


<p>North East Strategic Health Authority</p> <p>North West Strategic Health Authority</p> <p>Yorkshire and the Humber Strategic Health Authority</p> <p><b>BOARD MEETING</b></p>	 <p><b>North of England</b></p>
<p><b>Date:</b> 19 January 2012</p>	<p><b>Report Author:</b> Jane Cummings, Chief Nurse</p>
<p><b>Title of paper:</b> Proposal for handling independent investigations</p>	
<p><b>Actions Requested:</b></p> <ul style="list-style-type: none"> <li>• Approve the establishment of a Quality Assurance Committee;</li> <li>• Approve full delegated authority to the Quality Assurance Committee for the purposes of commissioning and publication of independent investigations;</li> <li>• Approve the operational model for the committee</li> </ul>	
<p><b>Governance Requirements</b></p>	
<p><b>SHA Objectives supported by this paper:</b> This paper, which relates to a process and governance arrangements for the discharge of a statutory function of the SHAs in respect of the commissioning of independent inquiries, and which also relates to quality improvement, supports the following objectives:</p> <ul style="list-style-type: none"> <li>• Performance &amp; Productivity: Identify unacceptable variations in quality and performance</li> <li>• Effective operation during transition: Ensure organisational and system resilience and business continuity, including in relation to all statutory obligations</li> </ul>	
<p><b>Risk Management:</b> The relevant risk are: Productivity gains are at the expense of quality; and organisational statutory responsibilities are not fulfilled</p>	
<p><b>Board Assurances:</b> This paper confirms the governance arrangements, including the establishment of a Committee of the Board – Quality Assurance Committee, to support the discharge of a statutory duty of the SHAs in the North of England cluster.</p>	
<p><b>Risk Assessment:</b> This paper explains how governance to support the independent inquiry process is being integrated for the SHA Cluster and confirms that further work is planned to combine develop a common process based on best practice that will reduce the risks associated with handover of the function to successors</p>	

**Communication (including public and patient involvement):**

The establishment of Committees will be reported internally and publically via SHA websites.

**Resource Implications – including productivity and value for money:**

There are no resource implications associated with the day to day work of the Committee but it will be responsible for overseeing expenditure on independent investigations and ensuring value for money.

**Legal Implications:**

There are no legal implications identified with the establishment of the Committee.

**Equality and Diversity:**

No specific equality and diversity issues have been identified.

**NHS Constitution:**

The establishment of committees is part of the overall governance of the SHAs.

**North East Strategic Health Authority**  
**North West Strategic Health Authority**  
**Yorkshire and the Humber Strategic Health Authority**

19 January 2012

**Proposal for the handling of Independent Investigations**

**Executive Summary**

1. This report summarises current arrangements in the three SHAs in the North of England cluster for the management of independent investigations. It sets out proposals for how these should be managed in the future for approval by the Board and recommends the establishment of a Quality Assurance Committee, which would also have oversight of other patient safety-related issues.

**Introduction**

2. Strategic Health Authorities have a statutory responsibility to commission and publish independent investigations undertaken in accordance with Health Service Guidance: HSG [94]27 – *Guidance on the discharge of mentally disordered people and their continuing care in the community*. This guidance was updated in 2005 when the Department of Health and the National Patient Safety Agency issued *Independent investigation of adverse events in mental health services*. The guidance has subsequently been complemented by guidance issued by the NPSA in February 2008: *Independent Investigation of serious patient safety incidents in mental health services: Good Practice Guidance*.
3. The HSG guidance requires SHAs to commission independent investigations in the following circumstances:
  - When a homicide has been committed by a person who is, or has been, under the care of specialist mental health services in the six months prior to the event i.e. subject to a Care Programme Approach;
  - When it is necessary to comply with the State's obligations under Article 2 of the European Convention on Human Rights. Whenever a state agent is, or may be, responsible for a death, or where the victim sustains life-threatening injuries, there is an obligation on the State to carry out an investigation. This means that the investigation should be independent, reasonably prompt, provide a sufficient element of public scrutiny and involve the next of kin to an appropriate extent;
  - Where the SHA determines that an adverse event warrants independent investigation, for example if there is concern that an event

may represent significant systemic service failure, such as a cluster of suicides.

