



Health Service Safety Investigations Bill

Introduction

This Bill underlines the Government's commitment to reduce patient harm by improving the quality of health investigations in England and sharing that learning.

In September 2017 the Government published a [draft Health Service Safety Investigations Bill](#). The draft Bill proposed the establishment of a new body, the Health Service Safety Investigations Body (HSSIB) to investigate incidents which have or may have implications for the safety of patients in the NHS.

A [joint committee](#) of MPs and Peers scrutinised the draft Bill and supported the proposal to establish the HSSIB as an independent body to conduct investigations in to patient safety incidents in NHS-funded services.

Overview

The Bill proposes establishing **the Health Service Safety Investigations Body (HSSIB)** in England. The Bill will:

- establish the Health Service Safety Investigations Body (HSSIB), as a new independent arm's-length body with powers to conduct investigations into patient safety incidents that occur during the provision of NHS-funded services.
- create a 'safe space' whereby participants can provide information to the HSSIB safe in the knowledge the information will not be shared with others, and only disclosed under certain limited circumstances as set out in legislation; and
- amend the Coroners and Justice Act 2009 to allow for NHS bodies, rather than local authorities, to appoint Medical Examiners; and place a duty on the Secretary of State to ensure enough Medical Examiners are appointed for England, are properly resourced and their performance monitored.

The HSSIB will continue the work of the [Healthcare Safety Investigation Branch](#) (HSIB) which became operational in April 2017 to conduct high-level investigations into patient safety incidents in the NHS and for the NHS to learn from these incidents. The Government has decided that the maternity investigations programme currently led by the investigation branch will not be included as a provision in the Bill.

What will the Bill do for national patient safety investigations?

Establish an independent investigations body on a statutory footing

- 1) The new legislation will establish the HSSIB as a new arm's-length body and will allow investigations to be carried out independent of the NHS and Government, as provided in the Bill. This will give the public full confidence in the HSSIB investigation processes and to deliver impartial conclusions and recommendations.

Strengthen 'safe space' powers

- 2) The new HSSIB will conduct investigations using 'safe space' which prohibits, on a legal basis, the disclosure of information held in connection with an investigation, apart from in certain limited circumstances, as set out in the legislation.
- 3) The legislation puts safe space on a statutory footing and provides greater protection when compared to the mechanism currently used by the investigation branch to protect information gained in the course of an investigation.

Under the current investigation branch, a clinician who was involved in a patient safety incident may be reluctant to participate in an investigation, uncertain that the information they provide could be used as evidence against them in the future. In the future, safe space will encourage that clinician to speak candidly about what happened during a patient safety incident in the knowledge that the information they share will be in confidence. This will enable the HSSIB to conduct a more thorough examination of all the factors that led to the incident occurring.

Introduce new legal powers of entry and powers to obtain information

- 4) It is expected that NHS organisations will cooperate fully with the HSSIB investigations and benefit from the shared system learning that results. However, the Bill provides powers for the HSSIB, where necessary, to access premises and material relevant to an investigation.

A Trust has been notified that the HSSIB wishes to conduct an investigation into a serious patient safety incident. The Trust ignores the HSSIB's initial requests and this delays the start of the investigation. The HSSIB would have the power to enter the Trust's premises and carry out its investigation backed up by criminal sanctions where participants fail to comply with the HSSIB's request for information or for obstructing an investigator exercising HSSIB's power of entry as set out in the legislation. There also will be criminal sanctions for providing false or misleading information. In the future, these legal powers will ensure that the HSSIB will be able to access information crucial to its investigations and all organisations will need to take cooperation with the HSSIB seriously.

Enable HSSIB to work with other UK health bodies

- 5) Healthcare is a devolved matter. The HSSIB will be an English body with most of its functions being exercisable only in relation to England.
- 6) Both Wales and Northern Ireland would like the ability to contract with the HSSIB to undertake investigations should they wish for that to happen and this is provided for in the Bill.
- 7) Scotland would like the HSSIB to be able to provide guidance and training if requested, to health bodies in Scotland and this is also covered in the Bill.