

Ronan Carroll
Assistant Director - SEC
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

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

Chair's Notice

[No 44 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:

Ronan Carroll
Assistant Director -SEC
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:

Personal Information redacted by the USI

Christine Smith QC

Chair of Urology Services Inquiry

SCHEDULE
[No 44 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')*.

Policies and Procedures for Handling Concerns

4. In your role as Assistant Director, Anesthetics and Surgery what, if any, training or guidance did you receive with regard to:
 - I. The MHPS framework;
 - II. The Trust Guidelines; and
 - III. The handling of performance concerns generally.

5. In your role as Assistant Director, Anaesthetics and Surgery what, if any, training or guidance did you provide or arrange on the MHPS framework and the Trust Guidelines to be provided to:
 - I. Clinical Managers;
 - II. Case Investigators;
 - III. designated Board members; and
 - IV. Any other relevant person under the MHPS framework and the Trust Guidelines.

6. The Inquiry is interested in your experience of handling of concerns regarding any staff member. Prior to your involvement in respect of the case of Mr O'Brien, specify whether you ever have had occasion to implement or apply MHPS and/or the Trust Guidelines in order to address performance concerns and outline the steps taken.

7. Outline how you understood the role of Assistant Director, Anesthetics and Surgery was to relate to and engage with the 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. Service Director;

- VII. Designated Board member,
- VIII. The clinician who is the subject of the investigation; and
- IX. Any other relevant person under the MHPS framework and the Trust Guidelines, including any external person(s) or bodies.

8. 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 Medical Director in relation to these matters?

Handling of Concerns relating to Mr. O'Brien

9. In respect of Mr. Aidan O'Brien:

- I. When and in what circumstances did you first become aware of concerns, or received information which could have given rise to concerns?
- II. Outline all steps taken to address those concerns; and
- III. If you did not implement or apply MHPS and/or the Trust Guidelines notwithstanding the existence of performance concerns, explain why not.

10. On becoming Assistant Director, Anaesthetics and Surgery:

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

11. Were the concerns which were the subject of correspondence in March 2016 raised, registered or escalated to the Chief Executive as required by Section I paragraph 8 of MHPS and paragraph 2.3 of the Trust Guidelines? If not, why not?
12. Outline the circumstances and the process by which you understand concerns in relation to Mr O'Brien came to be discussed by the Oversight Group on 13th September 2016 and address the following:
 - I. From what source did the concerns and information discussed at that meeting emanate?
 - II. What do you understand to have been decided at that meeting?
 - III. What if any action did you take on foot of same?
 - IV. If no action was taken, please explain why and refer to all relevant correspondence.
13. With specific regard to Section I Paragraph 15 of MHPS:
 - I. Outline any attempts you, or those within your Directorate, made to resolve concerns in relation to the performance of Mr O'Brien informally in accordance with Section I Paragraph 15 of MHPS.
 - II. Did you seek and obtain any advice with a view to attempting to resolve the concerns informally, or was an informal approach otherwise discussed? If so, outline any advice received and/or describe any discussions which took place, and identify those who provided the advice or engaged in discussions on this issue?
 - III. What, if any, engagement, did you have with Mr O'Brien in an attempt to resolve matters informally?
14. Outline when and in what circumstances you became aware of the following Serious Adverse Incident investigations and that they raised concerns about Mr O'Brien, and outline what action you took upon becoming aware of those concerns:
 - I. Patient "Patient 10" (RCA [Personal Information redacted by]),
 - II. The care of five patients (RCA [Personal Information redacted by]); and
 - III. Patient "Patient 16" (RCA [Personal Information redacted by]).

15. Outline the circumstances and the process by which you understand concerns in relation to Mr O'Brien came to be discussed by the Oversight Group on 22 December 2016 and address the following:

- I. What information was before the Oversight Group on that date, and from what source did the information discussed at that meeting emanate?
- II. What do you understand to have been decided at that meeting, and what action was to take place following that meeting?
- III. What steps did you take as Assistant Director to ensure that those actions took place?

16. Outline all the steps you undertook from December 2016 to January 2017 as part of the "*further scoping*" of concerns as referred to in Dr Wright's letter dated 30 March 2017, see copy attached, in relation to the following four areas:

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

17. With regard to Mr. Gibson's email of 30th December 2016, see copy attached, outline the actions taken to ensure that a clinical note review of all charts and referral letters returned by Mr. O'Brien was undertaken prior to the end of January 2017. Who was involved in ensuring this task was completed? How was this task explained to the consultant urologists? How was the information collated, monitored and assessed and to whom was it communicated?

18. With reference to specific provisions of Section I of the MHPS Framework and the Trust Guidelines, outline all steps you took as Assistant Director, Anaesthetics and Surgery once a decision had been made to conduct an investigation into Mr. Aidan O'Brien's practice in line with that Framework and Guidelines.

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

20. With regard to the Return to Work Plan / Monitoring Arrangements dated 9th February 2017, see copy attached, outline your role, as well as the role of any other responsible person, in monitoring Mr. O'Brien's compliance with the Return to Work Plan and provide copies of all documentation showing the discharge of those roles 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

21. 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?

22. With specific reference to each of the concerns listed at (20) (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.

