THE MORECAMBE BAY INVESTIGATION

University Hospitals of Morecambe Bay NHS Foundation Trust (UHMBT)
Maternity and Neonatal Services Investigation

Thursday, 10 July 2014

Held at:
Park Hotel (Council Building)
East Cliff, Preston, PR1 3EA

In attendance:

Dr Bill Kirkup CBE – Chair
Mr Julian Brookes – Expert Adviser , Governance
Professor Stewart Forsyth – Expert Adviser, Paediatrics
Professor James Walker – Expert Adviser, Obstetrics
Professor Jonathan Montgomery – Expert Adviser, Ethics
Dr Geraldine Walters – Expert Adviser, Nursing

Ms Oonagh McIntosh – Secretary of the Investigation
[redacted] Evidence Team

PANEL MEETING

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CHAIR: Hello, welcome to another Panel meeting, and I think we've got a pretty brief agenda today, just one or two items that we do need to consider and/or sign off, so thank you. Apologies from Catherine and Jacqui.

Matters arising from the last meeting: Oonagh.

MS MCINTOSH: There's just the two. One is, and this is like a perennial, isn't it, that the discussions we've had with the Parliamentary Health Service Ombudsman (PHSO) are ongoing, so we'll get back to you after the next, hopefully the next Panel meeting. Oh, actually we won't, because it's in September. We might get back to you by email before that.

CHAIR: Yes.

MS MCINTOSH: And the other quick update was about the interview programme. I promised that I would just let you know how things were going, and I need to talk to sub-group leads in greater detail about this, when, Nick and [redacted] and the Trust and I have had a meeting, we've talked it through in a bit more detail, those interviewees that we've not heard from, but just to say that we have had a very positive response, I think you could say, to the letters that went out requesting that people contact us to be interviewed, or potential interviewees, many of whom have submitted letters saying 'I knew nothing', or 'I had limited knowledge', or whatever. So we have had, I would say, about a 60-70% response rate from those interviewees, and we are meeting the Trust next week to do some chase-ups with some people. I say the Trust simply because they've got the largest number of interviewees, so we're talking to them next week about that.

We wrote to ex-ministers from the Department of Health. We wrote to 25 ex-Ministers as potential interviewees, and we've only heard from eight of those. Those eight are

very exercised about wanting to know are they going to be interviewed, because they need to have support from the Department in preparation of documents. Some of them have written and contacted and said 'I had absolutely nothing to do with it, I was only responsible for public health', which is quite an interesting one because mortality statistics at that point did come under the public health remit, but never mind. So we need to properly, I need to have this conversation with the Chairman, properly, about which if any Ministers you would like to interview, because they want to be able to do their planning, so maybe we could give some thought to that. And I will update you and the sub-group leads in more detail next week when we have got a bit of clarity about those we haven't heard from.

CHAIR: Okay, thank you. Just an observation, regarding the Ministers: I think there are two issues. One is, was Morecambe Bay drawn to anybody's attention at that level in the Department, and the answer to that ought to be relatively easy to get, and doesn't necessarily require us going to interview. The second issue is, how can people help to enlighten us about the amount of pressure that was on to get Trusts into foundation status and balance the books and all of that, and did that have an impact on the culture of Morecambe Bay? Again, I don't think that we need to do a great number of repetitive interviews to get that, but there might be one or two who we'd be able to ask to help us out with that at the department. We could focus on those two things at least.

PROF FORSYTH: Would it be possible to do that in writing, rather than having to get somebody in to interview?

CHAIR: Yes, I think so.

PROF MONTGOMERY: I believe we have in the documentation that we have received some evidence of where there were ministerial briefings, so I think if we started where we

know from that that the minister was aware, it could bring that into focus.

MR BROOKES: That's correct. There were briefings both in terms of hotspots from the regions that have been included in there and in the terms you have clearly specified, but also in terms of updates from foundation trusts, approvals in the area. So it's clear evidence that there was some knowledge, the question is how much.

MS MCINTOSH: In which case maybe that's something I can speak about in a meeting about that, or with them.

PROF MONTGOMERY: It would be reasonable if there was a briefing, say, before a Minister to ask specifically about the meeting at which it was discussed, as opposed to more generally, but we also need to get to ask those general questions around the ministerial statements , view positions that were taken about the report and things, but probably one Minister would be sufficient to speak on behalf of the government at the time.

