

Paul Davies

From: Rebecca Marsh
Sent: 14 November 2006 16:08
To: Paul Davies
Subject: FW: HCC

Attachments: MOU IPCC-HC 031106.doc

Paul

Sorry Hants took over my life today, attached is an email from JC re options for HCC involvement in Gosport

Regards

Rebecca

Code A

From: John Crawley
Sent: 06 November 2006 18:48
To: Rebecca Marsh
Cc: **Code A**
Subject: FW: HCC

Rebecca

I enclose a copy of the MOU. I am not clear where our investigation has got to, and whether there are health concerns that we think are simply potentially of interest/concern to HC (i.e. systemic failure etc) but beyond that we do not need to get involved, or whether we seek a joint review/investigation of some kind. Have we had any contact with the Strategic health authority about our concerns (assuming this is an NHS trust and not a foundation trust)?

My advice from the scant information available is –

- Assuming this is an IPCC independent or managed case, ask the SI/DSI to formally contact the Head of Region for the HC Hants: **Code A** and ask for an initial assessment as to (1) what the HC knows of the issues and (2) to advise whether or not they see a need to step in (over and above any St HA involvement in any investigation (untoward incident reviews) of any of the deaths).
- Rebecca to writ to the Investigations Manager at HC HQ formally advising of the approach to region.

Please copy me in on such comms and let me know how matters progress as this may be the first under the MOU.



MOU IPCC-HC
31106.doc (184 KB).

John Crawley
Commissioner

Code A

From: Code A
Sent: 06 November 2006 17:27
To: John Crawley
Subject: FW: HCC

Hi John,

This is the matter that I mentioned to you in passing on Friday afternoon. Code A came to me as the co-author of the MoU. I do not know the detail, but Rebecca or someone may have contacted you by now. From what little information Code A had, it certainly sounded like a matter for collaborative work with the Healthcare Commission.

Kind Regards,

Code A

Legal Services Directorate
Independent Police Complaints Commission
90 High Holborn
London WC1V 6BH

Code A

www.ipcc.gov.uk

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From: Code A
Sent: 20 October 2006 13:08
To: Code A
Subject: RE: HCC

It's a case concerning a series of deaths in Gosport hospital, Code A and we've received complaints from families that the police investigation was defective. It's attracting a lot of media attention in the region and Rebecca would like, from a strategic point of view, to get the HCC involved - they presumably have a remit to investigate the hospital?

Perhaps we should discuss?

Thanks

Code A

From: Code A
Sent: 20 October 2006 12:19
To: Code A
Subject: RE: HCC

Hi Code A

It has not been signed off on yet. What are the issues in the case Rebecca has?

Kind Regards,

Code A

Legal Services Directorate
Independent Police Complaints Commission
90 High Holborn
London WC1V 6BH

Code A

www.ipcc.gov.uk

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From: Code A
Sent: 19 October 2006 18:03
To: Code A
Subject: HCC

Code A

Rebecca has a case where she wants to involve the Healthcare Commission. I understand you're negotiating a protocol with them and was wondering if you could let me have a copy of the current version - it would help me see whether it's the sort of case where they'd expect to get involved.

Thanks

Code A

Memorandum of Understanding between the Healthcare Commission (to be known as the HC) and the Independent Police Complaints Commission (the IPCC)

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Annex D Criteria for investigations for the HC and the IPCC

Annex E Table of Key Learning Points from the Evaluation into the Joint Working of the IPCC and HC on the Christopher Alder Review

Memorandum of Understanding between the Healthcare Commission (to be known as the HC) and the Independent Police Complaints Commission (the IPCC)

Introduction

1. The objective of this Memorandum of Understanding is to outline the framework that the HC and the IPCC have agreed for collaboration and co-operation to support the development of a strategic partnership.
2. The HC is an independent body, set up to promote and drive improvement in the quality of healthcare and public health. It aims to do this by becoming an authoritative and trusted source of information and by ensuring that this information is used to drive improvement.
3. The IPCC is an independent body, set up to oversee the whole of the police complaints system. Its aim is to transform the way in which complaints against the police are handled, and ensure learning from complaints/ investigations leads to improvements.
4. This Memorandum applies in respect of the functions of both organisations in England and in Wales.
5. The statutory functions of the HC and the IPCC are set out at Annex A. The details of those in the HC and the IPCC responsible for the operation of this Memorandum appear at Annex B.

Scope of this Memorandum

6. This Memorandum defines the circumstances in which, and the processes through which, the HC and the IPCC will co-operate when carrying out their functions. Nothing in this Memorandum reduces the separate statutory duties and reporting rights of either organisation even where they have decided to work collaboratively. This Memorandum does not place additional legal responsibilities on either organisation, nor does it imply any transfer of responsibility from one to the other, nor sharing of statutory functions. In operating this Memorandum both organisations will continue to work within their statutory frameworks at all times.
7. The relevant personnel in each organisation will monitor and keep under review areas of co-operation and non co-operation as part of the annual review of the working of the Memorandum.

