

From: Minh Alexander <*****>
Subject: HSIB and stakeholder involvement
Date: 28 February 2017 at 09:19:01 GMT
To: Jane Rintoul *****
Cc: *****>, *****>, *****>, *****>, *****>, Keith Conradi <*****>, Kevin Stewart <*****>, *****

Hi Jane,

Thanks for getting back to me and clarifying that you and HSIB see input from a wide range of stakeholders, including whistleblowers, as key.

I remain unclear who exactly is being consulted at this stage - I am aware only of some of the parties - and I do not understand why there is not an open process. Issues of equity arise as those involved at an earlier stage have a greater voice.

My specific question about whether whistleblowers will be invited to contribute to the drafting of HSIB's protocols where they impact on whistleblowers (as opposed to HSIB producing a finalised protocol as a fait accompli - which appeared to be what Keith was proposing in his email below of 6th January 11.16) remains unanswered, I think.

With best wishes,

Minh

Minh Alexander

From: Jane Rintoul <*****>
Subject: RE: HSIB and stakeholder involvement
Date: 28 February 2017 at 09:10:37 GMT
To: Minh Alexander <*****>
Cc: *****>, "Keith Conradi *****>, Kevin Stewart *****

Dear Dr Alexander,
Thank you for your email.

As I said in my previous email, we are working and will continue to work with a wide range of stakeholders. We are still very much in the design phase and will continue to refine our protocols after going live. We see the input of a broad range of stakeholders, including whistleblowers, as key.

Referrals to HSIB will be open to all. We are currently working on how this system will work and deciding on how our Advisory Board function will work.

More information will be available on our website, when it goes live at the end of March.

Thank you for your interest in HSIB.

Kind regards
Jane

Jane Rintoul CBE | Director of Corporate Affairs

HSIB – Healthcare Safety Investigation Branch

From: Minh Alexander [mailto:*****]

Sent: 16 February 2017 18:19

To: Jane Rintoul <*****>

Cc:

*****Keith Conradi <*****>; Kevin Stewart

Subject: HSIB and stakeholder involvement

Hi Jane,

Just checking if you received my email below of 6 February?

I gather that a meeting with stakeholders is taking place on Monday.

I would very grateful for clarification, as requested, of whether and how HSIB will be ensuring that its frameworks and protocols are designed with whistleblower input.

With best wishes,

Minh

Minh Alexander

From: MinhAlexander <*****>

Subject: HSIB and stakeholder involvement

Date: 6 February 2017 at 11:49:59 GMT

To: Jane Rintoul <*****>

Cc: Keith Conradi ,*****>, Kevin Stewart

<*****>

Hi Jane,

Thanks very much for your email.

To recap,

I first wrote to Keith last summer about regulatory failures that allowed poor NHS incident handling, and I sought a response at the New Year.

I also asked HSIB a month ago if it would involve whistleblowers, patients and families in drafting its protocols.

The answers that I received from Keith and Kevin implied that the answer might be 'no', so I therefore asked for clarification.

I then learnt that HSIB subsequently approached a few individuals and organisations to offer access to its process (with a patient and family focus).

You now advise that HSIB is consulting informally and using existing stakeholder groups. But this does not fully answer my question.

I do not know how equitable or representative your approach is. I think there is a risk that it is not, and that it lacks the transparency needed for the culture change that HSIB is tasked with driving.

However, to my knowledge, whistleblowers were not represented in the establishment of HSIB to date. Therefore, if HSIB relies on the existing club which helped to establish it, it will exclude a major slice of intelligence and insight into how serious and deliberate NHS investigative failure happens.

I would have thought that this something which HSIB would seek to understand.

On 6 January Keith referred below to HSIB protocols for "dealing with whistleblowers".

This suggests that there is work to be done on how HSIB conceptualises and understands the issues around whistleblowing. The operation of so called 'safe space' is likely to be

mechanistic and flawed without fundamental understanding of how the NHS silences staff. The change required is infinitely more complex than simply designating a space 'safe'.

There are so many ways in which the NHS can intimidate staff from telling the whole truth. I am shortly speaking to yet another staff victim of current NHS suppression. And I have just heard literally moments ago from someone who has decided that they have no choice but to submit to a restrictive compromise agreement. I am also today helping another ex member of NHS staff to search for personal data about likely blacklisting for speaking up. These are typical scenarios and they continue all the time.