### North of England independent investigations

4. Each of the three SHAs: North East, North West and Yorkshire and the Humber have systems in place for commissioning and publishing independent investigations. Currently there are 41 cases in the system as follows:

	NHS NE	NHS NW	NHS Y&H
No of cases already commissioned and underway	9	19	13
Of the above, no of cases in pre-publication phase	3	9	6
Of the above, no of cases to be issued by end Dec 2011	-	1	-
Of the cases in pre-publication phase, no likely to be ready for publication between January and March 2012	3	7 1 needs further work	6
No of cases ready for assessment/commissioning	1	1	4
<b>Total no of cases in North of England</b>	<b>41</b>		

5. NHS North of England is responsible for making sure that the above cases are concluded by the end of March 2013. In addition, the SHA cluster is responsible for making sure that any new cases that may be commissioned between now and the end of March 2013 are progressed as quickly as possible, and where investigations may not have concluded, that there is an effective handover to the successor organisation. At the moment, it is understood that this may become a function of the National Commissioning Board though this has yet to be confirmed.

### Current processes for handling publication of independent investigations

6. Each of the SHAs has an established process for publication of reports as follows:

	NHS NE	NHS NW	NHS Y&H
Independent investigations committee oversight of investigations/publication [delegated authority from Board]	No	Yes	Yes
SHA Board makes decision on publication on receipt of advice from the Strategic Head of Patient Safety	Yes	No	No
Board receipt of report in Part 2; authorise publication	Yes	No	No
Separate identified publication date/media event	Yes	No	No
Board receipt of report in Part 1 and as publication event	Yes	Yes	Yes
Trust CE and PCT CE invited to attend publication [or senior representative ie ED]	Yes	Yes	Yes
Family representatives invited to attend publication	Some-times	Some-times	Yes
Contact with family representatives	Yes	Yes	Yes
Governance, clinical and communications teams work together to prepare Q&As; DH briefings; action plans; cover reports	Yes	Yes	Yes
Full involvement of stakeholders in preparing for publication and on publication date [organisational stakeholders]	Yes	Yes	Yes

SHA representatives involvement in meeting with families/ perpetrators	Co-ordinators	Yes SHA lead[s]	Company only
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7. As can be seen from the above, the SHA Boards have had a significant role in approving, receiving and publishing independent investigation reports.

### Proposal for handling publication as NHS North of England

8. The analysis of numbers of cases due for publication in the early part of 2012 [13] has demonstrated that it may not be sustainable for the NHS North of England Board to be the vehicle for publishing reports, given the length of Board agendas already; the allotted time required for consideration and publication of reports [approx 30-45 mins per case]; and the fact that the Board meets bi-monthly. The Board is asked to consider establishing a Quality Assurance Committee that could have full delegation from the Board to undertake the current Board functions around publication of reports.
9. A Quality Assurance Committee could take responsibility for:
- **Assessing and approving cases to be commissioned** – this will be against the HSG criteria and will include determining the level of investigation required i.e. desk top review; expert clinical panel; panel of 3 [chaired by a barrister];
  - **Monitoring the progress of cases and costs** – to make sure that cases are progressed quickly and that costs are kept under control;
  - **Assessing final investigation reports and approving publication process** – this will include consideration of any legal/family issues that may impact on publication and signing off the publication strategy;
  - **Publication of reports** – this will require the committee to meet in public for the purpose of publication; it is suggested that the committee therefore operates on a Part 1 [if publishing reports] and Part 2 basis [for other routine business];
  - **Oversight of serious untoward incidents and challenged organisations** – this will be for the big patient safety issues that may arise;
  - **Oversight of other statutory accountabilities** – this will include Alert Notices (a system to inform NHS bodies of a healthcare professional, who has provided NHS services and who poses a significant risk of harm to patients, staff or the public and intends or may intend to continue in that employment or seek other work in the NHS) and Section 12 approvals (approval of Approved Clinicians and Responsible Clinicians for the purposes of the Mental Health Act 2007).
10. Draft terms of reference for the committee are attached for consideration and approval by the NHS North of England Board – appendix 1.
11. An operational model for the committee will be developed and submitted to the first meeting of the committee.