Principles of the HC/ IPCC joint working

8. The HC and the IPCC will work together following the principles set out below. In particular all decisions about collaborative working between the HC and the IPCC will be subject to the following general principles:
 - the HC and the IPCC will respect each other's independent status and will cooperate when necessary or appropriate;
 - the HC and the IPCC will be open and transparent in their decisions about when and where it is considered appropriate to work collaboratively.

Functions covered

9. The remaining sections of this Memorandum set out the principles and processes, which the two organisations will follow when working co-operatively.
10. Subject to the availability of resources in each organisation, such cooperation will be appropriate in the following key areas:
 - Co-ordination and exchange of information
 - Sharing of experience/ learning in oversight of public complaints systems.
 - Joint reviews, investigations and/or inspections
 - Complaints and cross referral of concerns
 - Issues relating to mental health and ambulance services
 - Seeking and giving advice
 - Advice to Ministers
 - Provision of training and guidance
 - Feedback and contributions to annual reporting
 - Commissioning of research and reviews of research
 - External communications
11. This list is not intended to be exhaustive. Additions can be made to the list between annual review dates by agreement between the relevant officials. Any collaborative work undertaken by the two organisations but not identified by this Memorandum should nonetheless be carried out in accordance with the principles outlined in this Memorandum.

Levels of Co-operation

12. The Chairman of the IPCC, and the Chief Executive of the HC undertake to keep each other informed on matters of strategic mutual interest.
13. The working relationship between the HC and the IPCC will be characterised by regular contact and open exchange of information, including formal and informal meetings at all levels.
14. The lead contacts for the HC and IPCC will ensure formal corporate meetings are convened at appropriate intervals which will review progress on the implementation of this agreement regionally and nationally, share relevant organisational learning and intelligence arising out of the organisations' work and other matters of mutual interest as set out at paragraph 10 of this MOU. (A list of operational contacts is attached at Annex C).

Sharing procedures

15. The two organisations will develop joint procedures where to do so is in the interests of the efficient and effective discharge of their functions. Decisions about the provision of resources for joint work will be resolved prior to the work being undertaken, and may be by pooling of staff or other resources by both organisations subject to proper accountability being maintained for their use.
16. Each organisation will disclose and enable use by the other of any procedure developed where this is in the interests of the efficient and effective discharge of their respective functions. Any such sharing of procedures will be subject to a prior decision on resourcing.

Potential areas for collaboration between the HC and the IPCC

Coordination and Exchange of Information

17. In sharing information the HC and the IPCC will adhere to the requirements of the relevant law and follow the arrangements set out in any agreed protocol for the sharing of information.
18. Provided that they comply with the relevant laws, the two organisations may, where it is likely to assist in the functions of either or both, exchange information of any sort (other than that containing identifiable personal information) including data, reports, information about complaints and incidents, and relating to methodology and initiatives. Either organisation may quote any such exchanged information (except that which identifies individuals) in any publication or report of its own, unless specifically requested not to do so by the source organisation, provided that the source is acknowledged. Similarly each organisation will observe any agreed restrictions on the circulation or use to be made of the exchanged information.

Joint reviews, investigations and/or inspections

19. The HC and the IPCC may by agreement undertake joint reviews, investigations and/or inspections. These may, for the purposes of this Memorandum, include reviews of any healthcare provided, or any interface between any healthcare provider and any police force, provided that such joint working accords with their respective criteria/legal framework under which investigations are undertaken – see Annex D. Such joint reviews will be carried out by the organisations retaining their separate statutory powers, functions and requirements for reporting and will be preceded by the development of an operational protocol that will specify how the two organisations will carry out the work together. In particular, the following issues will be addressed:
 - how information (other than identifiable personal information) will be shared;
 - how evidence will be exchanged, including the use of evidence from one organisation by the other for the work of the other organisation;
 - how reports from any review and/or investigation will be co-ordinated, including consultation arrangements on draft reports, how conflicts of findings will be addressed and how recommendations or subsequent actions will be followed up
 - Under what rules and arrangements evidence will be collected, stored, preserved and disseminated.
20. Each organisation may, with the agreement of the other, attach a representative of the other organisation to any team undertaking a review and/or investigation, working for the purposes of that inspection or review only on behalf of and under the operational direction of the organisation responsible for the review concerned. This will be particularly relevant where that representative's inclusion is intended to contribute specific skills or experience necessary to the efficient and effective conduct of that review. It may also entail the setting up of a joint team to carry out such work.
21. The precise tasks such a representative is to perform will be as agreed in writing in advance between the two organisations and the representative concerned.
22. Where a representative employed by one organisation takes part in a review on behalf of the other organisation, he or she will retain professional responsibility for the assessments and judgements he or she contributes to the review, but will operate within the legislative requirements, policy and guidance of the organisation to whose review they are contributing. The organisation to which the representative has been attached

will be responsible for supervising, directing and instructing that representative. That organisation shall not be responsible for the acts and omissions of that representative, save in circumstances where those acts or omissions relate to the work that the organisation has requested him/her to do, or relate to any instruction or supervision provided by the organisation to the representative.