MS MCINTOSH: Okay. That would be helpful, thank you.

CHAIR: Okay. You said there was another matter arising.

MS MCINTOSH: No, the two – it was the PHSO and the interview programme. It was just a whistle stop through both, really.

CHAIR: Thank you. Update on sub-group leads, then. Stewart.

PROF FORSYTH: Thank you. Well, I think we're at the final stages of the case note review. I think we have now screened over 200 cases of maternal, perinatal and neonatal deaths, and out of that total have 58 full reviews. I think that it's been good to have done that piece of work now, so that as we're embarking on the interviews, particularly the commissioners, we'll be able to have that as a reference when it comes to the interviews. I think the next stage is that we will try and pull together the themes that

have been coming out of this, and there is quite a number that I think we have all identified, but as a group we want just to consolidate that, and I think it might be helpful if I then produce a report for yourselves on how we adopted the process, the process adopted for the review, and the outcome of that.

I think another thing which we have talked about is that for the key index cases we are going to undertake a more fuller response, because that was requested by the families, and I think there are obviously the clinical aspects of that, we'll certainly want to do that, but I think it might be – you have touched upon this before - useful to actually go for a start-to-finish approach in these index cases, right through from the clinical presentation, the difficulties there, the Trust's responses, and then any subsequent actions that were taken involving other agencies. I think this would be very interesting and informative, longitudinal approach to these, and it is something which again maybe our group will be able to produce, which has not been, obviously, achieved before, consulting with very senior members of management or clinical or whatever individuals, so I think that that would be useful for us when it comes to reporting on the work we're doing, and particularly looking at the sort of wider aim and how it might inform the service on a wider scale. But also, I think, it might be of real value to the families, and maybe help them, because I think again one of our objectives is to try to help them to come to terms with what had happened.

CHAIR: Yes.

MR BROOKES: And I know this isn't what you meant, but we just need to make sure that we capture in that longitudinal line the administrative governance issues as well. I think there's some joint work, that needs to be done in that way.

CHAIR: Okay.

PROF FORSYTH: That's all I have on that.

CHAIR: Thank you. Geraldine.

DR WALTERS: So, not a huge amount to report. As has been said before, we were looking through the various indicators that the Trust Board will have seen, and from those there are no real strong signals that the Trust Board perhaps should have picked up before the sort of grassroots information started to come up, so once the external reviews started to be generated, within the documents there's quite a lot of evidence that there was activity in response to this. There was visibility at board level. There were lots of action plans put together. What it's not possible to really tell is what assurance was around whether any of these actions actually delivered. And that doesn't necessarily mean to say it's because it wasn't done, but it's certainly not very easy to find in the documents. So I think the interview output is going to be quite a good indicator of that, and I think that when we get the review of cases from the clinical group, the various threads will start coming together, so looking at the cases we can then ask the right questions and then we can see whether there was any indication of change over time. Quite a lot of Trust activity yesterday on the interview front, and I know that people round the table were there. I don't know, Julian, whether you want to comment on it from a Trust point of view, whether it's not the appropriate time to do that.

MR BROOKES: I think we wouldn't want to take that out of context-

DR WALTERS: Yes.

MR BROOKES: But I mean there are some clear lines of enquiry now coming out which would reinforce some of the stuff we've seen in the documentation, about who knew what where, poor lines of communication between front-line services and central management, et cetera. I wouldn't go further than that, but there are some definite lines

for us to continue to ask about. You're beginning to see a picture, I do absolutely agree with you. I think use of the interviews to reinforce and flesh out some of the other things, because there is patchy information. I would have anticipated more than there is in terms of board scrutiny and board oversight of what were a number of serious sets of recommendations, and I don't see that quite as strongly as I would have expected.

DR WALTERS: I can see action plans.

MR BROOKES: Yes. It's difficult though.

DR WALTERS: Which I think is typical, I think it's just difficult to know what the assurance of those look like, particularly in some of the really hard measures, like staffing levels and those sorts of things. I was just going to say something else. I think the other thing that I have not seen at the moment, and I don't know if it's because it's buried somewhere, but in terms of actual complainant interaction, responses to actual letters, I've not seen any of those, and I have not seen yet the detailed SUI reports of some of the index cases, which I think would be really useful, particularly when we've got the Panels' review of them. I do need those. I don't need all of them, but we certainly need some to help with the quality of that.

