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

Mr. John Wilkinson
Non-Executive Director
Southern Health and Social Care Trust
Craigavon Area Hospital,
68 Lurgan Road, Portadown,
BT63 5QQ

29 April 2022

Dear Sir,

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 the 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 the USI
Mobile: Personal Information redacted by the USI

Issued by 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 38 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:

Mr. John Wilkinson
Non-Executive Director
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**.

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: 

Christine Smith QC

Chair of Urology Services Inquiry

Urology Services Inquiry

SCHEDULE
[No 38 of 2022]

General

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

2. Please also provide any and all documents within your custody or under your control relating to the terms of reference of the *Urology Services Inquiry* ("USI"), except where those documents have been previously provided to the USI by the Southern Health and Social Care Trust ('the Trust'). Please also 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.

3. Unless you have specifically addressed the issues in your reply to Question 1 above, please answer the remaining questions in this Notice. If you rely on your answer to Question 1 in answering any of these questions, please specify precisely which paragraphs of your narrative you rely on. Alternatively, you may incorporate the answers to the remaining questions into your narrative and simply refer us to the relevant paragraphs. The key is to address all questions posed. If there are questions that you do not know the answer to, or where someone else is better placed to answer, please explain and provide the name and role of that other person. 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').*

Urology Services Inquiry

Experience

4. Outline your relevant experience to the Inquiry addressing principally your employment history and the dates during which you served as a non-executive board member of the SHSCT.

5. Outline any prior experience or knowledge you had of the *MHPS framework* & the *Trust Guidelines* before being appointed as the designated Board member for an investigation into concerns raised in relation to Mr Aidan O'Brien (Consultant Urologist).

Training

6. Outline and provide documentation of any training or guidance you received with regard to the role of designated Board member with regard to:

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

Role of Designated Board Member

7. With specific regard to Section I paragraph 8 of MHPS and paragraph 2.10 of the Trust Guidelines, what purpose did you understand the designated Board member was to fulfill in the context of an investigation into concerns raised, at the point when you were appointed to the role?

8. Outline how you understood the role of designated Board member was to relate to and engage with those of following individuals under the MHPS Framework and the Trust Guidelines:

    I. Clinical Manager;
    II. Case Manager;
    III. Case Investigator;

IV. Chief Executive;
V. Medical Director;
VI. The clinician who is the subject of the investigation; and
VII. Any other relevant person under the MHPS framework and the Trust Guidelines.

9. What tools or resources were available to you as the designated Board member to enable you to discharge your role and responsibility?

10. With regard to Section I paragraph 29 of the MHPS framework, what processes or procedures existed within the Trust to provide a clear audit route for initiating and tracking the progress of investigations, their costs and resulting actions? Who was responsible for ensuring such processes were in place and what role, if any, did you have as the designated Board member in relation to these matters?

Investigation into 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. With regard to the Return to Work Plan / Monitoring Arrangements dated 9th February 2017, see copy attached, please outline your role in monitoring Mr O'Brien's compliance with the Return to Work Plan and provide copies of all documentation showing the discharge of that role with regard to each of the four concerns identified, namely:

I. Un-triaged referrals to Mr Aidan O'Brien;

II. Patient notes tracked out to Mr Aidan O'Brien;

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

IV. The scheduling of private patients by Mr Aidan O'Brien

13. What is your understanding of the period of time during which this Return to Work Plan/Monitoring Arrangements remained in operation, and which person(s) were responsible for overseeing its operation in ay respect?

14. With specific reference to each of the concerns listed at (12) (i)-(iv) above, indicate if any divergences from the Return to Work Plan were identified and, if so, what action you took to address and/or escalate same.

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 the designated Board member, 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 investigator's 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. If you consider that there was delay at any point in the process, indicate what steps, if any, you took to address that delay. Outline and provide all documentation relating to any interaction you had with any of the following individuals with regard to any delays relating to matters (I) – (IV) above:

A. Case Investigator;
B. Case Manager;
C. the HR Case Manager;
D. Mr Aidan O'Brien; and
E. Any other relevant person under the MHPS framework and the Trust Guidelines.

16. Outline what representations, if any, you received from Mr O'Brien with regard to his immediate exclusion and the investigation and what steps you took to consider, investigate and address same. If you engaged with others individuals in relation to such issues, set out the nature of that engagement, and how these issues were addressed.

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:

II. 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;
III. That Mr O'Brien's failing be put to a conduct panel hearing; and
IV. 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 16(I) was not implemented, outline what steps or processes were put in place to monitor Mr O'Brien's practice? Did these apply to all aspects of his practice and, if not, why not?

18. Following the Case Manager's determination, what role, if any, did you continue to play with regard to the issues which had been considered during the MHPS investigation and the outcomes with regard to Mr O'Brien?

Implementation and Effectiveness of MHPS

19. Having regard to your experience as designated Board member 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?

20. Consider and outline the extent to which you feel the designated Board member can effectively discharge their 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.

21. Having had the opportunity to reflect, outline whether in your view the MHPS process 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.

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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.

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UROLOGY SERVICES INQUIRY

USI Ref: Notice 38 of 2022

Date of Notice: 29th April 2022

An addendum to this statement was received by the Inquiry on 28 March 2023 and can be found at WIT-91941 to WIT-91942. Annotated by the Urology Services Inquiry.

Witness Statement of: Mr John Wilkinson

I, William John Wilkinson, will say as follows:-

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

1. I was a school principal for 20 years in a post primary school. My qualifications are: M.Sc.in Ed. Man; B.A.; Diploma in Advanced Secondary Education; and PGCE with Commendation. I was Chair of the Classroom 2000 (C2K) curriculum committee and the C2K Board. From my retirement in 2015, I have continued to act as an educational consultant, performing work for various educational bodies. Prior to joining the Southern Health and Social Care Trust ('the Trust') I was a member of the Northern Ireland Council for the Curriculum, Examination and Assessment (NICCEA). During this time, I chaired the Curriculum Committee and the Audit, Risk and Assurance Committee. This was for a period of about 8-10 years. In addition, I was the post primary schools representative on the Southern Education and Library Board for 8 years. On 15th February 2016 I was appointed as a Non-Executive Director to the Board of the Trust. I undertook induction training between 22nd September and 1st December 2016. I received training in Maintaining High Professional Standards on 22nd September 2016.