Please advise more clearly if HSIB will involve whistleblowers in drafting any protocols that relate to whistleblowing and the related but different matter of 'freedom to speak up'.

I also copy this to the National Guardian, Sir Robert Francis who will be chairing the Accountability committee for the National Guardian office and the relevant select committee chairs.

With best wishes,

Minh

Minh Alexander

Sent from my iPhone

From: Jane Rintoul <*****>

Date: 6 February 2017 at 08:43:07 GMT

To: Minh Alexander <*****>

Cc: Kevin Stewart , *****>, "Keith Conradi"

Subject: Re: CQC checks on the accuracy and quality of providers' incident investigations

Dear Dr Alexander,

I am replying for Kevin, as he is on leave this week.

We are keen to learn from people's experiences and to get their views as we develop HSIB.

In establishment, we are going about this in an informal way and are using organisations and existing stakeholder groups where possible.

Longer term, as set out in the directions for HSIB establishment, we will have some form of advisory "board". We are currently working through options for this.

We are always happy to receive your views on HSIB and thank you for your interest.

Kind regards

Jane Rintoul
Director of Corporate Affairs
HSIB

Sent from my iPad

On 3 Feb 2017, at 16:43, Minh Alexander <*****> wrote:
Hi Kevin,

I am sorry to chase as I realise you must all be busy trying to get HSIB operational by April.

However, as there is very little time to go, could you or another colleague get back to me regarding the question of whether HSIB will involve whistleblowers, patients and families in drafting its protocols?

I understand that you may be starting to invite individuals but it would be good to hear more about how you may be approaching these issues.

Many thanks,

Minh

Minh Alexander

From: Minh Alexander <*****>
Subject: CQC checks on the accuracy and quality of providers' incident investigations
Date: 18 January 2017 at 17:05:22 GMT
To: Kevin Stewart *****
Cc: Keith Conradi <*****>, Jane Rintoul

Hi Kevin,

Thanks very much for your email this afternoon, copied below, which I am guessing is a response to my email to Keith Conradi of 6 January at 11.45, also copied below.

I'm glad that HSIB views favourably the principle of using intelligence from staff and families. I may have to quibble with you a little about characterising the intelligence as "soft", as it is often very "hard" and well evidenced. It is just that the NHS may brazenly ignore serious concerns and tries to dismiss them as misconceived.

In my own experience, the NHS was capable of even ignoring a fully evidenced report of a mental health homicide (and even though the homicide was acknowledged, investigated by all the other agencies involved and subject to a criminal prosecution).

My question to Keith Conradi of 6th January was whether HSIB will be involving whistleblowers, patients and families:

"Will it be possible for whistleblowers, patients and families to contribute to the development of HSIB's protocols where these have an impact on these stakeholder groups?"

May I just double check if HSIB's intention is to involve us in the drafting of HSIB's protocols?

From the perspective of whistleblowers, it would be helpful if we can contribute to the development of your external whistleblowing policy and standards for how you interact with whistleblowers and act upon their disclosures.

I presume HSIB will have legal Prescribed Person functions under the Public Interest Disclosure Act as it is part of NHS Improvement. It would also be useful to know what HSIB's approach to this will be and also to know if HSIB will have or seek Prescribed Person status if it gains the statutory independence that it is reportedly seeking at present.

Many thanks and best wishes,

Minh

From: "STEWART, Kevin (HAMPSHIRE HOSPITALS NHS FOUNDATION TRUST)"

<*****>

Subject: Contact with Keith Conradi

Date: 18 January 2017 at 15:27:56 GMT

To: "minhalexander@aol.com" <*****>

Cc: Keith Conradi <*****>, Jane Rintoul

<*****>

*****>

Dear Dr Alexander,

Hello again; Keith Conradi has asked me to respond to you on his behalf. As I said in my last e mail, I am in the process of transitioning between my RCP job and HSIB, so I can't really give you a lot of specific replies at the minute. As a general comment however, HSIB will be looking to gather information and intelligence from all possible sources in order to inform our focus.