MR BROOKES: I feel really unsighted on the complaints side of things.

DR WALTERS: Yes.

MS MCINTOSH: We'll take that away and we'll sort it out and get back to you in the course of the day.

DR WALTERS: We need to be clear, even if we've got to go there and just sit and ask for it. I'd rather do that than get held off.

CHAIR: One thing to bear in mind on the complaint responses is that there was a recurring theme yesterday that the normal process was taken over and moved to a higher level

when most of the pressure was on from the number of incidents, and there was a dislocation to the documentation.

MR BROOKES: A definite dislocation in the chain between the level of service and senior management.

MS MCINTOSH: That's a question for you there.

PROF MONTGOMERY: Related to that, it's a bit linked with that, it's about how we connect together substantive strands, because in the DH legacy documents there are a number of places where we have copies of material from the Coroner going to the Trust, related to some of the index cases that we've got, and of course they'll be there sporadically rather than systematically. They should be somewhere in the Trust systematically, so I'm not saying it's a replacement for what you're describing, but I do think we should be asking ourselves perhaps when Stewart's summary of the clinical group comes through, which are the ones that we want to press through-

DR WALTERS: Yes.

PROF MONTGOMERY: And say 'Let's get a timeline of all the documentation that we can track that pursues…' and it'll have to be a small number that we do that for, but I think that we're aware already of three or four of them where it'll make sense to do that, but there is a lot of documentation and it is not clear - I think this is a thematic question that we have to ask – it's not really clear to me in a number of them who took responsibility for coordinating, making sure that the process was managed in a way that would deliver for the families, and I think that is a theme happening in other places as well, who was in charge.

MR BROOKES: I would just say on that as well that there's a definite feel from the documentation, and what I can't judge is, is it because it's what we've got, rather than

the actuality, is it a lack of coordination in terms of the overall systemisation of the management of these kinds of things? You'd expect this to have happened, this to have happened, this to have happened, and we're not necessarily seeing that, so I think the idea of being able to follow through a few will allow us to test whether that proper system was in place, and what happened.

DR WALTERS: I suppose what I have picked up, and again this is all a bit sort of random, is they did set up SUI investigation panels, which there was a non-executive chairmanship of, so there was a link to the Board that way. There were certain directors who were obviously very, very involved in the setting up of action plans, you know, there was conversation, email conversations between directors and clinicians, so focus on getting the plans together, I wouldn't say it looked like they weren't taking it seriously, or there wasn't executive involvement. It's just that I can't test the output.

PROF MONTGOMERY: So there's a question there about activity, and things being taken seriously, and did it have the desired effect, how do we know whether it had the desired effect or not, so one of the themes might be lots of work and not necessarily pulled together to deliver the outcomes.

CHAIR: Okay, good. Anything else from you? Thank you. Jonathan.

PROF MONTGOMERY: I think the main things are that we are now well into seeing the people involved in some of the key reports that perhaps we planned to do. We've seen, I think, what we planned to see around the Fielding report; we'll very shortly be seeing most of the CQC people, and by the end of next week we'll have a reasonably good idea on Gold Command, I think. And I wonder whether it's the point at which it makes some sense to try and start pulling strands together on those three issues. Not quite drafting the report, I know we've got that later on in the agenda, but actually we need to

tell the story of the various reports that have gone to that part of our terms of reference, and I think we're in a place that we could begin to do that for those three. So I think that would be the proposed next step, that we try and start on that.

CHAIR: Good.

MR BROOKES: And we're at CQC tomorrow just to test their systems, so that will give us some interesting insight.

THE CHAIRMAN: Thank you. Which brings us nicely on to the structure of the Investigation report, Oonagh.

MS MCINTOSH: Apologies for the lateness of this. The manuscript of this must have been in my notepad for a week, but it's just been a bit frenetic in the office. What you've got in front of you is by no means a finished article, because you need to shape this discussion, but I've given you two options of how you might structure the Investigation report. Now, they're quite different approaches, probably strengths and weaknesses to both. The first option is literally working your way systematically through the terms of reference, obviously starting with the usual things that one would expect in a report, and, I think, crucially, for this report, is the section on context: the background to how the investigation came about, and the sort of campaign by the families and the pressure they were applying, but also the context in which the Trust was working locally, regionally and nationally, because that has shaped a lot of what has happened, and also it has shaped a lot of the work that we've been doing, and the challenges that we have faced: the NHS change programme, the frustrations about people losing corporate knowledge of history, and that access to documents. All of that needs to be referenced, and some of this is- the introductory references are bog standard housekeeping things, but actually incredibly important to how the Investigation shapes itself.

