

# THE MORECAMBE BAY INVESTIGATION

Chaired by Dr Bill Kirkup CBE

## INTERVIEW PROTOCOL

### 1. Background

The Morecambe Bay Investigation is an independent investigation into the maternity and neonatal services of the University Hospitals of Morecambe Bay NHS Foundation Trust (the Trust) and their governance and management.

The Investigation is chaired by Dr Bill Kirkup CBE and was commissioned by the Department of Health.

### 2. Who will the Investigation interview?

The Investigation Panel will draw up an initial list of individuals who will be invited to interview and be asked to provide oral information. The list will be kept under review and updated as necessary in light of further evidence emerging from documents and interviews. Additional interviews may be arranged at a later date in response to evidence seen or heard by the Panel.

Interviewees will be invited to attend the Investigation to give their own account and respond to questions from Panel members. The Investigation will not refer to “witnesses” or to “giving evidence” to reflect the collaborative approach the Investigation has adopted and the nature of the process, which is an investigation to establish the facts and make recommendations to improve care both locally and more widely. The corollary is that the Investigation expects full cooperation from staff as well as organisations, in line with their professional duty and employment responsibility. It is expected that this will extend to anyone no longer employed in the NHS, and considers that present or future receipt of an NHS pension carries a corresponding responsibility.

Interviewees who are registered with the General Medical Council (GMC) are reminded that the GMC’s Good medical practice guidance 2013 states that “*You must cooperate with formal inquiries and complaints procedures and must offer all relevant information*”.

Interviewees who are registered with the Nursing and Midwifery Council (NMC) are reminded that the NMC Code states “*You must cooperate with internal and external investigations*”.

The Investigation intends to interview individuals who were:-

- responsible for the leadership, management, governance and delivery of maternity and neonatal services at the Trust between 1 January 2004 and 30 June 2013;

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- employed in any one of a number of related organisations, and responsible for the commissioning, oversight, monitoring, regulation and supervision of, and complaints made about the services as well as the standards of those providing the operational delivery between 1 January 2004 and 30 June 2013;
- directly responsible for delivering care in the maternity and neonatal units between 1 January 2004 and 30 June 2013;
- directly affected by the services and care delivered primarily, but not exclusively, in the maternity and neonatal units at the Trust between 1 January 2004 and 30 June 2013 and/or
- responsible for the development of national policies and procedures in respect of maternity and neonatal care and governance for the period in question.

In addition the Investigation will interview:

- those who are currently responsible and accountable for the delivery of services and care, notably maternity and neonatal, at the Trust and
- those who are responsible and accountable for supervising and regulating clinical and nursing staff and for monitoring data recorded by the Trust.

To ensure that the Investigation will meet the requirements of openness and transparency, all of its sessions will be open to family members. In practice many family members have recognised that their presence may inhibit some interviewees, and the Investigation will arrange one or more separate sessions for them to listen to recordings so that they can be assured that the process is thorough.

### **3. How will the Investigation make initial contact with those it wishes to interview?**

The Investigation has already asked a number of interested organisations to advise their staff (serving and former) about the Morecambe Bay Investigation and its terms of reference.

The Investigation will compile a list of interviewees and potential interviewees.

The employer, former employer or, if appropriate, legacy organisation of each interviewee will be asked to make contact with the relevant individuals to advise them that the Investigation would like to interview them and thereafter communication will be directly between the Investigation and interviewees. This early notification to employers, former employers or legacy organisations should also assist them to plan for attendance of staff at the Investigation.

### **4. The storage of interviewee details**

Once responses are received from interviewees, their contact details will be stored by the Investigation on a database. The database will be password protected and will only be accessed by a

small group of staff within the Investigation for the specific purposes of liaising with the interviewee to arrange a schedule of hearings and to undertake the necessary administrative work that will be required to achieve this.

Contact details of individual interviewees will be retained by the Investigation for the duration of its work and until four weeks after the Report has been published.

Contact details will then be destroyed by the Investigation in accordance with Data Protection requirements.

## **5. Invitation to interview**

As the Investigation is not part of a legal process, interviewees will not be legally represented and the Investigation will not deal with anyone other than the interviewee.

Interviewees will be advised that they are welcome to bring a relative, friend or colleague with them to the Investigation who will be able to remain with the interviewee but not to comment on the proceedings or to ask any questions during the interview.

The Investigation recognises that some individuals may wish to be accompanied by a Trade Union official or a legal representative. It will be made clear that that individual is free to accompany them to the Investigation but is attending as their colleague or friend and not in a representative capacity.

Appropriate refreshments will be provided for the interviewee and any relative, friend or colleague who accompanies them.

It is the expectation that interviewees will have any reasonable expenses they incur as a direct result of attending an interview at the Investigation, met by their employer. If an employer will not reimburse an interviewee for their expenses, each interviewee will be entitled to claim reimbursement from the Investigation for reasonable travel expenses and the loss of earnings incurred as a direct result of their attendance at the Investigation (as set out in the Investigation's travel and subsistence policy). Receipts will be required for all claims and evidence will be required prior to reimbursement for any loss of earnings. A claim form will be provided on the day of interview.

Each Friday a list of the following week's interviewees will be posted on the Investigation website. This will enable families who may wish to attend to observe the interviews, to make practical arrangements and will provide information to those who are following the progress of the Investigation.