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2. On 19th January 2017 I was appointed as the Designated Non-Executive Director ('NED') by the Chair of SHSCT, Mrs. R. Brownlee ('RB'). The primary purpose of my role was to liaise with Mr Aidan O'Brien ('AOB') and ensure the momentum of the Maintaining High Professional Standards ('MHPS') process in respect of AOB was maintained by ensuring timely responses to requests made by AOB. I met with Vivienne Toal ('VT'), Director of Human Resources and Organisational Development, to review the role of Designated NED.

3. On 24th January 2017 a meeting (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170206 - E - S Hynds to J Wilkinson.) was held with AOB, Mr Weir ('CW') and Mrs Siobhan Hynds ('SH'). CW was the Case Investigator and SH is the Head of Employee Relations who was assisting Mr Weir with the investigation.

4. On 25th January 2017 I sent a letter to AOB introducing myself as the Designated NED (see appendix) and I made him aware that I was informed about his immediate exclusion which became effective on 30th December 2016. At this time the Case Manager was Dr A Khan ('AK') and the Case Investigator was CW. The relevant documents can be located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170125 - Doc - J Wilkinson to AOB re MHPS

5. On 25th January 2017 I received an email from VT outlining the next steps in the process I received another email from VT providing me with an update prior to the Trust Board meeting (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170125 E V Toal to J Wilkinson re Confidential Mr AOB and located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170126 - E - V Toal to J Wilkinson re MHPS Case).

6. On 26th January 2017 I met with RB and we discussed the case. RB expressed her opinion about the case. She explained that she had known AOB for a number of years and that he had been her consultant; that he was an excellent surgeon and that he had helped many people; that he had built up the urology department

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

7. On 2nd February 2017 I telephoned AOB and arranged a date to meet.

8. On 6th February 2017 SH shared notes (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170206 - E - S Hynds to J Wilkinson.) with me for my information which were from a meeting with AOB regarding his exclusion. Having considered these notes it was apparent that AOB and the Trust that a significant interaction between the Trust and AOB had been ongoing. A letter sent by email to AOB was also copied to me indicating that the panel had agreed that there was a formal case to answer and that a decision was taken to lift the immediate exclusion. A meeting between Dr Khan and AOB to discuss an action plan to enable him to return to work was planned for 9th February 2017. An Occupational Health appointment was also arranged for that day.

9. On 7th February 2017 I attended a meeting with AOB in his office at Craigavon Area Hospital, Craigavon. His son [redacted] was also in attendance. AOB provided us with his view of the situation. He was annoyed at the way in which he had been 'treated'. He cited various concerns, including, appraisal, revalidation, workload, workload imbalance, why immediate exclusion had been exercised without him being given the opportunity to address the issues, SHSCT not following their own guidelines, and the lack of response to concerns he had expressed regarding process and timescales not being adhered to. AOB speculated that if he was to be found wanting in his practice then he would bring a degree of embarrassment to the SHSCT. I remember him citing a few names but I do not have a record of these. In my opinion this was a difficult meeting. There was reference made to a number of matters which I was unfamiliar with including positions and internal procedures within the Trust. I felt that I did not have a full understanding of the situation. I assured AOB that Trust was

endeavouring to expedite matters as quickly as possible and that I would raise his views with the Trust and seek answers for him as quickly as possible. At the end of the meeting I stated that I would provide him with as much help as I could. Before leaving AOB gave me a list of questions that he wished the Trust to answer. (See appendix for notes of meeting and an email to AOB dated 13th February 2017 which outlined the steps I would take following out meeting, located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170213 - Ltr - J Wilkinson to AOB, NED to Mr A O'B and 20170214 - E - AOB to J Wilkinson).

10. On 8th February 2017 I met with VT and discussed the concerns expressed by AOB and which were set out in his letter. I felt that I needed to expedite these matters as quickly as possible, however, it was clear that a quick turn-around would not be possible since there were many respondents to contact. I did make the point that timescales had lapsed and that AOB was very concerned about this.

11. On 9th February 2017 AK met with AOB and agreed a return to work pending an Occupational Health report on foot of a report I made to HR advising it that AOB was of the view that SHSCT had not followed its own procedures in respect of his suspension. Appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170215 - E -V Toal to J Wilkinson

12. On 13th February 2017 VT emailed a letter to AOB outlining the progress that had been made thus far (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170214 - E - AOB to J Wilkinson and 20170213 - Ltr - J Wilkinson to AOB, NED to Mr A O'B)

13. On 15th February 2017, as a result of receipt of an email from SH explaining the delay in progress, I contacted VT highlighting the need for the Trust to expedite matters. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170215 - E - J Wilkinson to V Toal). I arranged a meeting with VT to discuss the Trust's progress. At this meeting, which I believe to have been on 23rd February 2017, VT explained why the process was slow, including the number of questions to be addressed and

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

14. On 22nd February 2017 AOB forwarded an email and attached a letter (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170222 - E - AOB to J Wilkinson) he had sent to Dr. Wright who was the Medical Director at the time. He had requested that amendments be made to the notes from a meeting which had taken place on 30th December 2016. I was concerned that I would not be able to deal with this matter since I was not appointed at the time and my understanding of the issues would be limited. I took this matter up with VT who subsequently contacted June Turkington ('JT') at the Department of Legal Services ('DLS'). JT provided legal advice. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170222 - E - V Toal to J Wilkinson and Dr Wright). SH sent me a copy of the letter to be issued to AOB from AK (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170224 - E -S Hynds to J Wilkinson).

15. I was aware that VT was to request/had requested a meeting with AOB and I was satisfied that the momentum of the case would be maintained, matters would be addressed and the reasons for the delays outlined.

16. On 23rd February 2017 I was made aware that a new Case Investigator had been appointed, namely, Dr Neta Chada ('NC'). I understand that there had been a conflict of interest with the previous Case Investigator, CW. AOB was content with this change.

17. On 23rd February 2017 I met with VT and Dr Wright to discuss the case. I did not take a note at this meeting.

18. On 24th February 2017 SH sent me a copy of the letter to be issued to AOB from AK (See appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170224 - E -S Hynds to J Wilkinson).