23. Neither organisation may require a representative of the other to undertake work outside his own specific competence, and each organisation will usually accept any statement from the representative concerned that any aspect of work requested of him/her lies outside his/her competence.
24. Each organisation will ensure that a representative of the other carrying out work on its behalf is provided with all relevant information on the legislative, policy and guidance requirements of the organisation to whose review he is contributing.
25. Where a representative from one organisation has taken part in a review and/or investigation conducted by the other, the organisation responsible for the review will be responsible for the report produced and any consequential regulatory action. The organisation producing the report must seek and take fully into account:
 - the professional assessments/ evidence provided by the representative of the other organisation on which that representative was requested to contribute
 - the views of that representative contributed on any other matter relevant to the review which is within the competence of that representative.
26. Where the organisations have conducted a joint review and/or investigation, the report must reflect the relevant statutory remit of both organisations. However, the representatives from both organisations will endeavour to share evidence (subject to the provisions of the law and their respective Codes of Practice on handling identifiable personal information), their conclusions and draft reports, and to negotiate the final text together, with the objective of agreeing joint findings and recommendations. In the event of a disagreement, the parties will discuss the matter at a senior level with a view to reaching agreement. If agreement cannot be reached the different views of the two organisations should both be reported with an explanation of the reasons for the difference in view.
27. Both organisations will ensure that, where they are engaged in a joint review or inspection, or where one organisation has contributed to the review of the other, they will negotiate realistic timescales for commenting on draft reports. Both organisations will also ensure that joint review reports are made equally accessible and reflect as far as possible the visual identity of the two organisations.

Complaints and cross-referral of Concerns

28. Where officials of either organisation, in the course of their work encounter significant concerns, or receive information about concerns (including any themes or issues arising from complaints), that fall within the remit of the other organisation, they will (subject to the provisions of the law, this Memorandum and the Code of Practice of their organisation in relation to identifiable personal information) convey those concerns to a person with relevant responsibility in the other organisation promptly. Such concerns might include any concerns relating to deaths in custody or reports and disclosures, which are protected under the Public Interest Disclosure Act 1998. Each organisation will then provide further information and assistance as is reasonable to the other in following up such referrals.

Issues relating to Healthcare Services and Organisational Learning

29. The remit of corporate review meetings between HC and IPCC (see paragraph 13 above) will include any significant organisational learning or service quality issues concerning healthcare services arising out of IPCC investigations and likely to be of interest to the HC; these will be collated and shared.
30. Where concerns arise in any serious incidents (including deaths in or following custody) about the service provided by any NHS service provider, the IPCC Investigator will notify the Investigations Manager at the HC.
31. Where concerns about mental health and/or ambulance services arise, the IPCC Investigator will ensure any serious incidents (including deaths in or following custody) are notified to the Investigations Manager at the HC and the following procedures will apply:
 - The Investigations Manager at the HC will ensure that any serious incidents (including deaths in custody) where mental health concerns arise will be notified to the Mental Health Strategy Lead in the HC. The Investigations Manager will also consider whether any particular matter should be discussed with the Mental Health Act Commission. In particular, the relevant Regional Director of the Mental Health Act Commission will be informed of any issue which involves a patient who at the time of the incident was detained under the Mental Health Act 1983. In addition, the Investigations Manager will also consider sharing with the Mental Health Act Commission any issue which raises wider concern about the quality of care on a ward or unit where patients are detained, even if the individuals concerned in the incident were not themselves detained at that time.
 - the Investigations Manager will ensure that any serious incidents (including deaths in custody) where concerns arise about the service provided by or on behalf of the ambulance service, will be notified to the Ambulance Services Advisor at the HC.
32. Both organisations agree to share experiences and learning from their complaints handling systems.

Seeking and Giving Advice

33. Each organisation will on request provide advice to the other on matters within its competence, subject to the availability of resources and the absence of conflict with the functions of the organisation requested to provide that advice.
34. Where there is a request for expert advice in relation to a serious concern, both organisations will aim to respond to the request either directly or by indicating where the relevant advice might be accessed e.g. which professional body or medical Royal College might be able to assist.

Advice to Ministers

35. Where the HC and the IPCC have undertaken a joint inspection or review and have identified any matter that might properly be brought to the attention of the Secretary of State for Health and/or the Home Secretary, they will do so jointly. A decision to offer such advice will be taken by the organisations, having regard to the statutory remit and accountability of each organisation.

Provision of Training and Guidance

36. Each organisation will on request provide material relating to training or guidance to the other on matters within its remit or competence, subject to the availability of resources and the absence of conflict with its own functions or policies.
37. The organisations, where appropriate, will carry out joint training, or issue joint guidance, where to do so is in the interests of both organisations and users of healthcare and police services. The organisations, where appropriate, will advise relevant external bodies of any training needs highlighted which become apparent from any investigation or review. Joint training may be developed, and/or delivered together, and may be provided for staff or other interested parties of either or both organisations, as appropriate.

