Department of Health

Jimmy Savile NHS investigations:

Update on the themes and lessons learnt from NHS investigations into matters relating to Jimmy Savile

November 2015

Title: Jimmy Savile NHS investigations: update on the themes and lessons learnt from NHS investigations into matters relating to Jimmy Savile
Author: Strategy and External Relations/Quality Directorate/ CQC sponsorship and investigations policy / 17161
Document Purpose: Policy/transparency
Publication date: November 2015
Target audience: NHS Trusts and Foundation Trusts
Contact details: CQC Sponsorship/ DH Investigations/ Whistleblowing 5th Floor Richmond House 79 Whitehall London SW1A 2NS

Published to gov.uk, in PDF format only.

www.gov.uk/dh

Jimmy Savile NHS investigations:

Update on the themes and lessons learnt from NHS investigations into matters relating to Jimmy Savile

Prepared by

Department of Health

Contents

Executive summary

In February 2015 Kate Lampard and Ed Marsden published their report into the themes and lessons learnt from the NHS investigations into matters relating to Jimmy Savile. This built on the findings from 44 NHS investigations into allegations of abuse by Savile on NHS premises. The report included 14 recommendations for the NHS, the Department of Health (DH) and wider government.

This report provides an update on progress in response to those recommendations.

Background

In October 2012, the Secretary of State asked Kate Lampard CBE to provide oversight of the various Savile investigations and assurance that they have been rigorous and robust. He also asked her to produce a lessons learnt report, drawing on the findings from all published investigations and emerging themes.

The lessons learnt report, published on 26 February 2015 by Kate Lampard and Ed Marsden, included 14 recommendations for the NHS, the Department of Health and wider government. In his statement on 26 February, the Secretary of State accepted in principle 13 of the 14 recommendations. This report provides an update on actions taken in response to the 13 recommendations.

Nine of the 14 recommendations were for NHS providers to implement. The chief executives of Monitor and the NHS Trust Development Authority wrote to all NHS foundation trusts (FTs) and NHS trusts to ask them to read the lessons learnt report and review their current practice against the recommendations. In particular, trusts were asked to:

- develop an action plan to identify where additional action is needed against these recommendations;
- provide assurance that the necessary action has been taken – or where this is in progress, the date by which it will be completed; and
- report back on their proposed actions within three months.

All NHS trusts and all NHS foundation trusts responded. Reassuringly, the vast majority of responses were very detailed and considered, giving us confidence in the level of commitment across the sector to address the issues raised by the Savile investigations and the lessons learnt report. For individual recommendations, at least 80% of providers planned to have implemented them by September 2015. The responses have been collated by Monitor and TDA who have provided an update to the Secretary of State.

Summary of responses

Recommendation 1: All NHS hospital trusts should develop a policy for agreeing to and managing visits by celebrities, VIPs and other official visitors. The policy should apply to all such visits.

Government response: accepted in principle.

- In June 2015 NHS Employers published information which outlines the key considerations for employers when devising, implementing and reviewing local arrangements targeted at managing official visits on NHS premises.
- 41% of trusts (both NHS trusts and foundation trusts) have a dedicated policy in place.
- A further 55% committed to either develop a new policy or strengthen existing informal arrangements by September 2015.
- The remaining providers planned to implement later in 2015-16.

Recommendation 2: All NHS trusts should review their voluntary services arrangements and ensure that:

- They are fit for purpose;

- Volunteers are properly recruited, selected and trained and are subject to appropriate management and supervision; and,

- All voluntary services managers have development opportunities and are properly supported.

Government response: accepted in principle.

- 51% of providers confirmed that, having undertaken a review of their services, they had a fit for purpose procedure in place to manage the recruitment, development and training of their cohort of volunteers. A number of trusts identified that they require volunteers to follow similar on-boarding practices as employees, including Trust induction and training.
- The majority of remaining trusts had committed to or had started to undertake reviews of their services – with 39% committing to complete this by September, and the remainder of providers doing so after this.

Recommendation 3: The Department of Health and NHS England should facilitate the establishment of a properly resourced forum for voluntary services managers in the NHS, through which they can receive peer support and learning opportunities and disseminate best practice.

Government response: accepted in principle.

- To help strengthen the volunteer service managers (VSM) network structure, NHS England will join the National Association of Volunteer Service Managers (NAVSM) which has existed for 47 years to support volunteer management in the NHS and healthcare. Working in partnership with NAVSM and other volunteer networks and organisations they will

encourage further sharing of best practice in volunteer development, management and support as well as developing a quality assurance scheme for NHS Trusts and healthcare organisations. This will promote the importance of having well trained and resourced VSMs in all NHS Trusts and other NHS and healthcare organisations.

Recommendation 4: All NHS hospital staff and volunteers should be required to undergo formal refresher training in safeguarding at the appropriate level at least every three years.

Government response: accepted in principle.

- Over half of trusts (51%) reported that appropriate safeguarding training, renewable on at least three yearly basis, is in place for both staff and volunteers.
- A further 35% of trusts have committed to put this training in place for both staff and volunteers by September, with the remainder planning to do so at a later date.

Recommendation 5: All NHS Hospital trusts should undertake regular reviews of:

- Their safeguarding resources, structures and processes (including their training programmes); and,

- The behaviours and responsiveness of management and staff in relation to safeguarding issues

to ensure that their arrangements are robust and operate as effectively as possible.

Government response: accepted in principle.

- 65% of trusts identified as already being compliant with this recommendation.
- A further 26% stated this will be completed by September, with the remainder planning to be compliant later in 2015-16.

Recommendation 6: The Home Office should amend relevant legislation and regulations so as to ensure that all hospital staff and volunteers undertaking work or volunteering that brings them into contact with patients or their visitors are subject to enhanced DBS and barring list checks.

Government response: not accepted.

- In his statement on 26 February, the Secretary of State agreed that all volunteers working in regulated activity—typically close or unsupervised contact with patients—should have an enhanced Disclosure and Barring Service check (DBS). He reiterated the Government position on DBS checks and urged Trusts to take a considered approach, including the use of enhanced DBS services where volunteers may work closely with patients in the future.
- NHS Employers will continue to support organisations to understand and meet the legal and mandated requirements to undertake employment checks, including those required as part of the DBS regime.