To me this means being open to the possibility that helpful information may come from "soft intelligence" gained from staff members or from patients' families that might not be detected by formal data reporting, inspections, reports or other systems.

I certainly appreciate that in the past there have been too many individuals (staff members, patients, families) who have tried to raise legitimate concerns but found that these have been ignored, or worse that they have been treated in punitive fashion (at the College we hear these stories quite a lot as you might imagine). By contrast I have been impressed with the approach that Keith has brought with him to HSIB from his air accident investigation experience, which really does focus on the just, respectful culture that we have been lacking in healthcare.

The caveat for HSIB I guess is that we are a small organisation with limited resources and so will be fairly restricted in what we can investigate ourselves, at least initially, but our principles, which we hope to spread throughout the NHS, will be to deal with patients, families and staff in a just, open and respectful manner.

I will get back in touch with you when I perhaps have a bit more detail to share.

Best wishes,

Kevin Stewart

From: Minh Alexander <minhalexander@aol.com>
Subject: CQC checks on the accuracy and quality of providers' incident investigations
Date: 6 January 2017 at 11:45:47 GMT
To: Keith Conradi <*****>

Cc:

Hi,

Many thanks for getting back to me.

I appreciate this must be a busy time for you.

1) Will it be possible for whistleblowers, patients and families to contribute to the development of HSIB's protocols where these have an impact on these stakeholder groups?

Whistleblowing is an especially complex, specialist area and I hope that there can be input by whistleblowers to help ensure that HSIB gets it right.

Whistleblowers are largely currently excluded from the National Freedom to Speak Up Guardian's processes, despite concerns raised about this, and I very much doubt that you will get a complete insight from the collaboration with the National Guardian's office.

2) I don't see the issues about CQC as separate to the establishment of your operational framework. Rather, regulatory failure to inspect the quality of incident investigations (and related to this, the Duty of Candour*) it is a core issue that is holding back improvement and safety in the NHS. CQC is also continuing to failing whistleblowers, as recently highlighted by a report that I co-authored, which was reported by the Times:

<https://minhalexander.com/2016/12/05/whistleblowers-unheard-by-cqc/>

I was very glad therefore to see that HSIB is seeking powers, which will extend to NHS regulators.

Would it be possible to discuss some of these issues?

I copy this to Inquest as I promised to share the response from my correspondence to you of June 2016, and I copy this to AvMA as regards the issues of candour. I also copy this to fellow campaigners who I am aware are also interested in how HSIB develops.

Best wishes,

Minh

* Regulating the Duty of Candour. AvMA August 2016

https://www.avma.org.uk/?download_protected_attachment=Regulating-the-duty-of-candour.pdf

From: "Keith Conradi" <*****>

Subject: RE: CQC checks on the accuracy and quality of providers' incident investigations

Date: 6 January 2017 at 11:16:29 GMT

To: Minh Alexander <*****>

Dr Alexander,

Thank you for your email. I note your concerns regarding the CQC; however please understand that my current priority is to establish an investigation capability that will become operational on 1 April 17. We are currently working on criteria to select our 30 investigations a year and also our protocols on dealing with whistleblowers. The criteria will be published on our website when it becomes fully functional.

Regards,

Keith

Keith Conradi | Chief Investigator

HSIB – Healthcare Safety Investigation Branch

From: Minh Alexander [*****]

Sent: 03 January 2017 16:41

To: Keith Conradi <*****>

Subject: CQC checks on the accuracy and quality of providers' incident investigations

BY EMAIL

Keith Conradi

Chief Investigator HSIB

3 January 2017

Dear Mr Conradi,

1) I wrote to you in June and was informed by the IPSIS secretariat that you would receive my correspondence no later than September 2016, when you took up post. As I have not heard from you, I would be grateful for your response on the concerns raised about CQC's approach and omissions.

For completeness, I attach a further email that I sent you on 14 July 2016 about the CQC, and I copy below a link to a published summary of concerns about CQC's recent so-called "Deaths Review":

<https://minhalexander.com/2016/12/15/covering-up-the-cover-ups-cqcs-revisionism/>

2) I also notice that you have been invited to the National Freedom To Speak Up Guardian's consultation event on 20 January, about the establishment of a stakeholder advisory group which the National Guardian has told the press will select cases for review by her office.