Feedback and Contributions to Annual Reporting

38. Each organisation will on request contribute material to the other organisation's annual or other reports following any collaborative work, subject to availability of resources and absence of any conflict with the statutory remit and policies of each organisation.
39. The organisations may produce a joint report on any matter where this is in the interests of the efficient and effective discharge of the functions of both organisations.

Commissioning of Research and Reviews of Research

40. The organisations may work together or, share information relevant to, or conduct jointly, any research or review of research, subject to availability of resources and absence of conflict with the functions and policy of either organisation.

External Communications

41. Each organisation will involve the other in meetings, conferences and other public discussions relating to collaborative work.
42. Where appropriate, and in the interests of both organisations, the organisations will issue joint press releases or public statements on any matters or cases substantially within the remit of both organisations. In other circumstances and as appropriate, either organisation will notify, or copy, to the other organisation in advance of issue any press release or public statement on any matter or case which has some bearing on the other organisation.
43. Each organisation will also, as necessary, brief the press office of the other organisation on current issues likely to be of interest to the public.
44. Each organisation will include on its website relevant links to information available on the website of the other organisation.

Confidentiality

45. All arrangements for collaboration and exchange of information, set out in this Memorandum, will comply with all relevant legislation, this Memorandum and any Code of Practice on Confidential Personal Information.

Reconciliation of disagreement

46. Any disagreement between the organisations will normally be resolved at working level

between the relevant officials. If this is not possible, it may be referred upwards through those responsible for operating this Memorandum, up to and including the Chief Executive of the HC and the Chairman of the IPCC, who will jointly be responsible for ensuring a mutually satisfactory resolution.

Review of this Memorandum of Understanding

47. This Memorandum will be reviewed and renewed annually. The Chief Executive of the HC and the Chairman of the IPCC will jointly approve any revisions to existing areas of collaboration and joint responsibilities and will agree how to report to both the HC and the IPCC.

Signed.....
 Anna Walker
 Chief Executive, Healthcare Commission

date.....

Signed.....
 Nick Hardwick
 Chairman, The Independent Police Complaints Commission

date.....

Annex A

Functions of the relevant bodies.

The Healthcare Commission (HC)

The Health and Social Care (Community Health and Standards) Act 2003 imposes on the HC the overall function of encouraging improvement in public health and healthcare in England and Wales. The HC is required to pay particular attention to:

- the availability of, access to and quality and effectiveness of healthcare;
- the economy and efficiency of the provision of healthcare;
- the availability and quality of information provided to the public about healthcare;
- the need to safeguard and promote the rights and welfare of children and the effectiveness of measures taken to do so.

Its main statutory functions include:

- carrying out reviews and investigations of the provision of healthcare and the arrangements to promote and protect public health, including studies aimed at improving economy, efficiency and effectiveness in English NHS bodies other than Special Health Authorities;
- promoting the coordination of reviews and assessments undertaken by other bodies;
- publishing information about the state of healthcare across the NHS and the independent sector, including the results of national clinical audits;
- reviewing the quality of data relating to health and healthcare;

and in England only:

- reviewing the performance of each local NHS organisation and awarding an annual rating of that organisation's performance;
- regulating the independent healthcare sector through registration, inspection and enforcement;
- considering complaints about NHS bodies that they have not been able to resolve through their own complaints processes;
- publishing surveys of the views of patients and staff.

The Independent Police Complaints Commission

Independent Police Complaints Commission (IPCC): Legal Framework

1. The IPCC was established by Part II of the Police Reform Act 2002 as a non-departmental public body. The IPCC became operational on 1st April 2004 when the Police Complaints Authority, which it replaced, was wound up.

The Background to the IPCC

2. The IPCC was established following successive calls for an independent body to oversee and investigate police complaints. These included Lord Scarman's Inquiry into the Brixton riots in the early 1980's which made recommendations to this effect. More recently recommendation 58 of Sir William MacPherson's Inquiry into the matters arising from the death of Stephen Lawrence on 22 April 1993, also called for the establishment of an independent body.

IPCC Functions

3. Section 10 of the Act provides for the general functions of the IPCC. Those functions are conferred on the IPCC as a body. The primary function is to ensure that the police and the IPCC put in place arrangements to deal with a number of matters effectively. These are:
 - the handling of complaints
 - the recording of conduct matters
 - the investigation of complaints and conduct matters

Annex B

Contact details for those responsible for operating this Memorandum:

The Healthcare Commission

Lead Contact

Code A

Healthcare Commission
Finsbury Tower
103 – 105 Bunhill Row
London EC1Y 8TG

Switchboard: 0207 448 9200

Serious Concerns

Code A

Investigations Manager
(address – as above)

Code A

Complaints

Code A

Policy and Reconsiderations Manager

Code A

The Independent Police Complaints Commission

Lead Contact

John Crawley
Commissioner
IPCC Central Region
Independent House
Whitwick Business Park
Stenson Road
Coalville
LE67 4JP