19. On 2nd March 2017 RB telephoned me and expressed her concerns about case progression and timescales. She stated that AOB was a highly skilled surgeon who had built up the urology department and was well respected by service

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

20. On 2nd March 2017 I telephoned and texted AOB seeking a meeting to discuss progress and any other concerns that he might have had. I received no response.

21. On 6th March 2017 AOB made contact with myself and raised the following concerns:-

    a. He stated he was disappointed with AK's letter and that he felt that the reply should have come from myself or the Case Manager.
    b. He further explained that he believed that the needs of the process was taking over rather than the needs of the case itself and in particular cited important points of clarity. AOB was concerned about the needs of his patients and he believed that he was taking every possible measure to expedite their needs even though it was causing him significant additional work.
    c. He believed that the process had already come to an opinion.
    d. He stated that the Trust Guidelines re the handling of MHPS were being overlooked and that the Serious Adverse Incident sequence had not been clarified.
    e. He expressed concern that other measures had not been explored prior to him being excluded.
    f. He also believed that the process that he was undergoing was being driven by Human Resources and not clinicians.

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

    i. Enquire about case progress;
    ii. Request that the Terms of Reference for the Inquiry be shared if they were agreed and available;
    iii. Clarify whether the scoping exercise was complete and if the Inquiry had begun (and, if so, on which date it began). Appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170302 - E - AOB to J Wilkinson

22. On 7th March 2017 I emailed AOB to update him that I had met with VT and put forward his queries and concerns. (Appendix- located in S21 No 38 of 2022, 201706307 Contemporaneous Notes)

23. Following my meeting with AOB, I had concerns that he misunderstood what my role of NED entailed. My role under the MHPS framework and Trust Guidelines of 2010 was to ensure that the momentum of the case was maintained, to consider representations made by AOB, and to report the MHPS findings to the Board in due course. I did not feel that I was equipped to carry out the level of inquiry requested by AOB. Further I did not perceive myself to be an advocate, a representative, supporter, mediator or inquirer I advised AOB that if he needed aspects of the Inquiry clarified that he should address his queries and concerns to the Case Investigator or Case Manager directly. I advised him that he should contact me if he felt that matters were moving slowly or if he felt that he was being obstructed in any way.

24. On 18th March 2017 I received a telephone call from AOB. I have no notes of this call. I suspect it was to set up a meeting on the 21st March 2017.

25. On 21st March 2017 a meeting took place in AOB's office. His son [redacted] was in attendance. The Appendix summarises the main topics of discussion.

26. On 30th March 2017, with regards to correspondence sent to me from AOB on 6th March 2017, Dr Wright (Medical Director) responded to the concerns outlined in the paper forwarded to me from AOB. (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170331 - E - H Mallagh-Cassells to J Wilkinson).

27. From this point on, I have limited records of any direct contact made by AOB to myself regarding the case. (except through copied emails). I continued to track progress with SH and with VT. From time to time I received emails from AK which assured me that the case was progressing. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170413 - E - J Wilkinson to A Khan and 20170515 - E - A Khan to J Wilkinson). I felt uneasy that AOB had not contacted me and I

sought (and received) advice from DLS as to whether I should make contact with AOB (albeit that I had previously intimated to AOB that he was to contact me if and when he required my input). I made contact with AOB but I did not receive a response from him. I was not surprised at this as RB informed me that he was not satisfied with the level of support from Human Resources and myself.

28. From 13th April until 27th June 2017 - despite receiving limited direct contact from AOB - I continued to keep in touch with the investigation. The attached Appendices (02.05.2027 and 15.05.2017 located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170413 - E - J Wilkinson to A Khan and 20170515 - E - A Khan to J Wilkinson) are examples of my requests to expedite matters and for the Case Manager to keep AOB informed about case progression. The appendices also demonstrate AK's intention to update AOB.

29. On 31st July 2017 AOB emailed AK with his concerns in relation to the investigation. I was copied into the email (see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170731 - E - AOB to A Khan).

30. On 26th September 2017 I met with SH to discuss and review the case. (See appendix diary entry located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170925 - Diary Entry JW)

31. On 4th October 2017 I received an update report from AK. I was content that this information had been shared with AOB as stated in the progress report. I forwarded this report to AOB. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20171004 - E - A Khan to J Wilkinson and 20171004 - E - J Wilkinson to AOB)

32. On 31st October and 1st November 2017 I contacted SH by email to stress the importance of providing AOB with the outstanding documents that he had requested seeking amendments to a prior meeting. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20171031 - E - AOB to S Hynds and 20171101 - E - J Wilkinson to S Hynds)

33. On 21st November 2017, 15th and 22nd February 2018, and 4th and 29th March 2018, AK provided updates on the case (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180329 - E - S Hynds to J Wilkinson and located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180215 - E - S Hynds to J Wilkinson).

34. There were delays in AOB's ability to make a return regarding notified areas so that the report could be completed.

35. On 15th February 2018 RB had made an informal oral inquiry to me regarding the AOB case. (see diary entry located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180215 - Diary Entry JW)

36. On 10th June 2018, after receiving a copied email from AOB dated 10th June 2018, I was concerned that AOB required to get the information he had requested. As a result I emailed SH, who in turn copied me into an email reply to AOB. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180610 - E - AOB to S Hynds cc J Wilkinson and 20180610 - E - S Hynds to J Wilkinson)

37. On 14th August 2018 I received an email (see appendix S21 No 38 0f 2022, 20180814 Letter to AOB re Update MHPS Investigation) signalling to AOB the next steps following the conclusion of the investigation report. Dr Khan was going to make his determination after consideration of all of the documentation and information.

38. On 11th September 2018 I received a telephone call from AOB at 12.18 but I was working in a school. I responded as soon as I could at 12.50. The call lasted approximately 40 minutes. I was unsure as to the reason for the call but I was able to distil the following and made a contemporaneous note:

    a. The SHSCT continued to act outside of the legal framework.

b. NED involvement was of no significance. He made clear that he was making all of the contact with the Trust.

c. Any representation made by the NED would be of little or no importance.

d. He was very critical of the process which had lasted 21 months to date.

e. He was going to meet up with RB and he mentioned a previous meeting with her.

f. He described the serious impact the process was having on his wife.

g. He advised that he had made contact with the Chief Executive.

h. He asked me if I was aware of the number of people not being seen in Urology (Waiting List) – he suggested it was around 600 people.

i. He was very critical of the Director of Acute – Esther Gishkori - and the Medical Director – Dr Wright.

j. He inquired when the process would end. I advised him that, from memory, I thought there was an indicative date of October 2018.

