

QCAR BRIEFING

THE MORECAMBE BAY INVESTIGATION – UPDATE

Background

The Morecambe Bay Investigation was established in September 2013 by the Secretary of State as an independent investigation into the maternity and neonatal services of the University Hospitals of Morecambe Bay NHS Foundation Trust and their governance and management. The Investigation is chaired by Dr Bill Kirkup CBE and is based in Preston, Lancashire at offices owned and managed by Lancashire County Council.

The Investigation's terms of reference are:-

1. To review the outcomes for mothers and babies that occurred during this time, including maternal and neonatal deaths that occurred in the Trust and in any other institutions to which patients were transferred;
2. To review the Trust Board's actions and governance procedures in response to untoward incidents such as the deaths of mothers and babies, including:
 - a) The Board's processes for responding to serious untoward incidents (SUIs); and
 - b) The relationship and communication between the Trust and
 - Patients and families
 - GPs and community ante-natal midwifery services
 - Commissioners, predominantly in the two local PCTs, Cumbria PCT and North Lancashire PCT, their predecessor PCTs, and successor CCGs
 - The North West Strategic Health Authority
 - Regulators – including Monitor, CQC, and the Healthcare Commission.
 - Public Health services
 - Other Trusts where mothers and babies were transferred
 - Any other relevant organisations.
 - c) Relevant investigations published by the Parliamentary and Health Service Ombudsman.
3. To review the Trust Board's responses to, and any subsequent actions taken following receipt of, the following reports:
 - Monitor's review of the Trust's application for FT status (April 2010), October 2010
 - The Fielding Report, August 2010
 - Central Manchester University Hospital Diagnostic Review, December 2011
 - PWC Governance Review, February 2012

- Gold Command Stocktake, April 2012
 - Care Quality Commission (CQC) Investigation Report, July 2012
 - Nursing and Midwifery Council (NMC) Review, July 2012;
 - The NHS Litigation Authority's Clinical Negligence Scheme for Trusts (CNST) reports
4. To make findings as to the adequacy of the actions taken at the time by the Trust to mitigate concerns over safety;
 5. In light of this, to assess and make findings as to the Trust's ability to discharge its duties in delivering maternity services; and
 6. To make recommendations on the lessons to be learned for both the Trust and the wider NHS to secure the delivery of high quality care.

Current activity

The Investigation has engaged with over twenty interested organisations and has sought material from them. The Investigation Panel (a panel of expert advisors appointed by the Chairman in the areas of ethics, midwifery, paediatrics, obstetrics, nursing and governance) is currently reviewing nearly 4,000 documents that have been submitted to date.

The Investigation has encountered some difficulties obtaining material from legacy organisations who are having to sift through documents that has not been appropriately filed or archived. A major concern to the Investigation is the lack of material supplied to date from the Department of Health as the legacy body for the former Primary Care Trusts in the area and the North West Strategic Health Authority. The Investigation Chairman has, this week, written to the Permanent Secretary at the Department of Health about this.

From the review of evidence, the Panel will compile a list of interviewees and the Investigation has published an interview protocol to aid interviewees and interested organisations to appreciate the difference between it and a statutory public inquiry.

The Interview programme has commenced with the interview of John Woodcock MP for Barrow and Furness. The Investigation will continue by interviewing the authors of the reports listed in the Investigation's terms of reference.

Timeline

When the Investigation was established by the Secretary of State for Health the Secretary of State asked the Chairman to complete work and produce his Report in July 2014.

As a result of the delay in securing material the Secretary of State has granted an extension to the Chairman who will now submit his Report in November 2014.

Budget/Resourcing

The Investigation has a small secretariat of staff seconded from the Department of Health, on loan from other government departments and recruited through the local agency. It has a budget of £800k for 2014/2015.

Whilst the Investigation will submit its Report in November it has yet to discuss with the Department the publication arrangements, however the Investigation anticipates it will manage these. Publication will be at a date determined by the Department. The extension to the Investigation's timeline will have an impact on the budget forecast.

In addition the Investigation will be responsible for repatriating evidence and for ensuring appropriate redaction of material it will put into departmental records. The Investigation's documents – including records of Panel meetings and its interviews – will subsequently become subject to the FOI Act. It is therefore anticipated that the administrative team of the Investigation will not be able to wind up its work until 2015.