Reception: 08453 002 002

Investigations

Peter Goode
Deputy Director of Investigations
IPCC
90 High Holborn
London WC1V 6BH

Reception: 08453 002 002

Code A

Annex C – Regional Contacts

Healthcare Commission

<i>Region</i>	Local Area	Area Manager	Strategic Health Authority
Acting Head of Region North Jo Dent	North East	Jo Dent Code A	County Durham Tees Valley Northumberland, Tyne & Wear
	North West	Code A	Cheshire & Merseyside Greater Manchester Cumbria & Lancashire
	Yorkshire & Humberside	Jo Dent Code A	North & East Yorkshire & Northern Lincolnshire South Yorkshire
Region	Local Area	Area Manager	Strategic, Health Authority
Head of Region –Central Sandra Chittenden Code A	East Midlands	Gwen Duncan Code A	Leicestershire, Northamptonshire and Rutland Trent
	East of England	Jan Norman Code A	Essex Bedfordshire & Hertfordshire Norfolk, Suffolk & Cambridgeshire

		Code A	
	West Midlands	Andrea Gordon Code A	Birmingham and Black Country West Midlands South Shropshire & Staffordshire
Region	Local Area	Area Manager	Strategic Health Authority
Head of Region –London & the South East Jon Billings Code A	London	Adewale Kadiri Code A	North East London North West London South East London South West London North Central London
	South East	Claire Roberts Code A	Surrey & Sussex Kent & Medway
Region	Local Area	Area Manager	Strategic Health Authority
Head of Region-South West Ian Biggs Code A	South West	Mary Cridge Code A	Avon Gloucestershire & Wiltshire Dorset & Somerset South West Peninsula
	South Central	Kate Godfrey	Thames Valley

		Code A	Hampshire & the Isle of Wight
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IPCC – Regional Contacts

The IPCC is split into four regions. These regional offices together cover all police forces across England and Wales

Regional Office	Regional Director	Commissioner	Police Forces
London & South East Region <div style="border: 1px dashed black; padding: 10px; text-align: center; font-size: 24pt; font-weight: bold;">Code A</div>	Judy Clements	David Petch Mehmuda Mian Pritchard Nicola Williams Deborah Glass	Metropolitan & City Surrey Hampshire Thames Valley Bedfordshire Hertfordshire Essex Kent Sussex
Central Region Independent House <div style="border: 1px dashed black; padding: 10px; text-align: center; font-size: 24pt; font-weight: bold;">Code A</div>	Derek Bradon	John Crawley Len Jackson Amerdeep Somal	Leicestershire Northamptonshire Cambridgeshire Norfolk Suffolk Lincolnshire Derbyshire Staffordshire West Midlands West Mercia Warwickshire
Wales & South west Region <div style="border: 1px dashed black; padding: 10px; text-align: center; font-size: 24pt; font-weight: bold;">Code A</div>	Jane Farleigh	Tom Davies Ian Bynoe Rebecca Marsh	North Wales Dyfed-Powys South Wales Gwent Gloucestershire Wiltshire Avon & Somerset Dorset Devon & Cornwall
North East/West Region <div style="border: 1px dashed black; padding: 10px; text-align: center; font-size: 24pt; font-weight: bold;">Code A</div>	David Knight	Mike Franklin Nicholas Long Gary Garland Naseem Malik	Northumbria Cumbria Durham North Yorkshire Lancashire West Yorkshire Humberside Greater Manchester Cheshire South Yorkshire Cleveland

Code A

Annex D

Healthcare Commission – Criteria for Investigations

The Healthcare Commission's functions include the conduct of [other] reviews of, and investigations into, the provision of healthcare by and for English NHS bodies and cross-border special health authorities, taking account of the standards laid down by the Secretary of State. The HC is required to report (to the Secretary of State, National Assembly of Wales or the Independent Regulator of foundation trusts as appropriate) where it identifies 'significant failings' in the provision of healthcare.

An investigation is conducted in response to specific concerns of which the Commission becomes aware. An investigation encompasses obtaining evidence on, and developing an understanding of, the reasons for a 'significant failing' in the provision of healthcare and making recommendations to prevent repetition. Investigations will be conducted with reference to standards published by the Secretary of State and criteria published by the Commission or, in their absence, other articulations of good practice (e.g. from professional bodies).

Where the Commission has significant concerns about the provision of healthcare it will consider whether it needs to conduct either an investigation or a responsive review (a specific, targeted review in response). Triggers that might alert the Commission to the potential need for an investigation include:

- direct contact from patients, the public, NHS staff or the media;
- issues brought to light during the Commission's screening processes, reviews or visits;
- trends or issues highlighted in the monitoring of complaints which reach the independent stage
- requests from the Secretary of State, Welsh Assembly Government, in respect of cross-border strategic health authorities, or from other inspectorates.