At the end of the call I advised AOB that I would bring these concerns to the Trust.

39. On 11th September 2018 at 4 pm, in response to the above, I telephoned VT and made her aware of the details of the call made by AOB. She didn't have at hand a closure date for the case but said she would make inquiries. She returned my call 30 minutes later and provided a closure date estimated to be the end of September 2018. I emailed AOB with this estimated closure date. Appendix – located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20180910 - Diary Entry JW.

40. I continued to be kept updated through emails as to the progress of the investigation. It was apparent that AOB continued to require certain information but this had not been completed. Therefore, I inquired as to the status of the investigation seeking clarification on 26th September 2018, as well as on 1st, 3rd, 21st and 22nd October 2018.

41. On 22nd October 2018 I emailed AK seeking an update on the status of the points raised by AOB. He replied on 23rd October 2018 and indicated that there were further concerns:- 'there have been new concerns emerged last week in relation to outstanding pts made by Mr O'Brien which would cause his deviation from agreed action plan'. On 23rd October 2018, after receiving notification

that AK was in a position to give his determination on the case, I was copied into a series of emails from AOB seeking further information.

42. On 23rd October 2018 in an email from AK to AOB with SH comments, I was content that a response to information requests from AOB had been forwarded to him. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20181023 - A Khan to AOD cc J Wilkinson; S Hynds)

43. On 31st October 2018 2018 I received AK's determination and noted that the General Medical Council ('GMC') had requested a redacted copy of the determination.(see appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20181105 - E - A Khan to AOB, cc J Wilkinson; S Hynds

44. AK' s determination highlighted that there was no concern re AOB's clinical ability; that there were clear issues of concern re his ways of working with potential harm to a large number of patients; that there were concerns re AOB's reflection on his practice and in respect of the 5 patients diagnosed with cancer; that AOB had a clear obligation to ensure managers were fully aware that he was not undertaking routine and urgent triage; that there has been a significant impact on the Trust in terms of its ability to properly manage patients, manage waiting lists and the extensive look back exercise; that AOB did not adhere to the requirements of the GMC's Good Medical Practice; that AOB had advantaged his own private patients over HSC patients; that the issues of concern had been known to some extent for some time by a range of managers and no proper action was taken.

45. As a result of these findings AK determined the following further actions: that an action plan should be put in place to have an assurance about AOB's administrative practice and management of his workload – this workplan would be monitored; that there was a case of misconduct to be addressed – the determination also recognised the systemic failings within the Trust; that at this point there is no need for formal consideration by Practitioner Performance Advise or referral to GMC. As a result of the above, it was considered necessary

to put AOB's failings to a conduct panel hearing. In addition it was considered not appropriate to refer the clinical performance of AOB to NCAS/GMC.

46. As a result of an email from SH on 23rd October 2018 AOB requested additional information. (see appendix located in Relevant to CX Chair's Office, Evidnce after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20181102 - AOB to A Khan, cc J Wilkinson, V Toal)

47. On 24th November 2018 an email dated the previous day was forwarded to me from AOB. He pointed out that the Trust was not responding to his requests as of a letter dated 12th November 2018. I emailed AK and sought his response which he sent on 24th November 2018. This email was followed up by another email dated 28th November 2018, explaining the direction of travel being sought. This was emailed to AOB. (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20181124 - E - A Khan to J Wilkinson)

48. On 2nd December 2018, as a result of the previous email of 28th November 2018 from AK, AOB submitted a formal grievance with associated consequences for the Conduct Panel hearing. Appendix located in Relevant to HR, Evidence after 4 November HR, Reference 77, V Toal no 77, 20181203 Email from Dr Khan to Shane Devlin

49. On 15th May 2019 I met with VT and SH at 08.30 to get an update on any progress and developments in respect of the conduct proceeding recommended by AK and progress relating to the grievance submitted by AOB. I did not make notes of this meeting, however, I can recall that the case was becoming increasingly complex and required significant look back at various cases. I again reminded those present of the timescales involved but they were content that, in the interest of patient safety, the Trust had to work outside of the timelines in the MHPS framework and Trust Guidelines. They pointed out that, in most cases of a similar nature, the timescales set by the Guidelines were inappropriate.

50. On 2nd September 2019, after attending a meeting of the Patient Client Experience Steering Group, which is a sub-committee of the SHSCT Board, I checked progress of the AOB case with VT regarding MHPS and the submitted grievance. The case was proceeding with due diligence but because of the

volume of look-back cases it was taking longer than expected. Appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20190902 - Diary Entry.

51. On 11th June 2020 I was made aware by RB that the Chair, the Chief Executive and the Director of Human Resources had received emails from AOB. I replied acknowledging the email and requested direction as the designated NED. VT advised me that the Chair was not willing to engage with the case since she might be compromised. Subsequently, I received a telephone call from the Chair requesting that I try to expedite this matter. I explained to the Chair what I believed my role as the Designated NED to be.
Appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20200611 - Diary Entry JW and 20200615 - Diary Entry JW

52. On 12th June 2020 I had a conversation with VT regarding progress in the AOB case. She explained that AOB was seeking operational retirement and this had been processed. However, it appeared that he wished to return to work and this would require a conversation with AOB. VT further pointed out that the original issue has still not been dealt with and that they were still trying to get the Grievance completed. She explained that there have been further delays caused by AOB's request for additional information and clarity of detail and so this was reflected in the Trust's inability to meet deadlines. I received further clarification regarding additional developments in the case. AOB was seeking to retire on 30th June 2020 and there was a discussion around 'lifting retirement benefits'. The Trust had initiated the process acting on AOB's stated intention to retire. Another issue seemed to have come to light and Mark Haynes was dealing with this matter, namely, AOB's letters to patients not being processed. It was suggested that this may give rise to patient safety issues. AOB was not aware of this issue. I suggested that AOB should be informed as soon as possible of this latest development. At this meeting the role of the designated NED was again discussed. VT reminded me that my role was to ensure that the momentum was maintained. I explained that AOB had not contacted me for a number of months as he believed that the role of the NED was ineffective. I remained unclear as to the role of the NED. VT advised that I get legal advice prior to contacting AOB. I requested legal advice. It was anticipated that a reply would be achieved by 16.06.2020. Appendix Diary Entry located in Relevant to CX Chair's Office,

Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20200611 - Diary Entry JW and 20200615 - Diary Entry JW and 20200619 - Notes JW

53. On 18th June 2020 I received a telephone call from RB requesting that I telephone AOB, see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20200618 - Diary Entry JWT. This was a strange call as, after a number of minutes, she came back on this request. She explained that this process was exerting undue pressure on AOB and his family. I suggested that I would ring VT and get information on the following:
    a. Grievance – What are the developments and the impediments?
    b. Is there a policy re retirement and returning for 1 day per week pending an HR issue?
    c. Do NEDs / Trust Board / Chief Executive need an update on progress?

