

THE MORECAMBE BAY INVESTIGATION

Chaired by Dr Bill Kirkup CBE

Ms Jackie Smith
Chief Executive
Nursing and Midwifery Council
23 Portland Place
London
W1B 1PZ

3rd Floor
Park Hotel
East Cliff
Preston
Lancashire
PR1 3EA

Telephone: 01772 536376
Email: correspondence@mbinvestigation.org

6th January 2014

Dear Ms Smith,

DOCUMENTS AND EVIDENCE REQUIRED BY THE MORECAMBE BAY INVESTIGATION

The Chairman of the Morecambe Bay Investigation, Dr Bill Kirkup's letter of 17 October 2013 refers.

The Investigation is now collecting evidence in respect of its terms of reference.

This letter sets out the evidence required from the Nursing and Midwifery Council (NMC). Further requests may be made at a later date.

The Investigation's Documents and Evidence Manager (DEM), Paul Roberts, or the Assistant Documents and Evidence Manager (ADEM) [REDACTED] will be your principle points of contact in relation to evidence management.

The Investigation would prefer to receive evidence electronically in one of the following formats:

- Searchable PDF
- Word
- Excel

Should this not be possible, please contact Paul or [REDACTED] to discuss alternative ways in which the evidence can be made available to the Investigation.

Management of evidence by the Investigation

The Investigation recognises that the NMC will be concerned to know how material it is being asked to provide to the Investigation will be managed. It will therefore be helpful for you to know that material sought by and supplied to the Morecambe Bay Investigation from interested organisations and the families of those involved will be viewed and accessed by Investigation staff and the Investigation Panel only.

All Investigation staff, including the Panel, will view the material via a secure internet based database to which access will be controlled by the Investigation's Documents and Evidence Management Team and all Investigation personnel, including Panel members, are required to sign and adhere to the terms of a confidentiality undertaking.

Material and/or documents supplied to the Investigation will be collected from, or derived from, official files that are the property of interested organisations and/or individuals and will be considered by the Investigation as "working papers".

Working papers will be either returned to the relevant interested organisation/family at the end of the Investigation or destroyed by the Investigation and a record of all document destruction will be retained.

The Investigation has applied to the Information Commissioner for Data Protection Act Registration and fully understands its responsibilities holding evidence supplied by interested organisations.

Material and/or documents supplied to and considered by the Investigation will not be provided or shown to any witness in advance of their attendance, by the Investigation. Witnesses will be advised in advance of their attendance what specific topics or areas the Panel wish to ask them about and which of the Investigations specific term(s) of reference they are being invited to provide evidence in respect of.

Should any witness wish to be reacquainted with any material and/or document(s) prior to attending the Investigation for an interview or to give evidence, they will be advised by the Investigation to liaise with their employer, or former employer, to make any necessary arrangements for them to undertake any such preparation.

I trust that being made aware at this early stage of the protocol the Investigation has adopted regarding document management, it will assist the NMC in providing material as swiftly as possible.

The evidence required for the Investigation from the NMC is set out at Annex A, and should be submitted to the Investigation **within 21 working days** of the date of this letter.

Once the evidence has been examined, the Chairman will decide who oral evidence should be heard from. Can I remind you that it would be helpful, even at this early stage, if you would advise your staff accordingly and if you would also make contact with any staff member who has retired or left your organisation. To ensure the

smooth running of the Investigation it will be important to ensure we have up to date contact details for those who may be asked to give oral evidence.

If you have any further queries regarding the evidence being requested, please contact:

