Wright should be able to confirm if it was him who amended the letter, or someone within his office.

1.13 Actions that I took following the meeting on 30 December 2016 were to contact Catriona Campbell, then Head of Occupational Health via e-mail on 30 December 2016 (12.44) to ask for an early appointment for Mr O'Brien *(20161230 – E-mail LH, HR to Occupational Health* ***Bates Reference TRU-00091***) and to ask a member of HR staff, Mrs. Aine McClelland (nee Haughey) at 14.37 to record Mr O'Brien's exclusion on the HR system (*20170103 – E-mail*

trail recording exclusion on system ***Bates Reference TRU00104-TRU-00105***).On 5 January 2017, I forwarded to Dr Wright via e-mail a copy of typed notes of meeting for his agreement (*20170105 – E-mail 15.35 LH, HR to VT and RW* ***Bates Reference TRU-00116-TRU-00120***). On 8 January 2017 (20:18), I e-mailed Mrs. Campbell to check if Mr O'Brien attended his Occupational Health appointment on 5 January 2017 and was advised via an e-mail response that he did. I updated Mrs. Hynds about this on 10 January 2017 *(20170110 – E-mail 12.39 LH to SH, HR* ***Bates Reference TRU-00123 – TRU-00124*****).** I then forwarded a copy of the Occupational Health report to Mrs. Hynds on 12 January 2017 (15:31) (*20170112 – E-mail 15.31 LH, HR to SH, HR re OH Report* ***Bates Reference TRU-00123-TRU-00124***). On 17 January 2017, in response to an e-mail query from Mrs. Hynds about whether the notes of the meeting of 30 December 2016 were issued to Mr O'Brien, I advised that they were not (*20170117 – E-mail 18.11 LH, HR to SH, HR* ***Bates Reference TRU-00130***). On 18 January 2017 (11.00), I forwarded to Mrs. Hynds a copy of the letter issued to Mr O'Brien following the meeting of 30 December 2016 (*20170118 – E-mail 11.00 LH, HR to SH, HR* ***Bates Reference TRU00131-TRU00134****),* and I again sent typed notes of meeting of 30 December 2016 via e-mail (11:26) to Dr Wright along with a cover letter and asked that a copy of the signed cover letter confirming issue of the notes to Mr O'Brien be forwarded to Mrs. Hynds (*20170118 – E-mail 11.26 LH, HR to Medical Dir* ***Bates Reference TRU-00134-TRU-00140****)* I believe that I did this following Mrs. Hynds' query and because there had been no confirmation received that the notes had been issued to Mr O'Brien. Dr Wright confirmed via e-mail at 14:15 that he would issue the typed notes of the meeting to Mr O'Brien and update Mrs. Hynds, and I informed Mrs. Hynds of this via e-mail (*20170118 – E-mail 14.16 LH, HR to SH, HR* ***Bates Reference TRU-00141-TRU-00149***). I do not believe I was advised of any amendments he wished to make to the notes. I was then copied into an e-mail from Mrs. Hynds to Mr Gibson asking for a final version of the notes and Mr Gibson forwarded these to Mrs. Hynds the same day (19 January 2017 at 14:01) (*20170119 – Email 14.01 cc SG to SH* ***Bates Reference TRU-00150-TRU-00156*** and *20170119 – attachment to cc e-mail from SG to SH* ***Bates Reference TRU-00150-TRU-00156***). I assume Mrs. Hynds asked for the final version, in the

event that there had been changes made by Dr Wright upon receipt of the draft I had sent. Having reviewed the notes that were sent to Mrs. Hynds on 19 January 2017, I note there were some minor changes made but nothing that changed the content of what was discussed e.g. second last paragraph on Page 1, "being investigated under SAI" in my notes was changed to "being investigated through the SAI", or 1st paragraph Page 2, I had typed "person to be communicated to Mr O'Brien asap" and this was changed to "person would be communicated to Mr O'Brien once confirmed", or Page 2, paragraph 3, I typed "NCAS had been informed of this prior to the meeting" and this was changed to "advice from NCAS had been received prior to the meeting". Following Mr O'Brien's further attendance at Occupational Health and receipt of report into the Attendance Management section, I forwarded this report to Mrs. Hynds on 10 February 2017 (12:42) given her involvement in the case (*20170210 – E-mail 12.42 LH, HR to SH, HR re OH Report* ***Bates Reference TRU-00157-TRU00161*** and *20170210 – Attachment to 12.42 e-mail LH to SH* ***Bates Reference TRU-00157-TRU00161****).*

1.14 I note that I was then sent an e-mail from Mrs. Hynds dated 24 February 2017 12:04 (*20170224 1204 e-mail SH to LH, located in S21 39 of 2022, Attachments and 20170224 – attachment to 1204 e-mail from SH to LH, located in S21 39 of 2022, Attachments*). This e-mail attached a letter from the Case Manager, Dr Ahmed Khan to Mr O'Brien. I am not sure why I was copied into this e-mail but note that it referenced the immediate exclusion that took place and so presume this is the reason why I was copied into it.

1.15 Thereafter, Mrs. Hynds forwarded me an e-mail on 1 March 2017 (19.53) attaching a letter submitted by Mr O'Brien in which he raised queries about the contents of the notes [from meeting of 30 December 2016]. I responded by e-mail on 2 March 2017 (08:10) by asking if we could discuss that morning (*20170302 – E-mail 0810 from LH, HR to SH, HR* ***Bates Reference TRU-00162-TRU-00165*** and 20170301 – Attachment to 1953 E-mail SH to LH, located S21 39 of 2022, Attachments) I cannot recall any discussion that took place. I note from a review of e-mail communication that Mrs. Toal sent Dr Wright an e-mail on

7 March 2017 (20.51), and that it related to the queries raised by Mr O'Brien about the content of the notes of the meeting of 30 December 2016. Mrs. Toal requested that I check my notes. I note my response on 8 March 2017 (11:02) that I was out of the office and would check on my return (*20170308 – E-mail from LH, HR to VT, HR* ***Bates Reference TRU-00166***) I responded to Mrs. Toal on 9 March 2017 (16:32). It appears from my response that I have reviewed the notes taken at the meeting. I referred to the issues disputed by Mr O'Brien, advising that I had taken a written note of a number of the things disputed by him but was willing to concede to the amendment of notes so as not to stall any process that was ongoing. Mrs. Toal asked (10 March 2017 – 08:03) that I work with Dr Wright to agree amendments, and draft a response to Mr O'Brien. I e-mailed Dr Wright on Friday 10 March 2017 (10:42) to advise that I was out of the office but would ring him on Monday 13 March (*20170310 – E-mail LH, HR to VT, HR* ***Bates Reference TRU-00167-TRU-00168*****).** It would appear from e-mail communications (13 March 2017) that I could not get Dr Wright on the phone and therefore I forwarded to him a draft letter and amended notes via e-mail and Dr Wright confirmed on 14 March 2017 that he was happy with the draft letter and amended notes (*20170314 – E-mail from RW, MD to LH, HR* ***Bates Reference TRU-00169 – TRU00169*** and *20170313 – Attachment 1 to 1448 email LH to RW located in S21 39 of 2022, Attachments and 20170313– Attachment 2 to 1448 e-mail LH to RW located in S21 39 of 2022, Attachments*). The draft letter I sent attached to the amended notes stated that whilst hand-written notes taken at the meeting disagreed with the issues since raised by Mr O'Brien, the requested amendments would be made in the interests of moving forward. The exception to this was with reference to Mr O'Brien's job plan as detailed in the letter attached above. It is my understanding that the letter and amended notes were issued from Dr Wright's office, however I am not aware of the date that these were issued. Someone from Dr Wright's office and/or Mrs. Hynds may be able to comment on this.

1.16 I subsequently received further queries from Mrs. Hynds in relation to the final version of notes issued to Mr O'Brien and I note this because of e-mails of 1 August 2017 and 17 May 2018. On 1 August 2017, I forwarded to Mrs. Hynds

the draft letter sent to Dr Wright on 13 March 2017 along with the amended notes (*20170801 1247 LH response to SH query about notes located in S21 39 of 2022, Attachments*). I assume that I did this following a verbal request as I cannot see evidence of having received a request via written documentation. In my response, I advised that Dr Wright confirmed he was happy with the content of the above attachments and that from memory I had spoken with Dr Wright who agreed to issue same. I advised that I did not have a signed copy of the letter that was issued to Mr O'Brien from Dr Wright's office. I then received an e-mail from Mrs. Hynds on 17 May 2018 in which she asked if I had correspondence showing that Mr O'Brien had been sent the final revised version of the notes from the meeting of 30 December 2016 (*20180517 1600 SH query to LH re notes located in S21 39 of 2022, Attachments*. I note that I re-sent her the e-mail that I had sent to Dr Wright on 13 March 2017 and advised that I did not have a signed copy of this (*20180517 1722 LH response to SH query about notes located in S21 39 of 2022, Attachments*). I note further queries received from Mrs. Hynds via e-mails (3 October 2018 and 14 December 2018) about the notes of the meeting of 30 December 2016. I can see no evidence of my having responded to the e-mail of 3 October 2018 (*20181003 Email from SH, HR to LH, HR re notes of meeting located in S21 39 of 2022, Attachments*). I provided responses on 17 December 2018 and 19 December 2018 to her 14 December 2018 query (*20181214 – E-mail from SH, HR re notes of meeting located in S21 39 of 2022, Attachments; 20181217 E-mail from LH, HR to SH, HR re notes of meeting located in S21 39 of 2022, Attachments; 20181219 E-mail LH to JN, HR re notes of meeting (*this last e-mail includes attachments 20170301– Attachment to 1953 E-mail SH to LH); (*20170314 – E-mail from RW, MD to LH, HR and 20170313, located in S21 39 of 2022, Attachments – Attachment 1 to 1448 email LH to RW and 20170313, located in S21 39 of 2022, Attachments – Attachment 2 to 1448 e-mail LH to RW, located in S21 39 of 2022, Attachments*) In my response of 17 December 2018, I advised that I no longer held the manual records in relation to this and thought I had passed these to Mrs. Hynds before I left employment in Employee Relations. I advised her that my response was based on memory (albeit faded) and reference to e-mails. I advised that the original notes were typed in early January 2017, that queries about the content had been received by

me in March 2017, and that I had drafted amendments along with a cover letter and e-mailed these to Dr Wright for approval on 13 March 2017. I stated that Dr Wright approved these on 14 March 2017, and that I then rang him (I could not recall the date but stated that it may be written on the manual records) to ask him to send these to Mr O'Brien which he agreed to do. I advised Mrs. Hynds that I never received a signed copy of the letter but didn't expect to as I was no longer involved in the case, and that I understood from Mrs. Hynds that there was a signed copy of Dr Wright's letter from March 2017 in the records. I believe that this was the last query I received in relation to the content of the notes of the meeting held on 30 December 2016.

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

2.1 Documents have previously been provided and/or are attached with this statement.

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

for Handling Concerns about Doctors' and Dentists' Performance' ('Trust Guidelines').

Your position(s) within the SHSCT

4. **Summarise your qualifications and your occupational history prior to commencing employment with the SHSCT**

4.1 I hold a BA in Business and Information Management (obtained in 1998), and I completed the Charted Institute of Personnel and Development (CIPD) Professional Qualification Scheme examinations in 2003 to become a member of the CIPD (Associate).

4.2 Whilst the SHSCT came into being on 1 April 2007, legacy Trust HR Departments remained in situ until 27 March 2008. Prior to 27 March 2008, I was employed in the Human Resources Department of the Craigavon & Banbridge Community H&SS Trust from 23 July 2001. I was employed in various posts during this employment as follows (information obtained from the Human Resources Department):-

- 23 July 2001 – 9 June 2002 – Personnel Officer
- 10 June 2002 – 28 February 2003 – Acting Personnel Manager
- 1 March 2003 – 30 April 2003 – Personnel Officer
- 1 May 2003 – 30 April 2006 – Senior HR Officer
- 1 May 2006 – 26 March 2008 – Acting Assistant Director of HR

4.3 My employment previous to Craigavon & Banbridge Community H&SS Trust was as follows:-

- Central Services Agency, Belfast – HR Department (03 July 2000 – 20 July 2001). During this time, I held the roles of Assistant Human Resources Officer and Human Resources Assistant
- Eastern Health & Social Services Board, Belfast – (01 February 1999 – 02 July 2000). I was employed as a Clerical Officer in the Human Resources Department

- Prior to this, I was employed by [redacted] from approx. September 1998, working in the HR Department of Central Services Agency/Eastern Health & Social Services Board (same offices).

5. **Please set out all posts you have held since commencing employment with the Trust. You should include the dates of each tenure, and your duties and responsibilities in each post. Please provide a copy of all relevant job descriptions and comment on whether the job description is an accurate reflection of your duties and responsibilities in each post**

The below dates have been obtained from the HR Department:-

5.1 27 March 2008 – 13 July 2014 - Senior HR Advisor Band 6 – Employment Law and Case Management (*job description for Senior HR Advisor post located in S21 39 of 2022, Attachments*). This is the post that I held on transfer to working in the SHSCT HROD Directorate. The job description provided is an accurate reflection of the duties and responsibilities in this post.

5.2 The Senior HR Advisor post was within the Trust's Employee Engagement & Relations Department. The job involved providing human resources advice to managers on a range of HR/employee relations issues to include advice on terms and conditions of service; and assisting with a range of employee relations matters to include disciplinary, grievance, bullying and harassment and capability issues/investigations; attendance management; and change management processes

5.3 Whilst employed in the Senior HR Advisor post above, I acted up as HR Manager. Having checked these dates with HR, I am advised that these dates are not recorded on their system because at that time, I was a on a period of pay protection. The reason I had 'acted' into the post of HR Manager is because my line manager, Mrs. Hynds was on periods of [redacted] leave, and I covered the post during her [redacted] leave. Having checked the [redacted] leave dates with HR (with my manager's agreement), I am advised that these were 08 June 2008 – 01 March 2009 and 13 June 2011 – 6 January 2012. I have attached the job

description for this role (HR Manager – Employment Law and Case Management) (*job Description for HR Manager post, located in S21 39 of 2022, Attachments*) and agree that this is an accurate reflection of the duties and responsibilities of the post. These included providing human resources advice on a range of employee relations issues including disciplinary and grievance matters, attendance management, capability issues, bullying and harassment allegations. I also would have been responsible for the management of a team of HR staff within Employee Relations who were involved in the tasks described in the Senior HR Advisor role. In this role, I would also have sat on panels as and when required e.g. Disciplinary, Grievance, Capability, dealt with Industrial Tribunal applications etc.

14 July 2014 – 31 August 2017 – I again acted into the HR Manager role above during this period
01 September 2017 – 03 April 2018 – returned to the Senior HR Advisor role. I then transferred out of Employee Relations on 4 April 2018 into the below post

5.4 04 April 2018 – 6 October 2020 – Litigation Manager (*job description for Litigation Manager post, located in S21 39 of 2022, Attachments*). The post is responsible for the provision and management of Trust litigation services, including clinical and social care negligence claims, personal injury claims, coroners inquests, management of Third-Party accident claims and medico-legal services. In the main, the job description is accurate however the job description refers to providing in-house legal advice. This is inaccurate - support is provided in-house but this is based on legal advices provided by the Trust's legal advisors, Directorate of Legal Services.

5.5 7 October 2020 – 3 January 2021 – Acting Head of Patient Safety Data & Improvement (*job description for Head of Patient Safety Data & Improvement, located in S21 39 of 2022, Attachments*). This post had responsibility for setting the strategic direction for a range of analysis services provided at corporate organisational level within the Trust, to include Patient Safety, Clinical Audit, Mortality & Morbidity and Trust clinical guidelines. I was in the post for a very short period of time (6 weeks) as I had to take time off due to personal

circumstances. To the best of my ability given the short time-frame in post, I would advise that the job description is accurate.

5.6 4 January 2021 – to date - Litigation Manager post.
Currently the job description for this post is being reviewed. The attached job description (*Draft Litigation Manager Job Description and Personnel Specification, located in S21 39 of 2022, Attachments*) is a draft which is representative of the responsibilities of the post.

6 **Please provide a description of your line management in in each role, naming those roles/individuals to whom you directly report/ed, and those departments, services, systems, roles and individuals whom you manage/d or had responsibility for**

6.1 Whilst employed in the Senior HR Advisor role in the SHSCT, I reported directly to Mrs. Siobhan Hynds, who was then HR Manager. It is my recall that during my time in the Senior HR Advisor post, I would have assumed line management responsibility for an Attendance Management Officer.

6.2 During my first two periods of 'acting' as HR Manager (08 June 2008 – 1 March 2009 and 13 June 2011 – 6 January 2012), it is my recall that I reported directly to Mrs. Vivienne Toal, who was then the Head of Employee Engagement and Relations. During my last period of 'acting' in the HR Manager role 14 July 2014 – 31 August 2017, I recall that initially I reported to Mrs. Toal. When Mrs. Hynds commenced in the post of Head of Employee Relations on 01 February 2016, I reported directly to her and continued to do so whilst employed in Employee Relations. When I moved to the Litigation Manager post, I continued to report to Mrs. Hynds and that remains the case to date.

6.3 Whilst employed in Human Resources as acting Human Resources Manager (Employee Relations – Case Management) – job description attached as above, I managed a team which consisted of Senior HR Advisors, Attendance Management Officers and administrative support staff.

Policies and Procedures for Handling Concerns

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

7.1 I would have been aware of the Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance published in September 2010. I was aware of these because on limited occasions, I was asked through my line management structure to assist with work in this area (as referred to in Paragraph 1.1). This would have been prior to the meeting with Mr O'Brien. To the best of my ability I have tried to identify any such cases by looking at my electronic diary and then trying to recall from memory those cases I was asked to assist in where the above guidelines were implemented. Having done this, I believe I would have assisted with four cases (additional to Mr O'Brien) where the above guidelines were implemented.

7.2 I do not have access to manual Human Resource files or know if they remain available. I am providing this response to the best of my ability, with reference to information available electronically through the SHSCT systems given the time that has elapsed since my involvement. Should information referred to in the following paragraphs be required, I would refer this query to the Trust's HR Department.

7.3 I note with two cases, my involvement was with regards assisting medical management to undertake preliminary enquiries (one in 2015, the other in 2016). The first case involved a complaint made by a Consultant Personal Information redacted by the USI in relation to how he was spoken to by a Consultant Personal Information redacted by the USI, and a suggestion that this could have impacted on patient care. It appears that the request to be involved was communicated to me by Mrs. Toal, and I assisted Dr Neta Chada, then an Associate Medical Director in undertaking preliminary enquiries. I note that our enquiries were guided by the principles of the Trust's Working Well Together Policy. The enquiries consisted of myself and Dr Chada meeting with the complainant and then holding a separate meeting with the person being complained about (both attended with union representatives). It would appear from information reviewed that our assessment / findings were subsequently communicated by the Case Manager, Dr Stephen Hall to the Oversight Committee. The Case Manager advised that he was confident that there

had not been any patient safety issues arising from the incident between the two doctors and the Oversight Committee appear to have accepted a recommendation to deal with the matter informally through a meeting between the two doctors, facilitated by the Case Manager. I was not involved in the facilitated meeting. It would appear that my involvement was from May – July 2015.

7.4 With regards the second case, there is limited information available but it would appear that I was involved in undertaking preliminary enquiries following a complaint from a Staff Nurse about a Consultant Personal Information redacted by the USI regarding his conduct and behaviour towards her. It would appear that the Staff Nurse advised that she wished the matter dealt with informally. There is limited information available but it appears that preliminary enquiries included a meeting with the complainant, and consideration of written submissions from both parties. It would appear that the Case Investigator in this case was Dr Stephen Hall who sadly passed away suddenly (apologies I am not sure of which stage of the enquiry process, this occurred). It would appear that findings were communicated to the Case Manager, Dr Neta Chada. The findings were that there was evidence of misconduct, and that consideration was to be given to the issue of an informal warning in line with the Trust's Disciplinary Procedure. It would appear that the matter was dealt with informally, with the Medical Director, then Dr Wright; Director of HR, then Mr Kieran Donaghy and Director of Acute Services, then Mrs Esther Gishkori being aware of same. It would appear my involvement was in April 2016.