Recommendation 7: All NHS hospital trusts should undertake DBS checks (including, where applicable, enhanced DBS and barring list checks) on their staff and volunteers every three years. The implementation of this recommendation should be supported by NHS Employers.

Government response: accepted in principle.

- This reply had the greatest variety of responses from trusts, with providers relatively evenly split in their responses between those providers who either:
    - have, or will, adopt DBS refresher checks every 3 years;
    - are reviewing internally their processes;
    - do not undertake regular DBS refresher checks; or
    - were waiting for further guidance from NHS Employers (or the Department of Health) before making any amendments to their current policy.

- The NHS Employers website was updated in April 2015 to provide further clarity about the current requirements for employers, to address the last point. The guidance makes clear that there is no legal requirement for employers to undertake three yearly checks; but that the frequency period should remain determinable by any risks identified by employers at a local level as opposed to being prescribed at a national level. The guidance also makes clear that Trusts can ensure that their information on volunteers is up to date through asking volunteers to make use of the DBS update service.
- DH will continue to work with NHS Employers and NHS England in light ofthis recommendation to consider what more can be done to support employers to understand their legal duties.

Recommendation 8: The Department of Health and NHS England should devise and put in place an action plan for raising and maintaining NHS employers' awareness of their obligations to make referrals to the local authority designated officer (LADO) and to the Disclosure and Barring Service.

Government response: accepted in principle.

- The DH already works with NHS Employers to ensure that employers are aware of their obligations in this area. NHS Employers already provide extensive information about duties for employers to make referrals to the DBS.
- DH will continue to work with NHS Employers and NHS England in light of trusts responses to this recommendation to consider what more can be done to support employers to understand their legal duties.

Recommendation 9: All NHS hospital trusts should devise a robust trust-wide policy setting out how access by patients and visitors to the internet, to social networks and other social media activities such as blogs and Twitter is managed and where necessary restricted. Such policy should be widely publicised to staff, patients and visitors and should be regularly reviewed and updated as necessary.

Government response: accepted in principle.

- 42% of Trusts said they had an internet usage policy in place, a further 38% said they would implement any necessary changes (generally adapting existing arrangements) by September with the remainder addressing this later..
- While trusts have controls over internet access via their own networks many trusts highlighted the difficulty of electronically policing internet access via personal networks. In these instances, trusts will rely on clearly worded policies for patients, visitors and staff/volunteers to highlight what is unacceptable in order to safeguard patients and other visitors.
- The Information Governance Alliance (IGA) published draft guidance for trusts on the use of mobile devices in hospitals for consultation which ended in July. The final guidance was published in October 2015.[1]

Recommendation 10: All NHS hospital trusts should ensure that arrangements and processes for the recruitment, checking, general employment and training of contract and agency staff are consistent with their own internal HR processes and standards and are subject to monitoring and oversight by their own HR managers.

Government response: accepted in principle.

- 56% of NHS trusts & foundation trusts identified that they had arrangements and processes in place for the recruitment, checking and general employment of contract and agency staff.
- A further 30% expect to be compliant by end September 2015. The remaining trusts are in the process of implementing the recommendations through either reviews of their processes or formal internal audit of recruitment and employment practices.

Recommendation 11: NHS hospital trusts should review their recruitment, checking, training and general employment processes to ensure they operate in a consistent and robust manner across all departments and functions and that overall responsibility for these matters rests with a single executive director.

Government response: accepted in principle.

- 68% of NHS trusts & foundation trusts indicated that they were compliant with this recommendation.
- A further 23% already had action plans, including timescales for implementation, in place, with plans for compliance by September 2015.

---

1 http://systems.hscic.gov.uk/infogov/iga/news/mobdevice.pdf

- The remaining organisations are in the process of implementing the recommendations through either reviews of their processes or formal internal audit of recruitment and employment practices.

Recommendation 12: NHS hospital trusts and their associated charities should consider the adequacy of their policies and procedures in relation to the assessment and management of the risks to their brand and reputation, including as a result of their associations with celebrities and major donors, and whether their risk registers adequately reflect this.

Government response: accepted in principle.

- 38% of trusts confirmed that they considered their charitable policies robust enough to protect their brand/reputation in all circumstances.
- Of the remainder, an additional 42% indicated that they would use the recommendation to conduct reviews and identify the necessary actions with specific reference to the management of the Trust's brand and reputation and association with any future major donors and celebrities by end September 2015.
- 11% committed to achieving this later as part of broader charity governance work. The majority will have completed these reviews by the end of 2015.
- A small number of trusts (3%) indicated that their charitable connections are small and/or they do not have any dealings with celebrities or donors. Consequently, while they consider that this recommendation is not relevant at the moment, they will assess these risks should the need arise.

Recommendation 13: Monitor, the TDA, the CQC and NHS England should exercise their powers to ensure that NHS hospital trusts, (and where applicable, independent organisations providing hospital services to NHS patients), comply with recommendations 1,2,4,5,7,9,10 and 11.

Government response: accepted in principle.

- Monitor, TDA, CQC and NHS England published a joint statement setting out their response to the Savile investigations and Kate Lampard's Lessons Learnt report in February 2015.
- The refresh of the NHS England Accountability and Assurance Framework for safeguarding vulnerable people put in place the structure to ensure hospital trusts are compliant with the recommendations.
- NHS England has established Quality Surveillance groups (QSGs) on a regional and sub-regional level. These QSGs are the appropriate groups to monitor the recommendations following the Savile investigations as they have local commissioners and regulators as members and are able to assess risk and quality issues across the area, using intelligence from a variety of sources.
- NHS England will advise QSGs to familiarise themselves with these recommendations, and to request that CCGs, Monitor, the TDA and the CQC consider the recommendations when undertaking commissioning or regulatory visits in the provider Trusts within the QSG's area.

Recommendation 14: Monitor and the TDA should exercise their powers to ensure that NHS hospital trusts comply with recommendation 12.

Government response: accepted in principle.