23. 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 Assistant Director, 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 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 Manager
- B. Case Investigator;
- C. Designated Board member;
- D. The HR Case Manager;
- E. Mr. Aidan O'Brien; and
- F. Any other relevant person under the MHPS framework and the Trust Guidelines.

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

MHPS Determination

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

26. On 28 September 2018, Dr Ahmed Khan, Case Manager, made his Determination with regard to the investigation into Mr O'Brien. This Determination, inter alia, stated that the following actions were to 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 (recommended) 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(l) was not implemented, outline what steps or processes were put in place to monitor Mr O'Brien's practice? Did these apply to all aspects of his practice and, if not, why not?

Implementation and Effectiveness of MHPS

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

NOTE:

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

UROLOGY SERVICES INQUIRY

USI Ref: Notice 44 of 2022

Date of Notice: 29th April 2022

Witness Statement of: MR RONAN CARROLL

I, RONAN CARROLL, will say as follows:-

GENERAL

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

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

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

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

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

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

POLICIES AND PROCEDURES FOR HANDLING CONCERNS

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

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

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

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

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

leadership and managing staff performances. I have not undertaken any of these courses recently, i.e., within the last 10 years.

5. In your role as Assistant Director, Anaesthetics and Surgery what, if any, training or guidance did you provide or arrange on the MHPS framework and the Trust Guidelines to be provided to:

- I. Clinical Managers;**
- II. Case Investigators;**
- III. Designated Board members; and**
- IV. Any other relevant person under the MHPS framework and the Trust Guidelines.**

5.1. I did not provide or arrange training or guidance on the MHPS framework or the Trust Guidelines to Clinical Managers.

5.2. I did not provide or arrange training or guidance on the MHPS framework or the Trust Guidelines to Case Investigators.

5.3. I did not provide or arrange training or guidance on the MHPS framework or the Trust Guidelines to Designated Board Members.

5.4. I did not provide or arrange training or guidance on the MHPS framework or the Trust Guidelines to any other relevant person (under MHPS framework and the Trust Guidelines).

6. The Inquiry is interested in your experience of handling of concerns regarding any staff member. Prior to your involvement in respect of the case of Mr O'Brien, specify whether you ever have had occasion to implement or apply MHPS and/or the Trust Guidelines in order to address performance concerns and outline the steps taken.

6.1. I have been involved in performance review including disciplinarys for non-medical staff (primarily nursing staff). With input and guidance from HR, performance review outcomes have ranged from monitoring action plans to formal disciplinary procedures including the dismissal of staff members and/or referral to the NMC.

6.2. I have not been involved in implementing or applying MHPS and/or Trust Guidelines in order to address performance concerns with any medical practitioner or relevant person under MHPS framework and the Trust Guidelines.

7. Outline how you understood the role of Assistant Director, Anaesthetics and Surgery was to relate to and engage with the 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. Service Director;

VII. Designated Board member,

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

IX. Any other relevant person under the MHPS framework and the Trust Guidelines, including any external person(s) or bodies.

7.1. As the Assistant Director for Anaesthetics and Surgery ('AD for ATICS/SEC') my understanding was that the MPHS was a framework through which a Doctor's performance could be managed. The MHPS was progressed and managed through the offices of the Medical Director (Dr Wright) and the Director of Human Resources (HR), (Mrs Toal).

7.2. As an operational Assistant Director, I was not directly responsible for relating or engaging with any of the individuals listed at I-IX under the MHPS Framework and Trust Guidelines, unless I was specifically called upon to do so. As part of Dr Chada's MHPS investigation into Mr O'Brien, I was interviewed on 6th April 2017.

8. 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 Medical Director in relation to these matters?

8.1. I am not the Medical Director. I am the AD for ATICS/SEC.

8.2. I am unaware of what processes and procedures existed to enable a clear audit route for initiating and tracking the progress of this investigation, their costs and resulting actions. I was not the responsible officer for ensuring the said processes and procedures were in place. I believe that it was the responsibility of the Medical Director or the Director of HR.

Handling of Concerns relating to Mr. O'Brien

9. In respect of Mr. Aidan O'Brien:

- I. When and in what circumstances did you first become aware of concerns, or received information which could have given rise to concerns?**
- II. If you did not implement or apply MHPS and/or the Trust Guidelines notwithstanding the existence of performance concerns, explain why not.**

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

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

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

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

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

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

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

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

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

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

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

10. On becoming Assistant Director, Anaesthetics and Surgery:

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

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

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

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

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

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

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

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

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

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

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

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

12.1. I have addressed these issues more broadly in my response to Section 21 Notice No.5 of 2022, in particular at Questions 45, 47 and 55, upon which I would seek to rely in answer to the current question. However, in an effort to focus on the specific points now being raised, I offer the following answer.

I. From what source did the concerns and information discussed at that meeting emanate?

12.2. I was unaware that the 13th September 2016 meeting had taken place at that time. From reading a note of the meeting it is apparent that Mrs Gishkori (Director of Acute Services) was present and spoke about the issues concerning Mr O'Brien.

12.3. I assume that Mrs Gishkori was aware of the 23rd March 2016 letter as, at that time, she managed Mrs Heather Trouton (AD), who had signed the letter, along with Mr Mackle (AMD). That letter was then issued by Mrs Corrigan (HoS) and Mr Mackle (AMD) to Mr O'Brien.