7.5 In May 2016, I appear to have been asked by Mrs Toal to provide HR assistance to the Case Investigator, Dr Philip Murphy to undertake a formal investigation under Maintaining High Professional Standards. This was in respect of serious conduct concerns raised by an administrative member of staff in relation to a Consultant Irrelevant information redacted by the USI i.e. staff member had alleged serious assault allegations. Review of information shows that prior to my involvement the doctor had been placed on immediate exclusion from October 2014 following a criminal process having been instigated in relation to the allegations, and the GMC had placed an interim order of suspension on his registration for a period of 18 months on 19 November 2014 and that this was reviewed and maintained on 29 April 2015 and 7 October 2015. I understand from a review of the information that I was asked to

become involved after the Trust had been informed that the PPS had made a decision of no prosecution. It would appear that prior to my involvement, it had been communicated to the doctor (early May 2016) that the Trust would be moving to conduct an investigation under Maintaining High Professional Standards, and he was advised that his formal exclusion from work would be extended for a further four weeks. A review of documentation shows that the doctor was informed via a letter from the Case Manager, Dr Charles McAllister on 11 May 2016 of Dr Murphy being appointed as Case Investigator, assisted by myself. The doctor was also provided with a copy of the complainant's letter of complaint and so was aware of the nature of the allegations, and was advised of support services available through Occupational and/or Care-call. Dr Murphy wrote to the doctor on 12 May 2016 enclosing Terms of Reference which included the name of the Non-Executive Director appointed as the designated Board member for the case (Ms Elizabeth Mahood). Apologies I am not clear from information reviewed who drafted or approved these. The letter invited the doctor to a meeting with Dr Murphy and I on 20 May 2016. The letter of 12 May 2016 outlined the purpose of the meeting of 20 May 2016 i.e. it was to explain the process and to provide an opportunity to provide an initial response to the concerns outlined in the complainant's letter of complaint. The doctor was also advised of his entitlement to be accompanied to all meetings as per Section 1 Paragraph 30 of the MHPS Framework. The Case Investigator and I met with the doctor on 20 May who was accompanied by his trade union representative. He was advised at the meeting that the Investigation Team intended to meet with the complainant as soon as possible but that there would be a delay due to the availability of her union representative. The doctor was advised therefore that the investigation would not be completed by the date that the exclusion was to be reviewed (2 June 2016). Review of documentation shows that I issued an e-mail to the doctor on 1 June 2016, in which I attached a letter from Dr Charles McAllister, Case Manager regarding the review of his exclusion. I also attached to the e-mail a copy of the notes taken at the meeting with Dr Murphy and I on 20 May 2016, for his agreement. I also advised in the e-mail that a meeting had been arranged with the complainant to take place on 7th June 2016, and that as soon as we had receipt of a signed statement from the complainant, a copy would be forwarded to the doctor and arrangements made for a 2nd meeting in order to seek his response to the issues of concern. I received an e-

mail on 8 June 2016 from the doctor agreeing that the notes I had issued reflected what was discussed at the meeting on 20 May 2016. On 9 June 2016, I notified the doctor via e-mail that we had met with the complainant on 7 June and that a statement was being typed for issue to the complainant and that when a signed copy was obtained from the complainant then this would be issued to the doctor. On 23 June 2016, I e-mailed the doctor attaching a letter from Dr Murphy inviting him to a meeting with the Investigation Team on 30 June 2016, and providing to him a copy of the signed statement taken from the complainant. The doctor e-mailed the Investigating Team on 28 June 2016 requesting that the meeting of 30 June 2016 be postponed to allow him to prepare in full (referencing the complainant's statement being 22 pages) and also to allow him adequate time to meet with his union representative who had not been available. The doctor advised that he had pre-arranged leave out of the country during the month of July 2016 (previously agreed by the Trust). In his e-mail of 28 June 2016, the doctor also asked to be provided with the names of any other witnesses that the Investigation Team planned to meet with, in advance of meeting with him. Dr Murphy responded via e-mail on 29 June 2016, agreeing to postpone the meeting and re-arrange upon his return in August 2016. The doctor was also informed in that e-mail that the investigation Team did not propose to seek statements from any other staff at that time however if that position changed, this would be communicated to the doctor and he would be provided with any relevant information in advance of any future meeting. On 30 June 2016, I e-mailed the doctor attaching a copy of a letter from Dr McAllister, Case Manager confirming exclusion had been reviewed and would remain in place for a further period of time. It would appear that I also e-mailed the doctor on 29 July 2016 attaching a further copy of a letter from Dr McAllister confirming exclusion had been reviewed and would remain in place for a further period of time. It would appear that Dr Murphy and I planned to meet with the doctor on 16 August 2016 to progress the investigation but I was copied into an e-mail the doctor sent to Dr Wright on 5 August 2016 in which he advised that he was resigning with immediate effect. My line manager, Mrs Hynds then copied me into an e-mail on 11 August 2016 to the Pension Branch advising that the doctor had resigned from the Trust. She stated that she was contacting the Pension Branch at the request of the PSNI as she had been asked to put in place a hold on the pension of the doctor (it

appeared that the PSNI had re-opened their investigation and the doctor was subject to on-going investigation at that stage – this was communicated to me via e-mail from Mrs Toal). From memory the doctor remained out of the country. I do not believe I had any further involvement in this case once the doctor had resigned and Pension Branch were contacted.

7.6 The 4th case I was involved in was related to a complaint made by a Consultant [redacted] against a Consultant [redacted]. It was alleged that the content of e-mails sent by the [redacted] constituted bullying and harassment. Review shows that this was managed in line with the '*Maintaining High Professional Standards in the Modern HPSS*' Framework (MHPS) and the associated *'Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance',* and because the matter of concern was alleged harassment, cognisance was also taken of the Trust's Harassment at Work Procedure during the investigation process. I was asked to assist the Case Investigator, who was external to the Trust (Dr Dermot Hughes, Western Trust). I believe I was asked by my line manager, Mrs Hynds to assist with this case.

7.7 Both doctors were informed in writing on 21 October 2016 that Dr Hughes would be undertaking the investigation, assisted by me and a copy of Terms of Reference were provided to them (Dr Wright wrote to the doctor who had been complained about on 21 October 2016 and Mrs Hynds wrote to the complainant doctor on 21 October 2016). A review of information shows that Dr Hughes and I met with the complainant on 8 November 2016 in the presence of his union representative, and a statement was taken. It was planned to meet with the other doctor on 15th November 2016 to discuss the complaint and seek his full response, however this did not proceed due to his fitness to participate. An Occupational Health appointment was arranged to assess fitness to participate in the investigation process and this took place on 24th November 2016. Given the doctor was subsequently deemed fit to meet, a further meeting was arranged for 30th November 2016 but was postponed due to the unavailability of his trade union representative. A meeting subsequently took place on 13th December 2016, at which the doctor attended accompanied by his union representative, and at which a statement was taken.

7.8 A series of meetings were also held with those individuals who were copied into the e-mails that were the subject of the complaint and they were also advised of their right of accompaniment to the meetings. Statements were taken at those meetings. In addition, the Investigation Team met with Dr Wright, Medical Director and a statement was taken from him as part of the investigation. The Investigation Team also considered documentary evidence including e-mails and written submissions by both doctors. Updates were provided to the Case Manager in respect of progress of the investigation (the Case Manager was also external to the Trust, Dr Charlie Martyn, South Eastern Trust) and a report was compiled detailing findings of fact. This report was forwarded by me to the Case Manager on 20 January 2017 via e-mail. I also sent this to Mrs Hynds, as Head of Employee Relations on 20 January 2017 by e-mail given she had a role under the Trust's Harassment at Work Policy. I was not involved in any decision-making process thereafter. From review, I am aware that this matter proceeded to a Conduct Hearing for consideration. I note this from e-mails between my line manager and I in relation to gathering information for the report for the Conduct Hearing. I was, however, not involved in the Conduct Hearing.

7.9 I believe this details my involvement with cases involving the *Trust Guidelines for Handling Concerns about Doctors' and Dentists' Performance'* published 23 September 2010. As outlined above, I have identified these to the best of my ability.

7.10 I do recall one additional case, where I was asked to deal with concerns relating to a doctor. Again, I am basing this on review of electronic information and note that I was asked by my line manager, Mrs Hynds in July 2016 to assist with this case. This was to assist in investigating misconduct concerns in line with the Trust's Disciplinary Procedure. I did not make the decision with regards how this process be investigated. I assisted Dr Pat McMahon, AMD (Psychiatry) with this investigation into concerns that on one occasion, a trainee doctor whose rotation was in psychiatry had double-jobbed by working in another area of the Trust one afternoon as a locum whilst in her rotation shift in psychiatry. The investigation involved meeting with the doctor to seek her response, and gathering information to establish the facts. From review, the investigation was delayed due to annual leave of witnesses and the investigation could not be completed prior to cessation of the

trainee's doctor's rotation with the Trust. An investigation report was however compiled, and I understand this was sent by Dr McMahon on 19 August 2016 to Dr Wright, Medical Director for his consideration, and the matter was subsequently referred to the General Medical Council. I was required to provide a statement to the GMC which from review was in May 2017. I was not required to give evidence. I note the GMC e-mailed me in May 2018 to advise that they decided to suspend the doctor's registration for a 3-month period.

7.11 To the best of my ability, I have outlined above my experience of dealing with concerns in relation to doctors.

8. If you were not aware of the Trust's Guidelines for Handling Concerns about doctors and dentists performance, what was your understanding of the reporting of concerns relating to other doctors practices? How, if at all, did this understanding inform your response to concerns you were aware of regarding urology services?

N/A

9. In your role as HR Manager what, if any, training or guidance did you receive with regards to

1) **MHPS Framework**
2) **Trust Guidelines; and**
3) **The Handling of Performance Concerns generally**

9.1 My recall of training and guidance in respect of the MHPS Framework and Trust Guidelines albeit faded given the passage of time would be that this was 'on-the-job' i.e. reading the framework document and Trust guidelines and raising any queries through my management structure i.e. Mrs. Hynds and/or Mrs. Toal. Due to the time that has elapsed, I do not recall any specific queries raised by me but from my experience of both those managers, I know that I would have been able to contact them in relation to any queries that I may have had regarding work. I do not however recall any specific queries raised by me. In writing my statement, I did recall that I had attended formal training and checked with HR and Mr Simon Gibson in relation to this. I can confirm that I attended a case investigator training workshop

delivered by NCAS on 7 and 8 March 2017. To the best of my knowledge, this is the only formal training I attended on this subject matter (*copy of certificate of attendance – Lynne Hainey, located in S21 39 of 2022, Attachments*)

9.2 With regards the handling of performance concerns generally, I would have received on-the job training provided through line managers in the course of my career i.e. discussions about relevant procedures e.g. capability procedure, and direction on how these should be implemented. I would have read and familiarized myself with relevant policies and procedures e.g. Capability Procedure, and I also subsequently developed guidelines for managers in how to implement Probationary and Capability Procedures. I developed further over the years on the job through practical experience e.g. providing advice to managers on how to deal with performance matters informally or assisting managers with the management of performance issues on a more formal basis, whether this be during a staff member's probationary period or with staff who had been in post longer thereby implementing the Trust's Capability Procedure. When required, I attended meetings with managers, staff and trade union representatives in relation to performance management issues to discuss the concerns, determine what was impacting on these and assist in the development of actions plans to help support staff in a bid to improve performance. I would have been involved in advising managers how to deal with concerns about performance during probationary periods which could have included advice about the need to extend probationary periods to allow for improvement or where after evidenced support was provided and there was still no improvement, I would have provided advice about steps to be taken with regards non-confirmation/termination of employment and been involved in meetings about the same. I would also have provided support to managers in implementing the Trust's Capability Procedure, and on occasions this led to more formal action if, despite clear actions plans and support being put in place, there was no improvement in a staff member's performance. On occasions this would have resulted in referral to a formal Capability Hearing. On occasions I would also have sat as a panel member on formal Capability Hearings. In addition to this, I would have kept my continuing professional development up to date by making use of resources available through the CIPD, Labour Relations Agency, and keeping up to date with employment law. This would have been in relation to a number of HR related matters.

Urology Services Inquiry

10.**Specifically, what if any training or guidance did you receive with regards to:**

i) **The conduct of "*preliminary enquiries*" under section 1, Paragraph 15 of MHPS or the undertaking of an "*initial verification of the issues raised*" under Paragraph 2.4 of the Trust's Guidelines**

ii) **Decision Making by the Clinical Manager as to whether to adopt an informal approach or initiate a formal investigation**

iii) **Considerations of imposition of immediate exclusion or restrictions under Section I, paragraphs 18-27 of MHPS**

iv) **The conduct of formal investigations under Section I, paragraphs 28-38 of MHPS**

10.1 As outlined in Paragraph 9.1, the training / guidance provided to me prior to attending formal training in 2017 would have been on-the-job i.e. reading the relevant documents (the MHPS Framework and Trust Guidelines). I also believe that I would have had an opportunity to ask questions of my managers and that they would have provided advice and guidance to me. I base this on my knowledge of my working relationship with them, however due to the passage of time, I cannot recall any specific queries I would have raised. Due to the time that has elapsed, I unfortunately cannot recall the specific detail of training/guidance in relation to each of the headings in the above question. I have, however, attached a copy of the slides from the training event in March 2017 which show that the each of the above areas were covered in that training (*NCAS Slides Day 1, located in S21 39 of 2022, Attachments and NCAS Slides Day 2, located in S21 39 of 2022, Attachments*)

Handling of Concerns relating to Mr O'Brien

11. **In respect of concerns raised regarding Mr Aidan O'Brien:**

I. When did you first become aware that there were concerns in relation to the performance of Mr O'Brien?

11.1 The first time I became aware that there were concerns in relation to the performance of Mr O'Brien was 28 December 2016 as detailed in Paragraph 1.5

II. If different, also state when you became aware that there would be an investigation into matters concerning the performance of Mr O'Brien?

11.2 I also became aware on 28 December 2016 that there would be an investigation as detailed in Paragraph 1.7.

III. Who communicated these matters to you and in what terms?

11.3 This was communicated to me in the first instance by Mrs. Vivienne Toal, Director of Human Resources, and the reason for this was to request that I attend a meeting with Dr Wright and Mr O'Brien on 30 December 2016 as described in Paragraphs 1.5 and 1.7

IV. Upon receiving this information what action did you take?

11.4 As outlined in Paragraph 1.10, I do not have access to any notes that I may have taken between 28 December 2016 – 30 December 2016. It would have been my normal practice to take a brief note of who I spoke to when and what was discussed. Any such notes would have been kept in a folder along with other relevant information e.g. hand-written notes from the meeting of 30 December 2016. I believe that I passed this information to Mrs. Hynds as she was subsequently involved in providing HR support to the management of this case. I cannot recall the date that I handed this information over given the passage of time. As outlined in Paragraph 1.10, for the purpose of trying to be as specific as possible for this statement, I double-checked with Mrs. Hynds whether the notes/folder that I had handed over to her were available and I was advised that they were not retained with any information that she had and so were not available, and that she would respond to any queries there may be in relation to the hand-written notes. In light of this information not being available to me, I, unfortunately, cannot be more specific, however I believe that I would have been preparing for the meeting and reviewing information sent to me, as detailed in the narrative in Section 1 of this statement, and that I would have read through the MHPS Framework and Trust Guidelines September 2010 again.

12. When, and in what circumstances, did you first become aware of concerns, or receive any information which could have given rise to a concern, regarding Mr O'Brien's advantageous scheduling of private patients.

12.1 Mr Simon Gibson, Assistant Director – Medical Director's Office sent me an e-mail on 28 December 2016 providing information which could have given rise to a concern regarding Mr O'Brien's advantageous scheduling of private patients. The e-mail was sent to me along with other e-mails as referred to in Paragraph 1.7

13. With reference to specific provisions of Section I of the MHPS and the Trust Guidelines, outline all steps taken by you once a decision had been made to conduct an investigation into Mr Aidan O'Brien's practice in line with that Framework and guidance.

13.1 My involvement was confined to the initial meeting of 30 December 2016 and the immediate exclusion of Mr O'Brien (as per Section 1 of the MHPS Framework). I was not involved in the decision-making regarding immediate exclusion but was asked to provide support to Dr Wright at a meeting with Mr O'Brien on 30 December 2016 to communicate the decision that had been taken at the Oversight Committee [22 December 2016]. I had then also typed up a draft letter of immediate exclusion and draft notes of the meeting of 30 December 2016 for Dr Wright's approval and issue to Mr O'Brien. Section 1 of this statement details my involvement after the meeting, in particular Paragraphs 1.10 – 1.16 therein.

Outline any engagement with:

13.2 I. Mr O'Brien; - I attended a meeting with Dr Richard Wright, Medical Director and Mr O'Brien who was accompanied by Mrs O'Brien on 30 December 2016, as detailed in Paragraph 1.10. I had no further contact with Mr O'Brien.

13.3 II. the designated Board member; - I had no engagement with the designated Board member. I understand from letter provided to me dated 24 February 2017 (*20170224 1204 e-mail SH to LH and 20170224, located in*

S21 39 of 2022, Attachments – attachment to 1204 e-mail from SH to LH, located in S21 39 of 2022, Attachments) that this was Mr John Wilkinson, Non-Executive Director

13.4 **III. Case Manager;** - I had no contact with the Case Manager whom I note from the above letter and the Oversight Committee Meeting notes of 22 December 2016 (*20161228 – attachment to e-mail from SG 09.58, **Bates Reference TRU-00033 –TRU-00034**)* was Dr Ahmed Khan.

13.5 **IV. Case Investigator;** - I had no contact with the Case Investigator. I note from the letter date 24 February 2017 that this was Dr Chada. I note the Oversight Committee Meeting notes of 22 December 2016 refer to Colin Weir as Case Investigator. I also had no contact with him.

13.6 **V. HR Director;-** I was contacted by Mrs Vivienne Toal, HR Director on 28 December 2016 as detailed above and subsequent contact related to the meeting of 30 December 2016 and documentation drafted thereafter i.e. letter confirming immediate exclusion; notes of meeting of 30 December and queries about those notes as detailed in Section 1 of this statement, in particular Paragraphs 1.5, 1.7, 1.12 and 1.15.

13.7 **VI. Medical Director;** - my contact with Dr Richard Wright, then Medical Director was with regards the meeting of 30 December 2016, and thereafter in relation to the issue of documentation (letter and notes of meeting, and queries re the latter), as detailed in Section 1 of this statement, in particular paragraphs 1.5 – 1.15 therein

13.8 **VII. Any other relevant individuals.** I had contact with my line manager, Siobhan Hynds who subsequently was the HR Representative assigned to assist the Case Investigator with the investigation. I also had contact with Simon Gibson, Assistant Director – Medical Director's Office. This is as detailed in Section 1 of this statement, and in particular Paragraphs 1.5-1.16 therein

14. What role or input, if any, did you have in relation to the formulation of the Terms of Reference for the formal investigation to be conducted under the MHPS Framework and Trust Guidelines in relation to Mr O'Brien?
Outline all steps you took, information you considered and advice you received when finalising those Terms. Describe the various iterations or drafts of the Terms of Reference and the reasons for any amendments, and indicate when and in what manner these were communicated to Mr O'Brien.

14.1 As outlined in Paragraph 1.9, it appears I drafted Terms of Reference. In paragraph 1.9, I detail what I believe occurred in relation to my involvement in drafting Terms of Reference. However, these were not issued to Mr O'Brien at the meeting on 30 December 2016 and I had no further involvement with regards any additional drafts or finalising the Terms of Reference.

15. Section I paragraph 37 of MHPS sets out a series of timescales for the completion of investigations by the Case Investigator and comments from the Practitioner. From your perspective as HR manager, what is your understanding of the factors which contributed to any delays with regard to the following:
I. The conduct of the investigation;
II. The preparation of the investigation report;
III. The provision of comments by Mr O'Brien; and
IV. The making of the determination by the Case Manager.
Outline what actions, if any, you took to ensure that momentum was maintained during the process, as required by Section I paragraph 8 of MHPS and paragraph 2.10 of the Trust Guidelines. Outline and provide all documentation relating to any interaction which you had with any of the following individuals with regard to any delays relating to matters (I) – (IV) above, and in doing so, outline any steps taken by you in order to prevent or reduce delay:
A. Case Investigator;
B. Case Manager;

C. the designated Board member;

D. Mr Aidan O'Brien; and

E. Any other relevant person under the MHPS framework and the Trust Guidelines.

15.1 As outlined in Section 1 of this statement, my involvement as acting HR Manager was limited to the meeting that took place in December 2016 with Mr O'Brien, typing letters and notes related to that meeting and dealing with queries in relation to the content of the notes of the meeting of 30 December 2016. Due to my limited involvement, I am unable to answer the queries posed in relation to the delays detailed above. I understand that I was asked to attend the meeting of 30 December 2016 and it was not intended for me to be involved beyond that one meeting which included typing of documentation from the meeting. My line manager, Mrs Siobhan Hynds was subsequently the HR Representative assigned to assist the Case Investigator with the investigation, and may be better placed to answer the queries above.

16. Outline what steps, if any, you took during the MHPS investigation, and outline the extent to which you were kept appraised of developments during the MHPS investigation?

16.1 My involvement was confined to the meeting of December 2016. I had no involvement in the MHPS investigation that was undertaken, and therefore was not kept appraised of developments. There was no requirement for me to be kept appraised as I was not the HR Representative assigned to assist in this case nor did I have responsibility for HR Medical Staffing.

MHPS Determination

17. On 28 September 2018, Dr Ahmed Khan, as Case Manager, made his Determination with regard to the investigation into Mr O'Brien. This Determination, inter alia, stated that the following actions take place:

I. The implementation of an Action Plan with input from Practitioner Performance Advice, the Trust and Mr O'Brien to provide assurance with monitoring provided by the Clinical Director;

II. That Mr O'Brien's failing be put to a conduct panel hearing; and

III. That the Trust was to carry out an independent review of administrative practices within the Acute Directorate and appropriate escalation processes. With specific reference to each of the determinations listed at (I) – (III) above address,

A. Who was responsible for the implementation of each of these actions?

17.1 I am unaware of who was responsible for the implementation of each of these actions due to my involvement being limited to the meeting of 30 December 2016. I was not the HR Representative assigned to assist in this case nor did I have responsibility for HR Medical Staffing, therefore there was no requirement to make me aware of the determination in relation to Mr O'Brien. Mrs Hynds or Mrs Toal may be better placed to answer those questions.

B. To the best of your knowledge, outline what steps were taken to ensure that each of these actions were implemented; and C. If applicable, what factors prevented that implementation.

17.2 My apologies, I do not have any knowledge pertaining to the matters outlined above. I was not the HR Representative assigned to assist in this case nor did I have responsibility for HR Medical Staffing, therefore there was no requirement to make me aware of the determination in relation to Mr O'Brien. Mrs Hynds or Mrs Toal may be better placed to answer those questions.

D. If the Action Plan as per 27(I) was not implemented, fully outline what steps or processes, if any, were put in place to monitor Mr O'Brien's practice, and identify the person(s) who were responsible for these? Did these apply to all aspects of his practice and, if not, why not?

17.3 My apologies, I do not have any knowledge pertaining to the matters outlined above. I was not the HR Representative assigned to assist in this case nor did I have responsibility for HR Medical Staffing, therefore there was no requirement to make me aware of the determination in relation to Mr O'Brien. Mrs Hynds or Mrs Toal may be better placed to answer those questions.

Implementation and Effectiveness of MHPS

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

18.1 I had limited involvement with regards the investigation into the performance of Mr Aidan O'Brien as per Section 1 of this statement, and therefore feel unable to respond to this query about the implementation and effectiveness of MHPS and the Trust Guidelines regarding the case of Mr O'Brien. As Acting HR Manager, my involvement was requested by my Director in order that a meeting could take place with Mr O'Brien on 30 December 2016 to convey the message about investigation and immediate exclusion. This meeting was arranged and took place within the time-frame requested following the Oversight Committee Meeting on 22 December 2016.

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

19.1 As outlined in Section 1, it was not a routine part of my job to deal with concerns about doctors and dentists. In addition, I am no longer employed in Employee Relations (an area in which I previously worked in the Trust and in which I had been asked on limited occasions to assist with medical staffing issues, as per Paragraphs 1.1 and as per Section 7 of this statement)

Urology Services Inquiry

19.2 In light of this, I do not feel able to respond to this query in any great detail. I would however, say that on reflection of those cases I was involved in, in particular the formal investigations, I feel that the time-frame allocated to the completion of investigations i.e. 4 weeks is very tight particularly when other issues impact on the investigation process e.g. availability of union reps, fitness of staff to participate etc.