And I then go through each of the terms of reference, and I have put a sort of structure, it's the same structure for each of the terms of reference, with the exception of term of reference 5, which of course is about the current situation and not the past situation. And actually you can have a structure to how you tackle each of the terms of reference. The major problem you've got – and Geraldine just highlighted it beautifully by actually needing to talk to both of the sub-groups – is that the terms of reference do not stand alone. They feed into and overlap very much with each of the terms of reference. So that is one proposal. The second option I've given you is actually looking at the themes that are emerging, because there were themes emerging that you discussed from the evidence that you have reviewed thus far, but there are also themes emerging from the interviews that the Panel have undertaken so far that need to be addressed further and drilled down into. You know, just one being what happened with all of the reports, and you were saying what happened with all the action plans. You know, what was the end product, and how did that benefit patients and benefit the Trust and the community? So the second one is, again, the introductory part of any report, again the context that you are working in, and bearing in mind that we have to look at the context then and not now, and that is quite a challenge.

And obviously then – and these are in no specific order, it's a random list that I have just pulled from discussions that we have had formally and informally, and also some others that have been thrown in from the opportunity I've had to sit in on some of the interviews - so I'd find issues that families have raised with the difficulty of navigating the NHS complaints system, the challenge they had being heard and listened to, and how their concerns were amplified by it, sort of increased, because they weren't being listened to.

And then a suggested approach under that, which is not necessarily ideal, and I know the word 'anecdotal' is not good, and the Chairman has suggested that maybe 'personal experiences' would be better, but a suggested approach to how you attack each of the themes. That's just a thematic approach as opposed to a systematic approach, working from the terms of reference, but they are just options and proposals. They are absolutely just ideas, and I would very much appreciate any comments and suggestions, and if we rip them up and start again that's fine with me.

CHAIR: Okay, open to views.

DR WALTERS: I think the problem with option… I think the problem with doing anything which doesn't refer directly to the terms of reference is you are open to criticism that you haven't responded to the terms of reference, but for some of these, it's going to make a really laborious report, isn't it? We've had to 'review the Trust Board's actions and governance procedures in response to untoward incidents over 2003 to 2013…' There are probably endless ways that they did it, and unless it's good enough just to sum up and say 'The process wasn't quite stable', you know, is that going to be good enough?

MS MCINTOSH: Yes, I know.

DR WALTERS: Basically, the terms of reference are…

PROF MONTGOMERY: If you think about what we are doing with the external group, the terms of reference actually are basically what Geraldine's doing, because the terms of reference talk about how the Trust responded to those things, and they'll take us into the same sort of territory. What we're discovering, which is much more important in terms of actually explaining what happened, is actually we need to explain how other people outside the Trust dealt with it, not just how the Trust responded, so I think we'll

trap ourselves into a corner if we claim that the structure of the report is just worked to the terms of reference. There'll be a whole lot of things we need to comment on that won't easily fit.

CHAIR: Julian.

MR BROOKES: From experience, we absolutely have to be able to demonstrate at the end of the day that we have met our terms of reference. It will be the first thing that solicitors will look at and check on, so that has to be a given. I think the question is how we demonstrate that, and we don't have to construct a report that takes each term of reference, but what we've got to be able to do at the end of the day is to, with some confidence, go back to the particular term of reference and say 'have we met this?', even if it's in three different woven streams coming through it.

PROF MONTGOMERY: I think there are two problems for us. One is have we met them, the other is have we exceeded them.

CHAIR: Have we exceeded them, yes.

MR BROOKES: True.

PROF MONTGOMERY: And we want to exceed them in a number of respects, particularly if you take a really narrow view of the bit that I'm dealing with, if someone comes and says 'Why have you commented on the Minister because your terms of reference were 'How did the Trust respond to…', there is a serious…

CHAIR: You have to show whereby each item that you've included is relevant to addressing the term of reference. It doesn't have to be explicitly codified as the term of reference.

MR BROOKES: I think there's an argument you can put forward about why that's relevant to this particular term of reference, and again we have to be absolutely clear that our recommendations are legitimately in our terms of reference.