12.4. The letter is referred to in the note of the meeting on the 13rd September 2016. It is noted that the letter was discussed and that a preliminary investigation had already taken place on paper. I am unaware of the source of the preliminary investigation.

II. What do you understand to have been decided at that meeting?

12.5. It is noted that the Oversight Committee made the decision to address the issues detailed in the 23rd March 2016 letter as there had been no plan received from Mr O'Brien and the same concerns continued. The following steps are recorded in the note of the meeting as being agreed;

1. Simon Gibson to draft a letter for Colin Weir and Ronan Carroll to present to Mr O'Brien;
2. The meeting with Mr O'Brien should take place next week (w/c 19/9/16);
3. This letter should inform Mr O'Brien of the Trust's intention to proceed with an informal investigation under MHPS at this time. It should also include action plans with a 4-week timescale to address the 4 main areas of his practice that are causing concern i.e., untriaged letters, outpatient review backlog, taking patient notes home and recording outcomes of consultations and discharges;
4. Esther Gishkori to go through the letter with Colin Weir, Ronan Carroll and Simon Gibson prior to the meeting with Mr O'Brien next week;
5. Mr O'Brien should be informed that a formal investigation may be commenced if sufficient progress has not been made within the 4-week period.

III. What if any action did you take on foot of same?

IV. If no action was taken, please explain why and refer to all relevant correspondence.

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

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

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

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

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

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

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

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

14. Outline when and in what circumstances you became aware of the following Serious Adverse Incident investigations and that they raised concerns about Mr O'Brien, and outline what action you took upon becoming aware of those concerns:

14.1. Patient [Patient 10] (RCA [Personal Information redacted by USI]),

14.1.1. On the 16th December 2016 I received an email from Dr Tracey Boyce (Director of Pharmacy with responsibility for Acute Governance) which was addressed to Mrs Esther Gishkori (Director of Acute Services) and myself. The email had attached to it a letter of 15th December 2016 from Mr Glackin (acting as the chair of an SAI) expressing 3 concerns viz.. the default triage system, the patients' notes leaving the Trust and patients' letters not being dictated in a timely manner.

14.1.2. I attended Oversight Committee meetings on the 22nd December 2016 (deputising for Mrs Gishkori, Director of Acute Services) and on the 10th January 2017 where these issues were discussed and actions agreed (see further my answers to Questions 45, 55, 56 and 57 of Section 21 Notice No.5 of 2022 in this regard).

14.2. The care of five patients [Personal Information redacted by USI]; and

14.2.1. As highlighted in Dr Neta Chada's Investigation Report and Dr Khan's Determination, as a result of the triaging of the 783 non-Red Flag referrals in January 2017, 24 patients had their referrals upgraded to Red Flag status (although I note that Dr Johnston's Root Cause Analysis of 2020, at page 11, suggested that the figure was 30, and not 24, patients – as referenced in my first witness statement at para 360). Unfortunately, 5 out of 24 / 30 patients within this group were diagnosed with cancer. My involvement with these 5 patients, who were subject to the SAI [Personal Information redacted by USI], was to be part of the screening process to determine whether or not an SAI was required.

Records shows that [Patient 13] [Personal Information redacted by USI], [Patient 11], [Patient 14] and [Patient 12] [Personal Information redacted by USI] were screened by Mr Weir (CD) and myself, supported by governance facilitators.

20170405 Screening Checklist template [Patient 13] bates reference TRU-02868-TRU-02871

20170725 Screening Checklist template [Patient 11] [Personal Information redacted by USI] bates reference TRU-02872-TRU-02875

20170725 Screening Checklist template [Patient 14] [Personal Information redacted by USI] or W64750 bates reference TRU-02876-TRU-02879

20170725 Screening Checklist template [Patient 12] [Personal Information redacted by USI] bates reference TRU-02880-TRU-02883

14.3. Patient [Patient 16] (RCA [Personal Information redacted by USI]).

14.3.1. I received an email, dated 23rd December 2016, from Dr Tracey Boyce asking for my opinion on whether this incident should be considered under the SAI process. Records shows that [Patient 16] was screened by Mr Weir (CD) and me.

20170405 Q14iii [Patient 16] Screening Checklist located in S21 44 of 2022, Attachments.

14.4. My knowledge of the various SAI matters is also addressed at various other points in my statement in response to Section 21 Notice No.5 of 2022 (e.g., at Questions 1, 40, 63 and 64).

15. Outline the circumstances and the process by which you understand concerns in relation to Mr O'Brien came to be discussed by the Oversight Group on 22 December 2016 and address the following:

- I. What information was before the Oversight Group on that date, and from what source did the information discussed at that meeting emanate?**
- II. What do you understand to have been decided at that meeting, and what action was to take place following that meeting?**
- III. What steps did you take as Assistant Director to ensure that those actions took place?**

15.1. Much, if not all of this material, has been addressed in response to Notice No.5 of 2022 (in particular, in response to Questions 1, 45, 55, 56 and 57 of that Notice). However, in an attempt to provide a more focused response here, I answer as follows.

15.2. I understand concerns in relation to Mr O'Brien were discussed at the Oversight meeting on the 22nd December 2016 following a letter sent from Mr Glackin to Dr Boyce (Director of Pharmacy with responsibility for acute governance) in which he cites a number of concerns, as set out at my response to Question 14.