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

20.1 Given that my involvement with Mr O'Brien was limited to the meeting of 30 December 2016 as outlined in Section 1, and that I have no further knowledge of what occurred following my involvement, I feel unable to comment on whether the MHPS process could have been better used in order to address the problems which were found to have existed in connection with the practice of Mr O'Brien.

Statement of Truth

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

Signed: _____ Personal Information redacted by the USI _____

Date: _____09/06/2022_____

Section 21 Notice Number 39 of 2022

Index

Attachment	Document
1	*20170106 1714 e-mail from RW confirming issue of letter*
2	*20170224 1204 e-mail SH to LH*
3	*20170224 – attachment to 1204 e-mail from SH to LH*
4	20170301 – Attachment to 1953 E-mail SH to LH
5	*20170313 – Attachment 1 to 1448 email LH to RW*
6	*20170313– Attachment 2 to 1448 e-mail LH to RW*
7	*20170801 1247 LH response to SH query about notes*
8	*20180517 1600 SH query to LH re notes*
9	*20180517 1722 LH response to SH query about notes*
10	*20181003 Email from SH, HR to LH, HR re notes of meeting*
11	*20181214 – E-mail from SH, HR re notes of meeting*
12	*20181217 E-mail from LH, HR to SH, HR re notes of meeting*
13	*20181219 E-mail LH to JN, HR re notes of meeting*
14	*20170314 – E-mail from RW, MD to LH, HR*
15	*job description for Senior HR Advisor post*
16	*job Description for HR Manager post*
17	*job description for Litigation Manager post*
18	*job description for Head of Patient Safety Data & Improvement*
19	*Draft Litigation Manager Job Description and Personnel Specification*
20	*certificate of attendance – Lynne Hainey*
21	*NCAS Slides Day 1*
22	*NCAS Slides Day 2*

Hainey, Lynne

From: Wright, Richard <[redacted]>
Sent: 06 January 2017 17:14
To: Hainey, Lynne
Subject: Re: confidential - note of meeting

Letter now issued many thanks Richard

Sent from my iPad

On 5 Jan 2017, at 15:34, Hainey, Lynne <[redacted]> wrote:

> Hi Dr Wright / Vivienne
> Happy New Year
> Please see attached note of meeting with Mr O'Brien last week for your agreement. Can I just check if letter was issued to him
>
> Vivienne, just let me know if there is any other assistance I can offer at this time
>
> Many thanks
>
> Lynne
> <Note of Meeting with Mr Aidan O'Brien.docx>

Hainey, Lynne

From: Hynds, Siobhan
Sent: 24 February 2017 12:04
To: Hainey, Lynne
Subject: Letter from Case Manager to Mr A O'B 24 February 2017
Attachments: Letter from Case Manager to Mr A O'B 24 February 2017.docx

Southern Health and Social Care Trust

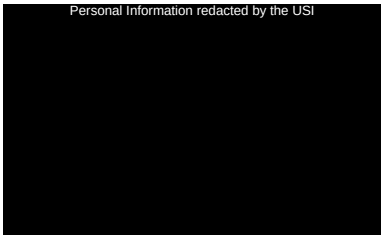
Quality Care - for you, with you

24 February 2017

STRICTLY PRIVATE & CONFIDENTIAL

BY E-MAIL ONLY

Mr Aidan O'Brien



Dear Mr O'Brien

Re: Formal investigation under Maintaining High Professional Standards Framework (MHPS)

Mr John Wilkinson Non-Executive Director has shared with me details of representations you have recently made to him at a meeting on 7 February 2017 about the formal investigation under the Maintaining High Professional Standards (MHPS) Framework.

Following due consideration of the issues you have raised, I wish to respond to you on these matters.

1. **The letter of 23 March 2016**

I have considered the representations you have made in respect of the letter of 23 March 2016. It is important that I state at the outset, that I was not involved in the conversations or discussions that took place at that time. I understand that concerns were identified by managers within the Acute Services Directorate and the purpose of the March 23rd letter was to set out to you those concerns on an informal basis in order to enable you to put in place measures to rectify the concerns. The issues of concern did not result from a specific complaint.

The letter was not set out to you in the context of an informal process under the Maintaining High Professional Standards Framework but rather was an informal attempt at local resolution of the issues, sent to you through normal line management channels. It was expected that as an experienced and senior Consultant, this notification of concern to you was sufficient to ensure you took all necessary steps to address the concerns and to rectify the identified problems.

You state in your submission to Mr Wilkinson that an agreement was in place that formal contact or meetings would not take place between you and Mr Mackle due to a prior grievance process. I am not aware of this background or the agreement referred to. I understand the Medical Director, Dr Wright is also unaware of this matter. As you will be aware, Dr Gillian Rankin has retired from the Trust. I feel this is a matter best dealt with via the formal investigation process and I would ask that you raise this with the Case Investigator to fully explore the background and history of what preceded the management of the concerns under the MHPS Framework as is relevant to the current investigation.

2. Formal Investigation

You have raised the matter of the circumstances which led to the decision to manage the concerns under the formal process of the MHPS Framework. As you know, there were concerns raised with you in March 2016 about your administrative practices and the impact on patient management and care.

Management follow up is not clear to me at present. It is not my role to investigate the detail of this and I believe this is again a relevant matter for the formal investigation process. I am however aware that Mr Colin Weir was in post as Clinical Director in the period following March 2016 and given your representations to Mr Wilkinson, I feel it is likely Mr Weir may be required to provide information to the investigation on this issue. Therefore I have asked Mr Weir to step down from his role as Case Investigator and I have asked Dr Neta Chada, Associate Medical Director to undertake the role of Case Investigator. Dr Chada will be in contact with you in due course.

The SAI process you refer to in your submission, alerted the Trust to a very serious issue of concern which indicated harm had come to a patient who had not been properly triaged by you as was required. The issue was one of the same issues alerted to you informally in March 2016. You have noted that a decision was made to immediately exclude you from work prior to the finalised report on the SAI. The reason for this decision was due to the very serious nature of the concern. The Trust must ensure patient safety is properly safeguarded and when matters of serious concern arise, consideration is given to any necessary action to immediately ensure the safety of patients. It is for this reason, a decision was made to exclude you and to move to a formal investigation of the concerns.

You suggest the formal investigation has resulted because of an erroneous presumption that an informal attempt at resolution of the issues had failed. The Trust does not always manage issues of concern through an informal process, the seriousness of issues will always be considered. However an informal attempt to address concerns with you in March 2016 was made.

When a very serious issue of concern came to the attention of the Trust, i.e. the harm of a patient, it was necessary for the Trust to take action deemed necessary and proportionate to manage such a concern. This is the current formal investigation process.

A decision was initially taken to exclude you, this decision has since been reviewed taking into consideration the representations you made for alternatives to exclusion and you have returned to work with effect from 20 February pending conclusion of the formal investigation.

As discussed at our meeting on 9 February, you will be returning to work with a clear management plan for supervision and monitoring of key aspects of your work. An immediate priority is to ensure your job plan is reviewed and agreed to ensure a manageable and comparable workload with your other Consultant colleagues. I have asked for this to be completed as a matter of urgency.

3. Timescales of Investigation

The matter of the timescales for the investigation has also been raised by you with Mr Wilkinson and I understand this was also raised by you at a meeting with Colin Weir and Siobhan Hynds on 24 January.

The timescale for a formal investigation as set out in the MHPS Framework states: *'The Case Investigator should, other than in exceptional circumstances, complete the investigation within 4 weeks of appointment and submit their report to the Case Manager within a further 5 working days.'*

Given the vast scale of the concerns, the numbers of patients involved, the time period over which the concerns stretch, the records which need to be reviewed and the scale of facts to be gathered, a 4 week turnaround time is not practicable in these circumstances. These are exceptional circumstances.

I can assure you that the investigation process will be concluded as expeditiously as possible ensuring that it is fully and properly completed. I will ensure you are kept informed on an on-going basis as to the status of the investigation and the likely timescale for completion.

Your understanding that there is a team of case investigators looking at this case is not correct. The case investigator assigned to your case is Dr Chada, who will be assisted by Siobhan Hynds. However a review of the un-triaged patients must be completed to consider what, if any, impact there has been on patient care. A similar review must also be undertaken in respect of the undictated clinics. This can only be done from within the service directorate by individuals with the requisite expertise. This work will inform the case investigator's investigation.

I wish to assure you that all matters pertaining to these concerns will be kept strictly confidential and any individuals involved are wholly bound by their obligations of confidentiality in line with Trust Policy and contract of employment.

I trust this address the issues you have raised and provides assurance to you of my commitment to ensuring the investigation process is concluded as quickly, thoroughly and robustly as possible.

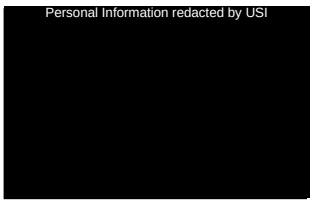
I have shared a copy of this letter with Mr Wilkinson for his information.

Yours sincerely

Personal Information redacted by the USI

Dr Ahmed Khan
Associate Medical Director &
Case Manager

Copy to: Mr John Wilkinson



14 February 2017.

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

Dear Dr. Wright,

Re: Note of Meeting with Mr. Aidan O'Brien on 30 December 2016.

Thank you for your letter of 18th January 2017, enclosing a Note of the Meeting of 30th December 2016. I wish to take this opportunity to advise of a number of factual errors and omissions:

1. In the first paragraph, the Note states that 'Dr. Wright noted that some of these concerns had been raised with Mr. O'Brien previously and attempts had been made to resolve the matters informally, with no success'.

   This statement is incorrect and should have read 'Dr. Wright noted that these issues had been highlighted with Mr. O'Brien in March'. You did not state that attempts had been made to resolve the matters informally, with no success.

2. Again, in the third paragraph, the Note states that 'Dr. Wright advised that nevertheless concerns had been raised with him in relation to Mr. O'Brien's administrative practices and because of the seriousness of these, and the fact that informal steps had been unable to resolve the issues previously, a decision had been taken to investigate the matter formally in accordance with the Maintaining High Professional Standards Framework and associated local guidance'.

   This statement is incorrect, as you did not make reference to 'informal steps having been unable to resolve the issues previously'.

3. In the sixth paragraph, the Note states that Mr.O'Brien, referring to the inequity of waiting lists, advised that 'he had previously asked through his Clinical Director that this situation be addressed'.

   This statement is incorrect, and should have read that 'he had previously asked that this situation be addressed.'

4. The Note records that 'both Mr. and Mrs. O'Brien stated that the Job Plan was OK'.

   This statement is incorrect. In fact, I stressed that the Job Plan was an inadequate provision for the amount of work done.

5. The Note records that Mrs. O'Brien stated that she and her children had sacrificed their family life for her husband's job and 'this is how we are repaid' referring to the discussion taking place.

   This statement is incorrect as Mrs. O'Brien, referring to the sacrifice made over so many years, found it most 'hurtful that it should be reduced to this moment and that it was grossly unfair'. She did not make any reference to being 'repaid'.

With regard to omissions:

- The Note did not include any record of my being advised of immediate exclusion. The only reference to exclusion is in the second last paragraph when 'Mr. O'Brien was made aware of the paragraphs in the MHPS documentation relating to exclusion', and the query regarding private practice.

- The Note did not include any record of Mrs. O'Brien's concerns regarding one of the signatories of the letter of 23rd March 2016 having caused problems previously.

I would be grateful if you would have the Note amended and a copy of the amended Note returned to me, at your convenience.

Yours sincerely,

Personal Information redacted by the USI

Aidan O'Brien.

Southern Health and Social Care Trust

13th March 2017

STRICTLY PRIVATE AND CONFIDENTIAL

Mr Aidan O'Brien
Personal Information redacted by the USI

Dear Mr O'Brien

I write further to your letter of 21st February 2017, in which you have requested that the notes of our meeting on 30th December 2016 be amended. Having reviewed your request, I am clear that at the meeting on 30th December we discussed that the matters to be investigated had previously been raised with you outside of a formal process, with no resolution. Whilst I remain definite about this, I am content to remove the word 'informal' from the notes.

I have also considered the other points that you have made. Whilst written notes taken at the meeting would disagree with what you have written, I am happy to make the requested amendments in the interests of moving forward. The exception to this is with reference to your job plan. I do clearly recall that when I asked if your job plan was unrealistic, your initial response was to state that it was OK but that things were allocated to your SPA time that was not administrative work. I do recollect that in reply to this statement, I said that if the job plan does not cover all work that you have to do, then it mustn't be right and this would need to be reviewed. We then went on to discuss the amount of sessions allocated in your job plan.

Please find enclosed a copy of the notes in which all other requested changes have been made. You had made reference to the note not including the discussion about you being placed on immediate exclusion, however this was always included in the notes (Page 2, Paragraph 2).

Southern Trust Headquarters, Craigavon Area Hospital, 68 Lurgan Road, Portadown, BT63 5QQ
Tel: Personal Information redacted by USI / Email: Personal Information redacted by USI

I hope you feel this resolves the matter in relation to the notes of 30th December, however should you have any queries, please do not hesitate to contact me.

Yours sincerely

Dr Richard Wright
Medical Director

Southern Trust Headquarters, Craigavon Area Hospital, 68 Lurgan Road, Portadown, BT63 5QQ
Tel: Personal Information redacted by USI / Email: Personal Information redacted by USI

Note of Meeting with Mr Aidan O'Brien, Consultant Urologist – 30th December 2016

Present:

Mr O'Brien (accompanied by his wife, Personal Information redacted by the USI O'Brien)
Dr Richard Wright, Medical Director
Ms Lynne Hainey, Employee Relations

Introductions were made and Dr Wright thanked Mr O'Brien for attending the meeting. It was explained that the reason the meeting had been called was to make Mr O'Brien aware that concerns had been raised with Dr Wright on the back of a Serious Adverse Incident (SAI) Investigation. Dr Wright noted that some of these concerns had been raised with Mr O'Brien previously and an attempt had been made to resolve the matters, with no success. Ms Hainey made Mr O'Brien aware of the nature of the concerns that had been raised with Dr Wright ie concerns relating to his administrative practices, and the possibility that patients may have come to harm as a result of those administrative practices. In particular:-

1. The lengthy period of time taken to undertake the triage of GP referrals (with currently 318 un-triaged cases).

   Ms Hainey referred to the ongoing SAI investigation relating to a Urology patient who may have a poor clinical outcome due to the lengthy period of time taken by Mr O'Brien to undertake triage of GP referrals. Mr O'Brien was also informed that the SAI also identified an additional patient who may also have had an unnecessary delay in their treatment for the same reason.

2. That there is a backlog of over 60 undictated clinics going back over 18 months and therefore there is approximately 600 patients who may not have had their clinic outcomes dictated, so the Trust is unclear what the clinical management plan is for these patients.

3. That some of the patients seen by Mr O'Brien may have had their notes taken back to his home, and are not available within the hospital. There is a concern that the clinical management plan for these patients is unclear, and may be delayed.

Mr O'Brien advised that he was not aware of the cases in question being investigated under SAI, and that he had no involvement in the SAI process. Dr Wright advised that he would raise this with the SAI Team, stating that the process remains ongoing and they may not have contacted Mr O'Brien yet because he had been on sick leave.

Dr Wright advised that nevertheless concerns had been raised with him in relation to Mr O'Brien's administrative practices and because of the seriousness of these, and the fact that previous action had proved unsuccessful in being able to resolve the issues, a decision had been taken to investigate the matter formally in accordance with the Maintaining High Professional Standards Framework and associated local guidance. Ms Hainey provided Mr O'Brien with a copy of both documents for his information, explaining that these outline the process by which an investigation is undertaken and Mr O'Brien's rights in the process.

Dr Wright confirmed that a Case Manager and Case Investigator had been appointed (Mr Ahmed Khan, Case Manager and Mr Colin Weir, Case Investigator). Ms Hainey explained that Mr Weir will be supported in the investigation by a representative from Human Resources (as yet to be appointed). Dr Wright advised that a Non-Executive Director will also be appointed to oversee the investigation process, and the detail of this person to be communicated to Mr O'Brien asap.

Mr O'Brien was informed that as an interim precautionary measure, he was being placed on immediate exclusion with full pay. He was informed that the decision had been taken by the Oversight Committee in the Trust and that NCAS had been informed of this prior to the meeting. It was explained that this would be for no longer than 4 weeks, and that during that time, further preliminary information would be collated to decide the scope of the investigation, and therefore the Terms of Reference for investigation which would be forwarded in due course. Mr O'Brien was informed that a meeting would be arranged to take place with him during the 4 week period, and that he would be kept informed of any progress in relation to the investigation.

Mr O'Brien advised that the concerns needed to be considered in the context of the enormous pressure on him to operate. He stated that clinical outcomes are compromised because of a lack of capacity. He stated that there is an inequity within the department and gave an example that in October, he had a waiting list of 288 for inpatient admission whilst a colleague had a waiting list of 29. He advised that he had previously asked that this situation be addressed. But that because of the waiting list the demand on him was to operate.

Mr O'Brien stated that it was important to appreciate the totality of the work that he does, and as a result he does not have time to triage non red flag referrals. He advised that the referral of these was a historical hangover from the time when it was felt there was not enough to do when on-call. The triage of non-red flag referrals was undertaken to justify on-call time. Mr O'Brien advised however that this time is now spent on operations eg the last week he was in work, he undertook 21 operations whilst on-call.

Dr Wright noted the points made by Mr O'Brien and advised that whenever an investigation is undertaken, there may be criticisms of the Trust, and its systems but that would have to await the outcome of the investigation.

Mrs O'Brien stated that her husband had worked for 25 years as a Consultant in the Trust and that during that time he had worked 70-90 hours per week including week-ends. She advised that when taking someone off the waiting list in chronological order ie those longest on the waiting list, her husband is conscious that so much could have changed for the patient during the intervening period and so he would take the time to ring and speak to the patient to find out how doing etc. Mr O'Brien advised that he had 19 additional theatre sessions and 15 extra oncology sessions, and is under pressure to do all.

Dr Wright advised that he is well aware of the work that Mr O'Brien does for the Trust, but that given the concerns that have been brought to his attention, the matters have to be investigated. Ms Hainey stressed that it is an investigation to establish the facts and that Mr O'Brien would be given every opportunity to respond in full as part of the investigation process.

Mrs O'Brien stated her view that the system needs to change as there is too much work being placed on Consultants. She advised that when she worked as a nurse practitioner 40 years previous, it was her role to triage the referrals. Mr O'Brien reiterated that he had raised two years previous that he did not have capacity to deal with non-red flag triage. He said that it is his view that you need to speak to patients rather than ticking a box, and that to do so takes time.

Dr Wright referred to the need to return any notes as a matter of urgency. Mr O'Brien was requested to return these to Martina Corrigan, Head of Service for Urology by 11.00 am on Tuesday 3rd January 2017. Mr O'Brien stated that he could not return these without processing them. Dr Wright stated that the notes needed to be returned by the above date and time, as he was accountable and needed to deal with the matter. He stated that if there were notes missing, this was a very major problem that would need to be dealt with through Information Governance. Mr O'Brien advised that he has all the notes that are tracked out to him. Both Mr and Mrs O'Brien queried what happens with the patients given that Mr O'Brien has not processed them, and would be the best person to process the cases. Dr Wright advised that he will deal with this. Mr O'Brien asked for a deferment of two weeks to allow him to process the files and Dr Wright advised that no deferment could be granted. Ms Hainey reiterated that in the interests of all parties, and of the investigation process, that the notes needed to be returned as per Dr Wright's management request.

Mr O'Brien said that he was shell-shocked. Mrs O'Brien said that there would be no better person to process the cases. Dr Wright said Mr O'Brien had been asked to return all the information in March 2016 but did not. Mr O'Brien said that the emphasis for him at that time was operating. When the letter of March 2016 was discussed, Mrs O'Brien stated that she would have concerns about one of the signatories as he had caused problems previously. It was made clear that the notes had to be returned as requested and that anything associated with the care of those patients would be reviewed by others. Ms Hainey asked Mr O'Brien to comply with the request and Mrs O'Brien stated that she was concerned about how the cases would be dealt with. Dr Wright advised that he would take responsibility for this. He advised that the matter would have to be reported to the Chief Medical Officer who would be querying where all the notes are, and therefore that it is imperative that Mr O'Brien return the notes as requested.

As it was obvious that both Mr and Mrs O'Brien were upset, Ms Hainey asked if anyone wished a glass of water or cup of tea/coffee. This was declined. Mrs O'Brien stated that there was too much bureaucracy in the Health Service and she felt this was a major issue. She advised that Mr O'Brien's SPA time was spent operating or reviewing cancer patients, and that he took time in December to do his appraisal. Mr O'Brien said that he had been pleading for the past 2-3 years that he should not see any new patients because of the immorality of not being able to do what he had pledged to do. He said that as a consequence of operating, other duties get neglected. He said that there were not enough hours to be faultless, that he had tried in the past without sleeping or without food.

Mr O'Brien stated that he was devastated by what had been communicated to him today. Dr Wright queried if Mr O'Brien's job plan was unrealistic. Both Mr and Mrs O'Brien stated that the job plan is OK but things are allocated to SPA time that are not admin work. Dr Wright stated that if the job plan does not cover all the work have to do, then it is not right. Mrs O'Brien stated that the first job plan was 15.5 when in reality it should have been about 18. She said that now the job plan is 10

sessions. Mrs O'Brien stated that she and her children have sacrificed their family life for her husband's job and stated that she found it most hurtful that it should be reduced to this moment, and that it was grossly unfair.

It was again reiterated that there is an obligation to address concerns when these are raised, and that Dr Wright had been made aware of serious concerns about Mr O'Brien's administrative practices which may have / has the potential to lead to harm for patients.

Mr O'Brien was made aware of the paragraphs in the MHPS documentation relating to exclusion. He queried if he can continue to work with private patients. Dr Wright suggested that he take advice from his union, but said that as RMO, he would discourage this. Dr Wright suggested that Mr O'Brien ask his colleagues to review any private patients that he has.