- Monitor and TDA wrote to all NHS trusts and NHS foundation trusts in March to ask them to review their current practice against the recommendations and to develop an action plan in response. Trusts were asked to report back on their proposed actions within three months.
- All trusts have responded and set out the action they are taking in response to the recommendations.
- Monitor and TDA will consider how best to subsume the appropriate recommendations into the oversight framework for NHS trusts and NHS foundation trusts.

Conclusion

In summary, progress has been made against all the recommendations. The vast majority of trusts have already taken action in response to the recommendations or are in the process of doing so.

The recommendation against which trusts have displayed the greatest variation concerns the use of 3-yearly DBS checks. NHS Employers will continue to encourage NHS employers to promote the use of the Update Service, as a key way of ensuring that DBS checks remain current. Monitor and TDA will, through their respective communication channels, remind trusts of the update service.

The Secretary of State for Health announced on July 16th a new body formed by Monitor and the TDA, to be called NHS Improvement which will hold a new safety function, including a new Independent Patient Safety Investigation Service (IPSIS). NHS Improvement are currently reviewing CQC's well-led framework, setting out expectations of NHS provider boards and their oversight of the organisations they are responsible for. Well-run boards should be able to assure themselves that their organisations have processes in place to ensure effective safeguarding, training and recruitment practices. NHS Improvement will consider how best to reflect the recommendations in this framework in an appropriate fashion.

1. Introduction

1.1. In February 2015 Kate Lampard published her report into the themes and lessons learnt from the NHS investigations into matters relating to Jimmy Savile. This built on the findings from 44 NHS investigations into allegations of abuse by Savile on NHS premises. The report included 14 recommendations for the NHS, the Department of Health and wider Government.

1.2. This report provides an update on progress in response to those recommendations.

Background

1.3. In October 2012, the Secretary of State for Health asked Kate Lampard CBE to provide oversight of the various Savile investigations and assurance that they had been rigorous and robust. He also asked her to produce a lessons learnt report, drawing on the findings from all published investigations and emerging themes.

1.4. That report was published on 26 February 2015. It built on the findings from 44 NHS investigations into allegations of abuse by Savile on NHS premises. 28 reports were published in June 2014 and a further 16 in February 2015. The reports included the 3 main investigations at Leeds General Infirmary, Broadmoor and Stoke Mandeville. The investigations involved 41 hospitals, as well as a children's convalescent home, an ambulance service and a hospice.

1.5. The lessons learnt report included 14 recommendations for the NHS, the Department of Health and wider government. In his statement on 26 February, the Secretary of State for Health accepted in principle 13 of the 14 recommendations. This report provides an update on actions taken in response to the 14 recommendations.

1.6. Nine of the 14 recommendations were for NHS Trusts to implement. In his statement on 26 February, the Secretary of State asked the chief executives of Monitor and the NHS Trust Development Authority (TDA) to write to all foundation trusts (FTs) and trusts to ask them to read the lessons learnt report and review their current practice against the recommendations. In particular, trusts were asked to:

- develop an action plan to identify where additional action is needed against these recommendations;
- provide assurance that the necessary action has been taken – or where this is in progress, the date by which it will be completed; and
- report back on their proposed actions within three months.

1.7. All NHS trusts and all NHS foundation trusts responded. Reassuringly, the vast majority of responses were very detailed and considered, giving us confidence in the level of commitment across the sector to address the issues raised by the Savile investigations and the lessons learnt report. The responses have been collated by Monitor and TDA and they have provided an update to the Secretary of State for Health. The responses are summarised in the main report below, which also includes examples of good practice from Trusts.

2. Recommendations

Recommendation 1:

All NHS hospital trusts should develop a policy for agreeing to and managing visits by celebrities, VIPs and other official visitors. The policy should apply to all such visits.

Government response: accepted in principle.

2.1. The lessons learnt report found that most hospitals it reviewed had not thought to draw up policies for managing visits by celebrities, VIPs and other official visitors and that this leaves organisations vulnerable to mismanagement of approaches for such visits.

2.2. Volunteering takes place in a wide range of settings, and it is for the leaders of these organisations to ensure that there are sufficient, robust and proportionate processes, procedures and support functions in place to safeguard both volunteers and those they seek to support.

2.3. The Department has worked closely with NHS Employers to ensure trusts are supported and have appropriate guidance to take forward this recommendation.

2.4. NHS Employers published in June 2015 information which outlines the key considerations for employers when devising, implementing and reviewing local arrangements targeted at managing official visits on NHS premises. The information highlights considerations to help employers widen the reach and understanding of requirements and the importance of having protocols in place, working with key functions such as security, human resources, and communications teams, and also the benefits of involving staff side in implementing local requirements.

Response from trusts (collected by TDA and Monitor)

2.5. The available returns identify that nearly half (41%) of trusts (NHS Trusts and Foundation trusts) now have a dedicated policy in place. The remainder of trusts are now in the process of either developing a new policy or strengthening existing informal arrangements, with the majority committing to fulfil this by September. A number of trusts benchmarked similar policies against their peers to gauge best practice.

> "*A dedicated volunteers policy is now in place. The policy requires that one-off or very short-term approved official visitors are always accompanied throughout their visit to the Trust where there is a possibility of contact with lone staff or vulnerable patients/visitors. The Policy requires that visitors who are in the Trust for extended periods are appropriately checked and authorised. The policy identifies responsibilities for the management visits of VIP or celebrities. A central register of visitors is maintained and monitored.*"

Recommendation 2:

All NHS trusts should review their voluntary services arrangements and ensure that:

- They are fit for purpose;

- Volunteers are properly recruited, selected and trained and are subject to appropriate management and supervision; and,

- All voluntary services managers have development opportunities and are properly supported.

Government response: accepted in principle.

2.6. Kate Lampard's report highlighted the growth in volunteering to support the work of the NHS. Overall across the NHS we estimate there are 78,000 volunteers, including 1,500 at just one trust - King's College Hospital - in London. They do a magnificent job in improving patient care every single day throughout the NHS. The lessons learnt report recognised that volunteers in hospitals are a force for good. However it also noted that having large numbers of volunteers in hospital settings involves risks and that there was a need to ensure reasonable precautions to protect vulnerable people from those who might seek to do them harm under the guise of volunteering.