15.3. On receiving Mrs Boyce's email (attaching Mr Glackin's letter), I recall meeting with Mrs Corrigan (Head of Service for Urology) and discussing the three issues raised by Mr Glackin in his letter. Mrs Corrigan then undertook a review of these three elements with the findings shared with Dr Wright (Medical Director), Mrs Gishkori (Director of Acute Services) and Mrs Toal (Director of HR) and all those present at the meeting. Reading the notes for this Oversight Committee meeting the following information was discussed:

- i. Dr Boyce summarised an ongoing SAI relating to a Urology patient who may have a poor clinical outcome due to the lengthy period of time taken by Dr O'Brien to undertake triage of GP referrals. The source was the letter from Mr Glackin to Dr Boyce in December 2016.
- ii. It was reported that there were 318 untriaged letters with 68 classified as urgent. The delay ranged between 4 and 72 weeks. This information came from an email from Mrs Corrigan dated 22 December 2016 and which Mrs Corrigan had received from the RBC managers.

20161222 email Urology missing triage bates reference WIT-14348-WIT-14349

20161222 email Urology missing triage A1 bates reference WIT14350-WIT-14366

15.4. From the notes of the meeting the following actions were agreed:-

- I. Issue 1: Triage
Action: A written action plan to address this issue, with a clear timeline, will be submitted to the Oversight Committee on 10th January 2017
Lead: Ronan Carroll/Colin Weir
- II. Issue 2 – Patient’s Notes
Action: Case note tracking to be undertaken to quantify the volume of notes tracked to Dr O’Brien, and whether these are located in his office. This was to be reported back on 10th January 2017
Lead: Ronan Carroll
- III. Issue 3. Undictated Clinics Outcomes
Action: A written action plan to address this issue, with a clear timeline will be submitted to the Oversight Committee on 10th January 2017
Lead: Ronan Carroll/Colin Weir
- IV. Issue 4 Previous Incident Reports (IR).
Action: It was agreed to consider any previous IR1’s and complaints to identify whether there were any historical concerns raised.
Lead: Tracey Boyce
- V. Issue 5: Exclusion
Action: It was agreed to exclude Dr O’Brien for the duration of a formal investigation under the MHPS guidelines using an NCAS approach for Dr Wright to make contact with NCAS to seek confirmation of this approach. It was hoped that a meeting with Dr O’Brien on Friday 30th December would be set up to inform him of this decision and follow this decision up in writing.
Lead: Dr Wright/Simon Gibson

15.5. Following this Oversight Meeting of 22nd December 2016, I sent an email to Mrs Corrigan and Ms Clayton (Operational Support Lead / OSL) asking for an action plan for issues 1, 2 and 3.

20161223 email Action Note 22nd December – AOB, *relevant document can be located at Relevant to Acute/ Evidence after 4 November Acute/ Document no 77/ Wendy Clayton/ 20161223 email WC confirmation of further oversight meeting*

15.6. I reported via email, updates to Dr Wright and Mrs Gishkori as information became available from each search:

- i. Issue 1. Triage.

As of 9th January 2017, there were 783 referrals not triaged.

20170110 Q15iii *untriaged as of 10th January 2017, bates reference WIT-14376*

- ii. Issue 2. – Patient’s Notes.

As of 28th December 2016, 365 sets of notes had been ‘tracked’ out to Mr O’Brien

20161228 Q15 Email - Audit of Charts re AOB bates reference WIT-14371-WIT14373

iii. Issue 3- Undictated Clinics Outcomes

- As of 15th December 2016, there were 60 clinics where dictation was not completed
- 20161223 Q47vii email Backlog report no clinic outcomes as per 15.12.16 A1
- 20161223 Q47vii email Backlog report no clinic outcomes as per 15.12.16

15.7. A further update re the Undictated Clinics Outcome was presented at the January 10th 2017 Oversight Committee Meeting (I refer to my response to 16.III. below).

16. Outline all the steps you undertook from December 2016 to January 2017 as part of the “further scoping” of concerns as referred to in Dr Wright’s letter dated 30 March 2017, see copy attached, in relation to the following four areas:

- 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;**
- IV. The scheduling of private patients by Mr Aidan O’Brien.**

16.1. My observations at 15.1. above apply equally here.

16.2. Following the Oversight Committee meeting on 22nd December 2016, Mrs Corrigan and Ms Clayton undertook further scoping into all four of the named issues. I worked with the Head of Staff in Urology to compile a report on the four specific issues and the volume of patients.

16.3. Mrs Corrigan undertook a physical search of Mr O’Brien’s office. It was through this search that 783 untriaged referrals were discovered. These referrals were removed from Mr O’Brien’s office by Mrs Corrigan and transferred to the AMD office and locked in a filing cabinet.

16.4. On the 23rd December 2016, Ms Clayton undertook a Patient Administration System (PAS) query to determine the volume of patient notes that were assigned to Mr O’Brien at this time. Mrs Corrigan met with Mr O’Brien at Craigavon Area Hospital on the 3rd January 2017, where he returned all of the notes that he had removed from the hospital. Mrs Corrigan cross-referenced these notes against that list provided by Medical Records. On the 23rd January 2017, Mr Weir wrote to Mr O’Brien in regard to 13 sets of patient’s notes that could not be found. Mr O’Brien replied to state that he never had these notes. I now believe that these notes were incorrectly coded to Mr O’Brien because Mr O’Brien was able to provide a response to each of these 13 patients, with 7 patients never having had a urology appointment and one being a week-old infant.