Criteria for investigation

The Commission will investigate allegations of significant failings resulting in adverse impact on the safety of patients, clinical effectiveness, or responsiveness to patients, including:

- A higher number than anticipated or unexplained death(s);
- Serious injury or permanent harm, whether physical, psychological or emotional;
- Events which put at risk public confidence in the healthcare provided, or in the NHS more generally;
- A pattern of adverse effects or other evidence of high-risk activity;
- A pattern failures in service(s) or team(s) or concerns about these;
- Allegations of abuse, neglect or discrimination against patients (particularly those less able to speak for themselves or assert their rights);

Other failings with less effect on patients' safety may be subject to a responsive review. In determining whether to investigate, the HC will consider the extent to which local resolution, referral to an alternative body, or other action might offer a more effective solution.

The Healthcare Commission will not investigate:

- Individual complaints that have not been pursued through the NHS complaints procedure or the Commission's second stage, except if it raises an immediate concern;
- Individual complaints about professional misconduct;
- Changes to service configurations;
- Matters being considered by legal process;
- Specific matters already determined by legal process.

This does not preclude the Commission from investigating circumstances surrounding such matters. A matter that has been determined under one of the processes outlined above may raise general concerns about patient safety or suggest that organisational systems are flawed.

The Healthcare Commission's approach

The purpose of an investigation will be to identify the underlying [or root] causes of the failings in the provision of healthcare. It will identify both failings in systems and individual behaviours, which may have contributed. It will provide an explanation of what has happened and why and will make recommendations to prevent repetition, both in the NHS organisation being investigated and more widely. Investigations will set in motion arrangements for monitoring future performance and any specific follow-up action.

Staff in the Investigation Unit will consider all allegations of significant failings. Staff will identify whether rapid action is required (e.g. to suspend service for the protection of patients) and will liaise with the Department of Health, the strategic health authority, the trust and other relevant bodies. Staff will determine whether the matter falls within the Commission's jurisdiction and refer it elsewhere if more appropriate (e.g. to the General Medical Council). If a matter is referred elsewhere staff will tell the informant and will ask the body to which it is referred to report back to the Commission on action taken. Staff will conduct fact-finding enquiries if further information is required before a decision can be made whether any further action is required.

Investigation staff will obtain sufficient evidence to enable them to make a recommendation on the action to be taken. The information required to assess the need for an investigation will include:

- A summary and analysis of the concerns;
- A brief chronology of events;
- An account of the experience of the patient(s);
- Any evidence of a breach of accepted standards;
- Report of any local investigation if there has been one;
- Other investigations underway e.g. coroner's inquest.

Range of responses

Following initial consideration, the range of responses that the Investigation Unit staff might recommend include:

- No further action: log data in case further data subsequently come to light; explain to informant why no further action is planned;

- Detailed statistical analysis (e.g. of trends in mortality) possibly commissioned from an independent expert;
- Visit by a member of the Investigation Unit or the Commission's local presence to obtain and interrogate additional evidence: to question staff or patients about the events; to discuss findings with senior management of the NHS organisation and to enable a report to be produced with recommendations (where appropriate) for further action by the NHS body and/or the Commission;
- Establishing an investigation team to obtain more detailed information, analyse the evidence and report, with recommendations. An investigation team might consist of staff from the Commission, external experts, or a combination depending on circumstances;
- Engaging an independent 'accident investigator', or a similar adviser, to undertake the investigation and provide a report.

Arrangements for governance

An Investigation Committee comprising 5 Commissioners and 4 senior operational staff from the Commission will decide on the need for an investigation, agree its Terms of Reference, monitor progress and approve final reports. The Chief Executive and/or Head of Operational Development will decide the need to instigate initial fact-finding enquiries, including exploratory visits by staff of the Commission and will report the results to the Investigation Committee for information. The Chief Executive (or nominated representative) will consult with the Chair of the Investigations Committee (or nominated representative) where an urgent decision is needed to recommend suspension of an NHS healthcare service.

Organisation and staffing

Staff of the Healthcare Commission Helpline will sift initial enquiries and refer those that allege a significant failing to the Investigation Unit. Staff in the Investigation Unit will undertake initial consideration of referrals for investigation and make recommendations for action. Staff will have rapid access to clinical expertise from advisers of the Commission and through the Clinical Advisory Panel; access to legal advice; and access to a database of experts and lay members to form an investigation team. The Commission will adopt a flexible and responsive approach to meet the unpredictable demands of calls for investigation.

Summary

The Commission will respond to concerns raised with it and will liaise with the Department of Health, the relevant strategic health authority and other agencies in deciding how to pursue allegations of significant failings. The Commission will investigate allegations of significant failings with implications for patients' safety, clinical effectiveness, or responsiveness to patients. It will produce reports that identify the root causes of the failings and make recommendations to address them. The Commission will disseminate the learning from investigations and monitor the action taken. It will ensure that its procedures for screening, reviews and handling complaints are used appropriately, both to identify potential causes for concern and to follow up the recommendations of investigations.

Independent Police Complaints Commission

Investigations

Section 13 of, and Schedule 3 to, the Police Reform Act 2002 provide for the handling of complaints against the police, police conduct matters, and for the investigation of complaints and conduct matters.