2.7. The Department has worked closely with NHS Employers to ensure Trusts are supported and have appropriate guidance to take forward this recommendation.

2.8. The NHS Employment Check Standards revised in July 2013 set out the legal and mandated employment check requirements when considering the appointment of all workers in the NHS - including volunteers, agency and third party contractors who supply staff/services to the NHS.

2.9. NHS Employers will continue to support organisations to understand and meet the legal and mandated requirements to undertake employment checks, including those required as part of the DBS regime, in particular, through:

- Publication of extensive Q&A providing good practice and clarity around how these checks should be implemented. This section of the website is regularly reviewed and republished to reflect any common themes/issues which are raised by employers, volunteer managers, agencies and third party contractors who are required to adhere to these standards; [2]
- Providing advice and guidelines in response to queries received through the generic mailbox/over the telephone.

2.10. We expect that each individual health and care provider assesses their volunteering schemes to be assured that the right procedures are in place including – recruitment,

[2] http://www.rcoa.ac.uk/document-store/safeguarding-children-and-young-people-roles-and-competences-healthcare-staff-2014

training, vetting and necessary support networks so that their involvement can be effective, fulfilling and safe.

2.11. The meaning of 'fit for purpose' must ensure that while safeguarding issues are effectively dealt with, there is also a flexible and common sense approach (appropriate to a given circumstance) so that the arrangements do not act as unnecessary barriers to volunteers/volunteering.

Response from trusts (collected by TDA and Monitor)

2.12. 51% of providers confirmed that, having undertaken a review of their services, they had a fit for purpose procedure in place to manage the recruitment, development and training of their cohort of volunteers. A number of trusts identified that they require volunteers to follow similar on-boarding practices as employees, including Trust induction and training.

2.13. The remaining trusts had committed to or had started to undertake reviews of their services – with 39% committing to complete this by September. Of those who had started but had not completed their reviews trusts identified that further work was required, for example, to improve the training and development of their volunteers and to place more structure around management and supervision practices.

"The volunteer policy has been reviewed and includes the following:

- The volunteer will not be appointed until satisfactory references and required DBS checks are received;

- All volunteers will attend trust induction and complete a local induction with their line manager and/or volunteer co-ordinator. All volunteers receive safeguarding training;

- A trial period for all volunteers;

- All volunteers are supported to access available developmental opportunities;

- Support and Supervision –

Monthly supervision will be provided by the line manager;

Individual reviews will be held following the trial period, and then at 3 monthly intervals. This may be increased to 6 monthly with the agreement of volunteer, manager and volunteer co-ordinator;

Informal support will be provided by line manager and/or delegated staff member;

The volunteer co-ordinator will be available to provide support via telephone and email. Face-to-face meetings will be arranged if required."

Recommendation 3:

The Department of Health and NHS England should facilitate the establishment of a properly resourced forum for voluntary services managers in the NHS, through which they can receive peer support and learning opportunities and disseminate best practice.

Government response: accepted in principle.

2.14. The lessons learnt report found a wide variation in the processes for management of NHS volunteer schemes and proposed a properly resourced forum for volunteer services managers, to enable the dissemination of good practice.

2.15. NHS England are exploring and facilitating a programme in partnership with volunteer organisations and volunteers themselves to ensure it builds on existing initiatives and can have maximum input to meet the commitments on volunteering in the Five Year Forward View, the Savile investigations and the lessons learnt report.

2.16. As part of its programme of work, NHS England has established a Steering Group with oversight of volunteering in health and care and a specific working group on volunteer management and organisational development. It will work with partners to enhance the evidence base to demonstrate the value of volunteering and the need for effective management; and develop processes for reporting numbers of volunteers, their impact and how further volunteering opportunities can be developed across the system.

2.17. To help strengthen the volunteer service managers (VSM) network structure, NHS England will join and invest in the capacity of the National Association of Volunteer Service Managers (NAVSM) which has existed for 47 years to support volunteer management in the NHS and healthcare. Working in partnership with NAVSM and other volunteer networks and organisations they will encourage further sharing of best practice in volunteer development, management and support develop a quality assurance scheme for NHS Trusts and healthcare organisations; and in promoting the importance of having well trained and resourced VSMs in all NHS Trusts and other NHS and healthcare organisations.

2.18. The NHS England plan of action will see VSM organisations given a greater platform to further develop and define their roles and raise the profile of the three million people who volunteer in health and care.

Recommendation 4:

All NHS hospital staff and volunteers should be required to undergo formal refresher training in safeguarding at the appropriate level at least every three years.

Government response: accepted in principle.

2.19. Working Together to Safeguard Children sets out the statutory requirement for staff to have training and regular reviews of practice. All organisations covered by s.11 of the Children Act 2004 covering the duty to safeguard (including CCGs, NHS England, NHS trusts and NHS foundation trusts) are required to have in place arrangements for "appropriate supervision and support for staff, including undertaking safeguarding training… all professionals should have regular reviews of their own practice to ensure they improve over time." Additionally, the intercollegiate competence framework for

safeguarding children expects all staff to receive refresher safeguarding training at least every three years.[3]

2.20. The principles of safeguarding are integral to education and training for health professionals. Recruitment processes and education and training must identify and consistently reinforce these safeguarding values.

2.21. Health or social care support workers undertaking the new Care Certificate from April 2015, must be able to demonstrate that they understand the principles of adult safeguarding and know how to reduce the likelihood of abuse.

2.22. NHS England are developing guidance for safeguarding adults in line with existing intercollegiate guidance for children and young people. This will set out the roles and competencies of those working with adults at risk of abuse or neglect.

2.23. This Intercollegiate Document is on track for publication in the autumn this year. This document sets out the formal refresher training in adult safeguarding, at the appropriate level at least every three years.