20161228 Q15ii Email - Audit of Charts re AOB bates reference WIT14371-WIT14373

16.5. Mrs Corrigan investigated the undictated clinics from 'Business Objects' (Business Objects is a decision supporting tool to aid performance management, planning reporting and analysis of activity. Regular reports from Business Objects include activity reports, number of referrals, and waiting lists of patients) and found that this related to 668 patients dating back to November 2014. She spoke to Mr O'Brien and he advised her that he had an outcome on every patient from these clinics, albeit they were not dictated nor were they all recorded on PAS. Mr O'Brien advised Mrs Corrigan that some of the patients have been seen again or have had their surgery since they had attended the clinic. Mr O'Brien met with Mrs Corrigan on Monday 9 January 2017 and hand-delivered the outcome sheets, of which there were 272 handwritten outcomes for SWAH patients and 299 for other clinics, leaving a shortfall of 97 patients.

16.6. Ms Clayton undertook an audit of 59 patients who had a Transurethral Resection of Prostate (TURP) in 2016 under Mr O'Brien. This was the operation which had been performed on Personal Information redacted by and detailed in Mr Haynes' email of the 23rd December 2016. This list of patients was subsequently reviewed by Mr Young (Clinical Lead Urologist) to determine whether there was any clinical reason that warranted their operation being undertaken within days of being reviewed privately by Mr O'Brien. I recall this review being undertaken by Mr Young in and around the start of February 2017.

20170106 Q47 vii email TURP audit bates reference WIT-14374-WIT14375

17. With regard to Mr. Gibson's email of 30th December 2016, see copy attached, outline the actions taken to ensure that a clinical note review of all charts and referral letters returned by Mr. O'Brien was undertaken prior to the end of January 2017. Who was involved in ensuring this task was completed? How was this task explained to the consultant urologists? How was the information collated, monitored and assessed and to whom was it communicated?

17.1. I responded promptly to Mr Gibson's email on 30th December 2016 and advised him that Mrs Corrigan, Mr Weir and I would meet with the consultant urologists to relay the information contained within his email. This meeting with the consultant urologists took place and I provided an update on the same day, 3rd January 2017, via email to Dr Wright, Mrs Gishkori and Mr Gibson.

20170103 Q17 Email Confidential AOB bates reference TRU-101-TRU-103

17.2. With regards to the undictated clinics, and as set out at Question 16 above, Mr O'Brien met with Mrs Corrigan on Monday 9th January 2017 and hand-delivered the outcome sheets,

of which there were 272 handwritten outcomes for SWAH patients and 299 for other clinics. This left a shortfall of 97 patients.

17.3. The following plan for the undictated clinics was agreed with the consultants:-

- i. To check with the lists of undictated clinics and identify these 97 patients and then the consultants would do a case-note review to see if they could, from these notes, determine what the outcome should have been.
- ii. To do an 'admin' exercise of all the outcomes and then cross reference with the clinics what is missing. This 'admin' exercise would show what was outstanding on reviews, diagnostics and being added to waiting lists.

17.4. The consultants were willing to work with Mrs Corrigan outside of core time (Job Plan) or to displace SPA (Supporting Professional Activity) to assist with her investigations, for example, by considering Mr O'Brien's patients' notes. In undertaking a review of Mr O'Brien's patients, the Consultants advised Mrs Corrigan that, in the first instance, they would have preferred to accept Mr O'Brien's opinion as it would be difficult for them to arrive at any other conclusion having not assessed his patients. In the event that they were not in agreement with Mr O'Brien's opinion, they advised that they would re-assess the patients prior to completing their case-note review.

17.5. The consultant urologists' view was that the untriaged referrals were the greatest clinical concern at that time. This was their initial priority and this task was completed by the end of January 2017.

20170127 Q17 Email Upgrade to Red Flags bates reference WIT-14711-WIT14712

17.6. I recall reporting to Dr Chada and Mrs Hynds that the undictated clinics task had not begun in or around March 2017. It was not until in or around June 2017 that this task was completed, and I recall Mrs Corrigan advising me of same.

20170303 Q17 Email Investigation relevant document can be located at Relevant to HR/ Evidence after 4 November HR/ Reference 77/ S Hynds no 77/ 20170303 – Email – Investigations

20170608 Q17 Email undictated clinics relevant document can be located at Relevant to HR/ Evidence after 4 November HR/ Reference 77/ S Hynds no 77/ 20170608 – Email – Re undictated clinics

18. With reference to specific provisions of Section I of the MHPS Framework and the Trust Guidelines, outline all steps you took as Assistant Director, Anaesthetics and Surgery once a decision had been made to conduct an investigation into Mr. Aidan O'Brien's practice in line with that Framework and Guidelines.

18.1. I took no action when the decision was taken to undertake a formal investigation into Mr O'Brien's practice as this process was managed by the Medical Director's Office and HR.

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

19.1. I first became aware of concerns that Mr O'Brien may have been affording advantageous scheduling to private patients following receipt of an email from Mr Haynes on 23rd December 2016.

19.2. In this email Mr Haynes described a patient who was assessed by Mr O'Brien on 5th September 2016 privately and placed on his NHS theatre list on Wednesday 21st September 2016. This patient waited a total of 16 days.