Paul Roberts: T: 01772 536401 E: paul.roberts@mbinvestigation.org

[REDACTED] T: 01772 536390 E: [REDACTED]@mbinvestigation.org

Yours sincerely,

[REDACTED]
**OONAGH MCINTOSH
SECRETARY TO THE INVESTIGATION**

CC KATERINA KOLYVA – DIRECTOR CONTINUED PRACTICE

Annex A

1. A copy of the NMC's policy/policies on handling complaints made against nurses and midwives during the period 1 April 2004 to 30 June 2013.
2. All records that the GMC hold regarding incidents and serious untoward incidents (SUIs) that occurred at the Trust between 1 April 2004 and 30 June 2013 in maternity and neonatal services resulting in the deaths of mothers and/or babies and/or intrapartum injuries that were notified to the NMC by individual members of the public, the Trust, the North West Strategic Health Authority, the Department of Health, Cumbria Constabulary, NHS England, any other regulatory authority or a member of the nursing and midwifery professions. It would assist the Investigation if the NMC has any such relevant material if it can be provided on a case by case basis. This should include:
 - minutes of any relevant meetings
 - discussions that took place with Trust management and midwifery staff
 - letters, e-mail exchanges and notes of telephone conversations between staff at the Trust that are pertinent and relevant to the specific case that the NMC had access to
 - letters, e-mail exchanges and notes of telephone conversations between staff at the Trust and individuals employed by or representing the North West Strategic Health Authority (including the Local Supervisory Authority for Midwives), Cumbria Primary Care Trust (PCT), North Lancashire Primary Care Trust (and its predecessor PCTs (Morecambe Bay PCT, Fylde PCT and Wyre PCT), successor Clinical Commissioning Groups (NHS Cumbria CCG and NHS Lancashire North CCG), NHS England, or the Department of Health, that were made available to the NMC
3. Copies of correspondence regarding all complaints made to the NMC regarding the standard of care delivered by any nurse or midwife registered with them who was employed at the Trust from 1 April 2004 to 30 June 2013 including the details of all investigations undertaken by the NMC, details of any disciplinary action taken or additional supervision and/or training recommended to individual nurses or midwives and how any recommendations for changes to existing practices were disseminated by the NMC to registered nurses and midwives.
4. Copies of reports and investigations carried out by the NMC made in response to concerns raised within the NMC or by any other individual or organisation regarding the standard of care delivered by medical staff in the maternity and neonatal units at the Trust.
5. Correspondence between the NMC in respect of any Reports published by any other organisation regarding individual incidents and/or the standard of care delivered by staff in the maternity and neonatal units at the Trust.

6. Any other material collected or held by the NMC that it considers would assist the independent investigation address its terms of reference in full.



Field Fisher Waterhouse

RECEIVED

5 FEB 2013

MBI

Strictly Private and Confidential

The Morecombe Bay Investigation
For the attention of Paul Roberts
3rd Floor
Park Hotel
East Cliff
Preston
Lancashire
PR1 3EA

Our ref: [ATBR/skk/35163.01305/29495230v1]

Tom Rider
Partner
+44 [redacted] (Direct Dial)
[redacted] (mobile)

5 February 2014

By Email and Courier

Dear Sirs

Morecombe Bay Investigation ("the Investigation")

We are instructed by the Nursing and Midwifery Council ("NMC") in relation to the Morecombe Bay Investigation and we are writing to respond to your letter dated 6 January 2014 requesting documentation and evidence. The NMC wishes to be as open and helpful to the investigation team as it can be without prejudicing any cases of its own or investigations on the part of others, in the interests of the Morecombe Bay families.

Outstanding Disclosure to the Investigation

We are grateful to Mr Paul Roberts, for the helpful discussion last Friday in respect of the requested material. As discussed, the NMC requires further time to consider its position in respect of disclosing its Fitness to Practise cases concerning registered nurses and midwives at University Hospitals Morecombe Bay NHS Foundation Trust ("UHMB"). The NMC is in regular contact with the police in Cumbria and has been assured that it will receive further disclosures from them in the next two weeks. The NMC is also waiting for a response to a formal request for disclosure it has made to the Parliamentary and Health Service Ombudsman following its investigation into Morecombe Bay cases. Material from these sources will need to be reviewed upon receipt and this may result in reopening in cases currently deemed closed. As such, we are not in a position today to meet the Investigation's requests, under point 2 and 3 of Annex A to your letter dated 6 January 2014 due to concerns that such disclosure might prejudice cases currently being processed under the NMC's Fitness to Practise procedures. We hope to provide an update shortly to the Investigation.

Further, the NMC is mindful that much of its documentation identifies patients and their families and contains sensitive personal data. We are in the process of identifying which families may need to be contacted for their consent before material is disclosed to the Investigation. We are grateful that the Investigation will consider our proposal that the Investigation obtain and/or share its consent from the families for the release of their NMC documentation and look forward to hearing from you on that point. However, this outstanding issue means that we have only been able to partly respond to the Investigation's requests under point 4, 5 and 6 of Annex A to your letter. Once the issue of patient consent is resolved, we expect to be able to respond more fully to the Investigation's requests.



Field Fisher Waterhouse

Disclosed Material

We have identified documentation which can be disclosed to the Investigation without impacting on the NMC's FtP cases or that identifies any patients. Please find enclosed an encrypted CD Rom which contains the following material:

- 1) Copies of the NMC's current policies, legislation and guidance materials for handling complaints made against nurses and midwives.

We are identifying previous versions of the enclosed policies and guidance material and aim to provide them shortly to the Investigation.

We have also included a number of NMC publications on the topic of the supervision of midwives.

- 2) Documentation from the NMC's Continued Practice Directorate which is responsible for the quality assurance of local supervising authorities for midwifery and in particular, copies of the NMC's Extraordinary Reviews of UHMB in 2011 and 2012 and the related correspondence with interested parties.

We have redacted the names and personal information of patients in the following documents: "Supervisor on Call Report"; "Supervision Report for NMC" dated 19 October 2011; "RCA IUD Aug 2012" and "Information Request" Trust letter dated 29 November 2011.

These documents were provided to the NMC by the Trust in connection with the Extraordinary Review. The references to the patients were not, as far as we can establish, to highlight to the NMC concerns in their care. We do not have any further information in respect of the named patients and as such, we considered it appropriate to redact their names and personal data.