Mr O'Brien was made aware of support services available through Care-call and OH. He was advised that an OH appointment would be made for him and would be communicated to him. Prior to meeting concluding, Mr O'Brien apologised to Dr Wright.

Hainey, Lynne

From: Hainey, Lynne
Sent: 01 August 2017 12:47
To: Hynds, Siobhan
Subject: FW: strictly confidential
Attachments: letter to aob 13 March re amended notes.docx; amended Note of Meeting with Mr Aidan O'Brien 30 December 2016.docx

Hi Siobhan
These were sent to Dr Wright's office. Dr Wright confirmed he was happy with the content, and from memory we spoke, and he agreed to issue same. Sorry I don't have a signed copy

Any queries, please come back to me
Thanks

Lynne

From: Hainey, Lynne
Sent: 13 March 2017 14:48
To: Wright, Richard
Subject: strictly confidential

Dear Dr Wright
Apologies for the e-mail but I could not get through on the phone to discuss. I have attached a draft letter and amended notes, and can be contacted on Personal Information redacted by USI to discuss, should you have any queries.

Many thanks

Kind Regards

Lynne

Hainey, Lynne

From: Hynds, Siobhan
Sent: 17 May 2018 16:00
To: Hainey, Lynne
Subject: AOB

Lynne

Do you have an e-mail or correspondence to AOB sending him the final revised version of the notes from the meeting on 30 December ?

Siobhan

Mrs Siobhan Hynds
Head of Employee Relations
Human Resources & Organisational Development Directorate
Hill Building, St Luke's Hospital Site
Armagh, BT61 7NQ
Tel: Personal Information redacted by USI Mobile: Personal Information redacted by USI Fax: Personal Information redacted by the USI

Click on the above image for SharePoint: Employee Engagement & Relations information

'You can follow us on Facebook and Twitter'

Hainey, Lynne

From: Hainey, Lynne
Sent: 17 May 2018 17:22
To: Hynds, Siobhan
Subject: FW: strictly confidential
Attachments: letter to aob 13 March re amended notes.docx; amended Note of Meeting with Mr Aidan O'Brien 30 December 2016.docx

Hi Siobhan
This is the amended notes that I issued to Dr Wright following the amendments requested by Mr O'Brien. Dr Wright confirmed that he was happy with this, but so sorry Siobhan I do not have the signed copy of this being issued?

Lynne

Lynne Hainey
Litigation Manager
Tel No: Personal Information redacted by the USI

Personal Information redacted by USI

Please consider the environment before printing this email

From: Hainey, Lynne
Sent: 13 March 2017 14:48
To: Wright, Richard
Subject: strictly confidential

Dear Dr Wright
Apologies for the e-mail but I could not get through on the phone to discuss. I have attached a draft letter and amended notes, and can be contacted on Personal Information redacted by the USI to discuss, should you have any queries.

Many thanks

Kind Regards

Lynne

Hainey, Lynne

From: Hynds, Siobhan
Sent: 03 October 2018 11:04
To: Hainey, Lynne
Subject: AO'B

Lynne

Could you send me any e-mails you sent to AOB regarding the notes of the meeting of 30 December 2016 – this is still being disputed!

Thanks

Siobhan

Mrs Siobhan Hynds
Head of Employee Relations
Human Resources & Organisational Development Directorate
Hill Building, St Luke's Hospital Site
Armagh, BT61 7NQ
Tel: Personal Information redacted by USI Mobile: Personal Information redacted by USI Fax: Personal Information redacted by the USI

Hainey, Lynne

From: Hynds, Siobhan
Sent: 14 December 2018 15:18
To: White, Laura
Cc: Gibson, Simon; Hainey, Lynne
Subject: URGENT: INFORMATION REQUEST

Importance: High

Hi Laura

In addition to my previous e-mail, Mr O'Brien has requested information from the Trust in respect of a number of other matters. A response is to be provided to Mr O'Brien on all matters by 21 December 2018.

I am therefore requesting copies of the following information / documents from you as a matter of urgency:

- In respect of correspondence between Mr O'Brien and Dr Wright in respect of the note and / or amended note of the meeting of 30 December 2016. Mr O'Brien is requesting:

    a) The identity of the person or persons who amended the Note
    b) The date or dates on which the Note was amended
    c) The identity of the person or persons who approved the amendments
    d) The date or dates on which the amendments were approved
    e) The date on which the amended Note was sent to me
    f) The method by which it was sent
    g) The identity of the person who sent it
    h) A copy of the dated, amended Note, and all attached correspondence and documentation referring to it, or associate with it.

- In respect of correspondence between Mr.O'Brien & Dr.Wright *which outlined 'that he was content to amend some aspects of the Note, others he felt were reflective of the meeting'* .
    a) The method by which it was sent
    b) The identity of the person who sent it
    c) A copy of the correspondence referred to
    d) Details of the aspects of the Note that Dr. Wright was content to amend
    e) Details of the aspects of the Note that Dr. Wright felt were reflective of the meeting
    f) The identities of all other persons to whom the correspondence was sent, if any

Lynne – I am aware that you were involved in the meeting of 30 December 2016 and the subsequent discussions / correspondences relating to the accuracy of the notes. Could I please ask you to share with me any relevant you may hold in respect of this matter. Many thanks

Joana Neves in Employee Relations is assisting me in collating this information and therefore I would be grateful if you could get a paper copy of this information to Joana no later than close of business on Wednesday 19 November 2018.

If you have any queries please let me know.

Regards,

Siobhan

Hainey, Lynne

From: Hynds, Siobhan
Sent: 17 December 2018 09:16
To: Hainey, Lynne
Subject: RE: URGENT: INFORMATION REQUEST

Importance: High

Many thanks Lynne

I have the paper copies you left me but I just wanted to check for every notes, e-mail etc to ensure all is released to Mr O'Brien.

Thanks

Siobhan

From: Hainey, Lynne
Sent: 17 December 2018 08:43
To: Hynds, Siobhan
Subject: RE: URGENT: INFORMATION REQUEST

Hi Siobhan
Sorry I no longer have the manual records in relation to this – I thought I had passed these to you some time ago before I left Employee Relations? But let me know if any difficulties. I am going on reference to e-mails, memory (albeit faded). I am having difficulty getting these e-mails fully downloaded from the archive but will undertake to do so and get to Joana asap

The original note was typed and issued early January 2017. I received an e-mail from you in March 2017 re a letter that had been received from Mr OB in which he questioned the contents of the notes. I subsequently drafted amendments to the notes along with a cover letter and e-mailed these to Dr Wright on 13th March 2017 for his approval. Dr Wright approved this on 14th March 2017. I then rang Dr Wright – can't recall the date (but may be written on the manual records) to check re him sending this out, and he agreed to do so. I never received a signed copy of the letter but didn't expect to as I was no longer involved in the case, and I understand from you that there is a copy of Dr Wright's signed letter of March 17 in the records.

I will try to get any e-mails downloaded and scanned over asap

Thanks

Lynne

Lynne Hainey
Litigation Manager
Litigation Department,
1st Floor, Bernish House (old Nurse's Home)
Daisy Hill Hospital
Newry

Tel Personal Information redacted by USI

Personal Information redacted by USI

Received from Lynne Hainey on 09/06/22. Annotated by the Urology Services Inquiry.

Hainey, Lynne

From: Hainey, Lynne
Sent: 19 December 2018 15:40
To: Neves, Joana
Cc: Hynds, Siobhan
Subject: Confidential - Information Request for Siobhan
Attachments: FW: Ltr from Aidan O'Brien; strictly confidential; Re: strictly confidential

Dear Joana
I write further to Siobhan's e-mail of 14th December 2018 in respect of correspondence between Mr O'Brien and Dr Wright in respect of the note and / or amended note of the meeting of 30 December 2016 and information requested by Mr O'Brien. I have highlighted in red here any questions that I can respond to and provided relevant attachments

a) The identity of the person or persons who amended the Note – I was the person who amended the note. This was following receipt of the attached e-mail received from Siobhan high
b) The date or dates on which the Note was amended – I have amended the note on 13th March 2017 (and please see attached e-mail sent to Dr Richard Wright with the amended notes and cover letter for his approval)
c) The identity of the person or persons who approved the amendments – Dr Richard Wright, then Medical Director approved the amendments (please see attached e-mail re this)
d) The date or dates on which the amendments were approved -14th March 2017
e) The date on which the amended Note was sent to me – I contacted Dr Wright by telephone (not sure of the date but may be on the manual records that are in Employee Relations) to check that he would sign and send out letter to Mr O'Brien and he agreed to do so. Perhaps his secretary Laura White could advise re this and the information below
f) The method by which it was sent
g) The identity of the person who sent it
h) A copy of the dated, amended Note, and all attached correspondence and documentation referring to it, or associate with it.

If there is anything further I can assist with, please do not hesitate to contact me

Regards

Lynne

Lynne Hainey
Litigation Manager
Litigation Department,
1st Floor, Bernish House (old Nurse's Home)
Daisy Hill Hospital
Newry

Tel No: Personal Information redacted by USI

Personal Information redacted by USI

Please consider the environment before printing this email

Hainey, Lynne

From: Wright, Richard
Sent: 14 March 2017 11:56
To: Hainey, Lynne
Subject: Re: strictly confidential

Hi Lynne. Happy with this thanks Richard

Sent from my iPad

On 13 Mar 2017, at 14:48, Hainey, Lynne [redacted] wrote:

> Dear Dr Wright
> Apologies for the e-mail but I could not get through on the phone to discuss. I have attached a draft letter and amended notes, and can be contacted on [redacted] to discuss, should you have any queries.
>
> Many thanks
>
> Kind Regards
>
> Lynne
> <letter to aob 13 March re amended notes.docx>
> <amended Note of Meeting with Mr Aidan O'Brien 30 December 2016.docx>

SOUTHERN HEALTH & SOCIAL CARE TRUST

JOB DESCRIPTION

JOB TITLE	Senior HR Advisor – Employment Law & Case Management
BAND	Band 6
DEPARTMENT	Employee Engagement & Relations, HROD Directorate
LOCATION	Newry (in the first instance)
REPORTS TO	HR Manager - Employment Law & Case Management
ACCOUNTABLE TO	Head of Employee Engagement & Relations

JOB SUMMARY:

The postholder will provide specialist human resource advice on a range of complex employee relations issues including disciplinary and grievance matters, attendance management, capability issues, bullying and harassment allegations.

A key aspect of this role will be to proactively coach and equip managers on an ongoing basis with the resources and the skills to become more confident in dealing with difficult and contentious employment issues as independently as possible.

MAIN RESPONSIBILITIES

Service Delivery & Policy Development

1. Provide a professional advisory support service to managers within designated directorates assisting them to deal with complex employment issues such as the investigation / resolution of disciplinary and grievance and other employee relations issues, such as bullying / harassment allegations, performance / capability, attendance management.

2. Work with the HR Manager (Employment Law & Case Management) to ensure that managers are appropriately supported in each case by appropriately skilled and experienced Case Management Staff.

3. Participate on panels, where appropriate delegated authority is given, and assist with decision.

4. Liaise with legal advisers and statutory agencies as required.

5. Assist in the development and implementation of innovative and best practice initiatives to support reductions in levels of absence across the Trust.

6. ..rovide sound and professional advice and support to line managers who are responsible for proactively managing attendance.

7. Contribute to the provision of 'drop in' advice sessions for managers at all levels within each locality area, covering a range of HR related topics such as grievance, attendance management, capability.

8. Provide coaching and mentoring support to other staff within the HR Case Management Team.

9. Contribute to the development and implementation of easily understood HR policies, procedures and guidelines.

10. Contribute to determining the impact of new employment legislation / case law, and assist with the development and implementation of any subsequent changes in policy / practice including the issuing of guidelines and provision of training to secure appropriate and consistent application.

11. Support the Assistant Directors of HR in fulfilling their role as business partners within the various directorates.

12. Work with managers to ensure they fulfil their responsibilities with regards to improving the quality of working lives for staff and supporting healthy workplace initiatives.

Communication & Information Management

1. Establish and maintain an effective working relationship with Trade Union representatives on matters relating to employment law and case management.

2. Establish and maintain an effective working relationship with the Occupational Health Department in the delivery of initiatives to support good staff attendance.

3. Provide regular updates to the HR Manager (Employment Law & Case Management) on progress in relation to ongoing cases and employee relations activity.

Building People Management Capacity

1. Maintain a call logging system that will inform the assessment of support for managers development / training needs and demonstrate HR activity and interface with managers.

2. In collaboration with other senior HR staff, support the development of management capacity and capability by contributing fully to the design and delivery of specialist HR training courses on a range of HR policies and procedures.

3. Undertake ongoing critical analysis of employee relations information, eg disciplinary, grievance, bullying/harassment cases to identify trends or to highlight either practice deficiencies or potential development needs so that lessons learned can be effectively absorbed across the Trust.

4. Recognise and use opportunities where appropriate to adopt the role of 'coach' rather than 'advice giver' to encourage managers to develop their own solutions to people management problems.

Quality

1. Ensure that the needs of patients and their carers are at the core of the way the Trust delivers its services.

2. Support the achievement of relevant controls assurance standards for HR.

Personal Development

1. Take responsibility for own performance and take action to identify personal development areas.

2. To maintain and update own knowledge of HR issues and employment legislation, ensuring that knowledge is shared within the department.

3. Participate in the delivery of projects or pieces of work as directed by the Head of Employee Engagement & Relations.

Other Requirements

1. To contribute as an effective member of the HR Team.

2. Participate as required in the selection of staff for the HR Directorate.

General Requirements

The post holder will be required to:

- Ensure the Trust's policy on equality of opportunity is promoted through his/her own actions and those of any staff for whom he/she has responsibility.

- Co-operate fully with the implementation of the Trust's Health and Safety arrangements, reporting any accidents/incidents/equipment defects to his/her manager, and maintaining a clean, uncluttered and safe environment for patients/clients, members of the public and staff.

- Adhere at all times to all Trust policies/codes of conduct, including for example:
  - Smoke Free policy
  - IT Security Policy and Code of Conduct
  - standards of attendance, appearance and behaviour

- Comply fully with the Trust's policy and procedures regarding records management, as well as the Data Protection Act, accepting legal responsibility for all manual or electronic records held, created or used as part of his/her duties, and ensuring that confidentiality is maintained at all times.

- .ake responsibility for his/her own ongoing learning and development, including full participation in KSF Development Reviews/appraisals, in order to maximise his/her potential and continue to meet the demands of the post.

- Represent the Trust's commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with whom he/she comes into contact in the course of work, in a pleasant, courteous and respectful manner.

This Job Description will be subject to review in the light of changing circumstances and is not intended to be rigid and inflexible but should be regarded as providing guidelines within which the individual works. Other duties of a similar nature and appropriate to the grade may be assigned from time to time.

It is a standard condition that all Trust staff may be required to serve at any location within the Trust's area, as needs of the service demand.

SOUTHERN HEALTH & SOCIAL CARE TRUST

PERSONNEL SPECIFICATION

SENIOR HR ADVISOR – EMPLOYMENT LAW & CASE MANAGEMENT, BAND 6

For the purposes of the populating structures under the RPA "Pools" process those wishing to express an interest in this post in the first round must:

a. hold a substantive Band 6 post within the SHSCT and

b. be part of the HR Pool within the Human Resources & Organisational Development Directorate

SOUTHERN HEALTH & SOCIAL CARE TRUST

JOB DESCRIPTION

JOB TITLE	HR Manager – Employment Law & Case Management
BAND	
DEPARTMENT	Employee Engagement & Relations, HROD Directorate
LOCATION	
REPORTS TO	Head of Employee Engagement & Relations
ACCOUNTABLE TO	Director of Human Resources and Organisational Development

JOB SUMMARY:

The HR Manager in Employment Law and Case Management will assist the Head of Employee Engagement & Relations in the provision and ongoing development of a positive employee relations climate.

The postholder will provide specialist human resource advice on a range of employee relations issues including disciplinary and grievance matters, attendance management, capability issues, bullying and harassment allegations.

The postholder will also be responsible for ensuring that systems and processes are in place to ensure employee relations issues such as tribunal proceedings, redeployments, probationary and preceptorship periods etc. are effectively discharged.

MAIN RESPONSIBILITIES

Service Delivery & Policy Development

1. Play a key role in the development and maintenance of a positive employee relations climate within the Southern Trust.

2. Ensure that Case Management staff are appropriately allocated to support managers in the investigation / resolution of disciplinary and grievance and other employee relations issues, such as bullying / harassment allegations, performance / capability, attendance management.

3. Maintain a caseload of employee relations cases, particularly more complex cases, coaching and advising managers on dealing with difficult and contentious employment issues, liaising with legal advisers and statutory agencies as required. Participate, where appropriate, on panels and assist with decision making.

4. Play a key role, in close working collaboration with senior HR staff and other key stakeholders, in the development of a range of innovative and best practice initiatives to support reductions in levels of absence across the Trust.

5. Lead on the development and provision of 'drop in' sessions for managers at all levels within each locality area, covering a range of HR related topics such as grievance, attendance management, capability.

6. Manage and act as a resource in supporting and developing staff within the HR Case Management Team.

7. Assist the Head of Employee Engagement & Relations in the development, implementation and monitoring of a suite of easily understood employee relations policies, ensuring that support and training is provided to enable appropriate and consistent application.

8. Support the Head of Employee Engagement & Relations in determining the impact of new employment legislation / case law, implementing any subsequent changes in policy / practice through effective communication, including the issuing of guidelines and provision of training to secure appropriate and consistent application.

9. Support the Assistant Directors of HR in fulfilling their role as business partners within the various directorates. Participate in the delivery of projects or pieces of work as commissioned by the Head of Employee Engagement & Relations, Assistant Directors of HR or Director of HR & Organisational Development.

10. Ensure that robust systems are developed to monitor processes such as probationary & preceptorship periods, use and extension of temporary contracts, social work trainee periods etc.

11. Work with managers to ensure they fulfil their responsibilities with regards to improving the quality of working lives for staff and supporting healthy workplace initiatives.

Communication & Information Management

1. Establish and maintain an effective working relationship with Trade Union representatives on matters relating to employment law and case management.

2. Establish and maintain an effective working relationship with the Occupational Health Department in the delivery of initiatives to support good staff attendance.

3. Provide regular information to the Head of Employee Engagement & Relations on progress in relation to ongoing cases and employee relations activity.

4. Work with the Head of Employee Engagement and Relations in the provision of HR reports for the Trust Board to ensure full reporting against all HR aspects of the Trust's Delivery Plan, Priorities for Action, Directorate Performance Plan.

5. Develop an effective HR library of employment legislation / case law related information etc, which is easily accessible by all HR staff.

Building People Management Capacity

1. Develop, use and maintain a call logging system that will inform the assessment of support for managers development / training needs and demonstrate HR activity and interface with managers.

2. In collaboration with the Education, Learning & Development Department, assist in the development of a HR Manager's toolkit of easily understood procedures, guidelines, frequently asked questions etc in support of the range of HR policies, to underpin the skills competencies of managers in managing their staff.

3. In collaboration with other senior HR staff, support the development of capacity and capability of managers by designing and delivering specialist HR training courses on a range of HR policies and procedures.

4. Undertake ongoing critical analysis of employee relations information, eg disciplinary, grievance, bullying/harassment cases to identify trends or to highlight either practice deficiencies or potential development needs so that lessons learned can be effectively absorbed within the Trust.

5. Recognise and use opportunities where appropriate to adopt the role of 'coach' rather than 'advice giver' to encourage managers to develop their own solutions to people management problems.

Quality

1. Ensure that the needs of patients and their carers are at the core of the way the Trust delivers its services.

2. Support the achievement of relevant controls assurance standards for HR.

3. Ensure that robust performance management standards are developed and implemented within remit of the role.

People Management & Development

1. Deputise for the Head of Employee Engagement & Relations in his / her absence on a rotational basis with other HR Managers within the Employee Engagement & Relations function.

2. Lead and empower a team of HR staff providing expert advice to Trust Senior / Middle / Junior Managers within service areas.

3. Delegate appropriate responsibilities and authority to staff consistent with effective decision making whilst retaining accountability for results.

4. Review the performance of direct reports on a regular basis and to provide direction of personal development requirements and action in accordance with the Knowledge & Skills Framework.

5. Take responsibility for own performance and take action to identify personal development areas.

6. Maintain good staff relationships and morale amongst staff reports through effective feedback, recognition, appraisal and development.

General Requirements:

The post holder will be required to:

- Ensure the Trust's policy on equality of opportunity is promoted through his/her own actions and those of any staff for whom he/she has responsibility.

- Co-operate fully with the implementation of the Trust's Health and Safety arrangements, reporting any accidents/incidents/equipment defects to his/her manager, and maintaining a clean, uncluttered and safe environment for patients/clients, members of the public and staff.

- Adhere at all times to all Trust policies/codes of conduct, including for example:
  - Smoke Free policy
  - IT Security Policy and Code of Conduct
  - standards of attendance, appearance and behaviour

- Comply fully with the Trust's policy and procedures regarding records management, as well as the Data Protection Act, accepting legal responsibility for all manual or electronic records held, created or used as part of his/her duties, and ensuring that confidentiality is maintained at all times.

- Take responsibility for his/her own ongoing learning and development, including full participation in KSF Development Reviews/appraisals, in order to maximise his/her potential and continue to meet the demands of the post.

- Represent the Trust's commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with whom he/she comes into contact in the course of work, in a pleasant, courteous and respectful manner.

This Job Description will be subject to review in the light of changing circumstances and is not intended to be rigid and inflexible but should be regarded as providing guidelines within which the individual works. Other duties of a similar nature and appropriate to the grade may be assigned from time to time.

It is a standard condition that all Trust staff may be required to serve at any location within the Trust's area, as needs of the service demand.

