



2 Brewery Wharf
Kendell Street
Leeds LS10 1JR
Tel 0113 306 3000

enquiries@nhsemployers.org
www.nhsemployers.org

By email

Rebecca Chaloner
Director, Health Portfolio
IICSA
PO Box 72289
London SW1P 9LF

17 August 2017

Dear Ms Chaloner

NHS Employers response to the Independent Inquiry into Child Sexual Abuse (IICSA)

Thank you for your email and invitation for us to provide evidence in relation to work undertaken in the healthcare sector around preventing child sexual abuse.

Firstly, it is perhaps helpful to outline our remit and responsibilities at NHS Employers which may help you to understand the basis of our response.

1. Our organisation has overview and responsibility for delivering a number of workforce related programmes including pay, reward, employment practice, regulation and workforce supply. We provide support to NHS employers on all aspects of the employment journey, including workforce planning, recruiting for talent, health and wellbeing, and supporting cultural and behaviour change. We do this by providing advice, guidance, resources and good practice to help employers understand legislative and policy developments and how these impact on local employment practice to enable them to prepare for timely and effective implementation.
2. NHS Employers also provides the employers' perspective to policy makers within the Department of Health (DH) and other key national bodies. We work with the HR community and Board level members to ensure any changes to the system or policy direction continues to be appropriate and proportionate to achieving high quality and safe patient services and care. We are part of the NHS Confederation and the scope of our work mainly covers the NHS in England.

3. We work closely with different parts of the system including Health Education England (HEE) and NHS England to engage with employers on areas of workforce or employment practice. We also work with the regulatory bodies such as the Care Quality Commission (CQC), NHS Improvement and professional health regulators across health.
4. NHS Employers does not have a regulatory remit and therefore any assessment in regard to the effectiveness of the measures outlined in this inquiry would more appropriately sit with the system regulators such as the CQC and NHS Improvement who may wish, if not invited already, to contribute to this inquiry.
5. Similarly, NHS England provide system leadership and co-ordination on [safeguarding](#) policy and will be best placed to provide input on this area.
6. The development of training frameworks in the NHS do not fall within the remit of NHS Employers. You may therefore find it useful to consider the responsibilities of HEE and how this may help to inform this inquiry.

Our response

On the basis of our remit, we have focused on answering questions **one** and **ten** only. In particular, our response takes into account the work we have delivered since February 2015 to support NHS employers in responding to the recommendations and actions coming out of:

- investigations into the activities of Jimmy Savile within health and social care settings, led by Kate Lampard and the publication of the [Lesson Learnt report](#).
- the [Freedom to Speak up review](#) into whistleblowing processes in the NHS which was led by Sir Robert Francis QC, and the publication of the *Freedom to Speak Up* (FTSU) and *Learning not Blaming* reports.

These investigations and subsequent actions for employers have a much broader safeguarding element. However, they do have supporting outputs which are intended to support NHS organisations ensure the safety of individuals in receipt of healthcare (including children and young people). The key focus of our response is based on what practices NHS organisations have in place to prevent unsuitable people from gaining access to vulnerable groups by having stringent employment check processes in place. It also reflects the work done in ensuring staff feel confident and supported to raise and handle concerns about patient safety appropriately and effectively.

Steps taken in the NHS to ensure patients are safe from abuse and avoidable harm

Kate Lampard's ['Learning not blaming' report](#) published in February 2015 made 14 recommendations for NHS trusts to improve their policies and practices including access, volunteering, safeguarding, complaints and governance.

Although the report recognised that much had already been put in place by NHS employers since the reported incidents took place, there was still a variance in practices adopted across the country which urgently needed to be addressed. This was in relation to:

- security and access arrangements (including celebrity and VIP access)
- the role and management of volunteers
- safeguarding
- raising complaints and concerns (addressed separately in this response)
- fundraising and charity governance
- the observance of due process and good governance.

In response, Monitor and the NHS Trust Development Authority (now NHS Improvement) wrote to all trusts to ask them to review their current practice against the recommendations and to develop an action plan which they needed to report to them on within a three month time frame.

Our work programmes in support

NHS Employers is commissioned by the DH to produce guidance, advice and support to NHS organisations within England on recruitment practice.

Our six [NHS Employment Check standards](#) outline the requirements that organisations must adhere to when making all appointments in the NHS. This includes obtaining assurances of a person's identity, right to work, professional registration and qualifications, employment/training history and health by carrying out a work health assessment. It also includes the criminal record check requirements that are required under the Disclosure and Barring regime and, where recruiting from outside the UK, any overseas police check requirements that need to be complied with.

The employment check standards originated from a directive issued by the DH in May 2002 and apply to all NHS trusts, agencies and other third party contractors supplying staff to the NHS. In line with legislative changes, they are subject to continual review to ensure absolute clarity to NHS organisations about legal and mandated duties to obtain the necessary assurances at the point of recruitment and as part of any ongoing requirements to assess suitability during employment. They have been in their current format since 2009 and are now well engrained in NHS recruitment policy and practice.