Once dates are confirmed for attendance at the Investigation, interviewees and their employer, former employer or legacy organisation will be advised what principal subject(s) or term(s) of reference they will be asked about by the Investigation Panel to enable them to undertake any necessary preparation. When possible the Investigation will advise both interviewees and their employer, former employer or legacy organisation, if any specific document(s) should be viewed prior to their attendance.

Interviewees will be advised to contact their current/previous employer to arrange to view those papers that may assist them provide the Investigation with detailed responses to questions they may be asked.

There may be specific instances where the Investigation wishes to ask an interviewee to comment on a particular document. If such a circumstance arises the Investigation will make appropriate arrangements for the interviewee to be made aware of the material.

Recognising that many interviewees may be operational NHS staff and have limited time or opportunity to prepare for their attendance, they will be given as much notice as possible of their interview by the Investigation. The Investigation will establish at the earliest opportunity, what dates individuals are unavailable to attend for an interview. A minimum of one week's notice will be provided to confirm the arrangements for an interview.

Interviewees will be asked to confirm, in writing, that they will attend the Investigation on an agreed date(s) to ensure that everybody's time is used as effectively and efficiently as possible. They will also be advised what arrangements will be put in place should their interview over run. Interviewees may be required to return either the next day or on another date to conclude their interview.

## **6. Attendance at the Investigation**

All interviewees will be sent a brief factsheet giving them information about the practical arrangements for their interview.

All those attending (including the Panel, Secretariat, stenographers and those who are observing) will be required to hand their mobile telephone, laptop computer, tablet, camera and/or any recording device they may have with them to the Investigation's Secretariat for safe keeping whilst the interviews are taking place.

Interviews will take place at the Investigation's office in Preston or, if appropriate, at a venue in Barrow. Interviews will commence each day at 10.00am. There will be a suitable half hour for lunch and the afternoon session will conclude by 4.00pm.

Interviewees will be able to attend the Investigation for a brief introduction by the Secretariat and given the opportunity to familiarise themselves with the Meeting Room. This will happen earlier in the day of their interview.

The Chairman will give a brief introduction to each interviewee, explaining which Panel members are present and how the interview will proceed and of the responsibility of all present to respect confidentiality. It is not anticipated that all of the Panel will be present at each interview.

The Investigation will make a recording of the interviews. The recording will be made to aid the production of the note of each interview and also so that those family members' who are unable to attend interviews, will have the opportunity to attend the Investigation's offices in Preston at a convenient time in the month following the interview, to hear the recording. Recordings of any

closed sessions at which personal sensitive data is discussed will not be replayed to family members. The recordings of all interviews will be destroyed when the Investigation's Report is published.

It will be a matter for interviewees how they respond to the questions they are asked and it will be a matter for the Secretary of State and others what action is taken in response to the Investigation's findings and recommendations.

Many interviewees will previously have been interviewed about the events that occurred at the Trust. In the unlikely event that the Investigation should hear evidence from an individual about which they consider that they should take advice and/or take appropriate action, they will do so and the interviewee will be notified accordingly.

Should the Panel need to ask an interviewee about a specific patient or member of staff, and personal sensitive data will be referred to, all observers will be required to leave the interview room. Any evidence provided regarding personal sensitive data will be heard in a closed session by the Panel. Appropriate redaction will be made of the record of the interview. Observers will not be permitted to listen at a later date to the recordings of any closed sessions.

## **7. Following the interview**

Following their attendance at the Investigation, interviewees will be shown a copy of the transcript of their interview as soon as is practicable. The transcript will be provided in hard copy or a PDF version can be provided by e-mail. The interviewee will be asked to add any further clarification or other information that will help ensure their account is as complete as possible.

Records of all Panel Meetings and interviews will be placed in the Department of Health's record office *after* the Investigation's Report has been published. At that stage they will be accessible through applications made under the provisions of the Freedom of Information Act.

Any subsequent or related question that the Investigation Panel may have following an interview will, when possible, be dealt with in correspondence between the Investigation and the interviewee. Every effort will be made to avoid having to recall any interviewee, however this may have to be arranged in exceptional circumstances or when additional information of significance has arisen from interviews or documentary evidence.

A summary of each days hearing – not the record of the interview - will be posted onto the Investigation website. The summary will detail who was interviewed and what their role/responsibility was, what term of reference they were interviewed about (or greater detail if appropriate to do so) and which Panel members were present.

## **8. Handling of media enquires/interest in the oral hearings of the Investigation**

The Investigation is aware that some interviews will generate media interest.

The media are not permitted to attend the interviews or to enter the building and the Investigation will make this clear on its website and to any member of the media who makes enquiries in advance

of the interviews. A media protocol will be available and will be shared with interested organisations and placed on the Investigation website.

Interviewees may wish to avail themselves of the offer of an early arrival and a slightly later departure from Park Hotel on the day(s) they are attending the Investigation.

Interviewees will be accompanied by a member of the Secretariat throughout their attendance at the Investigation.

In addition the Investigation can make arrangements for interviewees to be collected by car from the main entrance of Park Hotel and this will reduce the time that any interviewee could be spoken to by a member of the media or a member of the public.