SOUTHERN HEALTH & SOCIAL CARE TRUST

PERSONNEL SPECIFICATION

HR MANAGER – EMPLOYMENT LAW & CASE MANAGEMENT, BAND 7

PERSONNEL SPECIFICATION

JOB TITLE HR Manager, Band 7

DIRECTORATE Human Resources and Organisational Development

Notes to applicants:

1. *You must clearly demonstrate on your application form how you meet the required criteria – failure to do so may result in you not being shortlisted. You should clearly demonstrate this for both the essential and desirable criteria.*
2. *Proof of qualifications and/or professional registration will be required if an offer of employment is made – if you are unable to provide this, the offer may be withdrawn.*

***ESSENTIAL CRITERIA** – these are criteria all applicants MUST be able to demonstrate either at shortlisting or at interview. Applicants should therefore make it clear on their application form whether or not they meet these criteria. Failure to do so may result in you not being shortlisted. The stage in the process when the criteria will be measured is stated below;*

The following are essential criteria which will initially be measured at Shortlisting Stage although may also be further explored during the interview stage;

1. You must be an employee of the HROD Directorate of the Southern Health & Social Care Trust, to be eligible to apply for this post. You must therefore clearly demonstrate this on your application form. **Please note that failure to do this will result in you not being shortlisted.**

2. Degree or recognised professional qualification or equivalent / higher qualification in a Business / Human Resources related subject AND a minimum of 2 years' HR experience at Band 6 or above, involving a key role in the provision of advice and guidance to managers on a range of HR matters.

   OR

HNC / HND or equivalent / higher qualification in a Business /Human Resources related subject AND a minimum of 3 years' experience in an administrative role, 2 years of which must be HR experience at Band 6 or above involving a key role in the provision of advice and guidance to managers on a range of HR matters.

OR

a minimum of 5 years' experience in an administrative role, 2 years of which must be HR experience at Band 6 or above involving a key role in in the provision of advice and guidance to managers on a range of HR matters.

3. Demonstrate effective communication skills, which will meet the needs of the post in full.
4. Experience of using Microsoft Office applications.
5. Have a knowledge of employment legislation and Terms and Conditions of employment.
6. Experience of working in partnership with trade union side.
7. Hold a full current driving licence valid for use in the UK and have access to a car on appointment[2].

The following are essential criteria which will be measured during the interview stage.

8. Have the ability to develop and maintain credibility with a range of staff / managers at all levels of the organization.
9. Have excellent organisational skills, and the ability to work within tight timescales.
10. Effective planning and organisational skills with an ability to prioritise own workload.
11. Ability to work on own initiative.
12. Ability to drive change successfully throughout the organisation.
13. Ability to develop and implement policies and/or strategies
14. An insight into the issues facing the Trust at a Corporate Level.

The following are desirable criteria.

15. Experience of undertaking complex investigations and production of associated reports.

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[2] *This criterion will be waived in the case of a suitable applicant who has a disability which prohibits them from driving but who is able to organise suitable alternative arrangements in order to meet the requirements of the post in full.*

Southern Health and Social Care Trust

SOUTHERN HEALTH & SOCIAL CARE TRUST

JOB DESCRIPTION

JOB TITLE	Litigation Manager
BAND	7
DIRECTORATE	Human Resources & Organisational Development
INITIAL LOCATION	Daisy Hill Hospital, Newry
REPORTS TO	Head of Employee Relations
ACCOUNTABLE TO	Medical Director/Director of HROD

JOB SUMMARY

The post holder will be responsible for the provision and management of the Trust Litigation Services, including clinical and social care negligence claims, personal injury claims, Coroner inquests, applications for Judicial Reviews, management of Third Party Accidents claims and medico-legal services. The post holder will lead a team of litigation staff and ensure that best practice is adopted with regard to the management of the above named services.

The post holder will report to the Head of Employee Relations and will be accountable to the Medical Director in relation to clinical and social care negligence claims and to the Director of Human Resources and Organisational Development in relation to personal injury claims in accordance with the Trust's Procedures for claims management.

The post holder will work closely with clinical and social care governance colleagues to ensure an integrated approach to governance and support the culture of openness and learning across the Trust.

The post holder will have line management responsibility for staff within the Trust's Litigation Department.

KEY DUTIES / RESPONSIBILITIES

Litigation Claims

1. Develop, implement and review processes, systems, policies and procedures for effective and efficient management of litigation cases.

2. Responsibility to ensure all policies and procedures relating to claims comply with the Pre-Action Protocols and guidance and instructions provided by the DHSSPS regarding the management of claims.

3. Lead on ensuring all Directorates have high quality, timely and appropriate information in relation to litigation cases.

4. Lead on the provision of specialist legal knowledge and expertise to sensitivity query issues pertaining to the investigation of litigation cases.

5. Act as the point of contact with the Trust's Legal Advisors regarding litigation cases and general legal queries.

6. Management of the day to day activities relating to litigation claims in accordance with Trust policy and procedure.

7. Responsibility for categorisation of claims in accordance with Trust policy and procedure.

8. Liaison with appropriate Trust staff (including Directors, Consultants, Clinical Staff and senior managers) in respect of all aspects of litigation cases.

9. Undertake preliminary analysis of patient/client records to produce a synopsis of the claimant's treatment which will identify key staff involved in the allegations being made.

10. Manage and review systems to ensure the prompt provision of discoverable documents and the investigation of claims to enable the Trust and its legal advisors to assess liability, quantum and the defence of claims.

11. Investigate and assess legal liability in respect of individual claims. This involves gathering and considering relevant information (including details confidential documentation such as medical and personnel records) taking statements from Trust staff and instructing experts in a range of medical specialities.

12. In conjunction with the Trust's legal advisors attend consultations with Counsel and Trust staff in preparing for a Court Hearing and ensure all necessary follow up action is taken.

13. Take detailed notes of evidence for use in the Trust's defence of cases.

14. Authorised signatory to approve fees relating to litigation cases.

15. Provide in-house legal support and guidance to staff requested to attend Court.

16. Attend Court, as required, to liaise with Trust Counsel and the Trust's legal advisors in relation to settlement of litigation cases.

17. To advise and prepare reports and briefings as appropriate for SMT/Trust Board/individual Directors on litigation cases.

18. Provide timely legal advice regarding litigation cases in writing and in person in relation to specific claims to a wide range of Trust staff including Directors, Consultants and clinical staff, to ensure they have accurate information relation to claims.

19. Provide full briefings for the Trust's Head of Communications regarding any litigation cases which may generate media attention.

20. In conjunction with the Director of HR & OD identify incidents with 'litigation potential' and work closely with Health & Safety colleagues to ensure full investigation is carried out promptly.

21. Responsible for identifying cases suitable for discussion with Trust Solicitors at monthly Litigation Review meetings.

22. Order to maximise his/her potential and continue to meet the demands of the post.

Third Party Claims

1. Develop, implement and review processes, systems, policies and procedures for the effective and efficient management of all correspondence relating to Third Party Accidents (TPAs).

2. Lead on the recording, acknowledgement, processing, responding and overall management of TPA requests.

3. Establish and maintain close relationships with the Trust's Finance and Human Resources Departments to ensure smooth management of TPA requests.

4. Ensure all information re TPAs is recorded on the Trust's database (Datix).

5. When necessary, seek advice from the Trust's legal advisors regarding any

refusal to refund full recoupment to the Trust.

Medico-legal requests

1. Develop, implement and review processes, systems, policies and procedures for the effective and efficient management of all correspondence relations to medico-legal requests.

2. Ensure awareness of Data Protection principles to all staff involved in the processing of medico-legal requests.

3. Manage and review systems to ensure the prompt provision of requested information.

4. Ensure Court Orders are acted upon and responded to within the stipulated timescales.

5. Attend Court, when necessary, with original health records and liaise directly with Barristers and Solicitors.

6. Ensure all information regarding medico-legal requests is recorded on the Trust's database (Datix).

7. Share the lessons learned from litigation cases in line with Trust processes.

8. Ensure effective communication and liaison with Clinical and Social Care Governance colleagues regarding litigation cases.

Coroners Inquests

1. Develop, implement and review processes, systems, policies and procedures for the effective and efficient management of Coroners Inquests.

2. Lead on the management and co-ordination of information requested by the Coroner's Office such as requesting of staff statements, collating personal medical records and Trust policies.

3. Brief the Chief Executive, Medical Director and the Service Director of forthcoming Coroner's Inquests and of any potential areas of concern for the Trust.

4. Review the deceased medical records to identify key involved professional staff required to provide statements for the Coroner.

5. Review staff statements in conjunction with the Trust's legal advisors for the Coroner and raise any issues of conflict/concern.

6. Lead on the organisation and participate in complex multidisciplinary inquests ensuring consultations between Counsel, Trust's legal advisors and Trust staff are arranged, when necessary, in preparation for a Coroner's Inquest.

7. Provide in-house support briefing and guidance to Trust staff attending Coroners Inquests.

8. Provide full briefings for the Trust's Head of Communications on any legal matters which may attract media attention.

9. Preparation and provision of information concerning Coroners Inquests to SMT. Support the Medical Director.

Judicial Reviews

1. Develop, implement and review processes, systems, policies and procedures for the effective and efficient management of letters pre-application for Judicial Reviews.

2. Lead on ensuring the appropriate Directorate(s) responsible for the service which is the subject of potential Judicial Review receives letters pre-applications for Judicial Review promptly and request information in order to respond, within the stipulated timescale to mitigate risk, expense and possible criticism of the Trust.

3. Main point of contact with the Trust's legal advisors to agree the response of letters pre-application for Judicial Review.

4. Lead on the organisation of Judicial Reviews and liaising with the Trust's legal advisors to ensure full preparation for cases.

5. Ensure briefing of the Chief Executive, Medical Director and the relevant Service Director(s) are informed of Judicial Review.

Corporate Management

1. Develop and maintain working relationships with senior colleagues to ensure achievement of directorate and corporate objectives.

2. Contribute to the Trust's overall corporate governance processes to assure safe and effective care for patients and clients and compliance with public sector values and code of conduct.

3. Lead by example in practicing the highest standards of conduct in accordance with the HSC Code of Conduct.

Finance and Resource Management

1. Ensure the effective implementation of all Trust financial policies and procedures as appropriate.

2. Implement arrangements to ensure strong financial management of all budgets within the remit of responsibility ensuring financial viability is maintained, best value achieved and all financial targets are met.

3. Ensure the effective management, use and maintenance of all physical assets as appropriate:

    - Represent the Trust's commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with whom he/she comes into contact in the course of work, in a pleasant , courteous and respectful manner.

    - Understand that this post may evolve over time, and that this Job Description will therefore be subject to review in the light of changing circumstances. Other duties of a similar nature and appropriate to the grade may be assigned from time to time.

HUMAN RESOURCE MANAGEMENT RESPONSIBILITIES

1. Review individually, at least annually, the performance of immediately subordinate staff, provides guidance on personal development requirements and advises on and initiates, where appropriate, further training.

2. Maintain staff relationships and morale amongst the staff reporting to him/her.

3. Review the organisation plan and establishment level of the service for which he/she is responsible to ensure that each is consistent with achieving objectives, and recommend change where appropriate.

4. Delegate appropriate responsibility and authority to the level of staff within his/her control consistent with effective decision making, while retaining overall responsibility and accountability for results.

5. Participate, as required, in the selection and appointment of staff reporting to him/her in accordance with procedures laid down by the Trust.

6. Take such action as may be necessary in disciplinary matters in accordance with procedures laid down by the Trust.

    - To work proactively with the Trust's Emergency planner and other internal and external stakeholders to develop appropriate emergency response and business continuity plans to ensure the service can maintain a state of emergency preparedness to respond safely and effectively to a range of

threats, hazards and disruption.

GENERAL REQUIREMENTS

The post holder will be required to:

1. Ensure the Trust's policy on equality of opportunity is promoted through his/her own actions and those of any staff for whom he/she has responsibility.

2. Co-operate fully with the implementation of the Trust's Health and Safety arrangements, reporting any accidents/incidents/equipment defects to his/her manager, and maintaining a clean, uncluttered and safe environment for patients/clients, members of the public and staff.

3. The HSC Code of Conduct for Employees sets out the standards of conduct expected of all staff in the Southern Health & Social Care Trust and outlines the standards of conduct and behaviours required during and after employment with the Trust. Professional staff are expected to also follow the code of conduct for their own professions.

4. Adhere at all times to all Trust policies including for example:

    - Smoke Free policy
    - IT Security Policy and Code of Conduct

5. Contribute to ensuring the highest standards of environmental cleanliness within your designated area of work.

6. Co-operate fully with regard to Trust policies and procedures relating to infection prevention and control.

7. All employees of the trust are legally responsible for all records held, created or used as part of their business within the Trust including patients/clients, corporate and administrative records whether paper-based or electronic and also including emails. All such records are public records and are accessible to the general public, with limited exception, under the Freedom of Information act 2000 the Environmental Information Regulations 2004 and the Data Protection Acts 1998. Employees are required to be conversant with the Trusts policy and procedures on records management and to seek advice if in doubt.

8. Take responsibility for his/her own ongoing learning and development, including full participation in KSF Development Reviews/appraisals, in order to maximise his/her potential and continue to meet the demands of the post.

9. Represent the Trust's commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with

whom he/she comes into contact in the course of work, in a pleasant, courteous and respectful manner.

10. Available / able to work any 5 days out of 7 over the 24 hour period, which may include on-call / stand-by / sleep-in duties, shifts, night duty, weekends and Public Holidays if required immediately on appointment or at a later stage following commencement in response to changing demands of the service.

This Job Description will be subject to review in the light of changing circumstances and is not intended to be rigid and inflexible but should be regarded as providing guidelines within which the individual works. Other duties of a similar nature and appropriate to the grade may be assigned from time to time.

It is a standard condition that all Trust Staff may be required to serve at any location within the Trust's area, as needs of the service demand.

Southern Health and Social Care Trust

Quality Care - for you, with you

Job Description

Post	**Head of Patient Safety Data & Improvement**
Grade	**8B**
Department	**Medical Directorate**
Base	**Beechfield House, Trust Headquarters**
Reports to	**Assistant Director Clinical and Social Care Governance**
Responsible to	**Medical Director**

Job Summary

The role will focus on safety, quality and innovation as key drivers to deliver improved outcomes for patients and clients. This post is responsible for managing the timely and effective provision and communication of a corporate quality, and safety analysis service.

The post holder will be responsible for setting the strategic direction for a range of analysis services provided at corporate organisational level within the Trust. This will include Patient Safety, Clinical Audit, Mortality & Morbidity and Trust clinical guidelines, in line with statutory requirements and national, regional benchmarks, peer accreditation frameworks and standardising Trust best practice.

He/she will have overall responsibility for policy and service development including the practical implementation of strategic plans, policies and procedures.

The post holder will be managerially responsible for the corporate reporting of outputs for these services across all Directorates. He/she will report to the Assistant Director, Medical Director's office and operate at all levels within the organisation.

The post holder will be have delegated authority within his/her role and will be the organisational senior manager in respect of the services under his/her remit. He/she will be responsible for the teaching and/or design and/or delivery of training and development programmes for the services under their remit. He/she will manage staff, resources and associated budgets.

Key result areas / Main responsibilities

Setting direction

1. Set the long-term strategic direction of services in respect of Patient Safety, Clinical Audit, Mortality & Morbidity and Trust clinical guidelines, in line with local, regional, national directives and legal/statutory requirements and best practice.

2. Lead and manage the long-term development, planning and implementation of service strategies, policies and plans for the service/s under the remit of the post holder that will work within the Trust's governance and assurance model.

3. To support in the strategic review and improvement of services, in particular making use of improvement methodologies. Resultant outcomes to include, improved service user and staff satisfaction, service effectiveness and value for money.

4. Contribute to development of a Trust-wide learning culture that supports the ethos of lessons learnt. This will facilitate expertise, knowledge and skills sharing to ensure overall improvement in safety and quality and outcomes for patients and services.

Service delivery

5. Responsible for the day to day systems and processes to support Patient Safety, Clinical Audit, Mortality & Morbidity and Trust Clinical Guidelines, in line with national, regional and Trust objectives.

6. Lead on provision of specialist advice, enhanced support, performance improvement expertise and guidance to senior managers, clinicians and staff in respect of service/s under the remit of the post holder.

7. To support services analyse their requirements and processes to develop, test and implement re-engineered processes or business improvement models in collaboration with service leaders and stakeholders.

8. Attend meetings, advise and support relevant staff, groups and committees within the Trust in respect of service/s under the remit of the post holder.

9. Develop strategies, systems, policies and procedures to address the key areas of risk under the remit of the post holder, which support the strategic direction of the Trust.

10. Provide a key challenge function to the service teams within the potholder's remit, to ensure areas where performance improvement is required are identified and addressed.

11. Lead the development of annual programmes of work for all service/s under the remit of the post holder to ensure the achievement and maintenance of internal and external governance and other relevant standards. To lead on initiatives that benchmark nationally in order to identify areas for change and drive improvement as well as identifying areas of good practice and excellence.

12. Lead the development of monitoring trends and produce a regular suite of intelligent information analyses and other management reports and dashboards on service metrices under the remit of the postholder, for Trust Board, the Executive Quality Improvement Steering Group, Associate Medical Director Forum, M&M Outcome Review Group and other sub committees. Advise on key governance, quality and standards, together with recommendations on action required to address these.

13. Develop a wide range of solutions for the management of governance for the services under the remit of the post holder at a corporate level.

14. Work with clinicians, senior managers and staff to understand situations or information within their sphere of work and develop practical solutions to problems and decide and/or make recommendations for improvement.

15. Prepare responses to regional and national reports and recommendations from regional statutory and other bodies.

16. Lead the work of the NCEPOD Co-Ordinator, Craigavon Area Hospital, pending this responsibility being realigned to a designated Consultant.

17. Translate regional guidance and standards in relation to the services under the remit of the post holder into the Trust's context. Identify the implications for processes and system and ensure that the necessary changes are disseminated and implemented.

18. Develop, deliver, arrange and/or co-ordinate any general or specialist training and education programmes for the services under the remit of the post holder.

Collaborative Working

19. Work collaboratively at a regional level with DOH, HSCB, PHA and other Trusts to identify and implement best practice in pursuit of enhanced performance and continuous improvement.

20. Work collaboratively with relevant internal departments to ensure a seamless approach to the implementation of corporately agreed workplans within the postholder's remit.

21. Develop and maintain productive working relationships with operational and professional leads within the Trust, ensuring the provision of accurate and timely information as required.

22. Work collaboratively with Assistant Directors and senior managers within the Trust and other external organisations, and represent the Trust on local and regional groups.

Communication and Information Management

23. Implement and maintain systems and procedures to inform and receive feedback on the services within the postholder's portfolio from stakeholders. Evaluate that feedback and take appropriate action for continuous improvement.

Quality

24. Facilitate senior managers and staff in meeting legislative requirements relevant to their areas of responsibility as per postholder's area of responsibility.

25. Ensure that the needs of patients, clients and their carers are at the core of the services provided.

26. Benchmark performance against local, regional and national clinical audit standards, within work programmes approved by the Trust's Senior Management Team.

27. To facilitate programmes within the medical and disability directorates to improve quality and safety performance across all teams deploying appropriate improvement methodology, toolkits, training and coaching as required.

HUMAN RESOURCE MANAGEMENT RESPONSIBILITIES

1. Review individually, at least annually, the performance of immediately subordinate staff, provides guidance on personal development requirements and advises on and initiates, where appropriate, further training.

2. Maintain staff relationships and morale amongst the staff reporting to him/her.

3. Review the organisation plan and establishment level of the service for which he/she is responsible to ensure that each is consistent with achieving objectives, and recommend change where appropriate.

4. Delegate appropriate responsibility and authority to the level of staff within his/her control consistent with effective decision making, while retaining overall responsibility and accountability for results.

5. Participate, as required, in the selection and appointment of staff reporting to him/her in accordance with procedures laid down by the Trust.

6. Take such action as may be necessary in disciplinary matters in accordance with procedures laid down by the Trust.

General Management responsibilities

1. Adhere to the Code of Conduct for HPSS managers which states that managers will be expected to work with integrity, honesty and openness, probity, accountability and respect, available on www.dhsspsni.gov.uk.

2. Ensure the appropriate governance and risk management arrangements are in place for the services you are responsible for and take appropriate action to identify and manage risk and to maintain safety of users, staff and others in accordance with relevant regulations, policies and procedures;

3. It is essential to ensure that the highest standards of infection prevention and control are maintained to ensure patient and client safety and maintain confidence in the Trust. As a Manager, you must ensure that you implement all instructions/ policy in this area and that all staff are made aware of and fully comply with these.

4. Where the postholder has responsibility for managing a budget, ensure that services are managed and developed both in accordance with agreed and funded priorities as set out on a yearly basis and in accordance with Standing Financial Instructions, particularly ensuring your compliance with payroll documentation procedures and timescales;

5. Ensure the necessary arrangements are in place in regard to the 'Knowledge and Skills Framework' outlines, where this applies, for the posts for which you have management responsibility. Ensure that each member of staff has an annual development and performance review, a personal development plan and that arrangements are in place to ensure that staff have maximum opportunity to progress through gateways in their pay bands and to contribute effectively towards our objectives;

6. Promote a culture of continuous service improvement amongst your staff, encouraging their participation and that of service users in reviewing and modernising current services and in service development;

7. Make sure you are trained and competent in the relevant policies and procedures which apply to the management of staff and other resources and abide by these policies; seeking advice as necessary from senior management or specialist staff as necessary;

8. Communicate effectively with staff and maintain productive working relationships amongst your staff and with others;

9. Delegate appropriate responsibility and authority to staff in order to ensure optimum and effective service delivery and decision-making, whilst retaining overall accountability and responsibility for outcomes;

10. Promote a culture of learning and development and facilitate arrangements for and participate in training and development of staff as agreed for the performance of their duties. Where training is in accordance with relevant standards make sure you have the relevant competences in order to carry out this responsibility;

11. Promote equality of opportunity for all by personal action, both in the management of your staff and in the provision of care to service users in accordance with the Trust's

Equality of Opportunity Policy and Equality Scheme;

12. Take responsibility for ensuring appropriate standards of environmental cleanliness and for encouraging staff to maintain standards in their work area. Have an awareness of environmental issues and take appropriate action, for example to ensure the efficient use of energy and other resources, recycling etc.;

13. Make sure that staff are aware of trust policies regarding the Data Protection Act 1998, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and Records Management and that they must not disclose, withhold, retain or dispose of any information unless legally authorised.

GENERAL REQUIREMENTS

The post holder will be required to:

1. Ensure the Trust's policy on equality of opportunity is promoted through his/her own actions and those of any staff for whom he/she has responsibility.

2. Co-operate fully with the implementation of the Trust's Health and Safety arrangements, reporting any accidents/incidents/equipment defects to his/her manager, and maintaining a clean, uncluttered and safe environment for patients/clients, members of the public and staff.

