

Strictly Private and Confidential

Mr Justice O'Hara
The Inquiry into Hyponatraemia-Related Deaths
Arthur House
41 Arthur Street
BELFAST
BT1 4GB

Date:
19 January 2018

Our Ref:
GA H99/85

Your Ref:
JLH/0465-18

Dear Judge

**REGIONAL HEALTH AND SOCIAL CARE BOARD – WHISTLEBLOWING
CORRESPONDENCE**

I refer to the above matter and thank you for your letter of 18th instant. I understand your letter has been circulated to the interested parties.

In your letter you state that the recent whistleblowing investigation was "*internal*". However I should advise you that, as I stated in my letter of 30th November 2017, two members of the investigation panel were from outside the Board, namely Jon Gillies, who is an associate in the HSC Leadership Centre; he is not an employee of the Board. Indeed Mr Gillies as an experienced Consultant was commissioned to provide an independent perspective on the investigation panel. Likewise Edmond McClean, is not an employee of the Board, rather he is the Deputy Chief Executive/Director of Operations in the Public Health Agency. Both are highly respected individuals of enormous integrity, who would have had no involvement in these issues previously.

Dr Sloan Harper is the Director of Integrated Care at the Board; he is the most senior clinician in the Board and is also an individual of enormous integrity. Dr Harper did not attend the interview with the whistle-blower.

I can confirm the Board has advised the whistle-blower of your letter and its contents; the whistle-blower is taking independent advice.

Providing Support to Health and Social Care



As requested I attach herewith a copy of the draft report on which my letter of 30th November is based, and the final report dated 12th December 2017. You will see that both documents have been anonymised.

I have had a lengthy discussion with senior officers of the Board in relation to the documents gathered during the course of the investigation, including the initial complaint by the whistle-blower. You have indicated that you cannot guarantee that the documents will not be subsequently disclosed by the Inquiry, although you state you will not publish nor share them without prior notice (with reasons) to me. However the Board has very significant concerns about the potential release of these documents in the public domain, for the following reasons:

1. The investigation was carried out under the Board's whistleblowing policy.
2. Under the whistleblowing policy, the confidentiality of the whistle-blower is protected. The identity of the whistle-blower will not be disclosed without his or her consent, unless required by law.
3. The Board must comply with its duty of care to its staff, including those who were interviewed in the course of this whistleblowing investigation. I am instructed that many of those individuals were extremely upset and distressed by the media coverage last week and the Board does not seek to add to that distress by furnishing documents which may end up in the public domain.
4. Furthermore, at interview, each of the interviewees (some of whom were accompanied by trade union representatives) were advised that the interview was private and confidential and was solely for the benefit of the whistleblowing investigation.
5. Finally the Board is extremely concerned that if the whistle-blower and interviewees were identified publicly by your Inquiry, it would significantly undermine trust and confidence in whistleblowing procedures, not just within the Board but indeed throughout the Health and Social Care sector. Put simply, it is extremely likely that staff in future would not cooperate with whistleblowing investigations.

However I wish to reassure you that a robust and thorough investigation was carried out; that there was no "cover up" as suggested by others. The investigation panel found that there are fact based explanations for each of the concerns raised by the whistle-blower that do not support those concerns.

I can advise you that the investigation panel is willing to meet with you, in order to explain their findings, and their methodology, and to respond to any concerns you may have in relation to the investigation. The Board would hope that such a meeting would provide you with the reassurance which you understandably seek.

I should be pleased if you would confirm that this would be a practical way forward and thank you for your assistance.

Yours faithfully



ALPHY MAGINNESS
Chief Legal Adviser

Direct Line 028 9536 3585

E-mail Address – alphy.maginness@hscni.net

Enc F9

405-014-002