    I also intended to seek further advice re the role of the NED.

54. On 16th July 2020 I received a telephone call from VT at 3.30 pm explaining that AOB would be 'retiring' and no longer employed by the SHSCT on the 17th July 2020 (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20200716 - Diary Entry JW. She also explained that there would likely be another case against AOB as further concerns had been identified but this wouldn't require a named/designated NED. She explained that AOB had accepted the conditions (3 of them) in line with MHPS Guidelines Section 1 para 18 on Exclusions and Restrictions and the Trust was seeking AOBs agreement to the following conditions: That AOB would no longer undertake clinical work; that he does not access or process patient information either in person or electronically; and that he would voluntarily undertake to refrain from seeing private patients. However, VT suggested that there could be High Court proceedings regarding the original grievance. VT further explained that JT was still involved in the case but was still on holiday leave. I continued to be exercised as to the role I should play and continued to seek legal advice as to the nature of my involvement in the AOB MHPS case.

55. On 24th September 2020, 14th October 2020, 15th October 2020, 23rd October 2020 and 10th December 2020 the Trust Board was informed of the progress of

the AOB issues at Trust Board meetings and via Early Alerts. All Non-Executive Directors were notified of a Department of Health – led assurance group.

56. Thereafter I was kept informed of the progress of the case alongside my NED colleagues via updates at Trust Board Meetings.

3. Please also provide any and all documents within your custody or under your control relating to the terms of reference of the Urology Services Inquiry ("USI"), except where those documents have been previously provided to the USI by the Southern Health and Social Care Trust ('the Trust'). Please also 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.

57. All documents within my possession relating to this case have been supplied. I have referenced these documents in my response to Question 1 above. In addition, I have forwarded other evidence which I have more recently discovered.

3. Unless you have specifically addressed the issues in your reply to Question 1 above, please answer the remaining questions in this Notice. If you rely on your answer to Question 1 in answering any of these questions, please specify precisely which paragraphs of your narrative you rely on. Alternatively, you may incorporate the answers to the remaining questions into your narrative and simply refer us to the relevant paragraphs. The key is to address all questions posed. If there are questions that you do not know the answer to, or where someone else is better placed to answer, please explain and provide the name and role of that other person. 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').

58. Noted.

4. Outline your relevant experience to the Inquiry addressing principally your employment history and the dates during which you served as a non-executive board member of the SHSCT.

59. My employment history prior to joining the Trust Board is set out at above in response to Question 1.

60. I was appointed to the SHSCT Board on 15th February 2016.

61. I received broad general training on Trust policies, procedures and committees between 22nd September 2016 and 1st December 2016. I received specific training on MHPS via DLS on 22nd September 2016.

62. I was appointed as a designated NED in respect of the O'Brien MHPS on 19th January 2017.

5. Outline any prior experience or knowledge you had of the MHPS framework & the Trust Guidelines before being appointed as the designated Board member for an investigation into concerns raised in relation to Mr Aidan O'Brien (Consultant Urologist).

63. I had no other than knowledge of the MHPS and Trust Guidelines except that gained at training as outlined at Questions 4 and 6.

6. Outline and provide documentation of any training or guidance you received with regard to the role of designated Board member with regard to:

I. The MHPS framework;

II. The Trust Guidelines; and

III. The handling of performance concerns generally.

I. MHPS framework

64. I received broad general training on the MHPS framework from DLS during my induction period. This covered the generality of the framework. The role of the Designated NED was unclear and was highlighted as such by the trainer who on several occasions stated that the role was indistinct and that the

Department of Health had been asked on several occasions for clarification but none had been provided. Throughout the course of the O'Brien case I asked on at least 2 occasions for assistance regarding role definition and clarification but this was not able to be provided for the reasons above.

65. Trust Guidelines

65. I think these were mentioned at the induction for MHPS but I have no clear recollection of specific guidance and training on them. Upon taking up the role of Designated NED I did not receive training on them either.

66. Handling of performance concerns generally

66. I do not believe I received training in this area nor had I received any relevant training from other jobs/roles I had prior to joining the SHSCT.

7. With specific regard to Section I paragraph 8 of MHPS and paragraph 2.10 of the Trust Guidelines, what purpose did you understand the designated Board member was to fulfil in the context of an investigation into concerns raised, at the point when you were appointed to the role?

67. I understood that the role of the designated board member was to ensure that the momentum of the case was maintained and to consider any representation made from the practitioner. Therefore if the case was not being expedited quickly enough or if the process was operating outside specific guidelines then I would make representation to the Trust regarding these matters.

8. Outline how you understood the role of designated Board member was to relate to and engage with those of following individuals under the MHPS Framework and the Trust Guidelines:

I. Clinical Manager;

II. Case Manager;

III. Case Investigator;

IV. Chief Executive;

V. Medical Director;

VI. The clinician who is the subject of the investigation; and

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

68. I will address each class of person in turn below:

I. Clinical Manager – I was not clear how this relationship was defined nor how (if at all) I was expected to engage with the person.

II. Case Manager – This was not clearly established at the beginning of the investigation. However, through my involvement with HR I established a working relationship with the Case Manager, both seeking progress updates and seeking clarification on points of concern raised by Mr O'Brien.

III. Case Investigator – I had little or no contact with the Case Investigator. It was through the Case Manager or HR that points of clarification or concerns were raised. Again, my role with the Case Investigator was not clarified at the outset. This tended to be an organic process whereby the Director of HR offered advice and introduced me to AK, the Case Manager. Most of my communication was by email.