May I ask if HSIB has developed any policy or protocol yet on how whistleblowers will feature in its operations, and how HSIB may respond if contacted by NHS whistleblowers?

Many thanks.

Yours sincerely,

Dr Minh Alexander

From: Minh Alexander <*****>

Subject: CQC checks on the accuracy and quality of providers' incident investigations

Date: 10 June 2016 at 10:02:41 BST

To: ipsis.sec@dh.gsi.gov.uk, enquiries@improvement.nhs.uk

Cc: rfrancis@serjeantsinn.com, Katherine Murphy <katherine@patients-association.com>, pubaccom@parliament.uk, meghilliermp@parliament.uk, richardbaconmp@parliament.uk, harriett.baldwin.mp@parliament.uk, deidre.brock.mp@parliament.uk, kevin.foster.mp@parliament.uk, stewart.jackson.mp@parliament.uk, clive.lewis.mp@parliament.uk, nigel.mills.mp@parliament.uk, david.mowat.mp@parliament.uk, teresa.pearce.mp@parliament.uk, stephen.phillips.mp@parliament.uk, pughj@parliament.uk, nick.smith.mp@parliament.uk, karin.smyth.mp@parliament.uk, annemarie.trevelyan.mp@parliament.uk, Health Committee

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To Keith Conradi, Chief Investigator, Healthcare Safety Investigation Branch 10 May 2016

Dear Mr Conradi,

CQC checks on the accuracy and quality of providers' incident investigations

Congratulations on your appointment. With regards to HSIB's remit for leading improvement in NHS incident handling, I write to suggest that HSIB seeks and reviews quantitative assurance data from CQC on its previous claim that it checks whether providers are "writing truthful" incident reports. (1)

Indeed, current CQC inspection frameworks include assessment of investigation quality:

“When things go wrong, are thorough and robust reviews or investigations carried out? Are all relevant staff and people who use services involved in the review or investigation?” (2)

However, CQC inspection reports give little data about such inspection activity and the continuing experience of many patient complainants, families and whistleblowers is that CQC in fact resists exploration of their reports that incident investigations are flawed, even where there is concern about falsification.

It would be useful if there is transparency about CQC’s methodology, and published evidence on whether CQC is consistently reviewing meaningful samples of incident reports for reviews to be effective.

As a very serious example, CQC’s report of its inspection of Southern Health in 2014 (3) did not convey the full scale and gravity of the trust’s governance failings around serious incident investigations. My reading of CQC’s report is that CQC commented on matters of process, and noted external stakeholder’s perceptions of investigation quality, but gave no assessment of its own on whether trust investigation reports were ‘truthful’, bar a comment on the incorrect classification of a single Never Event and a general observation that there was a lack of staff understanding about incident grading and related issues. This apparent lack of direct assessment of investigation quality by CQC was despite the fact that CQC’s report gave several examples of organisational failure to learn from risks and incidents that logically, ought to have prompted closer scrutiny of investigation quality. Nor could I find clear comment in CQC’s report on the trust’s failure to investigate deaths that should have been investigated. I found one reference to a failure to arrange an external review in a single case. CQC concluded that the trust merely ‘Required Improvement’ as opposed to being ‘Inadequate’ on the safety domain.

A question arises about the degree to which CQC has failed to adequately flag serious governance failure elsewhere.

I would be grateful to hear from you regarding this.

Yours sincerely,

Dr Minh Alexander

1) CQC annual report 2014/2015
<http://www.cqc.org.uk/content/annual-report-201415>

2) CQC inspection frameworks January 2016 <http://www.cqc.org.uk/content/inspection-frameworks-hospital-and-ambulance-core-services>

3) CQC report of an inspection of Southern Health NHS Foundation Trust 7-10 October 2014, published 25 February 2015
http://www.cqc.org.uk/sites/default/files/new_reports/AAAB9266.pdf

cc Public Administration and Constitutional Affairs Committee
Public Accounts Committee
Health Committee
Norman Lamb MP
Luciana Berger MP
Suella Fernandes MP
Andrew Smith MP
Alistair Burt Minister of State for Community and Social Care
Sir Robert Francis QC
Katherine Murphy CEO Patients Association
Peter Wyman CQC Chair
Prof Louis Appleby CQC NED

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