Response from Trusts (collected by the TDA and Monitor)

2.24. Over half of responding trusts (51%) reported that appropriate safeguarding training, renewable on at least three yearly basis, is in place for both staff and volunteers. While safeguarding training is a core part of employee training at most NHS trusts, not all trusts have historically extended safeguarding training to volunteers, generally because not all volunteers work in direct patient-facing roles. A further 35% of trusts have committed to put this training in place for both staff and volunteers by September, with others doing so later in line with their regular reviews of changes to training processes. For many of the trusts this work includes, for example, a programme of learning needs assessments for volunteers, or developing ways in which refresher training may be administered, such as by way of e-learning modules.

2.25. DH and NHS England are also working with the CQC to monitor compliance through inspection (see recommendation 13).

> *"The Trust has an agreed Training Needs Analysis in place for staff and volunteers under the Inclusion Scheme to determine levels of safeguarding training in line with role and responsibilities. All staff and volunteers receive a minimum of Level 1 safeguarding at Induction. This requires recompletion every 3 years via a rolling programme. Training reports are monitored by the Trust on levels of compliance. To improve further, there are plans in place to uplift for volunteers undertaking activities requiring direct service user contact in a clinical setting to undertake Level 2 training."*

[3] http://www.rcoa.ac.uk/document-store/safeguarding-children-and-young-people-roles-and-competences-healthcare-staff-2014

Recommendation 5:

All NHS hospital trusts should undertake regular reviews of:

- Their safeguarding resources, structures and processes (including their training programmes); and,

- The behaviours and responsiveness of management and staff in relation to safeguarding issues.

to ensure that their arrangements are robust and operate as effectively as possible.

Government response: accepted in principle.

2.26. The NHS Mandate is very clear that the NHS must prioritise the continued improvement of safeguarding practice in the NHS. Regularly reviewing arrangements and undertaking reflective practice is essential to ensuring all trusts are providing the best safeguarding practices.

2.27. The NHS England Accountability and Assurance Framework for safeguarding vulnerable people was refreshed in July 2015[4]. This document defines the assurance processes to be undertaken by the NHS England Regional Heads of Safeguarding to ensure robust safeguarding systems are in place across health services and commissioners. The assurance will be in partnership with local safeguarding boards including section 11 audits and self-assessments and assurance of adult services.

2.28. The National Quality Board has established Quality Surveillance groups (QSGs) on a regional and sub-regional level. These QSGs are the appropriate groups to monitor this recommendation following the Savile investigations as they have local commissioners and regulators as members and are able to assess risk and quality issues across the area, using intelligence from a variety of sources.

2.29. NHS England will advise QSGs to familiarise themselves with this recommendation, and ask QSGs to request that CCGs, Monitor, the TDA and the CQC consider it when undertaking commissioning or regulatory visits in the provider Trusts within the QSG's area.

Response from Trusts (collected by the TDA and Monitor)

2.30. 65% of providers identified as already being compliant with this recommendation.

2.31. However, some trusts identified that specific actions need to be taken to ensure safeguarding arrangements are meeting the needs of the Trust and are responsive to the recommendations set out in the Lampard Report. Where this is applicable, trusts have identified key actions which they will be putting in place (for example, reviews of training materials and compliance monitoring) to rectify this. A further 26% have stated this will be completed by September with the remainder seeking to complete this by the end of 2015/16.

[4] http://www.england.nhs.uk/resources/resources-for-ccgs/#ps

2.32. The remaining organisations have provided assurance that they are taking reasonable steps to strengthen their safeguarding resources, structures and processes. Trusts have been carrying out reviews of their governance structures in the areas of safeguarding, identifying actions and agreeing a timetable for implementation. Actions include amending relevant safeguarding policies, implementing a programme of audits and appointing named Safeguarding Champions.

> *"Practices and procedures and training relating to vulnerable people have just been reviewed as part of the approval of the Safeguarding Vulnerable Persons Policy earlier this year. These policies and procedures take into account the national and local best practice as well as DH guidance and legal frameworks. The Trust now has a robust procedure in place for referring of Vulnerable Persons in our care which is supported by a dedicated and knowledgeable Safeguarding Team. All staff are trained in safeguarding including managers, corporate staff, control staff, PTS and support services which is updated as part of the Essential Annual Training (EAT) programme ensuring that the latest learning and guidance is followed. Board level training is being delivered this year. Any concerns regarding a person who may be vulnerable can be raised in confidence through a robust process and are passed to Children or Adults Social Care for further action. These may be patients in our care, relatives, staff, or patients in other healthcare organisations that we observe. Monthly safeguarding indicators require monitoring to ensure good quality standards of referral; Incident management is monitored and reported through the appropriate committees."*

Recommendation 6:

The Home Office should amend relevant legislation and regulations so as to ensure that all hospital staff and volunteers undertaking work or volunteering that brings them into contact with patients or their visitors are subject to enhanced DBS and barring list checks.

Government response: not accepted

2.33. In his statement on 26 February, the Secretary of State agreed that all volunteers working in regulated activity—typically close or unsupervised contact with patients—should have an enhanced Disclosure and Barring Service check (DBS). Although he did not accept that DBS checks should apply to volunteers not undertaking regulated activity, he urged Trusts to take a considered approach, including the use of enhanced DBS services where volunteers may work closely with patients in the future.

2.34. One of the attractions of volunteering is its variety, which can range from reading to patients to helping with personal care such as eating or dressing. For this reason it is important that all Trusts have a clear policy which clarifies what their expectations for volunteers are. Where these roles fall within regulated activity, volunteers should undergo DBS checks and the trust should ensure that their policy is consistent with the DBS requirements.

2.35. NHS Employers will continue to support organisations to understand and meet the legal and mandated requirements to undertake employment checks, including those required

as part of the DBS regime. NHS Employers have published revised scenario based guidelines on eligibility for a DBS check[5]. NHS Employers continues to work closely with policy colleagues at the DBS, employers and the crime reduction charity body NACRO to identify challenges/barriers to understanding the eligibility criterion for DBS checks with a view to developing further guidelines.

Response from Trusts (collected by TDA and Monitor)

2.36. Many trusts noted that this recommendation was not accepted by the Secretary of State: see recommendation 7 below for trusts' approach to the recommendations in the Lessons Learnt report and, more broadly, to the use of DBS checks.