CHAIR: Yes. What I think is that if you write a report which is based on a thematic narrative, which tends to be more option two I would think, but that if you then make sure that your conclusions and your recommendations explicitly link to the terms of reference, then you have the best of both worlds.

MR BROOKES: Yes, I think that's the right idea. I just want to make sure we are absolutely clear we have to be able to demonstrate we've met our terms of reference. We've got to be clear about the challenges of exceeding, and we've got to be clear in our recommendations with what and where they relate to in the terms of reference. But I think for the benefit of the families as much as anything else that the thematic approach and understanding what a family has gone through rather than cutting it into chunks around the terms of reference is probably going to be a much more interesting but also useful report for the families and for us.

CHAIR: I think it is for both. I'm strongly of the belief that if you write something that has a sense of narrative to it, people find it easier to understand what it is you are talking about. If it all tends to be very fragmented, and a bit legalistically addressing this term of reference or that term of reference... it doesn't need that.

PROF MONTGOMERY: It sounds like we've all got more or less the same view on that, which is pulling this towards something a bit more like option two. Appendices kind of a big issue, I think, there.

MS MCINTOSH: Absolutely.

PROF MONTGOMERY: Because if you take what I was just suggesting we might try to do about the report, you can see how we could have a narrative report, and for those external reports you could have an appendix which seeks to describe what we learnt about how the Trust responded to the Fielding Report, so it was something around, I

don't know, if you had appendices, [inaudible] option two.

MS MCINTOSH: Yes, and I have put appendices with lots of dots around it, because I'm never really too sure, you know... sometimes they're a flag of convenience and sometimes they're incredibly valuable.

PROF MONTGOMERY: And that's also connected to what we do with the vast amount of evidence that we've received. I can see a model that says there's a narrative report, which is thematic, that we try and keep quite short – we won't succeed, I'm sure, but we will try - but the bit that demonstrates how that connects to our terms of reference could sit largely in the appendices, which are a slightly more detailed working of the way we've gone about the work, so the clinical sub-group's report.

MS MCINTOSH: The methodology of the case reviews, for example, that type of thing.

PROF MONTGOMERY: And then you've got a third tier, which is the evidence, the interviews and things that are available, which enables those who want to track through further to pick them up.

PROF FORSYTH: I agree, I think, we need to try and take the best out of both of these proposals. I do agree that we need to clearly demonstrate that we have met our remit. It seems to me that when you try to incorporate a thematic approach into that you sort of almost see that the clinical side, ToR1, is fairly independent. Then you have got two, three and four ToRs, which are also linked, and I think when you come to a thematic approach we would be able to transmit all three of these, and then you have the remit about what's the state of the Trust now, what's the lessons for the wider Trust; again, that almost comes separately as well, so I think that it may be not quite so difficult to put ToR two, three and four under one block of a piece of work, and that could help to give the continuity around a thematic approach.

MS MCINTOSH: Then you can just reference the fact that some of the themes have emerged from one review.

CHAIR: Sorry, Julian, then Jonathan.

MR BROOKES: I just wanted to first comment on current position, because it may just be me but I feel that we're not quite as sighted on that at the moment-

CHAIR: Yes.

MR BROOKES: And there's a piece of work that needs to be done on that.

MS MCINTOSH: Yes. On the current position of the Trust within the NHS.

CHAIR: We did a sort of urgent site visit, but that was quite impressionistic and we need to follow that up in detail.

MR BROOKES: And I think we need to probably talk quite carefully and closely with the turnaround team as well, and really understand what is going on from their perspective.

PROF FORSYTH: We are meeting, obviously, with the-

MS MCINTOSH: Trust Board.

PROF FORSYTH: Trust Board, as such, and that might be a good time to really get a feel for what is currently happening.

CHAIR: Who is still standing on the Trust Board?

MR BROOKES: Exactly. That is why this turnaround team is quite important.

MS MCINTOSH: Well, exactly, yes. And then another of the points is in the improvement [inaudible] because I checked that yesterday. That would be quite useful.

PROF MONTGOMERY: My question is very much linked to that, but my anxiety's slightly different, which is the added value that we can make, given the fact that no one's waiting for us, they've got a lot of big sticks that have to be dealt with, and I just wonder whether we need to give a little bit of thought as to whether we seek to meet

that term of reference as an investigation panel, or whether we seek some form of shared discussion with CQC, with NHS England, so that we pull in material, which is where we are now with terms of reference, especially the timing of it, but absolutely crucial to the current activity, but think about a way of giving an account which is an account of the investigation, meeting with CQC, Monitor and NHS England, as a way of meeting that term of reference.