Should the Investigation have any questions in respect of the redactions, we should be happy to discuss it further.

Please note that the password for the encrypted CD Rom will be emailed separately.

Further Questions in respect of the Disclosure Request

We should be grateful if point 5 of Annex A could be clarified "*correspondence between the NMC in respect of any Report published by any other organisation regarding individual incidents and/or the standard of care delivered by staff in the maternity and neonatal units at the Trust*". On our interpretation of point 5, the Investigation is seeking correspondence between the NMC and any other organisation that may have published their own reports in respect of individual incidents and/or the standards of care at UHMB. We look forward to hearing from the Investigation on this issue.

We will provide an update to Investigation in the next 2 weeks on the outstanding disclosure as detailed in this letter.

Should the Investigation have any queries in respect of this letter and its enclosed materials, please contact Tom Rider [redacted] or [redacted] of these offices.

Yours faithfully

field fisher waterhouse LLP

Field Fisher Waterhouse LLP

THE MORECAMBE BAY INVESTIGATION

Chaired by Dr Bill Kirkup CBE

Ms Jackie Smith
Chief Executive
Nursing and Midwifery Council
23 Portland Place
London
W1B 1PZ

3rd Floor
Park Hotel
East Cliff
Preston
Lancashire
PR1 3EA

19 May 2014

Dear Ms Smith ,

Outstanding evidence for the Morecambe Bay Investigation

Further to my letter of 6 January 2014, I am now following up on progress to provide outstanding evidence.

This letter sets out the documents and evidence still outstanding, from the original letter. The Investigation Chairman and his team of independent expert advisors require to be provided with the documents in order to comply with their terms of reference.

Annex A to this letter sets out the evidence that remains outstanding from my original letter.

You may be aware that the Secretary of State has granted an extension of time to November for the Chairman to deliver his Report. However, in doing so, the Secretary of State has indicated that there will be no further extension to the Investigation's timeline. Receiving the outstanding evidence in a timely period is therefore crucial.

In January the Morecambe Bay Investigation sought material from the Parliamentary and Health Service Ombudsman (PHSO) to assist its ability to address its terms of reference.

As a result of the statutory bar placed on the Parliamentary and Health Service Ombudsman by the Acts of Parliament under which it is established - The Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993 - the Ombudsman is unable to supply this material to the Investigation.

Telephone: 01772 536376

Email: correspondence@mbinvestigation.org

Independent investigation into the management, delivery and outcomes of care provided by the Maternity and Neonatal services of University Hospitals of Morecambe Bay Trust from January 2004 – June 2013

Mick Martin, the Ombudsman's Managing Director, has indicated to the Morecambe Bay Investigation that it (the Investigation) can nevertheless secure copies of correspondence between the PHSO and a number of interested organisations (including yours) by approaching each individual organisation.

The Investigation is therefore seeking your assistance in obtaining copies of correspondence between the Parliamentary and Health Service Ombudsman and the Nursing and Midwifery Council (NMC) regarding any complaints made to the Ombudsman about the standard of care and services delivered by the University of Morecambe Bay Hospitals NHS Foundation Trust between 1 January 2004 and 30 June 2013.

I appreciate that the NMC has already been asked to provide the Investigation with correspondence between it and the Ombudsman, but you will appreciate it is the "other half" of the exchanges of correspondence that the Investigation is seeking to obtain.

Should you wish to confirm with the Ombudsman's office that this is an appropriate approach please do not hesitate to do so. You will however recognise that the Investigation needs to obtain this material as a matter of urgency.

I would appreciate it if you would supply the outstanding material and any additional material identified in the above paragraphs concerning the Parliamentary and Health Service Ombudsman to the Morecambe Bay Investigation by 6 June 2014.

If the NMC does not have or, having exhausted all avenues of possibility, is unable to provide the material, could you please confirm this in writing.

If you have any queries, please do not hesitate to contact me or the Investigation's Documents and Evidence Manager, Paul Roberts, on 01772 536401 or via email at paul.roberts@mbinvestigation.org

Yours sincerely,

OONAGH McINTOSH
SECRETARY TO THE INVESTIGATION

cc. KATERINA KOLYVA – DIRECTOR CONTINUED PRACTICE
EMMA WESCOTT – ASSISTANT DIRECTOR, STRATEGY &
COMMUNICATIONS

Annex A – Outstanding evidence

1. Correspondence between the NMC and others in respect of any Reports published by any other organisation regarding individual incidents and /or the standard of care delivered by staff in the maternity and neonatal units at the Trust. (item 5 in the original request)

The Investigation notes that the NMC has provided 57 relevant documents, 27 of which relate to the case of Joshua Titcombe. The remaining papers do not relate to individual cases. Could you please confirm that the NMC has no additional material relating to individual cases that may be pertinent and relevant to the Investigation.