## Differences in commissioning and handling independent investigations

12. An initial analysis of the processes in each of the SHAs has identified the following differences:
- **Funding of investigations** – North West and Yorkshire & the Humber either top slice, or re-charge PCTs for the costs of the independent investigations. This is on the basis that the funding is in the PCT baseline and in the North West the PCTs agreed to adopt a ‘risk pooling’ approach. The SHA manages the fund on behalf of the PCTs to ensure that the resources are used to best effect - commissioning proportionate investigations and maximising the benefits of linking investigations across organisations and/or related health issues. North East SHA picks up the total costs of the investigations from within its own budget
  - **Commissioning of investigations** – North West and Yorkshire & the Humber invite companies from a list of nationally recognised preferred providers to undertake investigations. The companies are given a set timescale for completion of the investigations, linked to the level of investigation and they take responsibility for the total process of identifying panel members, arranging interviews, issuing relevant documents etc. North East has a contractual arrangement with identified lay people who act as investigation co-ordinators. These individuals are responsible for the process of setting up the panels, interviews, appointing Chairs of panels etc. Chairs of panels include barristers and names are drawn from an established list. The North East SHA works closely with the Independent Coordinators to ensure that investigations are carried out in a timely manner. Progress reports are provided monthly to ensure that cases are progressing and that any anticipated delays in the process can be identified immediately.
  - **Contact with families and perpetrator** – North East and Yorkshire & the Humber contacts with families and the perpetrator are done via the investigation co-ordinators [North East] and companies [Yorkshire & the Humber]. In the North West, the SHA lead officer[s] and company representatives meet with the families and the perpetrator – this is at the beginning of the process and around publication.
  - **Quality of reports** – this can be variable dependent upon the company’s approach [North West and Yorkshire & the Humber]; North East has a set template which they ask all panel Chairs to use.
13. All three SHAs have supporting documentation for their processes. It is suggested that NHS North of England maintain the status quo for cases already commissioned. NHS North of England will be responsible for making sure that a strong process is developed and handed over to its successor organisation. It is proposed that the teams across the cluster work together to develop a common approach to commissioning investigations and liaising with the other SHA clusters and the Department of Health to make sure that best practice is adopted.

## **Recommendation**

14. The Board is asked to:

- Note the content of this report and the current approaches adopted in each of the SHAs;
- Approve the establishment of a Quality Assurance Committee;
- Approve full delegated authority to the Quality Assurance Committee for the purposes of commissioning and publication of independent investigations;
- Approve the operational model for the committee
- Note that work will be undertaken to develop a common approach across North of England and for approval by the Quality Assurance Committee.

**Jane Cummings**  
**Chief Nurse**  
**NHS North of England**

**January 2012**

## NHS NORTH OF ENGLAND

### QUALITY ASSURANCE COMMITTEE – TERMS OF REFERENCE

#### Introduction

1. The NHS North of England cluster Board has agreed to establish a Quality Assurance Committee.

#### Delegation

2. The NHS North of England cluster Board, in establishing this committee, has agreed full delegation of Board responsibilities to the committee in the areas identified within the committee's functions.

#### Principal functions

3. The remit of the committee will be to:
  - a) Independent Investigations:
    - **Assessing and approving cases to be commissioned** – this will be against the HSG criteria and will include determining the level of investigation required ie desk top review; expert clinical panel; panel of 3 [chaired by a barrister];
    - **Monitoring the progress of cases and costs** – to make sure that cases are progressed quickly and that costs are kept under control;
    - **Assessing final investigation reports and approving publication process** – this will include consideration of any legal/family issues that may impact on publication and signing off the publication strategy;
    - **Publication of reports** – this will require the committee to meet in public for the purpose of publication; it is suggested that the committee therefore operates on a Part 1 (public) [if publishing reports] and Part 2 (private) basis [for other routine business];
  - b) Major incidents and/or patient safety/quality issues:
    - **Oversight of serious untoward incidents** – this will be for the big patient safety issues that may arise eg University Hospitals of Morecambe Bay NHS Foundation Trust
  - c) Other statutory accountabilities
    - **Oversight of other statutory accountabilities** – this will include Alert notices; Section 12 approvals and any other statutory accountabilities that require an overview on behalf of the Board

## **Membership**

4. Membership of the committee will include:
  - 4 Non Executive Directors of the Board, one of whom will act as Chair
  - Chief Nurse
  - Medical Director
  - Director of Communications & Corporate Affairs
  - Deputy Chief Nurse [x 3 max]
  - Deputy Medical Director [x 3 max]
  - Associate Director: NoE Corporate Affairs
5. It is proposed that any of the 3 Deputy Chief Nurses and Deputy Medical Directors can attend on behalf of the others but if so, would be required to handle matters across the North of England as necessary.

## **Quorum**

6. The committee will be quorate providing two-thirds of the members are present, including one NED.

## **In attendance**

7. The following officers will be in attendance:
  - Lead officers for independent investigation cases under consideration [? Including investigation co-ordinators]
  - Lead mental health nurses for independent investigation cases under consideration
  - If publication session, communication/media leads

## **Frequency of meetings**

8. The committee will meet on a monthly basis, with additional meetings convened to support publication of investigations as necessary.

## **Venue of meetings**

9. The committee will meet at appropriate venues across the north of England.

## **Meetings held in public and private**

10. The committee will meet in private unless it is publishing an independent investigation report in which case the meeting will be handled in accordance with the Public Meetings Act and the agenda will be divided into public and private.

### **Operational model for the committee**

11. The committee will operate its business in accordance with the operational model approved by the NHS North of England cluster Board.

### **Secretariat**

12. The secretariat function will be provided from within the NHS North of England corporate affairs service.