I'm also anxious that our term of reference is about the ability to discharge functions, the capability and capacity of the Trust, and right from the beginning one thing that was pulled out is the sustainability question, which is for the health system and not just for the Trust. So I'm not sure you could sensibly answer the terms of reference about the Trust's ability to discharge its functions without the Trust. I think you could only answer it in a wider commissioning context.

CHAIR: Yes. I think we need to be a bit careful about coming to an overall conclusion about whether it's doable. I think it's fine if we're identifying what needs to happen to make it doable, but whether they can do that or not, I don't think is going to improve it.

MR BROOKES: Yes. I agree. That's why it is really important to be absolutely clear what is the plan of action that's going to happen. I mean, if there are particular issues we feel are not being addressed...

CHAIR: We need to add them to this.

MR BROOKES: Absolutely.

PROF WALKER: I think there are three problems. One, you have got your terms of reference you've got to work to, and secondly you want to actually have a message that we want to give out about how we're doing this, and thirdly there is actually the audience that is waiting for this report, which is actually quite varied, so some will want

the detail and some will want a general overview, so it's hard to put it in that way. One of the things that s obvious from both discussions that we have had with people but also looking at lots of other reports is sticking too closely to the terms of reference actually makes the reports quite weak, because it means that they limit it. If you ask people 'Why didn't you look at *x*?' they go 'Ah, that's not in our terms of reference,' even though it is glaringly obvious that that should be mentioned. I think that we have got moral right to go outwith our terms of reference, and I think there is an opportunity here to actually give, even with reference to other big reports that have been produced of late, to try and pull them all together to look at general view of things, rather than actually coming out with an isolated thing. As long as we keep our recommendations under 187, or whatever it is, then we might be read…

MS MCINTOSH: 292 or something. Can I just say that Paul is leading on a piece of work that we're doing which is looking at… well, we started with Francis[?], and Paul's been in conversation with the Chairman about that, but also beginning to look at other reports. For example, Health Watch put something out in about February or March, which was about navigating the complaints system. You know, there are all sorts of things that have come out recently, because what we don't want to do is publish a report which recommends *x* when another organisation recommended *x* three weeks ago. It looks like we haven't considered that, so that's something to bear in mind.

PROF MONTGOMERY: Or recommended *y* which contradicts *x*.

MS MCINTOSH: Absolutely.

CHAIR: Yes. I think that's completely right, we have to take that into account.

MS MCINTOSH: Sorry, I've been talking to the Chairman about that, and I foolishly didn't mention it at the beginning, so apologies to Paul and the Chairman, who have actually

been in conversation about that. So actually, the help we could get from the Panel on that is that, we are trawling, looking for reports that are pertinent and relevant to the Morecambe Bay Investigation. If you know of any, please let us know and just say 'I think there was one from…' and we'll do the digging and the research on that. Any contribution you can make, even if we then limit it, it would be enormously helpful, because we don't have that knowledge and you might have it in your particular fields of expertise.

CHAIR: Okay. So, Geraldine.

DR WALTERS: I think my point relates to your two points about first hitting the terms of reference and missing the point, and secondly that some of these terms of reference, I've got an anxiety that if we don't get the interviewees or we don't get the evidence, we can't really answer them. I'm worried about that.

CHAIR: Is that a general concern or on something specific?

DR WALTERS: No, just picking out a few generally. We don't know yet whether we'll get evidence to answer all these terms of reference. It's just about that.

CHAIR: Okay. You're right, of course. We need to address that if we [crosstalk] –

MR BROOKES: We need to demonstrate best endeavours, but we also need to explain what happens in particular circumstances.

CHAIR: Yes.

MS MCINTOSH: I think that actually is something that when I was in the course of reading the terms of reference this morning - you'd think I'd know them off by heart by now – but there's a line in there which actually talks about the relationship between GPs and community midwives.

DR WALTERS: That is one of my actions.