Recommendation 7:

All NHS hospital trusts should undertake DBS checks (including, where applicable, enhanced DBS and barring list checks) on their staff and volunteers every three years. The implementation of this recommendation should be supported by NHS Employers.

Government response: accepted in principle.

2.37. Trusts should make sure their information on volunteers is up to date, and can achieve this through asking volunteers to make use of the DBS update service. Trusts should encourage staff and volunteers who are eligible to join the DBS update service. It is free for volunteers and allows an individual to register with the DBS and have a portable certificate. This means a volunteer can work for several organisations with only one DBS application; and an employer can check the status of their volunteer at any time and make safe recruitment decisions. Since it began in 2013, 100,000 people have registered.

Response from Trusts (collected by TDA and Monitor)

2.38. This recommendation had the greatest variation in responses from trusts. There were several distinct categories. Those who:

- have, or will, adopt DBS refresher checks every 3 years
- are reviewing internally their processes;
- do not undertake regular DBS refresher checks; or
- were waiting for further guidance from NHS Employers or the Department of Health before making any amendments to their current policy.

2.39. Reasons for not undertaking DBS checks every 3 years included: NHS Employers guidance that this is not necessary; cost (approx. £250k per year according to one trust); relevance (DBS checks are out of date as soon as they are carried out); and existing contractual obligations on employees to inform the trust should they meet the relevant

---

5 http://www.nhsemployers.org/~/media/Employers/Documents/Recruit/Employer%20guidance%20on%20eligibility%20for%20a%20DBS%20check%2016%20April%202015%20final.pdf

criteria (employees must inform the trust if they commit an offence that would be picked up by a DBS check.)

Next steps

2.40. The NHS Employers website was updated in April 2015 to provide further clarity about the current requirements for employers.

> As at July 2015 the NHS Employers guidance states:
>
> *"While not a legal requirement, employers are already permitted to require periodic DBS checks as part of their local policy. At this current time there is no appetite to prescribe a frequency period by which employers should undertake any repeat checks – instead they are recommended to consider how they can encourage workers and volunteers to subscribe to the DBS Update Service which offers a more satisfactory solution to this recommendation because of the added safeguarding measures this can provide. See our briefing document on using the DBS Update Service (June 2014) which can be found on this website. Subscription to the Update Service remains free for volunteers.*
>
> *Where employers have already implemented periodic DBS checks as part of their local policy, these arrangements can continue unaffected.*
>
> *It is important that employers regularly review local recruitment policies and practices to ensure they remain fully compliant with current legal requirements under the DBS regime; and appropriate and proportionate measures are considered to minimise any potential risks to patient safety."* [6]

2.41. The guidance makes clear that there is no legal requirement for employers to undertake three yearly checks; but that the frequency period should remain determinable by any risks identified by employers at a local level as opposed to being prescribed at a national level. The guidance also makes clear that Trust can ensure that their information on volunteers is up to date through asking volunteers to make use of the DBS update service.

2.42. DH will continue to work with NHS Employers and NHS England in light of trusts' responses to this recommendation to consider what more can be done to support employers to understand their legal duties.

[6] http://www.nhsemployers.org/case-studies-and-resources/2014/08/an-employers-guide-to-using-the-dbs-update-service; http://www.nhsemployers.org/~/media/Employers/Documents/Recruit/DBS%20Update%20Service%20July%202014.pdf ;http://www.nhsemployers.org/your-workforce/need-to-know/the-savile-inquiry

Recommendation 8:

The Department of Health and NHS England should devise and put in place an action plan for raising and maintaining NHS employers' awareness of their obligations to make referrals to the local authority designated officer (LADO) and to the Disclosure and Barring Service.

Government response: accepted in principle.

2.43. The lessons learnt report raised concerns about how NHS hospital trusts engaged with local safeguarding boards and local safeguarding arrangements, and in particular, the low level of referrals to the LADO and DBS in respect of staff or volunteers engaged in regulated activity who posed a risk of harm to children or vulnerable adults.

2.44. The DH already works with NHS Employers to ensure that employers are aware of their obligations in this area.

2.45. NHS Employers already provide extensive information about duties for employers to make referrals to the DBS. Current guidelines include:

- Embedded guidance on making referrals to the DBS in the Criminal Record and Barring Check Standard
- Additional guidance includes: a webinar on duties to refer to the DBS (May 2013) and to podcasts on triggers to refer and evidence employers are required to provide to the DBS when they are considering a referral
- Signposting and promotion of how the ESR/DBS functionality can assist employers in alerting the DBS of any pending investigations on individuals who have subscribed to the Update Service through NHSE website, and relevant scheduled events and networks.

2.46. NHS England has produced a 'Managing Allegations' policy, which included specific reference to the role of the LADO. The requirements for the Disclosure and Barring Service are given in the recently refreshed NHS England Accountability and Assurance Framework for Safeguarding Vulnerable Adults. Assurance of compliance will be through the systems put in place under recommendation 5.

2.47. LADO referrals should also be monitored via the QSGs and each QSG should establish a baseline of current referrals and monitor patterns quarterly.

2.48. The DBS will be undertaking a further call for evidence to evaluate how NHS organisations make referrals and whether the DBS/ESR functionality has made an impact on the number of referrals being made.

2.49. DH will continue to work with NHS Employers and NHS England in light of this recommendation to consider what more can be done to support employers to understand their legal duties.

Recommendation 9:

All NHS hospital trusts should devise a robust trust-wide policy setting out how access by patients and visitors to the internet, to social networks and other social media activities such as blogs and Twitter is managed and where necessary restricted. Such policy should be widely publicised to staff, patients and visitors and should be regularly reviewed and updated as necessary.

Government response: accepted in principle.

2.50. The lessons learnt report found incidents of internet and social media use on hospital premises that raised safeguarding concerns and evidence that some NHS hospitals do not have a clear and consistent policy on managing internet and social media access by patients and visitors.