A complaint for the purposes of the Police Reform Act 2002 is defined by sections 12 and 29(1). Section 12(1) provides that references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made by-

- (a) a member of the public who claims to be the person in relation to whom the conduct took place;*
- (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;*
- (c) a member of the public who claims to have witnessed the conduct;*
- (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).*

A recordable conduct matter within the definition of Part 2, paragraph 29(1) of the Police Reform Act is

- (a) a conduct matter that is required to be recorded by the appropriate authority under paragraph 10 or 11 of Schedule 3 or has been so recorded; or*
- (b) except in sub-paragraph (4) of paragraph 2 of Schedule 3, any matter brought to the attention of the appropriate authority under that sub-paragraph.*

Paragraph 10 of Schedule 3 applies to conduct matters arising out of civil proceedings. Paragraph 11 of Schedule 3 applies to conduct matters in other cases which have not been the subject of a complaint, and sub-paragraph (2) sets out what is envisaged.

Complaints and conduct matters can come to the IPCC in one of four ways (Sched. 3, paras. 4 and 13):

- Referred by the appropriate authority where it has an obligation to do so.
- Referred by the appropriate authority, having been directed to do so by the IPCC because of concerns about the conduct or complaint (the IPCC call in power).
- Referred voluntarily by the appropriate authority where there are concerns about the gravity or the exceptional circumstances of the conduct.
- Where a chief officer is the appropriate authority, but is not required to refer a complaint to the IPCC and does not do so, his or her police authority should refer that complaint to the IPCC if it has particular concerns about the gravity or exceptional circumstances of the conduct complained of.

Where a complaint has been made or a conduct matter has occurred, the appropriate authority (either the chief officer or the police authority according to the circumstances of the case) has a duty to refer that complaint or conduct matter to the IPCC if it is of a specified description (Sched. 3, paras. 4(1) and 13(1)). It is mandatory for the appropriate authority to refer a complaint to the IPCC where the conduct to which it relates has resulted in death or serious injury, and if the conduct matter has resulted in death or serious injury.

The appropriate authority also have a duty to refer to the IPCC:

- (1) alleged conduct which constitutes-
 - an assault occasioning actual bodily harm;
 - serious corruption (i.e. corruption if it would be likely, if proved, to result in a term of imprisonment of two years or more);
 - serious racial discrimination (i.e. discrimination if it would be likely, if proved, to

- result in a term of imprisonment of two years or more, or a disciplinary sanction of dismissal, requirement to resign or reduction in rank); or
- a serious arrestable offence, within the meaning of section 116 of the Police and Criminal Evidence Act 1984, or
- (2) alleged conduct which arises from the same incident (Paragraphs 4(1) and 13(1) of Schedule 3 to the Police Reform Act 2002, and the Police (Complaints and Misconduct) Regulations 2004)

On receipt of a complaint or conduct matter the IPCC has a duty to determine whether or not it should be investigated (Sched. 3, paras. 5 and 14). If it determines that there should be an investigation it then has a duty to determine the form that the investigation should take. It is entirely a matter for the IPCC to make that determination and, subject to being informed about the decision, the appropriate authority does not have to be consulted about the form the investigation is to take.

An investigation may take the form of:

- an investigation by the appropriate authority on its own behalf
- an investigation by that authority supervised by the IPCC
- an investigation by that authority under the management of the IPCC
- an independent investigation by the IPCC

Reports

At the conclusion of an investigation there is a duty on the person appointed to lead the investigation to make a report of the investigation and to submit it to the appropriate authority. In the case of local investigations by the police the report has to be submitted to the appropriate authority (i.e. the chief officer or the police authority) and in the case of investigations supervised or managed by the IPCC the report has to be submitted to the IPCC, with a copy being sent to the appropriate authority. In the case of investigations conducted by the IPCC the report has to be submitted to the Commission (Sched. 3, para. 22).

There is no obligation to disclose the report as such to the complainant but there is an obligation to disclose the findings of the report. That obligation can be discharged by the Commission or the appropriate authority, depending on the nature of the investigation, by providing the complainant with a copy of the report.

Once the report has been submitted the body receiving it has to decide whether the report indicates that a criminal offence may have been committed by the person whose conduct was the subject of the investigation. If the body decides that a criminal offence may have been committed then the CPS must be notified and sent a copy of the report (Sch. 3, paras 23(2) and 24(2)).

If the Commission, in relation to a report submitted to it, decides that the report does not indicate that a criminal offence may have been committed, or has been informed by the CPS that it proposes to take no action, or has been informed that any criminal proceedings have been concluded, it must then find out what action the appropriate authority propose taking on the report. At that stage the authority is obliged to tell the Commission what, if any, action it is taking and if it is not taking any disciplinary action the reasons for that decision (Sch. 3, para, 23(6)-(7)). This is done by the submission of a memorandum containing the information.