IV. Chief Executive – My role was not explicitly detailed during training and induction. I understood that the Chief Executive was not to be involved in the process a to ensure a fair and unbiased hearing.

V. Medical Director - My role was not explicitly detailed during training and induction. I did not see that I should be consulting with the Medical Director except to ensure that the process was being expedited. However, most of this would be done (and was done) through the Case Manager and/or HR.

VI. The clinician subject to the investigation – My understanding was that I was to ensure that the momentum of the case was maintained and that I would raise any concerns expressed by the clinician to me. I responded to requests to meet face to face in the clinician's office when he was accompanied by his son – Michael. Other contact was made via email.

69. The Director of Human Resources and Organisational Development was an important point of contact for me. In the absence of explicit detailed relationships with the above classes of person, I made contact with HR from the outset of the process in order that I fulfilled my role without prejudice to the clinician but ensuring prompt responses to queries and concerns. These contacts were made throughout the case without prejudice to the clinician.

9. What tools or resources were available to you as the designated Board member to enable you to discharge your role and responsibility?

70. In its broadest sense I made use of personnel in order for me to carry out my role and responsibility. Consequently, I had person to person contact with the clinician; the Director of HR (Vivienne Toal); the Deputy Director of HR Services (Siobhan Hynds); informal conversations with the Case Manager (Dr Ahmed Khan); and email contact with all of the previous and, in addition, with [redacted]

Personal information redacted by USI

71. Other resources included the MHPS framework and the Trust Guidelines.

10. With regard to Section I paragraph 29 of the MHPS framework, what processes or procedures existed within the Trust to provide a clear audit route for initiating and tracking the progress of investigations, their costs and resulting actions? Who was responsible for ensuring such processes were in place and what role, if any, did you have as the designated Board member in relation to these matters?

72. The processes and procedures adopted by the Trust to provide a clear audit route for initiating and tracking the progress of the investigation were based on the MHPS framework and Trust Guidelines. With regards to how the Trust actually performed this responsibility I do not know. My understanding was that the Head of HR and Organisational Development (VT) discharged this role. In terms of my specific role in this area, I tracked progress through communication with the clinician and through progress reports from the Case Manager and the Head of HR.

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?

73. I first became aware of the general concerns in relation to Mr O'Brien when I was asked by the Chair of SHSCT (Roberta Brownlee) to be the Designated Non Executive Director in an MHPS process involving him in January 2017.

74. Subsequently I had a meeting with VT who gave me an overview of the issues. This meeting is detailed in Appendix located in Relevant to CX Chair's Office, Evidence Added or Renamed 19 01 2022, 20170125 E V Toal to J Wilkinson re Confidential Mr AOB

75. I then contacted the clinician and asked for a meeting with him, making him aware of my role as the Designated NED. The detail of the meeting is found in paragraph 9 of my response to Question 1 and the relevant Appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170207 - Doc - Note of Meeting with Mr AOB

12. With regard to the Return to Work Plan / Monitoring Arrangements dated 9th February 2017, see copy attached, please outline your role in monitoring Mr O'Brien's compliance with the Return to Work Plan and provide copies of all documentation showing the discharge of that role with regard to each of the four concerns identified, namely:

I. Un-triaged referrals to Mr Aidan O'Brien;

II. Patient notes tracked out to Mr Aidan O'Brien;

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

IV. The scheduling of private patients by Mr Aidan O'Brien

76. With regards to the 4 points mentioned and AOB's compliance with the return to work plan I played no role in this. My role continued to be ensuring that the momentum of the Maintaining High Professional Standards process was implemented by, amongst other things, ensuring timely responses to requests made by AOB

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13. What is your understanding of the period of time during which this Return to Work Plan/Monitoring Arrangements remained in operation, and which person(s) were responsible for overseeing its operation in any respect?

77. It was my understanding that this would be undertaken by the Case Manager and the Director of HR. I was not involved in it. I was unaware of the details surrounding the period of time involved or, operationally, who would discharge the various functions.

14. With specific reference to each of the concerns listed at (12) (i)-(iv) above, indicate if any divergences from the Return to Work Plan were identified and, if so, what action you took to address and/or escalate same.

78. I was unaware of any divergences from the Return to Work plan and therefore I cannot comment on this.

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 the designated Board member, 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 investigator's 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. If you consider that there was delay at any point in the process, indicate what steps, if any, you took to address that delay. Outline and provide all documentation relating to any interaction you had with any of the following individuals with regard to any delays relating to matters (I) – (IV) above:

1. Case Investigator;
2. Case Manager;
3. the HR Case Manager;
4. Mr Aidan O'Brien; and

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

I to IV

79. I believe that the following factors contributed to the overall delay:

a. The number of issues in the first instance to be investigated (4); Appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170124 - Doc - Note of Meeting with AOB
b. The number of new 'discoveries' made which required further investigation;
c. The increasing volume of look back cases requiring investigation;
d. Clarity sought from AOB regards minutes of meetings;
e. A series of questions requiring input from other people within the Trust and their availability to process and reply to HR and the Case Manager;
f. Some people were on holidays and could not reply within the given timescale;
g. Delays in response from AOB regarding meetings to further progress the investigation due to his request for information before he would re-engage.

1 to 5

80. With regards to 1-5 I have outlined in my response to Question 1 above how I endeavoured to ensure that the momentum was being maintained throughout. All of the documentation has been referenced in my response to Question 1. In summary, I received representations from AOB, both in person and in writing but mainly the latter (by email). To expedite these matters, I contacted HR – both VT and SH - explaining the concerns of AOB and seeking their response both to me and to AOB. The emails referenced in my response to Question 1 track this level of engagement. Regardless of the circumstances which were offered to explain why the process was not operating within MHPS and Trust Guidelines, I made the Trust aware of the concerns of AOB.

81. Similarly with the Case Manager, most of my contact was by email. He responded to the issues raised on behalf of AOB and provided me with regular updates as detailed at Question 1.

82. With regards to the Case Investigator, I had no contact either in person or via email.

83. From my initial contact with AOB, he made his view clear that the Trust were operating outside the MHPS framework and Trust Guidelines. He stated that there were 4 weeks to complete the process. To expedite this matter I took it to VT and throughout the case I continued to make this point clear. As the case developed, it became increasingly difficult to bring the case to a determination.