3. The HSC Code of Conduct for Employees sets out the standards of conduct expected of all staff in the Southern Health & Social Care Trust and outlines the standards of conduct and behaviours required during and after employment with the Trust. Professional staff are expected to also follow the code of conduct for their own professions.

4. Adhere at all times to all Trust policies/codes of conduct, including for example:
    - Smoke Free policy
    - IT Security Policy and Code of Conduct
    - standards of attendance, appearance and behaviour

5. Contribute to ensuring the highest standards of environmental cleanliness within your designated area of work.

6. Co-operate fully with regard to Trust policies and procedures relating to infection prevention and control.

7. All employees of the trust are legally responsible for all records held, created or used as part of their business within the Trust including patients/clients, corporate and administrative records whether paper-based or electronic and also including emails. All such records are public records and are accessible to the general public, with limited exception, under the Freedom of Information act 2000 the Environmental Information Regulations 2004 and the Data Protection Acts 1998. Employees are required to be conversant with the Trusts policy and procedures on records management and to seek advice if in doubt.

8. Take responsibility for his/her own ongoing learning and development, including full participation in KSF Development Reviews/appraisals, in order to maximise his/her

potential and continue to meet the demands of the post.

9. Represent the Trust's commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with whom he/she comes into contact in the course of work, in a pleasant, courteous and respectful manner. Seek to engage and involve service users and members of the public in keeping with the Trust's Personal and Public Involvement Strategy and as appropriate to the job role.

10. Available / able to work any 5 days out of 7 over the 24 hour period, which may include on-call / stand-by / sleep-in duties, shifts, night duty, weekends and Public Holidays if required immediately on appointment or at a later stage following commencement in response to changing demands of the service.

This post may evolve over time and this Job Description will therefore be subject to review in the light of changing circumstances and is not intended to be rigid and inflexible but should be regarded as providing guidelines within which the individual works. Other duties of a similar nature and appropriate to the band may be assigned from time to time.

It is a standard condition that all Trust staff may be required to serve at any location within the Trust's area, as needs of the service demand.

Southern Health and Social Care Trust

Quality Care - for you, with you

PERSONNEL SPECIFICATION

Title of Post: **Head of Patient Safety Data & Improvement**

Band of Post: 8B

Salary: £53,168 - £62,001

Hours: 37.5 hrs per week

Notes to applicants:

1. *You must clearly demonstrate on your application form under each question, how you meet the required criteria as failure to do so may result in you not being shortlisted. You should clearly demonstrate this for both the essential and desirable criteria.*
2. *Shortlisting will be carried out on the basis of the essential criteria set out in Section 1 below, using the information provided by you on your application form.*
3. *Proof of qualifications and/or professional registration will be required if an offer of employment is made – if you are unable to provide this, the offer may be withdrawn.*
4. *Volunteering experience may be considered appropriate in particular for roles within the context of direct patient/client care.*

ESSENTIAL CRITERIA		
SECTION 1: The following are **ESSENTIAL** criteria which will initially be measured at shortlisting stage although may also be further explored during the interview/selection stage. You should therefore make it clear on your application form whether or not you meet these criteria. Failure to do so may result in you not being shortlisted. The stage in the process when the criteria will be measured is stated below.		
Factor	**Criteria**	**Method of Assessment**
Qualifications/ Registration/ Experience	1. University Degree or a relevant[1] professional qualification **AND** 4 years' experience as a Band 7 or above OR 2 years' experience as a Band 8A or above	Shortlisting by Application Form

	2. 2 years' experience in demonstrating personal responsibility for achieving measurable improvements in outcomes for services 3. 2 years' experience working with a diverse range of stakeholders, both internal and external to the organisation, to achieve successful outcomes, 5. A minimum of 2 years experience in staff management 6. 2 years' experience in demonstrating personal responsibility for achieving measurable improvements in outcomes for services	
Other	7. Hold a current full driving licence which is valid for use in the UK and have access to a car on appointment. This criteria will be waived in the case of applicants whose disability prohibits driving but who have access to a form of transport approved by the Trust which will permit them to carry out the duties of the post	Shortlisting by Application Form
SECTION 2: The following are **ESSENTIAL** criteria which will be measured during the interview/ selection stage:		
Skills / Abilities/Knowledge	1. Knowledge of governance, morbidity and mortality, clinical audit and clinical guidelines systems, processes and outcomes. 2. Have an ability to provide effective leadership 3. Have high level interpersonal, verbal and written communication skills 4. Demonstrate evidence of improvement in service outcomes 5. Demonstrate a commitment to the provision of high quality and safe services with an ability to drive a culture of continuous improvement.	Interview

	6. Demonstrate evidence of using own initiative in managing priorities to achieve successful outcomes. 7. Ability to extract, analyse, interpret and present complex statistical information from a range of HSC systems/sources.	

[1] Relevant will be defined as a business or health related field

Essential Leadership Capabilities:

The successful candidate will need to provide evidence and demonstrate their Leadership capabilities against the required dimension on the NHS Leadership framework.

A shortlist of candidates for interview will be prepared on the basis of the information contained in the application form. It is therefore essential that all applicants demonstrate through their application how and to what extent their experience and qualities are relevant to this post and the extent to which they satisfy each criterion specified. An assessment centre may also be used as part of the short-listing process.

Candidates who are short-listed for interview will need to demonstrate at interview that they have the required competencies to be effective in this demanding leadership role. The dimensions concerned are given in the Healthcare Leadership Model (see below link) http://www.leadershipacademy.nhs.uk/discover/leadershipmodel/leadership-dimensions/

Particular attention will be given to the following:

- Inspiring shared purpose
- Leading with care
- Evaluating information
- Connecting our service
- Sharing the vision
- Engaging the team
- Holding to account
- Developing capability
- Influencing for results

Southern Health and Social Care Trust

SOUTHERN HEALTH & SOCIAL CARE TRUST

JOB DESCRIPTION

JOB TITLE	Litigation Manager
BAND	7
DIRECTORATE	Human Resources & Organisational Development
INITIAL LOCATION	Daisy Hill Hospital, Newry
REPORTS TO	Deputy Director – HR Services
ACCOUNTABLE TO	Medical Director/Director of HROD

JOB SUMMARY

The post holder will lead in the delivery of the Trust's Litigation Service. He/She will ensure all Trust clinical and social care negligence, employer & public liability and general litigation claims are managed in accordance with legislative and procedural requirements. The post-holder will also ensure that Coroner's inquiries are promptly and fully responded to and that all requested arrangements for the Trust are in place for Coroner Inquest Hearings

The post-holder will also lead staff who are responsible for ensuring that medico-legal subject access requests are responded to, in compliance with relevant legislation, and who manage Third Party Accidents claims (related to Trust employees).

The post holder will report to the Deputy Director – HR Services and will be accountable to the Medical Director in relation to clinical and social care negligence claims/coroner's inquiries and inquests and to the Director of Human Resources and Organisational Development in relation to employer and public liability claims in accordance with the Trust's Procedures for claims management.

The post holder will work closely with clinical and social care governance colleagues, and health and safety colleagues to ensure an integrated approach to governance and support the culture of openness and learning across the Trust.

The post holder will have overall management responsibility for staff within the Trust's Litigation and Medico-Legal Departments.

KEY DUTIES / RESPONSIBILITIES
SERVICE DELIVERY
Management of Litigation Claims / Coronial processes

1. Manage the interface with the Directorate of Legal Services, ensuring the development and maintenance of good working relations, and the progression of claims in accordance with legislative and procedural requirements.

2. Participate in regular meetings with DLS alongside the Medical Director and the Director of HROD to progress matters relating to claims. Ensure that the Directors are provided with all relevant details of claims, to enable decision-making to be undertaken.

3. Ensure the development, implementation and review of processes, systems, policies and procedures for effective and efficient management of litigation cases/coroner's inquiries and inquests

4. Responsibility for the auditing of systems to ensure that statistical returns/reports required for the Department of Health, Governance Committee, Senior Management Team, Trust's Finance Directorate are accurate.

5. Responsibility to ensure all policies and procedures relating to claims comply with the Pre-Action Protocols and guidance and instructions provided by the Department of Health regarding the management of claims.

6. Responsibility to ensure that support and guidance is provided to those required (at all levels within the organisation) to be involved in a claims or coroner's process.

7. Lead on the management and co-ordination of information requested by the Coroner's Office such as requesting of staff statements, collating personal medical records and Trust policies, ensuring the accuracy and provision of requested information in full

8. Participate and actively contribute to weekly senior governance meetings on matters relating to claims and coroners to ensure that the Senior Management Team are kept updated on relevant matters.

9. Provide separate updates to senior operational teams, as and when required, and attend regular Interface Meetings to provide updated position in relation to claims and coroners cases. Also discuss identified learning from claims / coroners processes.

10. Lead on the organisation of Trust arrangements in relation to complex multidisciplinary inquests ensuring consultations between Counsel, Trust's legal advisors and Trust staff are arranged, when necessary, in preparation for a Coroner's Inquest.

11. Provide full briefings for the Trust's Head of Communications on any matters which may attract media attention, and ensure that the Department of Health are also informed of same through the Early Alert process

12. Lead on ensuring all Directorates have high quality, timely and appropriate information in relation to litigation and coroner cases.

13. Oversee the management of the day to day activities relating to litigation claims in accordance with Trust policy and procedure and for ensuring that requests made by the Coroner's Office are responded to in full and in accordance with required timescales

14. In conjunction with the Trust's legal advisors attend consultations with Counsel and Trust staff in preparing for a Court Hearing, where necessary, and ensure all necessary follow up action is taken.

15. Attend Court, as required, to liaise with Trust Counsel and the Trust's legal advisors in relation to settlement of litigation cases.

16. Authorised signatory to approve fees relating to litigation cases and coroners.

17. In conjunction with the Clinical Director (Medical Director's Office), identify lessons from claims/coroner's processes that will improve patient safety and ensure that steps are taken to ensure that these are incorporated into the education of the workforce (to include management, medical staffing, nurse, social services, AHPs, administrative staff etc)

18. In conjunction with the Director of HR & OD identify lessons from claims and work closely with Health & Safety colleagues to ensure full investigation is carried out promptly, and that lessons are incorporated into the education of the workforce (at all levels)

19. Ensure the provision of relevant information, as requested, to the Medical Director's Office required for the revalidation of doctors process

20. Ensure the provision of relevant information to NIMDTA in relation to trainee doctors and their involvement in a coronial process.

Judicial Reviews

1. Upon receipt, lead on ensuring the appropriate Directorate(s) responsible for the service which is the subject of potential Judicial Review receives letters relating to pre-applications for Judicial Review promptly; that a suitable contact within the Directorate is identified and is put in contact with DLS Solicitor to enable a response to be provided in full to the Applicant's Solicitor, be required deadlines.

2. Where required, participate in meetings, to gather information and ensure provision of a response to the Trust's Solicitors within required time-scales.

3. Ensure briefing of the Chief Executive, Medical Director and the relevant Service Director(s) are informed of Judicial Review.

Medico-legal requests

1. Lead in the development, implementation and review of processes, systems, policies and procedures for the effective and efficient management of all correspondence relations to medico-legal subject access requests.

2. Ensure awareness of Data Protection principles to all staff involved in the processing of medico-legal requests.

3. Manage and review systems to ensure the prompt provision of requested information.

4. Ensure Court Orders are acted upon and responded to within the stipulated timescales.

5. Attend Court, when necessary, with original health records and liaise directly with Barristers and Solicitors.

6. Ensure all information regarding medico-legal requests is recorded on the Trust's database (Datix).

Third Party Claims

1. Lead in the development, implementation and review of processes, systems, policies and procedures for the effective and efficient management of all correspondence relating to Third Party Accidents (TPAs).

2. Lead on the recording, acknowledgement, processing, responding and overall management of TPA requests.

3. Establish and maintain close relationships with the Trust's Finance and

Human Resources Departments to ensure smooth management of TPA requests.

4. Ensure all information re TPAs is recorded on the Trust's database (Datix).

5. When necessary, seek advice from the Trust's legal advisors regarding any refusal to refund full recoupment to the Trust.

DEVELOPING CAPABILITY

1. Provide professional advice to senior staff on a range of matters relating to litigation services/coronial matters, and lead on the development of procedures / guidance to educate those involved in claims / coroners / responding to subject access requests, so that everyone is clear of their role in accordance with legislative and procedural requirements.

2. Ensure the Deputy Director, Director of HROD and Medical Director are kept up to date with any developments which may have implications for resourcing/finances etc related to claims, coroners, medico-legal requests etc.

COLLECTIVE LEADERSHIP

1. Actively participate in the development and work of regional networks relevant to the area of claims and coronial work, agreeing regional work objectives, which will ensure the ongoing growth of regional approaches to claims and coroners.

2. Work with colleagues and Directorates to ensure that work for claims, coroners and subject access requests are progressed, and that any learning identified that would improve patient, staff and general public safety is communicated so that steps can be taken in relation to the implementation of same.

3. Work closely with the Trust's Head of Information Governance in the development of guidance for those required to respond to a Subject Access request, and received feedback in relation to any relevant regional work.

TEAM LEADERSHIP

1. Provide clear and visible leadership to staff within the Trust's Litigation / Medico-Legal Team and ensure the team/s have a skilled, flexible and motivated workforce who feel supported and valued.

2. Ensure that all people management practices in the Team/s support a culture of effective team working, continuous improvement and innovation.

3. Ensure the effective management of staff health and safety and support within the team.

4. Ensure the effective implementation of all Trust people management policies within the team and the achievement of all relevant targets such as those relating to staff performance and development reviews, corporate mandatory training the management of sickness and absenteeism etc.

5. Contribute to good industrial relations within the Trust by ensuring effective communication and working relationships with all staff for whom s/he is responsible as well as relevant trade unions/staff organisations.

6. Take responsibility for his/her own performance and take action to address identified personal development areas.

7. Lead by example to ensure that the Trust demonstrates commitment through its culture and actions, for all aspects of diversity in the population it serves and the staff who provide the services.

8. Delegate appropriate responsibility and authority to the level of staff within his/her control, consistent with effective decision-making, whilst retaining responsibility for results.

9. Contribute to the Trust's overall corporate and integrated governance framework to ensure its compliance with public sector values and codes of conduct, operations and accountability.

FINANCE & RESOURCES

1. Work collaboratively to achieve the financial targets set within the function and be accountable for the management of any delegated budget.

2. Ensure appropriate controls and monitoring exist with the scope of the management role.

3. Develop and manage all internal processes to ensure all recruitment requisitions are actioned in line with available funding and expenditure controls.

4. Authorise expenditure in accordance with the financial limits and procedures delegated by the Director of Human Resources and Organisational Development. This will include the authorisation of all Access NI, Home Office and Recruitment Advertising expenditure on behalf of the Trust.

INFORMATION MANAGEMENT

1. Provide regular management information reports to the Trust's Senior Management Team so as to enable emerging trends and issues to be readily identified and appropriate interventions to be taken.

2. Ensure systems and procedures for the management and storage of information within the team meet internal and external reporting requirements.

3. The postholder will have significant responsibility for the Litigation / Coroner's and Medico-Legal Subject Access Request information systems

HUMAN RESOURCE MANAGEMENT RESPONSIBILITIES

The Trust supports and promotes a culture of collective leadership where those who have responsibility for managing other staff:

1. Establish and promote a supportive, fair and open culture that encourages and enables all parts of the team to have clearly aligned goals and objectives, to meet the required performance standards and to achieve continuous improvement in the services they deliver.

2. Ensure access to skills and personal development through appropriate training and support.

3. Promote a culture of openness and honesty to enable shared learning.

4. Encourage and empower others in their team to achieve their goals and reach their full potential through regular supportive conversation and shared decision making.

5. Adhere to and promote Trust policy and procedure in all staffing matters, participating as appropriate in a way which underpins Trust values.

RAISING CONCERNS – RESPONSIBILITIES

1. The post holder will promote and support effective team working, fostering a culture of openness and transparency.

2. The post holder will ensure that they take all concerns raised with them seriously and act in accordance with the Trust's 'Your Right to Raise a Concern (Whistleblowing)' policy and their professional code of conduct, where applicable.

3. The post holder will, in the event of a concern being raised with them, ensure that it is managed correctly under the Trust's 'Your Right to Raise a Concern

(Whistleblowing)' policy and ensure feedback/learning is communicated at individual, team and organisational level.

EMERGENCY PLANNING & BUSINESS CONTINUITY RESPONSIBILITIES

- To work proactively with the Trust's Emergency planner and other internal and external stakeholders to develop appropriate emergency response and business continuity plans to ensure the service can maintain a state of emergency preparedness to respond safely and effectively to a range of threats, hazards and disruption.

GENERAL REQUIREMENTS

The post holder will be required to:

1. Ensure the Trust's policy on equality of opportunity is promoted through his/her own actions and those of any staff for whom he/she has responsibility.

2. Co-operate fully with the implementation of the Trust's Health and Safety arrangements, reporting any accidents/incidents/equipment defects to his/her manager, and maintaining a clean, uncluttered and safe environment for patients/clients, members of the public and staff.

3. Adhere at all times to all Trust policies/codes of conduct, including for example:
    - Smoke Free policy
    - IT Security Policy and Code of Conduct
    - standards of attendance, appearance and behaviour

4. Contribute to ensuring the highest standards of environmental cleanliness within your designated area of work.

5. Co-operate fully with regard to Trust policies and procedures relating to infection prevention and control.

6. All employees of the Trust are legally responsible for all records held, created or used as part of their business within the Trust including patients/clients, corporate and administrative records whether paper-based or electronic and also including emails. All such records are public records and are accessible to the general public, with limited exceptions, under the Freedom of Information Act 2000 the Environmental Information Regulations 2004, the General Data Protection Regulations (GDPR) and the Data Protection Act 2018. Employees are required to be conversant with the [org name] policy and procedures on records management and to seek advice if in doubt.

7. Take responsibility for his/her own ongoing learning and development, in order to maximise his/her potential and continue to meet the demands of the post.

8. Represent the Trust’s commitment to providing the highest possible standard of service to patients/clients and members of the public, by treating all those with whom he/she comes into contact in the course of work, in a pleasant, courteous and respectful manner.

This Job Description will be subject to review in the light of changing circumstances and is not intended to be rigid and inflexible but should be regarded as providing guidelines within which the individual works. Other duties of a similar nature and appropriate to the grade may be assigned from time to time.

It is a standard condition that all Trust staff may be required to serve at any location within the Trust's area, as needs of the service demand.

Southern Health and Social Care Trust

SOUTHERN HEALTH & SOCIAL CARE TRUST

PERSONNEL SPECIFICATION

JOB TITLE AND BAND	Litigation Manager
DIRECTORATE	Human Resources & Organisational Development
HOURS	Full Time

Notes to applicants:

1. *You must clearly demonstrate on your application form under each question, how you meet the required criteria as failure to do so may result in you not being shortlisted. You should clearly demonstrate this for both the essential and desirable criteria.*
2. *Shortlisting will be carried out on the basis of the essential criteria set out in Section 1 below, using the information provided by you on your application form. Please note the Trust reserves the right to use any desirable criteria outlined in Section 3 at shortlisting. You must clearly demonstrate on your application form how you meet the desirable criteria.*
3. *Proof of qualifications and/or professional registration will be required if an offer of employment is made – if you are unable to provide this, the offer may be withdrawn.*

ESSENTIAL CRITERIA

SECTION 1: The following are **ESSENTIAL** criteria which will initially be measured at shortlisting stage although may also be further explored during the interview/selection stage. You should therefore make it clear on your application form whether or not you meet these criteria. Failure to do so may result in you not being shortlisted. The stage in the process when the criteria will be measured is stated below.

Factor	Criteria *Ideally no more than 6-8 criteria in this section*	Method of Assessment
Experience Qualifications/ Registration	1. Relevant [1] Degree or recognized professional qualification or equivalent/Higher qualification AND 2 years' experience in a role involving project or case management at Band 5 (or equivalent) or above OR Relevant HNC/HND or equivalent/higher qualification AND 3 years experiences in a role involving project or case management at Band 5 (or equivalent) or above. OR 5 years' experience in a role involving project or case	Shortlisting by Application Form

	management, including at least one at Band 5 (or equivalent) or above. 2. Experience managing a team. 3. Experience in the use of Microsoft office products including Word, Excel, Powerpoint, Access.	
Other	4. Hold a current full driving license which is valid for use in the UK and have access to a car on appointment. This criteria will be waived in the case of applicants whose disability prohibits driving but who have access to a form of transport approved by the Trust which will permit them to carry out the duties of the post.	Shortlisting by Application Form
SECTION 2: The following are **ESSENTIAL** criteria which will be measured during the interview/ selection stage:		
Skills / Abilities	5. Effective planning & organisational skills with an ability to prioritise own workload. 6. Effective communications skills to meet the needs of the post in full. 7. Ability to provide effective leadership to a team. 8. Ability to identify solutions to problems and implement them effectively. 9. Ability to work to tight timescales whilst meeting targets. 10. Demonstrate a commitment to the provision of high quality and safe services with an ability to drive a culture of continuous improvement.	Interview / Test
SECTION 3: The following are **DESIRABLE** criteria which will be measured during the interview/ selection stage:		
Skills / Abilities	1. 1 years experience working in a litigation department / office dealing with medical negligence claims, personal injury claims, Coroner inquests, applications for Judicial Reviews and management of Third Party Accidents claims	Shortlisting by Application Form

[1] Relevant is defined as Management/Business/Law related

As part of the Recruitment & Selection process it may be necessary for the Trust to carry out an Enhanced Disclosure Check through Access NI before any appointment to this post can be confirmed.