19.3. Mr Haynes asked me in the email did I think this should be considered in the overall investigation. I decided to escalate this matter to Dr Wright (Medical Director), and I did so by forwarding Mr Haynes' email to Dr Wright on 23rd December 2016.

20161223 Q48a Management of PP's/Non chronological List bates reference WIT-14016-WIT14017

20. With regard to the Return to Work Plan / Monitoring Arrangements dated 9th February 2017, see copy attached, outline your role, as well as the role of any other responsible person, in monitoring Mr. O'Brien's compliance with the Return to Work Plan and provide copies of all documentation showing the discharge of those roles 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

20.1. My role was to oversee compliance with all four of the concerns identified under the Return to Work Plan. Mrs Corrigan monitored the 4 issues in the plan.

20.2. The return to work letter to Mr O'Brien stated that his return to work was dependent on his strict compliance with Trust Policies and Procedures in relation to:

- i. Triaging of referrals;
- ii. Contemporaneous note keeping;
- iii. Storage of medical records; and
- iv. Private practice;

and an agreement to comply with the monitoring mechanisms put in place to assess his administrative processes.

20.3. Furthermore, the return to work letter to Mr O'Brien detailed that he was to primarily undertake clinics and clinical validation of his reviews, his inpatient and day case lists. This work was to be monitored by the Head of Service (Mrs Corrigan) and reported to the Assistant Director (me).

20.4. Each of the 4 concerns were monitored by Mrs Corrigan and sent to Dr Khan as the case manager and Mrs Siobhan Hynds (Head of Employee Relations) as detailed in the letter.

21. 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?

21.1. I do not recall being advised of a proposed duration for the monitoring period.

21.2. The letter issued to Mr O'Brien in February 2017 stated:

"Following a decision by case conference on 26 January 2017 to lift an immediate exclusion which was in place from 30 December 2017 (sic), this action plan for Mr O'Brien's return to work will be in place pending conclusion of the formal investigation process under Maintaining High Professional Standards Framework."

21.3 This letter to Mr O'Brien therefore suggests that the monitoring would be in place until the MHPS process had concluded. I am now aware the Mr O'Brien submitted a grievance in November 2018. I understand that this grievance resulted in the formal MHPS continuing.

21.4. As indicated above, Mrs Corrigan was responsible for the monitoring of compliance with the Return to Work Plan. The outcomes of the monitoring were shared with Dr Khan as the Case Manager and Mrs Siobhan Hynds (Head of Employee Relations).

21.5. On 4th May 2017, Dr Khan asked me to send a monthly report. I shared Dr Khan's email with Mrs Corrigan but asked for a weekly monitoring report rather than monthly. On the 23rd November 2018, Dr Khan requested that these monitoring reports be undertaken on a monthly basis or earlier if issues arose. Mrs Corrigan continued to monitor the 4 issues weekly (on a Friday) and advised Dr Khan only when there was a variance to the action plan.

20170508 Q59 MHPS Case update bates reference WIT-14733-WIT-14736

20181123 Q59 email AOB action plan bates reference WIT-14421-WIT-14422

20180523 Q20 Email RE Return to Work Action Plan February 2017 FINAL bates reference WIT-14405-WIT-14408

22. With specific reference to each of the concerns listed at (20) (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.

22.1. The whole issue of the monitoring of the Return to Work Plan has, like several other issues above, been addressed in my response to Notice No.5 of 2022 (e.g., in my response to Questions 1, 56, 58, 59, 60, 61 and 68). However, I offer the following additional, more focused response here.

22.2. In June 2018 Mrs Corrigan **Personal Information redacted by the USI**. During this time, Mrs Corrigan's work was to be shared between the two other Surgical Head of Services, namely, Mrs Kelly and Ms Clayton. However, the monitoring task of Mr O'Brien's action plan did not continue during Mrs Corrigan's period of leave. Mrs Corrigan did not in fact then return to work until 5th November 2018.

22.3. In or around 4th October 2018, Mrs Hynds (Head of Employee Relations) discovered that Mr O'Brien's clinics had increased to 91 patients awaiting dictation. On foot of this, I sent an email to Mrs Corrigan, that same day, to determine what the extent of the deviations were for the other elements of the plan. I recall that, towards the end of this leave period, Mrs Corrigan was phasing her return to work and was addressing emails.

22.4. Ms Clayton reported in an email dated 23rd October 2018 that, between 3rd October 2018 and 23rd October 2018, the number of outpatient letters to be dictated by Mr O'Brien had decreased from 91 to 16. This updated position was shared with Dr Khan, Mrs Vivienne Toal, Simon Gibson and me. Katherine Robinson (RBC Manager) and Mr Weir were also copied into the reply.

20181023 Q22 Email AOB notes and dictation relevant document can be located at Relevant to HR/ Evidence after 4 November HR/ Reference 77/ V Toal no 77/ 20181023 Email AOB notes and dictation

22.5. On 23rd November 2018, Mrs Corrigan provided an update to Dr Khan and Mrs Hynds in the following terms:

- i. CONCERN 1 – There are 0 letters waiting on e-triage for Mr O'Brien.
- ii. CONCERN 2 – There are currently 27 case notes tracked on PAS to Mr O'Brien's office.
- iii. CONCERN 3 – Mr O'Brien has 0 clinic letters waiting on digital dictation.
- iv. CONCERN 4 – Adhered to – no more of Mr O'Brien's patients that had been seen privately as an outpatient has been listed.

