

**From:** "SMITH, Joseph (NHS ENGLAND & NHS IMPROVEMENT - T1520)" <REDACTED>  
**Subject:** RE: More meeting notes  
**Date:** 21 October 2019 at 14:53:13 BST  
**To:** minh alexander <REDACTED>

Hi Minh

Attached here is the terms of reference for the leadership culture reference group (the Kark reference group reports in to this group and some of the membership was drawn from the wider leadership group). I've also attached the note of the first meeting. Just working on the final draft of the second meeting but will send that over as soon as I can.

The first meeting note refers to a paper – this was basically a draft of the paper I've shared with you. We updated that draft based on the feedback from the first meeting.

Just to note that I've taken out a few people's names from both documents. I've tried not to take anything substantive out of the notes but I thought that some of the participants (junior colleagues from either NHS England/ Improvement or in NHS providers) had a reasonable expectation of privacy. I've left their organisation names in so you get a sense of where membership was drawn from.

I have also been through my records and confirm that the whistleblower member of the Kark reference group was drawn from the wider membership of the Improving Leadership Culture reference group. The wider group was constituted before my time in the team but I understand it was bought together to form a broad church, including people who have contributed to discussions about leadership in the recent past, experts from other sectors and academics, and people from representative organisations.

Nothing to add to your note of our discussion.

Let me know if/ when a further conversation is helpful.

Regards

Joe

Joseph Smith

Policy Adviser  
NHS England and NHS Improvement

Phone: 07593 130 342

**From:** minh alexander <REDACTED>  
**Sent:** 21 October 2019 12:20  
**To:** SMITH, Joseph (NHS ENGLAND & NHS IMPROVEMENT - T1520) <REDACTED>  
**Subject:** More meeting notes

Morning Joe,

Any luck with those Reference group documents? It's just that time is marching on a bit with respect to the NHSI Kark finalisation timetable.

Also, could you get back to me about the notes of our last telephone meeting, and also more information about how the whistleblower member of the Reference group was chosen. (I think you agreed to check back over your records).

BW

Minh

**From:** "SMITH, Joseph (NHS ENGLAND & NHS IMPROVEMENT - T1520)" <REDACTED>  
**Subject:** RE: More meeting notes  
**Date:** 16 October 2019 at 16:23:01 BST  
**To:** minh alexander <REDACTED>

Thanks, Minh –

I'm still waiting for the final versions of the terms of reference and minutes. Your email has prompted me to chase – I've put a scheduler in my diary on Friday to remind me again, in case they still haven't made it to my email inbox by then.

Regards

Joe

Joseph Smith

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**From:** minh alexander <REDACTED>  
**Sent:** 16 October 2019 16:11  
**To:** SMITH, Joseph (NHS ENGLAND & NHS IMPROVEMENT - T1520) <REDACTED>  
**Subject:** More meeting notes

Hi Joe,

Sorry to be a little slow off the mark with notes from our discussion on Friday. I've had some unexpected family commitments.

**Here is a summary of the discussion from my contemporaneous notes:**

Telephone meeting 9.30 11 October 2019

Accuracy of summary notes of telephone meeting of 10 October 2019 agreed, save for the passage:

*"JS commented that NHSI was not seeking comments on policy at this point"*

MA's clear recollection is that this is what she heard, and it was consistent with the recorded flow of the conversation, but JS did not recall saying so. He clarified that NHSI is consulting on matters of policy at this point.

### Reference group principle 3

MA asked JS if he could shed light on the Reference Group's thinking behind its principle 3:

*"The starting point for any regulatory system must be that the vast majority of managers do a good job and there should be a proper system of support, training and development in place for those who could improve."*

Further discussion established that this was not an evidence based statement but that there was a feeling that the approach to implementing the Kark Review should not be based on negativity.

MA disagreed with such an emphasis in the absence of evidence. MA believed that this claim was very provocative given the context of the Kark review, and thousands of avoidable NHS deaths due to repeated failures of learning. The reluctance to confront uncomfortable realities has been part of this cycle of repetition, and the claim in principle 3 is an illustration of that culture.

JS posited that professional regulators generally adopt a position that most registrants do their duty.

MA felt there was not a clear equivalence because NHS managers are not currently professionally regulated, and currently do not have to satisfy clear standards, so the starting point is different.

JS invited MA to put forward an alternative to principle 3. MA agreed to think about it. One option might be to simply remove it.

JS asked what MA thought of Reference Group principle 5:

*"We do not want to introduce unnecessary barriers for existing NHS staff, clinicians or people from other industries who might consider senior operational roles in the NHS."*

MA commented that the general thrust & tone of the Reference Group's principles is defensive and speaks of the lowest common denominator. An alternative way of looking at the issue is to set higher expectations for the quality of NHS management. It should be seen as special, important, given the seriousness of the task. An argument being that talent attracts talent, and that it is more attractive to work in a successful, competent organisation. At present, there is a critical mass of corrupt, incompetent senior managers who appoint in their own image, to defend their self interest. This perpetuates the problems. Until they are replaced, little will change.

JS asked at what level MA believed this applied. MA clarified it extended from DH to central bodies/regulators to directors of provider bodies.

JS raised issues of diversity and recruitment was discussed.

MA agreed in principle with most of NHSI's "preliminary thinking" points but felt what was missing was recruitment, especially of people with the right character.