THE TRUST IS AN EQUAL OPPORTUNITIES EMPLOYER

Successful applicants may be required to attend for a Health Assessment

All staff are required to comply with the Trust's Smoke Free Policy

National Clinical Assessment Service

CERTIFICATE OF ATTENDANCE

It is hereby certified that

Lynne Hainey

attended

Case investigator training workshop

for Southern Health and Social Care Trust

delivered by NCAS

on Tuesday 07 – Wednesday 08 March 2017

This workshop provides up to 12 hours towards your CPD

Workshop objectives

- *Explore how concerns about a doctor's practice arise and identify the most common factors affecting performance*
- *Explain why the decision to investigate is made and suggest other options to resolve performance concerns*
- *Describe roles and responsibilities of those involved in investigations*
- *Plan for an investigation which meets national requirements*
- *Describe the principles of robust and meaningful terms of reference and know how to work within them*
- *Collect, review and weight evidence*
- *Conduct an investigative interview using a structured approach, including the PEACE model*
- *Recognise the key skills and attributes of a case investigator*
- *Recognise their own limits of competence and access sources of support and expertise*
- *Reference relevant national/local standards*
- *Write an investigation report with conclusions*
- *Describe the potential legal challenges to an investigation*

Case investigator training

Secondary Care

Day 1

NHS
National Clinical Assessment Service

Welcome and introductions

NHS
National Clinical Assessment Service

Learning objectives

By the end of the workshop, you will be able to:

- Explore how concerns about a doctor's practice arise and identify the most common factors affecting performance
- Explain why the decision to investigate is made and suggest other options to resolve performance concerns
- Describe roles and responsibilities of those involved in investigations
- Plan for an investigation which meets national requirements
- Describe the principles of robust and meaningful Terms of Reference and know how to work within them

NHS
National Clinical Assessment Service

Learning objectives (cont)

- Collect, review and weight evidence
- Conduct an investigative interview using a structured approach
- Recognise the key skills and attributes of a case investigator
- Recognise their own limits of competence and access sources of support and expertise
- Reference relevant national/local standards
- Write an investigation report with conclusions
- Describe the potential legal challenges to an investigation.

NHS
National Clinical Assessment Service

Programme overview

Day one

- Dealing with concerns about a doctor's practice
- Investigation roles and responsibilities
- Starting the investigation, including TOR, linking with the CM and bias and prejudice
- Gathering evidence including documentary evidence and interview evidence
- Homework

NHS
National Clinical Assessment Service

Programme overview

Day two

- Investigative interviewing – interviewing witnesses (workshop)
- Report writing (including exercise)
- Supporting the doctor
- What happens next?
- Responding to legal challenges (including workshop)
- Support for case investigators

NHS
National Clinical Assessment Service

Dealing with concerns about a doctor's practice

NHS
National Clinical Assessment Service

Dealing with concerns about a doctor's practice

- Definition of a concern
- How concerns arise

Investigation:

- What is it?
- Why do it?
- Other options
- Link with revalidation.

- *Maintaining High Professional Standards in the Modern NHS* (MHPS)
- *Performers List Regulations*

NHS
National Clinical Assessment Service

Definition of a concern

"A concern about a doctor's practice can be said to have arisen where an incident causes, or has the potential to cause, harm to a patient, staff or the organisation; or where the doctor develops a pattern of repeating mistakes, or appears to behave persistently in a manner inconsistent with the standards described in Good Medical Practice." (GMC, 2006)

NHS
National Clinical Assessment Service

Definition of a concern

Concerns arise from any aspect of a doctor's performance or conduct which:

- Pose a threat or potential threat to patient safety
- Expose services to financial or other substantial risk
- Undermine the reputation or efficiency of services in some significant way
- Are outside acceptable practices, guidelines and standards.

How to conduct a local performance investigation, NCAS

NHS
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Discussion

- How are concerns raised in your organisation?

Fitness for purpose and fitness to practise

Fitness for purpose:

- Expected standards for specialty/grade
- Set by employer or commissioner.

Fitness to practise:

- Minimum standards for specialty/grade
- Set by GMC and informed by college/faculty.

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Triggers for a concern

- Colleague concerns
- Clinical incidents
- Complaints
- Data monitoring – mortality
- Quality outcomes
- Clinical audits
- Compliance with national guidance
- Criminal incidents
- Doctor's own concerns
- Feedback
- Whistleblowing

The majority of doctors provide a high standard of care.

All doctors will experience a variation in their level of practice and clinical competence during their career.

Responsible Officers (ROs) must have corporate governance systems in place to allow early detection of triggers so that concerns about a doctor can be addressed appropriately.

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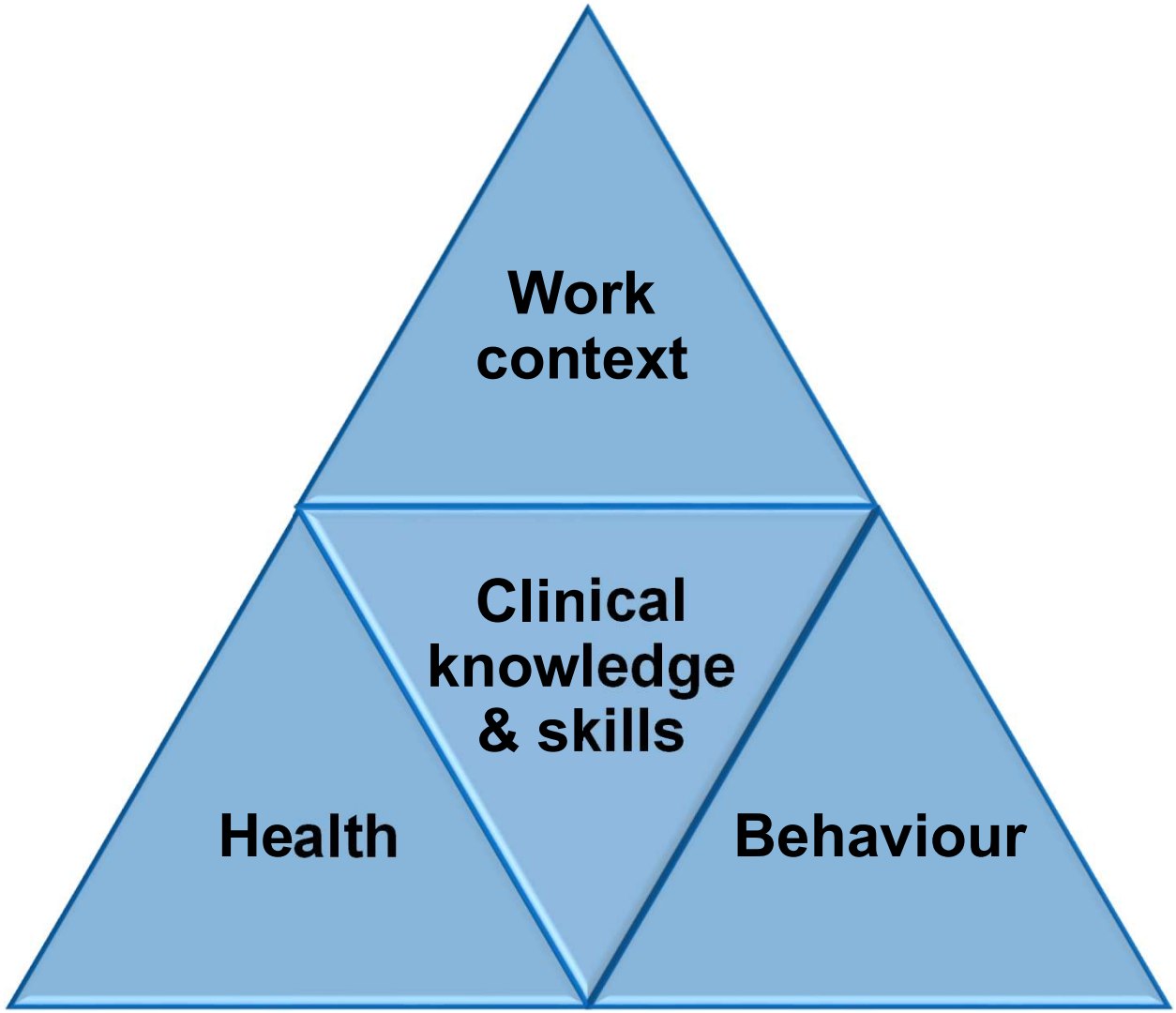
What concerns come forward - the performance triangle



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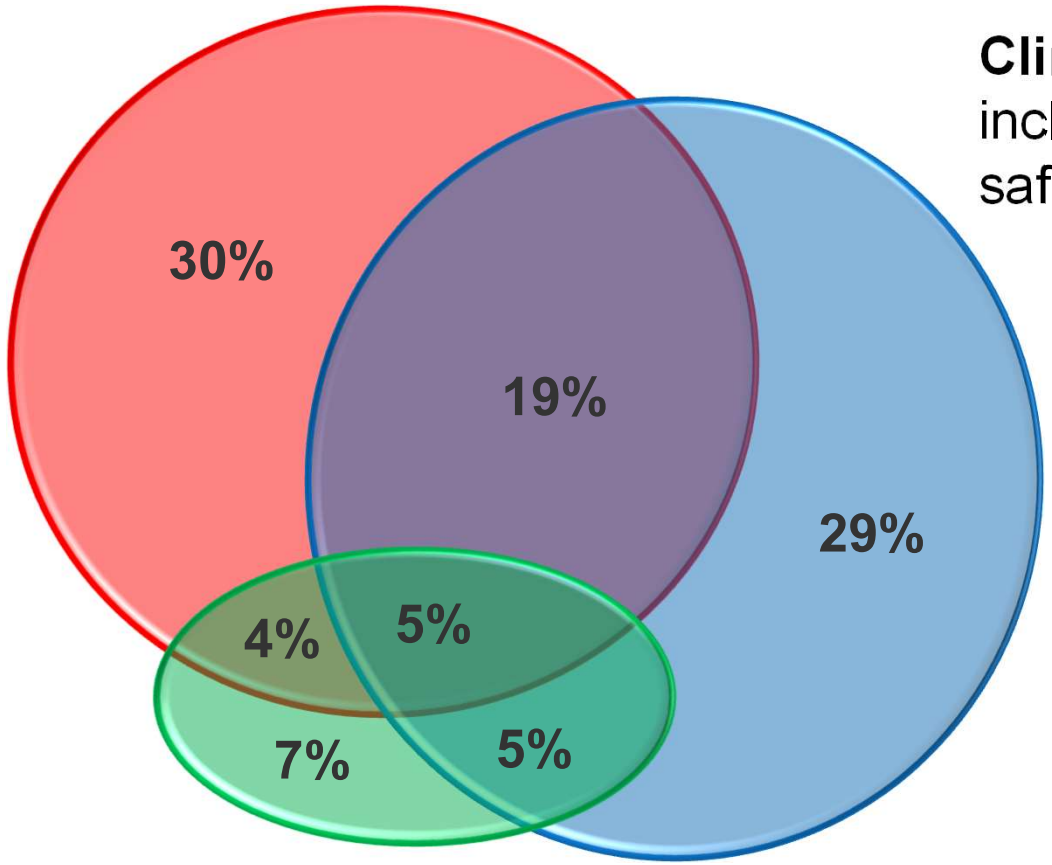
What concerns come forward - three main areas

Behaviour / misconduct – 58%



Clinical concerns including governance/ safety 58%

Health concerns 21%

Sample - 5634 cases referred to NCAS Dec 2007 – Sept 2013

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Procedures and good practice guides for managing concerns (in England)

- **Procedures for NHS Trusts**
  - *Maintaining High Professional Standards in the Modern NHS (*Department of Health, 2005)
- **Procedures for GP Performers Lists**
  - *The National Health Service (Performers Lists) Regulations No 335 (*Department of Health, 2013*)*
  - *NHS England Policy and Procedures 2013*
  - *Primary Medical Performers Lists – Delivering Quality in Primary Care,* (Department of Health, 2004)
- **Good practice guides relevant to all sectors**
  - *Remediation Report – Report of the Steering Group on Remediation* (Steering Group on Remediation, 2011)
  - *Tackling Concerns Locally* (Department of Health, 2009)
  - *Supporting Doctors to Provide Safer Healthcare – Responding to concerns about a doctor's practice* (RST 2013)
  - *Code of practice: Disciplinary and Grievance Procedures* (ACAS 2009)

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MHPS

- *Maintaining High Professional Standards in the Modern NHS* (MHPS) describes the procedures which Trusts have to follow for handling concerns about conduct, performance and health
- Detailed process is described with clear separation of roles and responsibilities
- Includes guidance on when to involve NCAS
- Local procedures must comply

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MHPS

Contents

- Part I: Action when a concern arises
- Part II: Restriction of practice and exclusion
- Part III: Conduct hearings and disciplinary matters
- Part IV: Procedures for dealing with issues of capability
- Part V: Handling concerns about a doctor's health

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Performers List regulations

- Application
- Requirements with which a performer must comply
- Contains disciplinary process including grounds for:
  - Removal (including conditional inclusion)
  - Suspension from the Performers List:
    - Suitability
    - Efficiency.
- Appeals mechanisms

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Summary of principles common to all performance frameworks

- Patients must be protected
- Action should be based on proportionate and defensible concern about risk
- All action must be proportionate and defensible if challenged
- The process must be clearly defined and open to scrutiny
- The process should demonstrate equality and fairness
- All information must be safeguarded
- Support must be provided to all those involved

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Corporate leadership

- Commitment from the highest level of the organisation
- Policy describing the processes approved at board level
- Quality assurance, for example: process reviewed annually, data collected, case investigations (annual board report)
- Openness, transparency and fairness
- Full integration with clinical/corporate governance systems for early identification of concerns

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What is investigation?

- Investigation: identifying facts (what happened and how?) around an event or set of circumstances
- *"It is important to define what I mean by the term 'investigation'… I mean the gathering of information and evidence relating to the circumstances giving rise to a complaint"* – Dame Janet Smith

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When investigation is likely to be appropriate

Investigation will usually be appropriate where case information gathered to date suggests that the doctor may:

- Pose a threat or potential threat to patient safety
- Expose services to financial or other substantial risk
- Undermine the reputation or efficiency of services in some significant way
- Work outside acceptable practice guidelines and standards.

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When an investigation may not be necessary

Where:

- It is reasonably certain that all relevant information is directly to hand
- Informal action is agreed
- Reported concerns do not have a substantial basis e.g:
  - Are refuted by other available evidence
  - Are frivolous, malicious or vexatious.
- The case needs to be referred to the Police or NHS Protect
- Confirmed or suspected ill-health which would make an investigation inappropriate
- Concerns are being investigated by another agency
- Sufficient evidence exists to take action or the practitioner agrees with the relevant facts and there is a local procedure that provides for resolution without formal investigation.

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Preliminary gathering of facts

- An initial review and assessment of facts to enable the CM to make a decision about whether there is further evidence to gather
- Would usually involve the practitioner
- Does not include Terms of Reference

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Protecting and supporting those involved – protect patients from harm

Depending on the level of concern the CM/RO/DMG has to manage risk (including to patient safety) and decide:

- If the doctor should be excluded/suspended
- If the doctor should have practice restricted
- Whether the Regulator should be informed
- Whether others should be informed, for example, police
- Where the doctor becomes unavailable, for example, resigns - referral to the Regulator (consider Healthcare Professional Alert Notices (HPANs).

CM should contact NCAS as soon as possible when above considered.

CM must document decision process.

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Exclusion/restriction/suspension

- The purpose is to manage risk, including protecting patients and staff
- Can also be needed if presence of doctor would impede investigation and gathering of evidence
- It is ostensibly a neutral act, but its impact is unlikely to be
- Inform other organisations where doctor works (RO to RO)
- NCAS should be involved when exclusion considered
- When managing risk, consider alternatives for example restrictions to administrative duties, limited clinical duties
- If practitioner takes a period of sick leave this will supersede exclusion

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Workshop A

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Investigation roles and responsibilities

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Provision of skills
Case managers and case investigators

Case managers and case investigators should be:

- Identified
- Trained (RO regulations state ‘qualified’)
- Developed
- Supported
- Accountable.

- Note: Can be internal or externally commissioned or shared between organisations

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Case investigator

- Appointed by and accountable to the case manager
- Requires appropriate training and experience
- Must not have conflict of interest or appearance of bias
- Works to agreed timescales and agrees variances to this
- Works within the Terms of Reference and refers to case manager for amendments
- Keeps the doctor and the case manager informed of timescales and progress
- Plans the investigation: documents and interviews
- Records the process

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Case investigator (cont)

- Collects and identifies relevant evidence
- Collates primary evidence
- Summarises the evidence
- Reports on the findings of fact
- Writes conclusions
- Is not involved in decision on outcome of case or what happens next
- May be required to give evidence at a panel hearing or employment tribunal
- May be required to represent witnesses at a panel hearing or employment tribunal

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Case manager

- Nominated by decision makers in the organisation
- Ensures investigation is conducted efficiently
- Acts as co-ordinator between the doctor, case investigator and others interviewed. Should not be involved
- Ensures confidentiality, proper documentation of the process and ensures access to any documentation required by the case investigator
- MHPS normally requires this to be the Medical Director/RO for cases involving consultants or clinical directors, though it is often delegated
- Ensures the doctor has appropriate support
- Makes judgments on the basis of the report and other information
- No conflict of interest or appearance of bias
- Is not involved in investigation detail itself
- Determines next steps on receipt of report

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Responsible officer

Among their duties, and in the context of responding to concerns about a doctor's practice, the responsible officer must:

- Identify concerns through corporate governance processes
- Initiate investigations and ensure they are carried out with appropriately qualified investigators separate from the decision-making process
- Initiate further monitoring
- Initiate measures to address concerns which may include re-skilling, retraining, rehabilitation services, mentoring or coaching
- If necessary exclude/suspend a doctor or place restrictions on their practice pending further investigation
- If necessary refer to the GMC and comply with the conditions applied by the regulator and provide appropriate information as required
- Address any systemic issues within the designated body which may have contributed to the concerns identified.

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Provision of skills
Decision Making Group - DMG

- If present, this is a group which helps RO and/or CM with decision making around concerns management including the need for and outcomes of investigations
- Who could be on this group? HR manager, deputy RO, director of education, appraisal and revalidation lead, lay member (non-executive director of the board), doctor representatives
- People with the right skills should be selected for the DMG
- Legal representation or access
- There should be Terms of Reference for the DMG
- DMG's connection with the relevant policies should be clear, for example, remediation, disciplinary policies

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Decision Making Group (DMG) - Decision makers

If present, remit could include:

- Agreeing or writing Terms of Reference
- Preliminary decision on category and level of concern
- Deciding on action required and who else to involve, for example, commissioning of an investigation
- Consideration of practice restriction/suspension/exclusion
- Appointing case manager and case investigator and providing timescales
- Deciding with the RO on further action at conclusion of the investigation.

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Others who may be involved in investigation process

May include:

- Human resource director – advises on process and helps responsible officer and others make the decisions
- Occupational health consultant – gives case manager (not CI) reports on assessments of doctor
- Designated board member (most often non-executive director) - oversees the process, makes sure timelines are met and doctor is kept informed throughout
- Director of education – advises on educational remedial processes
- Dean if trainees are involved
- Appraisal and revalidation lead – advises on revalidation issues with RO
- Clinical experts or other subject matter experts.

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Other stakeholders

May include:

- Colleagues
- Police
- Counter Fraud Service/NHS Protect
- GMC (including Employer Liaison Adviser (ELA))
- Medical defence organisations – may be representing the doctor in investigation and panel hearings
- Professional associations, for example, BMA – may be representing the doctor in investigation and panel hearings
- NCAS – may be contacted by DB and/or doctor for advice
- Patients/families/carers – should be kept informed of processes whilst preserving confidentiality of the doctor and others involved
- Public – there may be a need to speak to the press BUT this needs to be controlled by the organisation with limited responses stating process and protecting those involved.

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Protecting and supporting those involved

Organisations should, as appropriate:

- Protect patients from harm
- Protect people raising concerns
- Keep patients informed
- Support the doctor
- Protect the organisation.

If the case investigator discovers any risk to patient safety at any stage they should discuss with the case manager.

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Supporting the doctor

- Doctor entitled to confidentiality
- Case manager meets with doctor to inform him or her of investigation, the Terms of Reference and timescales
- At any stage the doctor has the right to be accompanied (*Employment Relations Act 1999*). This may be by friend, partner, BMA rep, defence organisation or lawyer
- Processes need to be explained to the doctor
- The need to avoid influencing witnesses and investigation

- Personal support for doctor should be offered, for example via occupational health and/or GP, MDO, BMA, Deanery etc

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Protecting those involved – people raising concerns

- Whistleblowers should be protected under Public Interest Disclosure Act 1998
- Difficult to protect identity of witness in a small team
- Remind doctor and others to avoid action which may be seen to influence investigation
- Witnesses may want to be anonymous (may be necessary, case investigator may have to appear at panel hearing for them and must protect identity of witness in report)
- Offer other support if stressed, for example mentor, occupational health

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Protecting and supporting those involved – keep patients informed

- Patients/families who have made the complaint should receive information on organisation's complaint process
- A 'look back' exercise may require an announcement and the patient may be told there is an investigation
- The proposed information release should be discussed with doctor first and he or she should be protected

Protecting and supporting those involved – dealing with the media

- Media enquiries dealt with by organisational processes and confidentiality of patients and doctor protected
- Any media release should be discussed with doctor first and he or she should be able to contact defence society for advice

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Protecting and supporting those involved – protect the organisation

- Those involved in making the decision to investigate, or in the investigation itself should not be involved in decision making at subsequent disciplinary hearings or appeals
- Case investigators are not involved in decisions to take formal action
- If doctor raises a grievance or complains of bullying and harassment this must be assessed using local policies and overseen by a manager not in the current investigation

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Starting the investigation

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Terms of Reference

Terms of Reference are agreed by the case manager, issued to the case investigator, and should define the:

- Issues to be investigated
- Boundaries of the investigation
- Period under investigation
- Timescale for completion of investigation and submission of a report
- Issues which are not disputed

- The TOR document will reference information which has been provided by the case manager

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Terms of Reference – top tips

- ToR should prevent unfocused or ‘general’ investigation
- ToR should be seen and reviewed by the doctor
- ToR may need to change during an investigation to broaden or narrow the scope

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Planning the investigation

- DMG (if present) appoints CM and CI
- Terms of Reference agreed with CM
- CM may meet doctor (accompanied) to explain process, ToR and who is CI. CM confirms this in writing
- CM and CI meet to confirm process and timescales
- CI supported by CM to have time to complete investigation in four weeks and report completed five days after that (*MHPS)*
- CI plans investigation, based on information about concern already known, for example, who to interview and other evidence needed
- It may be helpful to have help

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Liaising with the CM

It is important to agree the following ground rules before undertaking an investigation (remembering to confirm them in writing):

- Terms of Reference
- The time frame of the investigation
- Dates of attendance at the unit, where you will be working and what will be told to other people working in the unit
- How patient consent is to be treated
- Access to the records (such as passwords for computerised records)
- What to do if there are issues of immediate concern / patient safety issues
- Payment (how much/how long (reviewing evidence and producing the report)/by when/whether a contract is required)
- Indemnity
- That there is no conflict of interest
- Who keeps copies of the report and for how long you will keep a copy.