MS MCINTOSH: Is it? It's actually something that I don't think we've got any interviewees, they're currently the clinical commissioning group, but actually the PCT commissioners, I don't know if we've actually got the right people. We can have a conversation about that, but actually it's highlighted in the course of the last week at the interviews, when you've actually been talking to community midwives and the pressures they've been under actually supporting the community, and therefore a couple of them have mentioned the pressure from the CCGs. Obviously that's current, but it's something that is an issue, and it's something that we just need to revisit, so I was hoping in light of that maybe next week when I've got the sub-group leads together we could just literally go through the terms of reference line by line and just check against our interview list, which we'll have, and just cross-reference there isn't a gap.

CHAIR: Which absolutely isn't finalised.

MS MCINTOSH: No, it's not finalised at all, we've been very clear that it's not finalised, but I think we just need to do a sort of cross-reference there, just born out of this discussion.

CHAIR: Good.

DR WALTERS: Actually, things like GPs or community midwifery services, maybe some of the evidence comes from the case note review? Perhaps we could respond to that.

PROF FORSYTH: Yes. Obviously we've got some evidence.

CHAIR: I think it's not indicative at first sight of a major problem. If you're prioritising your evidence, you would say it was the hospital, the labour ward, that's closer to it.

PROF WALKER: I think, to be fair, I'm not quite sure how we go about establishing if it has worked – you know, what their remit was and what their role was, how much antenatal care was actually done in the community.

PROF MONTGOMERY: Playing the solicitor's role, the terms of reference asks us to look at 'proceedings in response to untoward incidents, such as…' and if we review the cases and the responses and they do not include much about the relationship between GPs and the Trust, or GPs and antenatal or midwifery services, we can say that. We can say 'This is what we did to review it, and it did not throw up issues of concern in that area.' And you use that 'There was no evidence to pursue,' phrase, just as if there are things that we can't answer because we haven't got the interviewees, we make a statement of who we invited. That will then be recorded and that in itself is a finding, and again a specific reference.

PROF FORSYTH: I think it's really important that we do need to have some contact with primary care-

PROF MONTGOMERY: In the sub-groups.

PROF FORSYTH: In the review in paediatric services, they met with two representatives of the primary care team around Barrow, and so on.

PROF MONTGOMERY: And that's quite recent, isn't it?

MR FORSYTH: Yes.

PROF MONTGOMERY: So we could presumably meet the same two.

CHAIR: I think that's right. Let's review that this week and see if we need to brush up our interview lists. Anything else on that one? That's been a really helpful discussion, thank you. Oh, AOB. Any other business, Geraldine? Stewart, for you?

MS MCINTOSH: I've got two, sorry. When you go back upstairs, [redacted] or [redacted] are going to give each of you independently a list with the dates that you have told us that you are available for interviews. Now, I know that you're all incredibly busy and other things creep into diaries, but actually we're trying to – we've not cracked it completely, but

we're trying very hard to schedule interviews based on the availability of the sub-group membership. I need those dates now set in stone, because there has to be a flurry of activity and so I'm just going to be a bit of a dragon on this, really. If you've said you're available on a date, I really need you to ring-fence that date for the Morecambe Bay Investigation. If you know today that actually those dates are going to be problematic, please tell us today, so when you go back upstairs there's a list and then I'm going to hold you to it.

The second thing is, just to let you know that this is our last panel meeting; there isn't one scheduled for August, obviously we'll be in touch, but when you come back in September two of our members of our secretariat will actually have left. And that is [redacted] who's sitting over there, [redacted] and [redacted] who are members of Paul's team, the document sending side. They are both on loan from other government departments, two government departments who have recalled them at the end of their on-loan agreements, and we have been unable, despite our best efforts, to actually extend those on-loan arrangements. So we will actually be having another member of staff joining us, who'll probably be here and you'll meet [redacted] quite soon, especially those who are in and out for interviews, but I just wanted to let you know that there will be some changes. Paul's got continuity plans in place to make sure that you're supported throughout that, but actually just to put on record that, you know, it is always quite disappointing when you're a small team and that team has to be fragmented, but actually it is a disappointment, because I think that increasingly you're working with the Panel, the two individuals are working with Panel members to provide documents to you, and I just wanted you to know that, and make sure that by the end of July you've said farewell and thanks to both of the members of the team. If you find time to do that,

that will be great. Thank you.

CHAIR: Okay, thank you. That's a shame, sorry to see you go.

MR BROOKES: Can we formally thank for all the help and support we've got, and stupid questions, and everything else. Thank you very, very much.