84. From the outset, and after my initial conversation with AOB, I met with VT and made her aware of the timescales involved to ensure the process was expedited in a timely manner. I continued to impress this throughout the investigation both in person and via email.

85. Reflecting on the complexities of the case, my understanding from the Directorate of Legal Services that such cases seldom operated within 4 weeks, the requirement to ensure that the safety of patients was paramount, and the need to give AOB an opportunity to respond and to gain responses, I considered that the case was proceeding as quickly as possible in the circumstances. However, I continued to monitor the situation and comment on the continued need to expedite the matters under investigation.

16. Outline what representations, if any, you received from Mr O'Brien with regard to his immediate exclusion and the investigation and what steps you took to consider, investigate and address same. If you engaged with others individuals in relation to such issues, set out the nature of that engagement, and how these issues were addressed

86. AOBs exclusion was initiated on 30th December 2016 and I was not requested to be the designated NED until 19.01.2017.

87. I emailed AOB making him aware that I knew of his 'immediate exclusion' (Question 1, paragraph 4).

88. On 26.01.2017 I received an email from VT which informed me that the exclusion had been lifted subject to the implementation of controls and restrictions being put on AOB's practice (see appendix located in Relevant to CX Chair's Office, Evidence after 4 Nov 21 CX Chair, ref no 77 for John Wilkinson NED, 20170126 - E - V Toal to J Wilkinson re MHPS Case).

89. During my initial meeting with AOB on 7th February 2017 he raised the issue of his exclusion and why the Trust had not sought other measures to address the issues under concern.

90. At a subsequent meeting with VT I raised this issue with VT and passed on a series of questions given to me by AOB amongst which was the issue of 'immediate exclusion'. (Question 1, paragraphs 9 to 12)

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 16(I) was not implemented, outline what steps or processes were put in place to monitor Mr O'Brien's practice? Did these apply to all aspects of his practice and, if not, why not?

91. My understanding is as follows:

A. My understanding is that these were the responsibility of The Case Manager, the Medical Director, HR, and the GMC.
B. I have no knowledge of this.
C. A Grievance procedure was lodged which stalled progress and a further SAI was under investigation.
D. Not known.

18. Following the Case Manager's determination, what role, if any, did you continue to play with regard to the issues which had been considered during the MHPS investigation and the outcomes with regard to Mr O'Brien?

92. After the determination I continued to monitor progress of the AOB issues as new material came to light. I continued to receive update reports from the Case Manager and HR. These reports continued until 16th July 2020. I have provided more detail on this in response to Question 1.

19. Having regard to your experience as designated Board member 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?

93. The following impressions of the implementation and effectiveness of MHPS and the Trust Guidelines are necessarily impacted by the extent to which the Designated Board Member can exercise or discharge their role under MHPS.
    a. I do believe all parties were doing their utmost to discharge their duties professionally, endeavouring to be fair to all parties whilst maintaining/being mindful of the safety and quality of care to patients past and present. I was also very much aware of the impact the investigation was having on AOB and his family and that a timely resolution would be important.
    b. From the outset I believe that the Trust/HR recognised the shortfalls on their part in the issues identified in the AOB case. These included the way in which job appraisal was carried out and the role of appraisal and validation in the professional development of clinicians. By 'recognised', I mean that Trust Board realised that these processes needed to be addressed and my recollection is that Trust management said that they would undertake to mitigate the issues and endeavoured to implement lessons learnt, e.g., appraisal/job plans/workload.
    c. Whilst there was a 4-week period within which the investigation should operate it became clear that the complexities, the emergence of new

information, the need for clarity and amendments around meeting minutes, and so on would necessitate a longer protracted period of investigation.

d. The Case Manager and Investigator continued throughout this to carry out their day-to-day clinical roles in a professional manner. On top of this they were charged to investigate the MHPS case within a given timescale. In my view, this seemed an unreasonable demand. To expedite the MHPS case their work plan should be amended significantly to allow for the case outcomes to be reached within acceptable timescales.
e. If timescales were not going to be met then this should be clearly articulated to those involved in the case.
f. Human Resources were placed in an unenviable position. They had an obligation to monitor progress of the case. They too had to be mindful of the health and wellbeing of the clinician under investigation. They needed to keep the Trust and Trust Board members informed without compromising the case. Additionally, they were most accessible to me as the designated NED as I sought direction to enable the expedition of the case. It seemed to me that HR could be seen to be facilitators and also respondents in the case. Perhaps another support could be appointed to act as an advisory.

20. Consider and outline the extent to which you feel the designated Board member can effectively discharge their 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.

94. Upon joining the Trust I had absolutely no knowledge of the Health and Social Care policies, procedures and governance. During the first year I received, along with 3 other colleagues, a general induction programme lasting approximately 1 year. This proved to be intense and demanding. Towards the end of this period I received MHPS training from DLS lasting approximately 1½ hours. The import of this training was that my role was to ensure that the momentum of the case was being maintained and to respond to queries from the clinician. The inter-relationships and expectations surrounding the Case Manager, Case Investigator, HR, Medical Director, Trust Board, and the Chief Executive were not explained sufficiently.

95. To this end, role definition/role expectation/role accountability were not sufficiently defined within the MHPS process or expanded upon. To ensure that the NED is exercising the role appropriately, he/she could have a mentor or have 'supervision' from an experienced NED or competent other who has been involved in the process previously. Such a person could be outside the Trust. In the absence of such a person, I relied upon HR for advice and occasional enquiries made to DLS.

96. Whilst induction training was given by the Trust in MHPS it would be beneficial and indeed necessary to have 1:1 training either by the Trust and/or HR when the NED was designated to a case. At this meeting, a case briefing could be made with notes offered describing the case thus far. I recognise the need to ensure that everything needs to be done in a manner which ensure openness, transparency and does not compromise 'natural justice' for the clinician.

97. I found myself bewildered, if not compromised, from time to time. Because of the complexity of the case, I had to defer queries made by the clinician to me to HR or to the Case Manager. Indeed, I advised the clinician to correspond directly with the relevant person if he had queries and to contact me if he was facing an impasse. I felt that I was not in a position to answer the questions put by AOB and thought it would be more expedient to get the answers if he went to the person directly. On the other hand, if AOB found that he was not getting timely replies, then he should direct his concerns to me. Whether this was the right thing to do or not could be covered with additional training. I do believe that other designated NEDS who had experienced the Designated NED role before would be able to add value to the training.