We work closely with the Disclosure and Barring Service (DBS) to ensure employers fully understand their responsibilities under their criminal record and barring regime. This has led to a [range of resources](#) which are aimed at supporting employers to understand eligibility for the different levels of check, including making clear their duties to refer to the DBS when a member of staff has been removed from regulated activity because actual harm or a risk of harm has been identified.

As a result of the independent inquiry we undertook a survey of trust policies and practices in regard to checks and measures in place to help them manage celebrity and VIP visits. While many trusts had robust policies and practices in place to help them mitigate risks associated with high profile visits, the survey showed that there were some inconsistencies across the country. As a result, in February 2015 we produced good practice guidelines on [managing celebrity and VIP visits](#) which specifically focused on highlighting some key principles for trusts to consider when reviewing local security arrangements to make sure they were fully aligned with the recommendations in the Lessons Learnt report.

Whistleblowing measures in the NHS

We have a dedicated programme of work on [raising \(whistleblowing\) concerns](#) which is primarily focussed on supporting trusts to handle and respond to concerns raised by staff more effectively. In April 2015 we launched our Draw the line campaign and led an event with over 80 NHS leaders to discuss the practical issues in taking forward the actions from the FTSU review, and sharing the different approaches already taken by organisations to resolve some of the issues highlighted in the report.

In August 2015, we established a quarterly share and learn forum which is attended by human resources directors and senior managers who have line management responsibility or lead responsibility for handling concerns in their organisation. By default this became an interim network to bring together the newly established FTSU guardians in the absence of the [National Guardian's Office](#) (NGO) being established. Although the forum was never set up with this intent, this was critical in raising the profile and in setting the foundation for the role and enabling NHS trusts to start making appropriate appointments within the specified timeline outlined in the NHS Standard Contract. We continue to recognise the importance of having a guardian presence at these forums to encourage partnership working with HR and in ensuring they have the support they need to carry out their role effectively. The forums will continue until the end of this financial year (March 2017) and will focus on supporting employers to drive a change in processes and systems, and organisational culture, and individual behaviours to ensure staff feel safe, confident and competent to raise and handle concerns effectively. Share and learn will also focus on keeping employers up to date on the different aspects of the FTSU report which is being led by other bodies in the system and to ensure we can gather intelligence to help inform policy direction to ensure new measures being considered are proportionate and appropriate to drive the quality and safety of patient care.

Although the NGO have established a lead role in supporting the delivery of the actions highlighted in the FTSU report, we continue to be a key partner in the delivery on this agenda. We work closely with NHS Improvement in regard to the effective implementation of the national raising (whistleblowing) concerns policy and the establishment of an employer support scheme which is intended to support individuals who are experiencing challenges seeking employment as a result of raising a (whistleblowing) concern. We have also worked closely with HEE to help them seek employer views to develop their e-learning resource for managers and staff.

We know from our extensive engagement, that employers are committed to improving their local culture around raising concerns. Many have undertaken extensive work in partnership with staff and staff side to develop local policy and procedures which are based on organisational values and behaviours expected of staff. We are aware of a number of organisations who have successfully introduced various mechanisms to enable staff to raise concerns such as helplines, dedicated email addresses and different open forums which encourage discussion in a less formal way. We have invested in providing a wide range of resources for employers and signposting to others available across the system. Through our Organisational Development (Do OD) programme we have launched a new culture change tool as part of our Do OD app which offers a library of more than 100 resources to help effect culture change at a local level. We have also been part of NHS England's Culture of Care Barometer Steering Group and the Royal College of Nursing's Cultural Alignment Advisory Group, promoting their respective work across our community of practice. In 2016 we were involved in NHS Improvement's Culture Change project and chaired the advisory group.

We continue to see great value in working collaboratively with national bodies and employers to highlight how we can collectively work together to influence a positive reporting culture in the NHS.

Assessment of the effectiveness of measures put in place

The CQC's new inspection regime and [key lines of enquiry](#) under their 'well-led' domain (for whistleblowing concerns) will have an important role in driving forward the increased use of data for benchmarking and assessment that can help identify areas that need further investigation and to make recommendations for improvement.

Similarly their 'safe' domain looks at how safety is promoted in recruitment practice and how assurances are sought throughout employment, where appropriate and proportionate to ensuring the delivery of high quality and safe patient care. For instance, requirements under the Disclosure and Barring regime.

In addition for whistleblowing concerns, the NGO has a lead role in supporting FTSU guardians in trusts and in seeking the necessary assurance that the correct procedures have been followed when dealing with concerns raised by staff. This includes helping guardians challenge and escalate issues through the correct route when local procedures are not working effectively.

We continue to work closely with the NGO and other national bodies with a leading interest on this agenda to evaluate how effective measures are in secondary care, and, to identify and promote best practice and learning which is crucial in ensuring employers can strive for continual improvement.

I hope that this information is helpful, but please do not hesitate to come back to me if you require further information about any of the points I have outlined in this letter.

Yours sincerely

A black rectangular box redacting the signature of Daniel Mortimer.

Daniel Mortimer
Chief Executive
NHS Employers