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Principles of investigation

Investigations should be:

- Fair
- Relevant
- Impartial
- Timely.

Maintain your own personal integrity and professionalism.

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Fairness

- Doctor is entitled to know what is said against them and to comment before a decision is made
- Doctor should be able to expect the decision maker is impartial
- All involved should have training
- All policies relating to this process - for example, organisational disciplinary and remediation policies - should receive an equality impact assessment
- Equality and diversity issues cover:
  - Gender
  - Race
  - Disability
  - Age
  - Religion/belief
  - Sexual orientation and gender reassignment
  - Marriage/civil partnerships.

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Fairness

Be aware that looking at referrals and suspensions NCAS found associations with:

- Age and gender:
  - Male > female
  - Older > younger.
- GP v hospital/community doctors:
  - GPs are about twice as likely to be suspended from work as hospital/community doctors
  - GP suspension episodes last about twice as long as H&C (44 weeks compared with 19 weeks).
- Ethnicity and place of qualification associations:
  - Place of first qualification is a risk factor for progression through FTP irrespective of ethnicity
  - Place of qualification both inside and outside EEA
  - Among those qualified in the UK ethnicity was not a source of additional risk.

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Perceptions/bias case studies

Which of these case studies would you find most difficult to investigate?

A. 65 year old viewing pornography at work.
B. 35 year old reported with sexist attitudes.
C. 30 year old who persistently turns up late, uses his mobile phone at work.
D. Senior consultant who is clinically brilliant but refuses to wash his hands.
E. GP who refuses to refer for termination of pregnancy due to her own religious beliefs.
F. Any more?

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What is conflict of interest?

Conflict of interest

A situation in which someone in a position of trust has competing professional or personal duties, loyalties, obligations or interests that would either make it difficult to fulfil their duties fairly, or would create an appearance of impropriety or a loss of impartiality that could undermine public confidence.

Bias or the appearance of bias

A predisposition, prejudice or preconceived opinion that prevents impartial or objective evaluation or the appearance of such based on reasonable grounds.

Composite definition from several sources

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Conflict of interest or appearance of bias

- Where there is or has been a **personal** relationship (marriage, partnership) between a responsible officer and a doctor or where the two are related in any other way
- Where there is a **financial** or business relationship between a responsible officer and a doctor
- Instances where a **third party** is involved for example an affair or marriage breakdown
- Where there is a known and **long-standing personal animosity (or friendship)** between a responsible officer and a doctor

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Workshop B

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Gathering evidence

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Sources of potential evidence

- Documentary evidence
- Evidence collected from witnesses
- Other forms of evidence

- Negative
- Positive
- Benchmarking

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Index of evidence

- Date evidence obtained (documentary or from interviews)
- Source (department obtained from; Name of the person providing evidence)
- Description of evidence
- Notes (including weighting comments)
- ToR reference
- Further information needed

If removed from investigation:

- Date removed
- Reason for removal.

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Documentary evidence

- Need to ensure reliability – the more sources and items of evidence the greater the reliability
- Ensure you include sources of information with the potential to support or refute the allegations
- Ensure all aspects of the Terms of Reference are covered
- Check your evidence by asking these questions at the start and end of the review:
  - Does the evidence cover all the Terms of Reference?
  - Does the evidence address the matters of concern?
  - Does the selection of the evidence ensure a lack of bias?
  - Does the evidence exclude items which are not relevant?

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Documentary evidence

- Be familiar with how the documentary evidence is stored, its format and how it should be accessed (if not provided directly by the CM)
- Agree somewhere private for you to work if you need to be within the organisation
- Know how to identify the doctor's contribution, for example, within a MDT or clinical audit data
- Be clear about how to respond if immediate action is required (part of the agreement process with the CM)
- Ensure documentary evidence reviewed as part of the investigation is passed back to the CM and the CI does not retain – agree how this will happen at the same time as the ToR

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Patient consent

- How you will handle gaining patient consent is the decision of the CM and should be agreed at the same time as the ToR
- Ensure that all patient information in the report is treated with strict confidence

Evidence/comments from the doctor

- Doctor should know what documentary evidence is being reviewed (ToR)
- Doctor should be encouraged to submit **relevant** additional evidence and comments in line with the ToR

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National and peer standards and guidance

- Consider the good practice guidance relevant to the doctor you are reviewing:
  - National (NICE, Royal College, Faculty etc)
  - Local (need to be gained from CM)
  - BNF
  - *Good Medical Practice* and relevant specialty guidance, for example, *Good Medical Practice for General Practitioners* or *Good Psychiatric Practice.*
- Ensure you have access to the good practice guidance relevant to the doctor during the investigation

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The robustness of the evidence – factors to consider

- Format of evidence
- Timeliness of evidence (time collected and time since incident)
- Patterns of evidence
- Directness of evidence
- Credibility of evidence
- Consistency of evidence
- Technical competency of evidence giver
- Likelihood of evidence to be challenged successfully.

- Standard of proof is the civil standard – the balance of probabilities (more probable than not)

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Workshop C

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Gathering evidence from interviews

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Collecting evidence from interviews

- To obtain a detailed and accurate account in a way which is fair and is acceptable for the investigation report

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Inviting witnesses to interviews

- Consider timing of interview (with demands of the investigation)
- Provide sufficient notice to attend
- Always suggest interviewee can bring a supporter
- Give the interviewee notice of the areas you want to talk about (linked to TOR)
- State the purpose of the interview
- Who will be present
- Location of interview
- How long likely to take
- General structure of the interview (including confidentiality) and any ground rules
- The practitioner is treated the same as all witnesses in the investigation i.e. afforded the same rights

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Inviting witnesses to interviews

- Doctor should be written to explaining:
  - Investigation process, what is being investigated, confidentiality
  - Invitation to be interviewed with reasonable notice to meet at a mutually convenient time and venue
  - Their right to be accompanied
  - Copy of Terms of Reference, list of witnesses and disclosure file.

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Structured approaches to interviews

- Five main phases:
  - Plan
  - Establishing rapport
  - Initiating and supporting a free narrative account
  - Questioning
  - Closure.
- Start with a free narrative phase
- Gradually become more and more specific in the nature of the questioning to elicit further detail

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Planning

- Provide guidance to the interviewee about what might be expected
- Plan key detailed questions which cover all areas of the ToR
- Ensure the venue is suitable
- Plan arrangements for taking notes and how interview transcripts and statements are dealt with *(more later….)*

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Establishing rapport

- Welcome interviewee
- Confirm who is present
- Summarise the reason for the interview in a neutral tone
- Consider need to ask neutral questions not related to the event
- Explain what is expected of the interviewee
- Provide outline of interview (include confidentiality)
- Explain if the interviewer asks a question they do not understand or that they do not know the answer to, they should say so
- Explain if the interviewer misunderstands what they have said or incorrectly summarises what has been said, interviewee should point this out
- Encourage sharing of detail during the interview

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Free narrative account

- Ask for a free narrative account of the incident or event(s)
- Try not to interrupt the interviewee too early
- Encourage interviewee to provide an account in their own words by non-specific prompts:
  - Did anything else happen?
  - Is there more you can tell me?
  - Can you put it another way to help me understand it better?
  - How would you describe...
  - Tell...
  - Explain...

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Free narrative account

- Display active listening, letting the interviewee know what they have communicated has been received
- Reflect back to the interviewee what they have just said, for example "*I didn't like it when he said that*" (interviewee) then "*You didn't like it*" (interviewer)

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Questioning

- Ask appropriate questions which assist further recall or explain reasoning/rationale
- Explain you will now be asking some questions, based on what has already been communicated, in order to expand upon and clarify what the interviewee has said
- Divide areas of questioning into manageable topics:
  - Introduce an open-ended invitation to focus on and recall the subject matter of the topic-area in detail
  - Probe systematically using open-ended ('tell me', 'describe', 'explain' – enable interviewee to control the flow of information) and specific-closed questions ('why', 'what', 'where', 'when', 'who').
- Avoid topic hopping

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Questioning

- Move on to deal with any case-specific information identified as important when planning the interview:
  - Organise case-specific information into topic-areas.
- Do not introduce case-specific questions until general questioning has been undertaken to avoid confusing the recollection of the incident

Closing the interview

- Summarise what the interviewee has said, using the words and phrases used by the witness as far as possible
- Tell interviewee to correct you if you have missed anything out or if information is incorrect and to add information if they remember more details
- Thank interviewee for attending, their time and effort
- Remain neutral – do not congratulate or convey disappointment in the interviewee
- Explain next steps but do not make false promises
- Ask interviewee if they have any questions
- Provide contact details if interviewee wishes to contact you with further information along with sources of support

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Top tips for interview

- Keep the questions short, simple, neutral, plain language, only one question at a time
- Avoid jargon and clinical language wherever possible
- Try to keep the questions open – so the answer isn't just ‘yes’ or ‘no’
- Signpost the particular patient and/or incident you wish to question
- Keep the language neutral
- Ensure your questions cover all issues in the ToR
- Go at the pace of the interviewee
- Vary intensity for vulnerable interviewees
- Convey respect, sympathy and professionalism

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Top tips for interview – conducting the interview

- If you need to probe, ensure you remain within the scope of the ToR
- If the interviewee doesn't understand, then repeat or rephrase the question as closely as you can to the original wording
- Don't give feedback and be aware of non-verbal signals
- Tell interviewee at start of interview you are impartial and won't be giving them a reaction

- Record the responses in full
- After the interview, add to index of evidence and link to ToR

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Workshop D

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Homework (approx 1 hour)

- Prepare for the interview skills session:
  - As an interviewee (Dr Maroon, Staff Nurse Red OR Dr Purple)
  - As the case investigator.

IN GROUPS OF 3

	DELEGATE 1	DELEGATE 2	DELEGATE 3
Scenario 1	Dr Maroon	Investigator	Observer
Scenario 2	Observer	Staff Nurse Red	Investigator
Scenario 3	Investigator	Observer	Dr Purple

- Each scenario lasts 30mins: 20min interview plus 10mins reflection/feedback

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Case investigator training

Secondary Care

DAY 2

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Review of learning points from Day 1

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Remember

Purpose of the investigation is to identify relevant evidence in an objective and impartial way and produce a report

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Workshop E – Role plays

	DELEGATE 1	DELEGATE 2	DELEGATE 3
Scenario 1	Dr Maroon	Investigator	Observer
Scenario 2	Observer	Staff Nurse Red	Investigator
Scenario 3	Investigator	Observer	Dr Purple

- Observer forms (pink paper): ***Use this form to record observations about the case investigator role:***
  - The CI has prepared effectively for the interview
  - The CI establishes rapport
  - The CI initiates and supports a free narrative account
  - The CI questions effectively
  - The CI closes the interview effectively.
- Self-reflection forms (blue paper): ***Use this form to reflect on your own performance as a case investigator from the role plays***

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Workshop E

Learning points from interviewing role plays

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Documentation and report writing

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Documentation and witness statements

- Interviews should be recorded in writing and a note taker may be provided
- Interviews may be recorded (use with care) but the witnesses must be told what will happen to the recorded material. Usually used to transcribe the interview

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Documentation and witness statements

- Witness statements are prepared after the interview:
  - Format:
    - Numbered paragraphs
    - Statement of truth, for example: "*This statement is true to the best of my knowledge. I understand that my signed statement may be used in the event of a disciplinary hearing. I understand that I may be required to attend any hearing as a witness.*"
    - Signed and dated
  - Introductory paragraph:
    - Name and job role
    - Why statement being given (reference local policy)
  - Use "I" and the interviewee's exact words and phrases wherever possible
  - Cross reference to documents and attach them as exhibits
  - Witness statements contain evidence relevant to ToR – may be narrower than transcript of evidence
  - Be consistent
- Transcript of interview is separate from statements
- Supplementary statements may be necessary e.g. if TOR change

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Weighting evidence

- Weighting evidence means making judgements about it. A case investigator needs this skill which must be applied consistently and impartially in order to come to findings
- Weighting the evidence means understanding the balance of probabilities and taking as true anything which appears more probable than improbable
- The more serious the concerns about the doctor, the greater the need for the investigators to satisfy themselves that the evidence supports their findings of fact

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Considering the evidence

- Avoid starting the investigation with preconceived ideas about the doctor
- State both satisfactory and unsatisfactory practice
- Corroborate individual examples of evidence with other individual examples
- Check your analysis with the Terms of Reference to ensure you are answering the questions the CM wished to address

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Report writing - discussion

- Have you written a report?
- What were the challenges?

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Report writing

- The report should be self contained
- The report should reference witnesses
- All evidence should be appended to report wherever possible
- The report should not allow individual patients or members of the public to be identified by name

- The report and all other evidence and records should be kept secure and handled in accordance local and national guidance, *Data Protection Act 1998 and the NHS Code of Practice on Confidentiality (Department of Health* 2003)
- There are no nationally set rules for retention periods but this needs to be determined by organisational policies (agree at same time as ToR)

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Report writing

- Cover page
- Contents
- Introduction
- Background
- The investigation
- Methods
- Findings of fact
- Conclusion
- Appendices
- Name and biography of case investigator(s) (*date and signed*)

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Report writing - structure

Introduction

- Give a brief introduction to the investigation, its relationship with any investigations by other bodies and the procedures and regulations governing the present investigation
- You should include references to organisational polices being followed

Background

- Include relevant career information about doctor, work and role within the organisation
- Reasons for the investigation in more detail

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Report writing - structure

The investigation

- Specific allegations for investigation
- Describe the team carrying out the investigation (with names, job titles and qualifications)
- The terms of reference as set initially plus any subsequent amendments

Methods

- This should include for example:
  - Review of documentary evidence, including patient records
  - Interviews with specified patients and/or colleagues.
- Details of expert witnesses (including qualifications and biography)
- State what has happened in the investigation process and explain any delays

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Report writing - structure

Findings of fact

- Set out in detail all relevant evidence
- Under each ToR set out the chronology of the incident (where possible) and link to exact items of fact from the supporting evidence
- Where the fact-finding includes the opinion of case investigators or other experts on a standard of care, the required standards of care should be quoted (and included as an Appendix)
- Draw attention to any conflicts of evidence and whether it was necessary to resolve the conflicts in order to complete the investigation. Rationale should be given for preferring one version of events to another

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Report writing - structure

Conclusions

- Summarise evidence in respect of each of the points listed in the Terms of Reference
- Cross-referenced to the findings of fact

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Appendices include relevant evidence

All the relevant evidence should form the appendices:

- Terms of reference
- Witness statements
- Standards used
- Physical evidence may include:
  - *Medical records*
  - *Letters of complaint*
  - *Clinical incidents*
  - *Computer records e.g. e-mail, social networks*
  - *CCTV and telecommunications data.*

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Appendices: Examples of standards

- Refer to appropriate national standards whenever possible e.g.
  - *College guidance*
  - *NICE guidance*
  - *GMC guidance*
  - *NHS England*
  - *Department of Health guidance.*
- National policy and procedures
- Local policies and clinical pathways in organisations, for example, if the incident is about poor note keeping look for local policy as well as national

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Errors and types of errors

- Check your own work thoroughly, considering:
  - Has the evidence been transcribed correctly?
  - Is the evidence set out clearly in appropriate language?
  - Is the evidence coherent?
  - Is it clear why the allegations have been accepted or dismissed?
  - Is the report internally consistent?
  - Are all the facts described and accurate?
  - Are any assumptions or inferences substantiated?
  - Is the report comprehensive covering all relevant evidence?

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Report writing – top tips

- Be objective and give rationale for any decisions
- Keep the tone of the report neutral
- Report areas of both satisfactory and poor practice/conduct
- Do not introduce personal bias
- Be succinct but comprehensive
- Write in Plain English and avoid jargon
- Needs to be evidence-based
- Needs to be internally coherent.
- Needs to be defensible:
  - Against potential challenge from the doctor
  - Against potential challenge from the CM

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Workshop F

Read additional information (witness statements and site visit)

Draft findings of fact and conclusion sections for ToR1

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Supporting the doctor

- The CM is responsible for ensuring the doctor is supported throughout the investigation (including through BMA and Defence Organisations, OH, Counselling etc)

- CIs should be aware of support which is available for the doctor and:
  - Remain unbiased and objective
  - Ensure principles of investigation are maintained
  - Follow principle that doctor should know everything that is said about them
  - Follow principle that doctor should know the evidence upon which the investigation conclusions are based.

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What happens next?

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Consideration of report

- Circulation is limited to the case manager and, where present, members of the DMG
- Doctor does not receive drafts of the report in case they interfere with the process
- Doctor should see final draft of the report and be invited to correct any errors of fact (NB Check local policy)
- Consider confidentiality of sharing
- The CM with the DMG makes the decision for further action
- Once the decision is made the case manager should meet the doctor to explain the outcome

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Discussing the case with the CM

Provide an overview of the investigation:

- ToR
- Investigation process, including methods, sources of evidence
- Findings of fact against each of the ToR
- Any outstanding areas of doubt.

Outcomes

CM will decide:

- If no further action is needed
- If there is a case of misconduct that should go to panel
- If there are capability concerns (NCAS to be involved and/or panel)
- Restrictions in practice should be in place or if in place should be reviewed
- If there are serious concerns that should be reported to Regulator
- If there are health concerns
- If the matter should be progressed informally
- Organisational matters that need to be addressed, for example, policies.

NCAS can be consulted for advice at any stage.

Consider organisational learning.

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Responding to legal challenges – the role of the case investigator

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Process of disciplinary panel hearing

- Disciplinary panels follow process (MHPS), members are specified and must not have been involved in investigation
- Case manager usually presents the case of the employer
- Doctor or representative can present their case
- Case investigator may be called as a witness and will be if a witness wants to remain anonymous
- Two stage process:
  - Findings of fact
  - Sanction
- Possible outcomes:
  - No action
  - Written warning (usually with conditions)
  - Final written warning (usually with conditions)
  - Termination of contract.

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Process of appeal (MHPS)

- Doctor can appeal decision within 25 days and must state the grounds on which they are appealing
- Appeal panel consists of members not involved in disciplinary panel
- Hearing takes place within 25 days and decision in five days
- Panel decides if procedures have been followed in arriving at decision and:
  - There was a fair and thorough investigation
  - Sufficient evidence was presented to make decision
  - The decision was fair and reasonable, based on evidence.

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Process of appeal (MHPS)

- Process is similar to disciplinary panel with case manager presenting employer's case
- The appeals panel can call witnesses of its own volition
- It can hear new evidence submitted by the doctor
- It should not rehear the entire case
- The appeal panel can decide:
  - The disciplinary panel decision was correct
  - To vary the disciplinary panel decision
  - Order a rehearing of the case (if processes were not followed correctly).
- The decision of the appeals panel is final

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Employment Tribunals

- A doctor who is dismissed can take the case to an employment tribunal where the reasonableness of the employer's actions will be tested
- Employment tribunals examine organisational processes in coming to their decision
- The case investigator may be called to give evidence on process followed
- The ACAS code of conduct is taken into account and if the tribunal feels the employer has not taken the code into account they can adjust the award by 25%

ACAS code of conduct

When concerns are dealt with formally:

- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions
- Employers and employees should act consistently
- Employers should carry out any necessary investigations, to establish the facts of the case
- Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made
- Employers should allow employees to be accompanied at any formal disciplinary or grievance meeting
- Employers should allow an employee to appeal against any formal decision made.

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Workshop G

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Why do investigations go wrong?

- Inconsistency, variation in quality, lack of transparency
- Variability of capacity/ability
- Delegation to staff who are too junior
- NCAS under-used, delays in seeking advice
- Wide differences in timescales
- Not always sufficiently objective, conclusions not always sound
- PCOs refer to regulator too readily instead of handling locally
- Complainants not kept in touch with what is going on
- Employers refer to regulator if contract of employment ends when in mid-investigation
- When registrant is line managed by a non-registrant the professional significance of concerns can be misunderstood

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Expertise/support to the investigative process

- Remember your role is as CI – not as a doctor or a specialist
- Where clinical judgement is required, must involve a clinical adviser
- Clinical advice may be needed for area of specialty, for example internal senior clinician or Royal Colleges may be able to help
- Advice may be needed if you do not have the knowledge in certain areas, for example, computer skills to retrieve data
- When you believe the case needs escalation, get advice from the CM (who could seek advice from NCAS or GMC ELA)
- Seek legal advice, for example, if unsure how to treat a piece of evidence

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What support is available for investigators?

- Peer support and networking:
  Organisations should consider how case investigators can get support from each other by having meetings of trained investigators, (case investigator support group, CISG, mentor).
- Quality assurance:
  Needs to be considered. Feedback from RO (or senior manager) and case manager after an investigation, anonymous feedback from witnesses.
- Maintaining and developing skills:
  Case investigators should keep up to date by incorporating feedback/reflections/courses in their appraisal and PDP.
- NCAS:
  NCAS can advise CI at any stage.

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Learning/feedback

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Please respond to email sent this afternoon

- Workshop evaluation

  Please provide your feedback on the content of this workshop online at:

  http://www.ncas.nhs.uk/events/workshops/case-investigator-training-workshop/evaluation/

- NCAS and NHS England useful reading, templates and examples for case investigators and case managers:

  http://www.england.nhs.uk/revalidation/ro/resp-con/cit/reading/

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Contact NCAS

England (Scotland and Wales)

- Tel: 020 7811 2600 Email: casework@ncas.nhs.uk
- Address: NCAS, NHS Litigation Authority 2nd Floor, 151 Buckingham Palace Road London SW1W 9SZ

Northern Ireland

- Tel: 028 90 690 791 Email: northernireland.team@ncas.nhs.uk
- Address: NCAS Northern Ireland Office, HSC Leadership Centre, The Beeches, 12 Hampton Manor Drive, Belfast, Co Antrim, BT7 3EN

NCAS Adviser Team: http://www.ncas.nhs.uk/about-ncas/ncas-within-nhsla/our-advisers/

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