



HEALTHCARE SAFETY  
INVESTIGATION BRANCH



Parliamentary  
and Health Service  
Ombudsman

**A MEMORANDUM OF UNDERSTANDING BETWEEN THE PARLIAMENTARY  
AND HEALTH SERVICE OMBUDSMAN (PHSO) AND THE HEALTHCARE  
SAFETY INVESTIGATION BRANCH (HSIB) DESCRIBING THE FRAMEWORK  
FOR OUR WORKING RELATIONSHIP**

**1. PURPOSE AND SCOPE**

- 1.1 This Memorandum sets out the framework for the working relationship between the PHSO and HSIB. It is intended to inform our staff and the public about how our organisations work together.
- 1.2 PHSO and HSIB are independent bodies that recognise each other's statutory responsibilities, but will seek to collaborate and co-operate where relevant and lawful to do so in furthering our shared aim of improving patient safety and system-wide learning and improvement.
- 1.3 Each organisation will take steps to ensure that relevant staff are aware of what is in this Memorandum. They will keep staff updated about both any changes to it and the responsibilities it places on each organisation and the work that they do.
- 1.4 This Memorandum is not intended to be legally binding, and no legal rights or obligations will arise between PHSO and HSIB from this Memorandum.

## **2. LEGISLATIVE FRAMEWORK AND CORE FUNCTIONS**

### **HSIB**

- 2.1 HSIB is a safety investigation body established under the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016 and the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) (Additional Investigatory Functions in respect of Maternity Cases) Directions 2018. Monitor and the National Health Service Trust Development Authority have come together under the operational name NHS Improvement, combining the functions and responsibilities of the two statutory bodies in a single integrated organisation.
- 2.2 The HSIB was set up to discharge the Secretary of State duties in relation to the promotion of a comprehensive health service and securing continuous improvement in the quality of services.
- 2.3 Under paragraph 6(4)(d) of the National Health Service Trust Development Authority (Healthcare Safety Investigation Branch) Directions 2016, the HSIB must seek to agree with professional regulatory bodies and other investigatory bodies which have statutory powers to require information, suitable protocols respecting the safe space principle in relation to the exercise of those statutory powers.

### **PHSO**

- 2.4 The Parliamentary and Health Service Ombudsman comprises two statutory offices, namely the Parliamentary Commissioner for Administration and the Health Service Commissioner for England. This office has always been held by one individual. The PHSO therefore has responsibilities under two pieces of legislation, namely the Parliamentary Commissioner Act 1967 and the Health Service Commissioners Act 1993.
- 2.5 In accordance with these Acts, the PHSO has the power to request individuals and organisations to produce information and provide documentation relevant to an investigation.
- 2.6 The legislation also prevents PHSO from disclosing any information obtained in the course of, or the purpose of, any investigation, except in limited

circumstances. For the purposes of cases investigated under the Health Commissioners Act 1993, these circumstances may include;

- “for the purposes of the investigation and any report to be made in respect of it” (s15(1)(a)) or
- “where the information is to the effect that any person is likely to constitute a threat to the health or safety of patients” (s15 (1) (e)).
- “In a case within subsection (1)(e) the Commissioner may disclose the information to any persons to whom he thinks it should be disclosed in the interests of the health and safety of patients” (s15(1B)).

### **3. PRINCIPLES OF COOPERATION**

- 3.1 This MoU is a statement of principle which supports our focus on promoting patient and public safety and wellbeing, and system-wide learning and improvement. More detailed operational protocols and guidance shall be developed in support of this principle.
- 3.2 PHSO and HSIB intend that their working relationship be characterised by the following:
- a. The need to make decisions which promote people’s safety and high-quality health and social care.
  - b. Respect for each organisation’s independent status.
  - c. The need to maintain public and professional confidence in the two organisations.
  - d. Openness and transparency between the two organisations as to how they share information in relation to safe space and the exercise of statutory powers requiring the release of information.

### **4. CONSULTATION AND AREAS OF CO-OPERATION**

- 4.1 PHSO and HSIB agree that where the functions and actions of one body affect the functions and actions of the other, they will consult and co-operate together to fulfil their respective functions as fully, effectively and efficiently as possible.

- 4.2 PHSO and HSIB will consult with each other on making practical arrangements for the co-ordination of investigations into the same or related incidents. Neither party shall take part in the other party's investigation.

## **5. INFORMATION SHARING**

- 5.1 It is anticipated that the number of cases that overlap between PHSO and HSIB's respective investigations will be small. The parties shall formalise a separate information sharing agreement for the exchange of data between PHSO and HSIB. This information sharing agreement will be reviewed annually and will specify how both organisations will meet their obligations under the Data Protection Act 2018 and the General Data Protection Regulations.

## **6 LIAISON MEETINGS**

- 6.1 Representatives of PHSO and HSIB will meet as appropriate to consider matters of mutual interest arising from their respective functions.

## **7. MONITORING AND REVIEWING THIS MEMORANDUM**

- 7.1 PHSO and HSIB will ensure that the other has been provided with appropriate named contacts to liaise as required to carry out day to day business. Either party may suggest amendments to the MoU but the approval of both will be required to make a change.
- 7.2 Where either party identifies problems in operating this MoU, it will seek to resolve them quickly and informally. If this is not possible then the Chief Executive of PHSO and the Chief Investigator of the HSIB will take responsibility for achieving a mutually acceptable resolution. Their decision will be final.

**8. KEY CONTACTS AND DISPUTE RESOLUTION**

8.1 Details of key contacts are set out in appendix 1.

8.2 In the event of any dispute, representatives of the signatories agree to discuss how best to resolve the issues at an appropriate level. This discussion should take place as soon as reasonably practicable. If this does not resolve the dispute, the issue will be referred to the Chief Executive and the Chief Investigator, who shall endeavour to agree an appropriate resolution.

**9. DURATION AND REVIEW**

9.1 This MoU commences on the date of the signatures below. The MOU will be reviewed every two years or when changes to either party's legislation or directions are made. It will also be reviewed if the principles described above need to be altered and/or cease to be relevant for any other reason. Any alterations to the MoU will require both parties to agree.

Signatures to the Memorandum

Signed: Rob Bennett

Name: Rob Bennett

Date: 20 November 2019

Signed: 

Name: K CONRADI

Date: 20 Nov 19