2.51. The Information Governance Alliance (IGA) published draft guidance for trusts on the use of mobile devices in hospitals for consultation which ended in July. The final guidance was published in October 2015.[7]

Response from Trusts (collected by TDA and Monitor)

2.52. The majority of NHS trusts & foundation trusts responding indicated that internet usage policies were in place across their facilities. While these policies included reference to the management of social media access, or stand-alone policies which cover this access, many concluded that they needed to be strengthened. 100 NHS trusts & foundation trusts (42%) have indicated that they consider that they have a robust policy in place and are fully compliant with the recommendation, while a further 92 (38%) are taking steps to review existing policies and implement any changes by September 2015, with the remaining trusts planning to do so later. However, many trusts highlighted the difficulty of electronically policing internet access via personal networks – in these instances, trusts will rely on clearly worded policies for patients, visitors and staff/volunteers to highlight what is unacceptable in order to safeguard patients and other visitors.

Next steps

2.53. Trusts have also indicated that they are introducing additional access controls/firewalls for guest and patient Wi-Fi and developing escalation processes for raising concerns. One trust set out how it was using Patient Information Packs to feature information and guidance on internet access and appropriate conduct.

> "*The Trust has a range of policies and procedures which covers access to internet and social networks. As part of a planned programme for policy review, the Information Governance policy and*

7 http://systems.hscic.gov.uk/infogov/iga/news/mobdevice.pdf

procedures are under review with information being streamlined into one policy. The draft is expected to be presented to the Policy Review Group by end June 2015. However the existing Acceptable Uses of Electronic Media Policy and procedure remains in place which covers the provision, use and restrictions of Trust managed computers and electronic devices (including computers for patient use) and the provision of guest Wi-Fi access for patients and visitors. This is a managed system under the Trust's IT framework. A robust risk assessment has been undertaken to agree which internet and media sites are acceptable and a blocking software programme is in operation to restrict access to sites which are deemed unacceptable. The guest Wi-Fi password is changed on a monthly basis for security reasons. The Trust also has Personal Mobile Telephone Policy which applies to service users on in-patient units, service users attending review clinics, all Trust employees, agency and bank staff, visitors and contractors. This does not allow the use of cameras or recording of data. Clinical risks, concerns and restrictions are managed through the Trust Clinical Risk Assessment and management policy and procedures which may involve the need to restrict access to the internet and social media for the protection of service users and the general public."

Recommendation 10:

All NHS hospital trusts should ensure that arrangements and processes for the recruitment, checking, general employment and training of contract and agency staff are consistent with their own internal HR processes and standards and are subject to monitoring and oversight by their own HR managers.

Government response: accepted in principle.

2.54. The Lessons Learnt report found that in some hospitals responsibility for certain employment and HR matters lies outside the HR department, for example contract staff were the responsibility of the estates and facilities department.

2.55. There is already a lot of guidance available to Trusts in this area e.g. the NHS Employment Check Standards published by NHS Employers.

Response from Trusts (collected by TDA and Monitor)

2.56. 56% of NHS trusts & foundation trusts (134 in total) responding identified that they had arrangements and processes in place for the recruitment, checking and general employment of contract and agency staff. The remaining trusts were in the process of reviewing their arrangements to comply, with a further 70 (30%) indicating that they would be compliant by end September 2015. Several trusts indicated plans to align processes for contract/agency staff with permanent staff by strengthening existing policies or combining both processes under a single HR function. Many trusts already carry out annual internal audits of recruitment processes, and indicated that these would continue as usual, now having regard to the new recommendation.

2.57. Many of the trust responses identified that, where agency staff were in use, suppliers were selected from the National Framework Agreement which provides that all relevant

employment and DBS checks are conducted).[8] Many trusts referenced the use of the best practice NHS Employers guidance on employment standards check. Some trusts identified either a named person or team through which contract and agency staff are recruited/managed.

> *"The Trust recruits staff including bank staff in accordance with the Trust Recruitment and Selection Policy and NHS Employment Check Standards, which are subject to audit and have achieved NHSLA Level 3 standard. The most recent audit was conducted in 2015. The internal bank only books staff from LPP approved framework agencies who have been vetted for commensurate standards and their checks assurance are provided to the Trust every 3 months."*

Recommendation 11:

NHS hospital trusts should review their recruitment, checking, training and general employment processes to ensure they operate in a consistent and robust manner across all departments and functions and that overall responsibility for these matters rests with a single executive director.

Government response: accepted in principle.

2.58. The lessons learnt report found that there were different arrangements for oversight of employment and human resources matters in hospitals and recommended that assurance and responsibility should lie with a single executive director.

2.59. There is a lot of guidance already available to trusts to support them with their recruitment and training processes, and will continue to work closely with NHS Employers to ensure trusts are appropriately supported with taking forward action against the relevant recommendations.

2.60. NHS Employers continually reviews FAQ guidelines to promote good practice when reviewing and developing local recruitment practice and procedures in NHS Trusts.

Response from Trusts (collected by TDA and Monitor)

2.61. The majority of NHS trusts & foundation trusts (68%) indicated that they were compliant with this recommendation. The remaining organisations are in the process of implementing the recommendations through either reviews of their processes or formal internal audit of recruitment and employment practices. Of these, a further 23% already have action plans, including timescales for implementation, in place for compliance by September 2015. Directors were most frequently cited as having overall responsibility, with some trusts also utilising Quality Committee or other similar Governance structures for assurance purposes.

[8] See London Procurement Partnership (LPP) http://www.lpp.nhs.uk/categories/agency-temporary-staffing/national-collaborative-framework-for-the-supply-of-nursing-and-nursing-related-staff/;

"The Recruitment process is frequently reviewed to ensure a robust and fair approach is applied at all stages of the recruitment cycle. Regular audits are completed for new starters to ensure they have complied with all of the NHS Employment Check Standards. As part of the Trusts Values Based Recruitment approach, Values Based Interviews are used for all nursing, health care assistants, and administration, leadership and pharmacy roles. We are currently implementing Values Based Interviews for all other posts. Monthly training is provided to recruiting managers in both Values Based Interviewing and Safer Recruitment to provide consistency and develop manager's skills. DBS checks are rigorously checked alongside declaration forms which require candidates to declare any previous convictions, cautions, fitness to practice issues, disciplinary proceedings or entry on either barred register. The Recruitment and Selection policy is regularly reviewed by both HR and our Policy Review Group and Joint Working Group….The responsibility for recruitment, checking, training and general employment processes is under the single Executive Director of Strategy and Organisational Effectiveness."