Training can remedy competency issues but no amount of training will remedy serious flaws of character such as dishonesty. The right individuals need to be selected from the outset, and those selecting them need to have honest motives. Corrupt senior managers, of whom there is a critical mass, will hire those who they believe will not threaten the status quo and who they believe/hope may buy into corrupt culture.

JS asked what MA thought of the NHSI competency frameworks - MA will review in detail and cover in formal response

MA strongly disagreed with the section of NHSI's preliminary thinking which suggested a "light touch":

*"A light touch approach is probably desirable – this might include a voluntary register to help raise standards and professionalise management, and standardised references."*

MA questioned whether this was realistic in cases of serious corruption, where the individuals need to be removed by force.

JS referenced a broadly equivalent system for psychotherapists, which most comply with.

MA had concerns about the worst offenders seeking to evade scrutiny.

Some discussion ensued about the next aspect of NHSI's preliminary thinking on the moral line:

*"There is a concept of the 'Moral Line' that we need to develop; what constitutes someone crossing a moral line."*

JS asked if MA was in favour of definitions of the "line".

MA felt definitions were needed, especially as CQC had been arbitrary and inconsistent in applying FPPR.

There was discussion about mitigation and flexibility.

MA asked for clarification of this aspect of NHSI's preliminary thinking:

*"Our work will need to take account of the fact that NHS leadership roles are changing and, in future, there will be greater system working."*

JS explained this was about managers managing systems in future as opposed to discrete organisations, (and not about systems rather than individuals being seen to blame for failings).

JS asked if MA thought the following should apply to all national bodies:

*"When we say managers in this context, we mean Board Directors in Trusts, CCGs and national bodies."*

MA believed that it should.

There was broad discussion of the merits of different models of professional regulation, and whether it should apply to just directors or all grades of managers.

MA agreed to look further into the different regulatory models before providing substantive comment, but pointed out that clinicians are struck off all the time, so it should not be impossible to devise a system to strike off seriously unsuitable managers.

JS indicated that he was waiting for confirmation from a colleague about the most up to date versions of documents agreed for release, before sharing with MA, and anticipated this would take about 2 days.

It was agreed that there might be further contact depending on questions arising from the documents or other developments in the project.

END

I will submit formal written feedback after I receive the requested documents

BW

Minh

**From:** minh alexander <REDACTED>  
**Subject:** Following our earlier exchange on Kark  
**Date:** 11 October 2019 at 09:10:58 BST  
**To:** Joseph Smith <REDACTED>

Hi again Joe,

**1) Documents**

As agreed, a note of the documents that you tentatively agreed to share and undertook to source/ look into:

- a) Membership of the Reference (steering) group
- b) Reference group terms of reference
- c) Reference group meeting minutes (and any other papers such as attachments and papers tabled)
- d) Action plans with respect to “detailed actions agreed for workstream” week commencing 26 August 2019

As I said, any other available documents would be appreciated.

As per our discussion, I would particularly like to know how the whistleblower representative for the Reference group was selected, and if they were recommended, by whom.

2) **A brief note summarising our discussion yesterday** follows for your agreement on accuracy, based on contemporaneous notes that I took.

I shall do so again following our conversation today.

Telephone meeting 10.10 - 10.30 am, 10 October 2019

Discussion took place mainly about NHS Improvement's engagement process for implementing Kark

JS advised that he coordinating the Kark work, in the context that he is a DHSC employee seconded to NHSI, specifically providing support with the following two aspects of the NHS People Plan:

- "Making the NHS the best place to work" - workstream led by Caroline Corrigan, Chair Navina Evans
- "Improving the Leadership culture" - workstream lead by Steve Hart, Chair Andrew Foster

JS established the Reference group as a resource to guide the Kark implementation process, with the intention that it should be inclusive

Parties who had contacted NHS Improvement to express a view/ interest in the Kark issues were considered for the Reference group

Commissions, providers & unions are currently represented on the Reference group

A person who has raised concerns, Bernie Rochford is also on the Reference group

JS could not recall the exact circumstances of Bernie Rochford's selection but noted her experience as someone who had raised concerns, and also someone who was known to NHSI

MA was concerned about lack of openness about whistleblower representation, and gave an example of a previous opportunity that NHSI did not ensure was open to all whistleblowers (with reference to the NHSI whistleblower employment support scheme)

JS undertook to track back and establish the details of how the whistleblower member of the Reference group was selected

MA requested copies of various documents such as Reference group terms of reference and meeting minutes, to which JS agreed, including documents relating to the selection of a whistleblower rep for the Reference group, subject to finding the latter documents

The NHS Leadership Academy event in Leeds on 4 Oct 2019 was discussed

MA observed that it was not clear that this was an official NHS Improvement consultation event and appeared to be controlled by the National Guardian's Office. The invitation came from the National Guardian's Office and the session that was specifically about Kark was patronisingly framed. It sought whistleblowers' experiences rather than their opinions on policy.

JS commented that NHSI was not seeking comments on policy at this point

MA disagreed with this approach and noted that NHSI's first draft of chapter is due by 4 Nov 2019 so policy is relevant

It was agreed that a further telephone meeting would take place

JS would send possible times for a meeting on 11.10,2019

MA would make of a note of documents requested

END

'See' you at 9.30

BW

Minh