Risks and Issues

- As the Investigation has no legal powers it is dependent upon gaining and maintaining the goodwill of the families and interested organisations to enable it to fully address its terms of reference.
- The Investigation is looking at a past period (1 January 2004 to 30 June 2013) and therefore securing all potential interviewees may prove difficult.
- The Investigation is currently in discussion with the Parliamentary Health Service Ombudsman who, because of its statutory bar, has identified some difficulties in releasing material to the Investigation and the Investigation is currently establishing if former PHSO staff are willing to be interviewed.
- The lack of material received to date in respect of the former SHA is a potential barrier to the Investigation meeting its November deadline to submit a Report.
- The Investigation may require additional funding to reflect the extended timeline.

Evans, Sheila

From: McIntosh, Oonagh
Sent: 29 April 2016 11:40
To: Heaps, Nick; [REDACTED]
Cc: [REDACTED]
Subject: RE: MBI interview records

Nick,

Thank you for this.

I concur with your view.

I am similarly concerned that proposed amendments by an interviewee should subsequently lead to redactions. This could, possibly, suggest that the Investigation approved the "re-writing" of the text to generate the final record of the interview.

We should not forget that family members were present for many interviews, listening carefully and some taking copious notes of responses provided by interviewees.

As you have already explained, in reviewing the text interviewees were given the opportunity to correct factual errors and/or to provide any additional information – the Investigation did not invite interviewees to delete any of the text.

When it became apparent that some interviewees were using the checking process as an opportunity to, retrospectively, reflect their evidence in a more favourable light, I can confirm that the Investigation Chairman and Panel viewed the track changes and used their judgement as to whether any additional comments provided should be incorporated as part of the evidence gathering process. There was no blanket approach or agreement communicated to interviewees that their proposed changes would be incorporated – and most definitely no reference regarding subsequent redactions.

I hope this helpful. Happy to discuss.

Oonagh.

From: Heaps, Nick
Sent: 29 April 2016 11:08
To: [REDACTED]
Cc: [REDACTED] McIntosh, Oonagh
Subject: RE: MBI interview records

Hello [REDACTED]

In the majority of amendments suggested by the interviewees they put a line through any text which they thought should be changed. In the case that you mention I can only think that the interviewee drew a circle round the lines in question and wrote 'delete' or similar. Whoever recorded the amendments at MBI will have thought the best way to do it was by way of a comments box. The electronic amendments were undertaken by at least four MBI team members and so there will be some slight variations. I did think there was at least one other record containing tracked change comments boxes but I cannot recall which one.

I am rather worried by what you say in your second para. Interviewees were invited to review the record of their interview and manually correct anything that was factually incorrect. We did not make any undertaking that these changes would be implemented. We never agreed that any redactions would be made.

Unfortunately we know for certain that a minority of interviewees have made changes to their records to paint them in a better light, even rewriting some of the questions they were asked. In light of this we decided the best course of action was to reflect the requested amendments in track changes but leave these changes showing.

When Oonagh and I came to RH on 24 September 2015 to handover the usb sticks containing the interview records we explained to Emily and Diane that the track changes would have to remain in the records. We talked them through an example of where erroneous changes had been made by an interviewee.

I hope this is clear but happy to discuss if not. I have copied Oonagh in in case she wishes to add anything.

Nick

From: [REDACTED]@dh.gsi.gov.uk]
Sent: 28 April 2016 16:41
To: Heaps Nick (NHS ENGLAND)
Cc: [REDACTED]
Subject: MBI interview records

OFFICIAL - SENSITIVE

Dear Nick

I'm helping [REDACTED] to review all the Morecambe Bay Investigation interview records, before they are published in the autumn. I was hoping you could help with one query. In the record of Miranda Carter's interview (page 2 of the attachment), there is a comment in track changes saying that the interviewee wanted a certain section deleted. We haven't come across a track changes comment left in any other record so far, and we wondered if this was an oversight that it had been left in?

It would be helpful to know how the redactions were agreed, and if there is a reason why this section should not be deleted as Miranda Carter requested? If it cannot be redacted it seems unfair to Miranda Carter that this should be left in when it is published if no one else's record has had such comments left in.

I hope this make sense and am very happy to discuss.

Many thanks

[REDACTED]



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