98. In this respect the role of the NED needs to be defined so that all parties are clear on role expectation. Key areas of concern included the designated NED in relation to the clinician – as 'supporter'; as 'liaison person'; as 'inquisitor'; as 'mediator'; as 'investigator'; as 'compliance controller'; as 'initiator'; as 'evaluator of progress'. In deciding this, one needs to be mindful of 'what can reasonably be expected of a designated NED who is a lay person?'

99. Therefore, I do believe that presently the designated NED can have a limited impact in effectively discharging their role in MHPS. To be more effective

would require significant training, highlighting the expectations of the role and the relationships which need to be established. Clarity in the role that Trust HR plays needs to be developed. The NED, as a lay person, does not have full understanding of the processes and structures surrounding the MHPS process and the interrelationship with other bodies such as the GMC and internal Grievance Procedures.

21. Having had the opportunity to reflect, outline whether in your view the MHPS process 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.

100. I have no other experience of MHPS and my reflections are contingent to this particular case.

101. Whilst there were shortcomings in the process, the issues surrounding AOB's practice have been investigated and a determination has been made. Patient safety and quality of care remained central to the proceedings, with AOB explaining the circumstances relating to the investigation and the Trust endeavouring to complete look-backs over several years and contacting patients for whom they had concerns. Lessons learnt were brought to the Trust Board, implemented and reported on by HR.

102. A key concern was the Trust's inability to keep to the 4-week period as stipulated within the MHPS Guidelines. This concern caused AOB particular concern, angst and stress. However, care needed to be taken to allow key individuals the opportunity to state their case.

103. I do believe greater clarity regarding roles, expectations, and permissible deviations or non-compliance with timescales would benefit everyone.

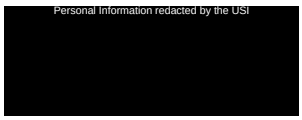
Statement of Truth

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

Urology Services Inquiry

Statement of Truth

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

Signed: 

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Date: ____30th June 2022_____

S21 38 of 2022

Witness statement of: John Wilkinson

Table of Attachments

Attachment	Document Name
1	201706307 Contemporaneous Notes
2	20180814 Letter to AOB re Update MHPS Investigation

Contemporaneous Notes of

Mtg @ V.T. + J.W.K

Date: 7.3.17.

Question from AOB handed over

Progress report given by HR.

Clarify the Role
Protect the Role.

Contemporaneous note 7.3

② T.O.R. → Dr Khan (Case Manager) - issued! any other matters (Stephen Wallace & Martina Corrigan, Mr Young) 7.3.17

Personal information redacted by USI [redacted]

A.O.B.

SH + Dr. Chada set of dates for next 4 weeks

① - ongoing AOB list initially of 4 witnesses to be met ē over the next 4 weeks.

-3rd April '17.

Dr. Khan (Case Manager) to provide list to AOB.

should have ∴ been triaged

Update for R.C - all done ~~in~~ + 24 require further investigation

- ~~untriaged not complete~~ -

5 cases 31 day

19 62 pathw

↓

~~ordered as red ē urgent~~.

Parallel process of patient reviews is ongoing.

6.

. 50 yr old terminally ill. ⇒ 2nd SA 5 process

. 13 charts remain missing - (officially missing)

undictated clinics are being commenced.

∴ needs to be entire review - this will be a while

- update after 1st section. -

move on this rather than wait for all.

Dr. Khan (case manager)

i.e. re medical records

③ ↓ (. Meet ē witnesses) (maybe other 5 urologists) Perhaps meet ē individuals not ē untriaged people

(. Mid-late April '17 met c̄ AOB) 'right of response'

* Width of investigation -

Date confirmed 'a case to answer' end of Jan 26/27th 17

Investigat should be allowed to run!
- Case Manager Dr. Khan }
- Case Investigator Dr. Rada } clinicians.

HR - not in a decision-making role. - to assist = investigat re employment law + due process + procedure!

HR's continuing role.:

Dr. Khan cannot provide! But answers will be provided individuals who are best placed to provide the answers. (Dr. HR/. V.T.).
Yes! Correct.

Case Manager : will be in contact to give you an update and a possible time-line! + the MD.

The queries you have emailed I have passed on to H.R. for a response. As per my role I will continue to ensure that momentum is maintained + if you have any representation about the investigation you should forward them to me in writing. You already

As the list of ~~witnesses~~ people being interviewed will take place over the next 3-4 weeks you could expect to be ~~able to see~~ interviewed ~~your case~~ by mid-late April.

I am satisfied that the case is

Dr. Khan ~~The~~ program ~~TOR~~ will be issued along with + provide you with a list of ~~witnesses~~ people who the Case [redacted] will interview. I am aware ... the opp. to respond ~~to~~ state your case.

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Southern Health and Social Care Trust

Quality Care - for you, with you

14 August 2018

BY E-MAIL ONLY

Mr Aidan O'Brien

Personal Information redacted by the USI

Dear Mr O'Brien

Re: Formal investigation under Maintaining High Professional Standards Framework

Thank you for providing your comments on the investigation report following conclusion of the formal investigation under the Maintaining High Professional Standards Framework. I have received your comments following my recent return from a period of extended annual leave.

Now that I have received the investigation report from the case investigator and your comments, as case manager, I will consider the final information in full to make a determination on the appropriate next step in the process.

As per the MHPS Framework, I have a range of decisions available to me which include that:

- no further action is needed
- restriction/s on practice or exclusion from work is appropriate
- there is a case of misconduct that should be put to a conduct panel
- there are concerns about your health that should be considered by the occupational health service
- there are concerns about your clinical performance which require further formal consideration by NCAS
- there are serious concerns that fall into the criteria for referral to the GMC or GDC

- there are intractable problems and the matter should be put before a clinical performance panel.

I will endeavour to consider all available in full and liaise with you regarding my decision as soon as practicably possible. I hope you understand that there is a very significant volume of information to be considered and therefore I want to take time to do that thoroughly.

If you have any queries regarding this matter please do not hesitate to contact me.

Yours sincerely

Dr Ahmed Khan
Acting Medical Director / Case Manager