MS ROBERTS: Thank you.

CHAIR: Geraldine? No. Okay. The date of the next meeting is in September.

MS MCINTOSH: It is. I think it's September 11th. I'll check and remind you all.

[Meeting concluded]

DRAFT PROPOSALS FOR THE INVESTIGATION REPORT

OPTION 1 – BASED ON THE 6 TERMS OF REFERENCE

Executive summary (?)

Chairman's foreword (?)

Introduction

Glossary of terms

Glossary of abbreviations

Context\background to the Investigation

Context – Trust\NHS locally, regionally and nationally

Action prior to the Ministerial announcement (discussions with the families, establishment of the Investigation – resourcing etc)

Selection and appointment of an independent Panel

Method statement\public meeting

Evidence gathering process

Analytical work required and undertaken

Challenges – NHS reforms\new organisations\turnover of staff\"report and investigation" fatigue\securing the evidence etc

The interview programme

Extension to the timeline

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.

Background\context

Work undertaken by the Investigation – case reviews and methodology

Questions the Investigation were required to answer to address TOR 1

Good practice\best practice (at the time)

Documents reviewed

Data available

Analysis undertaken by the Investigation

Consideration of the evidence

Findings

Findings\comments\recommendations of others

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.

Background\context

Work undertaken by the Investigation – case reviews and methodology

Questions the Investigation were required to answer to address TOR 1

Good practice\best practice (at the time)

Documents reviewed

Data available

Analysis undertaken by the Investigation

Consideration of the evidence

Interviews undertaken

Findings

Findings\comments\recommendations of others

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.

Background\context

Work undertaken by the Investigation – case reviews and methodology

Questions the Investigation were required to answer to address TOR 1

Good practice\best practice (at the time)

Documents reviewed

Data available

Analysis undertaken by the Investigation

Consideration of the evidence

Interviews undertaken

Findings

Findings\comments\recommendations of others

Recommendations

4. To make findings as to the adequacy of the actions taken at the time by the Trust to mitigate concerns over safety.

Background\context

Work undertaken by the Investigation – case reviews and methodology

Questions the Investigation were required to answer to address TOR 1

Good practice\best practice (at the time)

Documents reviewed

Data available

Analysis undertaken by the Investigation

Consideration of the evidence

Interviews undertaken

Findings

Findings\comments\recommendations of others

5. In light of this, to assess and make findings as to the Trust's ability to discharge its duties in delivering maternity services.

Background\context

Work undertaken by the Investigation – case reviews and methodology

Questions the Investigation were required to answer to address TOR 1

Good practice\best practice (currently)

Documents reviewed

Data available

Analysis undertaken by the Investigation

Consideration of the evidence

Interviews undertaken

Findings

Findings\comments\recommendations of others

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.

Recommendations

Appendices……..

OPTION 2 – BASED ON COMMON THEMES\ISSUES EMERGING FROM THE REVIEW OF EVIDENCE AND THE INTERVIEW PROGRAMME

Executive summary (?)

Chairman's foreword (?)

Introduction

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Glossary of abbreviations

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Selection and appointment of an independent Panel

Method statement\public meeting

Evidence gathering process

Analytical work required and undertaken

Challenges – NHS reforms\new organisations\turnover of staff\"report and investigation" fatigue\securing the evidence etc

The interview programme

Extension to the timeline

(The following are in no specific order)

Culture of the organisation

Effective working relationships between (all) stakeholders

Communication between professional groups\professions

The prevailing culture within the NHS (2004 – 2013) including seminal Reports, organisational changes and Ministerial priorities

The culture at the Trust

Poor management practices\lack of knowledge\access to training

Recruitment and resourcing issues

Complexity of the NHS complaints system

Delays and inconsistency in complaints handling

External pressures faced by the Trust – including preparing for Foundation Trust status

Lack of supervision\intervention by regulators\external organisations

The process of applying for and securing Foundation Trust status and its impact on Trust staff

The role of the families – use of external mechanisms to be "heard" and apply pressure\gather support

The impact of the incidents on the Trust workforce and local community

The role and responsibilities of external organisations

Overlap or lack of clarity

Suggested approach to the individual themes\issues

Anecdotal evidence\concerns expressed and highlighted to the Investigation

Approach of the Panel to each theme - questions posed by the Panel

Consideration of written evidence

Interviews undertaken

Findings of others

Findings

Recommendations