On receipt of the memorandum the IPCC is obliged to consider it and to decide whether to recommend disciplinary action if it is dissatisfied with the appropriate authority's proposed action. If it makes a recommendation then the appropriate authority must inform the IPCC whether it accepts the recommendation and inform the IPCC that it is going to take to give effect to it (Sched.3, para.27(3)). If the authority does not accept or act on the

recommendation the IPCC may direct it to do so. If it is given such a direction the authority has a duty to comply with it (Sched.3, para.27(4)).

The IPCC has the power to bring and conduct disciplinary proceedings following an investigation (s36). It has a similar power to participate or intervene in disciplinary proceedings being brought by the appropriate authority.

The IPCC may produce a report which because of its gravity or other exceptional circumstances, it considers ought to be drawn to the attention of the Secretary of State.

The IPCC may be required by the Secretary of State, from time to time, to report to him on any matter which relates generally to its functions. The review into the death of Christopher Alder, which gave rise to this Memorandum, was conducted under s79 of the Police Act 1996. The relevant provision under the Police Reform Act is section 11.

The Commission will disseminate lessons learnt from any investigation or review.

Annex E

In April 2004 the Home Secretary asked the IPCC to undertake a review into the events leading up to and following the death of Christopher Alder, who died in police custody on 1st April 1998. In December 2004, the IPCC asked the HC to assist them by investigating the care and treatment provided by healthcare professionals to Christopher Alder prior to his death; and to examine the interface between the police, ambulance and hospital services.

The table below identifies the key areas of learning at each stage of the investigation together with information about what action could be taken to address the issue.

TABLE OF KEY LEARNING POINTS FROM THE EVALUATION INTO JOINT WORKING ON THE CHRISTOPHER ALDER REVIEW

Stage of investigation being evaluated	Area of learning identified	Proposed Action to be taken
Establishing the partnership including legislation, responsibilities of each organisation	Need to have a clear understanding of the nature of the joint working, the legal framework within which both organisations work and any restrictions that that framework places on both organisations, and the terminology used by each organisation, i.e. there was an issue around the nature of the partnership – were the HC assisting the IPCC or working in partnership? This impacts on the method of work each organisation may adopt. The IPCC was conducting a review of the evidence, not an investigation. In order to use its full powers under section 52 of the Health and Social Care (Community Health and Standards) Act 2003, the HC conducted an investigation.	Following the initial briefing and the decision to do a joint piece of work. The Chief Executive of the HC and the Chairman of the IPCC should consider writing to each other outlining the jurisdiction and protocols that they will undertake. Processes to be used and decisions made should be documented.
Agreeing the terms of reference	Need to have a clear understanding of the legal framework of both organisations, statutory powers and the interface between the two organisations	A written document should be compiled outlining the legal framework
Coordination of the joint working	Teamwork – composition of the team and how it is going to work together (e.g. frequency of joint meetings) should be agreed upon at the start of the process. Key contacts in both organisations should be identified at the beginning of the process.	A joint project plan should be produced
Sharing/handling information	Consideration should be given to the feasibility of HC staff being seconded or attached to the IPCC, and the possibility of permitting staff, involved in the joint work, to access information held at the offices of the holding organisation for the purposes of determining what	Index list of all evidence available should be shared and access provided to all electronic documents. The HC should

	information is relevant to the work being undertaken by that particular organisation.	consider appointing an office manager who would have desk space at the IPCC and free access to all its facilities – in order to view and identify what information is relevant for the HC.
Site visits/ interviews	<p>Agreement should be reached on the role each organisation is to play in any interview process, i.e. identifying where it would be appropriate to conduct joint interviews, or sit in on interviews being conducted by one or other organisation.</p> <p>The HC have the power to compel NHS staff to attend interviews. The IPCC do not have powers of compulsion under the Police Reform Act.</p> <p>Agreement should be reached where possible on the style of interview to be conducted, i.e. the HC and IPCC conducted joint interviews with health care professionals. A cognitive style was adopted, the interviews were planned and structured. It was the first time the HC tape-recorded key interviews (PACE style of taping).</p>	<p>HC and IPCC need to understand the legal framework of both organisations</p> <p>If justifiable and relevant to the TOR consideration should be given to permitting the HC investigators to sit in on police interviews.</p>
Report writing	The IPCC and the HC should address any expectations in relation to the style and content of the report, i.e. the HC prepared a report for submission to its Secretary of State as required by statute, but only the Executive Summary formed a part of the IPCC report to the Home Secretary.	
Publication of the reports	<p>The IPCC and the HC should address any expectations in relation to the timing of the publication of the final report. HC reports are published independently by the Health Secretary, whereas in the case of Alder the decision to publish was taken by the Home Secretary.</p> <p>The publicity of the HC report received was overshadowed by the publication of the "Living Well in later life" (Older people report)</p>	<p>An investigation report should not be published alongside another HC report.</p> <p>HC should consider conducting its own press conference</p>

Support for staff	Viewing of sensitive material – post mortem pictures, video footage etc. HC staff are used to reading the material but not viewing pictures, films.	Details of counselling services to be communicated to its staff by the HC. To build on experience HC staff to observe post mortems.