Recommendation 12:

NHS hospital trusts and their associated charities should consider the adequacy of their policies and procedures in relation to the assessment and management of the risks to their brand and reputation, including as a result of their associations with celebrities and major donors, and whether their risk registers adequately reflect this.

Government response: accepted in principle.

The current position

2.62. The Lessons Learnt report noted the disparity between the amount of money raised through NHS charitable fund raising and in professionalism and governance arrangements. It also noted the risks to brand and reputation if trusts do not have adequate policies and procedures in place which include their associations with major donors and celebrities.

2.63. There are currently around 263 NHS charities, with a combined income of about £327 million and asset value of £2 billion, but with considerable disparity of size across the sector. All these NHS charities are currently structured as charitable trusts, with their charitable purposes deriving from the National Health Service Act 2006.

2.64. By far the majority of NHS charities have an NHS body (either an NHS Trust or Foundation Trust) as corporate trustee. In the case of the 20 largest NHS charities they have as trustees either [a member of?] the board of the NHS England, a CCG, or an NHS Trust; or trustees are appointed under the NHS Act 2006 by the Secretary of State; or special trustees are appointed by the Secretary of State under circumstances linked to historical NHS reorganisations.

Response from Trusts (collected by TDA and Monitor)

2.65. 38% of trusts confirmed that they considered their charitable policies robust enough to protect their brand/reputation in all circumstances. Of the remainder, an additional 42% indicated that they would use the recommendation to conduct reviews and identify the necessary actions with specific reference to the management of the Trust's brand and

reputation and association with any future major donors and celebrities by end September 2015. 11% committed to achieving this later as part of broader charity governance work. All trusts have committed to completing these reviews by the end of 2015.

2.66. A small number of trusts (3%) indicated that their charitable connections are small and/or they do not have any dealings with celebrities or donors. Consequently, while they consider that this recommendation is not relevant at the moment, they will assess these risks should the need arise.

Recommendation 13:

Monitor, the TDA, the CQC and NHS England should exercise their powers to ensure that NHS hospital trusts, (and where applicable, independent organisations providing hospital services to NHS patients), comply with recommendations 1,2,4,5,7,9,10 and 11.

Government response: accepted in principle.

2.67. Monitor, TDA, CQC and NHS England published a joint statement setting out their response to the Savile investigations and Kate Lampard's Lessons Learnt report in February 2015.

2.68. CQC already ask about safeguarding in each of the core services they inspect. They then report this under a separate subheading within safety for each core service. In practice CQC tend to focus on understanding of safeguarding and on uptake of safeguarding training (which currently varies widely).

2.69. Kate Lampard's report has led CQC to consider wider issues related to safeguarding. CQC's plan is to interview whoever is the executive lead for safeguarding (usually the Director of Nursing) to ask about the overall governance in this area. This would include questions about oversight of volunteers, celebrities and other groups identified by Kate Lampard. CQC will also ask a generic question about action taken in the light of the Lampard report on Jimmy Savile. This will then be reported under the safe section of the provider report.

2.70. The refresh of the NHS England Accountability and Assurance Framework for safeguarding vulnerable people put in place the structure to ensure hospital trusts are compliant with the recommendations.

2.71. NHS England have established Quality Surveillance groups (QSGs) on a regional and sub-regional level. These QSGs are the appropriate groups to monitor the recommendations following the Savile investigations as they have local commissioners and regulators as members and are able to assess risk and quality issues across the area, using intelligence from a variety of sources.

2.72. NHS England will advise QSGs to familiarise themselves with these recommendations, and to request that CCGs, Monitor, the TDA and the CQC consider the recommendations when undertaking commissioning or regulatory visits in the provider trusts within the QSG's area.

Recommendation 14:

Monitor and the TDA should exercise their powers to ensure that NHS hospital trusts comply with recommendation 12.

Government response: accepted in principle.

2.73. Monitor and TDA wrote to all NHS trusts and NHS foundation trusts in March to ask them to review their current practice against the recommendations and to develop an action plan in response. Trusts were asked to report back on their proposed actions within three months.

2.74. All NHS trusts and NHS foundation trusts have responded and set out the action they are taking in response to the recommendations.

2.75. NHS Improvement are currently reviewing CQC's 'Well-led' framework, setting out expectations of NHS provider boards and their oversight of the organisations they are responsible for. Well-run boards should be able to assure themselves that their organisations have processes in place to ensure effective safeguarding, training and recruitment practices. NHS Improvement will consider how best to reflect the recommendations in this framework in an appropriate fashion.

3. Conclusion

3.1. In summary, progress has been made against all the recommendations. The vast majority of Trusts who have replied so far appear to have already taken action in response to the recommendations or are in the process of doing so.

3.2. The recommendation against which trusts have displayed the greatest variation concerns the use of 3-yearly DBS checks, citing existing NHS Employers guidance, the cost and the assurance provided by employees' contractual obligations. NHS Employers will continue to encourage NHS employers to promote the use of the Update Service, as a key way of ensuring that DBS checks remain current. Monitor and TDA will, through their respective communication channels, remind trusts of the update service.

3.3. NHS Improvement are currently reviewing CQC's well-led framework. NHS Improvement will consider how best to reflect the recommendations in the oversight frameworks for NHS trusts and NHS foundation trusts in an appropriate fashion.

3.4. This will be particularly important in the light of the Independent Inquiry into Child Sexual Abuse, chaired by Justice Lowell Goddard. In her opening statement on 9 July, Justice Goddard urged institutions to take a proactive stance towards the Inquiry and to review their files, records and procedures: "Above all, review your current safeguarding policies to make sure that they are consistent with best practice, and take whatever steps you can to provide a safer environment for children now."

3.5. Trusts will want to ensure that outstanding actions following their reports back to Monitor and TDA are completed in order to provide such assurance to the Inquiry.