20181123 Q22.4 AOB Action Plan bates reference WIT-14421-WIT-14422

22.6. Whilst the formal monitoring and reports to Dr Khan ceased in or around November 2018, Mrs Corrigan continued to monitor the 4 issues on a weekly basis. On 16th September 2019 Mrs Corrigan advised Dr Khan and Mrs Hynds via email that Mr O'Brien was not

complying with Issue 1 (e-triage) and Issue 3 (dictation). Dr Khan advised Dr O’Kane of this development on the 18th September 2019. In response to this, Mr Haynes advised that Mr O’Brien’s ^{Personal Information redacted by the U} was ill and that he and his wife had been attending to ^{Personal} as a reason for his non-compliance.

22.7. As a result of the non-compliance, Dr Khan requested that Mr McNaboe and Mrs Corrigan meet with Mr O’Brien on the 8th November 2019. The details of the scheduled meeting were emailed to Mr O’Brien by Mrs Corrigan on 5th November 2019. Mr O’Brien sent a letter to Mrs Corrigan dated 7th November 2019 detailing that he was happy to meet with Mr McNaboe and Mrs Corrigan but he was of the view that monitoring of his practices had ceased following his meeting with Dr Khan in October 2018. I believe that the meeting between Mr O’Brien, Mr McNaboe and Mrs Corrigan did not take place on this date.

20191122-letter AOB - MC copy TMcN located in S21 44 of 2022 Attachments

22.8. Mr O’Brien returned to being compliant with the 4 issues in or around December 2019.

23. 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 Assistant Director, 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.**

23.1. Having considered Dr Chada’s Case Investigator’s Report, I am aware that Mr O’Brien had asked to defer meetings with Dr Chada which would have delayed the conduct of the investigation and the preparation of the investigator’s report.

23.2. I am unaware of any reason which caused the provision of comments by Mr O’Brien or the making of the determination by the Case Manager to be delayed.

23.3. Other persons, such as Dr Chada, might be better placed to provide the information sought in this question.

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 Manager

B. Case Investigator;

C. Designated Board member;

D. The HR Case Manager;

E. Mr. Aidan O'Brien; and

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

23.4. I did not interact with the named individuals with regard to any delays nor did I take any steps to prevent or reduce delay. As an Assistant Director I was not involved in the MHPS investigation undertaken by Dr Chada and Dr Khan other than:

- i. Providing a witness statement to Dr Chada in April 2017; and
- ii. Attending at Oversight Committee meetings on the 22nd December 2016, the 10th January 2017, and the 14th February 2020.

20161222 Q55 Action note Oversight committee bates reference WIT-14003-WIT-14004

20170110 Q55 Action note Oversight committee bates reference WIT-14005-WIT-14006

20200214 Q23 Email Meeting of Oversight Group - MHPS case Mr A O'Brien relevant document can be located at Relevant to HR/ Evidence after 4 November HR/ Reference 77/ S Hynds no 77/ 20200214 – Email – Meeting of Oversight Group – MHPS case Mr A O'Brien

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

24.1. I was interviewed by Dr Chada on the 6th April 2017. I received my witness statement on the 17th September 2017. I was not apprised of any developments during the MHPS investigation.

MHPS Determination

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

25.1. I did not have any discussions with Dr Khan as to his determination.

26. On 28 September 2018, Dr Ahmed Khan, Case Manager, made his Determination with regard to the investigation into Mr O'Brien. This Determination, inter alia, stated that the following actions were to 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 failed to be put to a conduct panel hearing; and

III. That the Trust was (recommended) to carry out an independent review of administrative practices within the Acute Directorate and appropriate escalation processes.

- 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;**
- 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?**

26.1. In answer to 26(A), my understanding is that:

- i. Recommendation I should have been progressed through the Medical Director's Office given that the MHPS is a framework for managing the performance of a doctor.
- ii. Recommendation II, to establish a conduct panel hearing, should have been progressed through the Medical Director's Office given that the MHPS is a framework for managing the performance of a doctor.
- iii. Recommendation III, to carry out an independent review of administrative practices, would have appropriately been progressed through the Director of Acute Services Offices.

20210510 Q26b Email Admin Review Process located in S21 44 of 2022 Attachments.

26.2. I have recently learnt that Mr O'Brien registered a grievance against the outcome and recommendations of Dr Khan's report. In my opinion, this may have been why Recommendations I and II were not progressed. Meanwhile, Recommendation III prompted an independent review of administration practices within the Acute Directorate and appropriate escalation processes to be undertaken. This review was to be undertaken under the instruction of Dr O'Kane. It began in or around March 2020 after the oversight meeting held in February 2020. The steps taken were to review and revise the 4 issues detailed in Mr O'Brien's action plan, i.e., triaging of referrals, the dictation of outpatient clinics, patients' hospital notes being stored outside of hospital facilities, and the correct scheduling of private patients. Initially, there was input from Dr Rose McCullough and Dr Mary Donnelly (DMDs Primary Care). It was later overseen and progressed by Mrs Corrigan. The outcome of the review was presented to Director of Acute Services in May 2021.

26.3. The 4 areas of concern relating to Mr O'Brien's work continued to be monitored by Mrs Corrigan until in or around the end of March 2020 when the Covid-19 Pandemic changed the way in which the Hospital operated. For example, referrals reduced significantly, access to patient notes was restricted, the Outpatients' clinics ceased, and theatres were only providing emergency and time-crucial cancer surgery. No other aspect of Mr O'Brien's work was being monitored as, at the time of his retirement, no other aspect was escalated as giving rise to clinical or governance concerns.

Implementation and Effectiveness of MHPS

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

27.1. My interaction and involvement in the investigation was minimal as the operational AD for ATIC/SEC. The MHPS investigation undertaken by Dr Chada, and Dr Khan's recommendations, were managed through the Medical Director's Office and HR.

27.2. I note that the time taken for Dr Chada to complete her investigation was approximately 14 months (March 2017 – April 2018). It was another 5 months before Dr Khan's Determination was completed. Whilst I have limited experience of the MHPS process, in my opinion any investigation that takes 19 months to complete cannot be considered to be satisfactory for the individual clinician, the Trust or the managers tasked with implementing any recommendations.

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

28.1. I am not the Director of Acute Services. However, I offer the following views regarding the role of operational managers in respect of MHPS.

28.2. Within the Trust the role of an Assistant Director is operational and there is no requirement to be a health professional. The medical staff report clinically and professionally through their Lead Clinician, to their CD and, finally, to their DMD. Operational ADs have little, if any, role in the MPHS process.

28.3. On reviewing the MHPS document at Section 1, it is very clear that this process falls within the Medical Director and HRs' remit. In my experience, Consultants respond better to management under Doctors/members of the medical profession. In my opinion, this is because Consultants view these medical managers as having greater credibility and a peer knowledge base. As the MHPS is a framework to manage a Doctor who is viewed as

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

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

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

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

Signed: _____

Personal Information redacted by the USI

Ronan Carroll

Dated this 24th day of June 2022.

S21 44 of 2022**Witness statement of: Ronan Carroll****Table of Attachments**

Attachment	Document Name
1	20170405 Q14iii <small>Patient 16</small> Screening Checklist
2	20191122-letter AOB - MC copy TMcN
3	20210510 Q26b Email Admin Review Process

Details of Serious Adverse Incidents/Root Cause Analyst

Patients Details	Datix Number <small>Personal Information redacted by the</small>
Name <small>Patient 16</small>	HSCB number <small>Personal Information redacted by the</small>
Address <small>Personal Information redacted by the USI</small>	Incident Date 5.12.2016
<small>Personal Information redacted by the USI</small>	SAI Level 3
<small>Personal Information redacted by the USI</small>	Date of Screening 5.4.2017
DOB <small>Personal Information redacted by the USI</small>	Date of meetings 24.10.17, 28.11.17, 12.2.18,
DOD <small>Personal Information redacted by the USI</small>	Report to Coroner No
HCN <small>Personal Information redacted by the USI</small>	Date Board notified 22.9.2017
	TOR issued 6.2.20
Next of Kin Details PAS	Date to SMT 27.1.2020
Name <small>Patient's Daughter</small>	Date to Board 3.2.2020
Relationship Daughter	Date Closed
Address <small>Personal Information redacted by the USI</small>	CORRESPONDANCE WITH PATIENT / FAMILY
<small>Personal Information redacted by the USI</small>	Date informed 19.4.17
<small>Personal Information redacted by the USI</small>	Date of letter 19.4.17
Telephone Number <small>Personal Information redacted by the USI</small>	Date advised review complete
	Date Report issued 6.2.2020
	Date of meeting

Screening & Review Team & Details	
Screening Team	Review Team
Mr Ronan Carroll	Governance Lead Mrs Trudy Reid
Mr Colin Weir	Chair Dr J Johnston BHSC
Mrs Trudy Reid	Mr Mark Haynes
	Mrs C Robinson

Details of Serious Adverse Incidents/Root Cause Analyst

Description on Notification

Patient 16 had a history of metastatic colorectal cancer, small volume lung metastases and a left pelvic mass associated with ureteric obstruction.

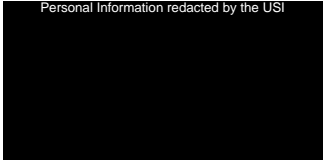
Patient 16 was considered for palliative pelvic radiotherapy in July 2016, urology stents management was required prior to radiotherapy: there was a delay in the management of stents. In December 2016 radiotherapy was no longer considered an option for Patient 16.

Patient 16 died. Personal Information redacted by the USI.

NOTES

6.2.20 Updated notification & TOR issued to HSCB

Personal Information redacted by the USI



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

07 November 2019.

Dear Martina,

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

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

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

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

Yours sincerely,

Personal Information redacted by the USI



Aidan O'Brien

Carroll, Ronan

From: Corrigan, Martina <[REDACTED]>
Sent: 10 May 2021 13:59
To: McClements, Melanie
Cc: Carroll, Ronan
Subject: Admin Review Process V13 10 May 2021
Attachments: Admin Review Process V13 10 May 2021.docx

Melanie

As discussed this morning, attached is the Admin Review Process that Ronan, Anita, Katherine and I have discussed and amended.

As agreed this is for discussion at next Acute Clinical Governance meeting.

Happy to discuss if required

Thanks

Martina