



Business Services
Organisation

Directorate of Legal Services

— PRACTITIONERS IN LAW TO THE
HEALTH & SOCIAL CARE SECTOR —

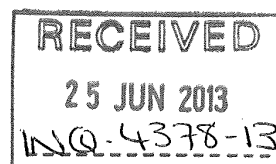
2 Franklin Street, Belfast, BT2 8DQ
DX 2842 NR Belfast 3

Your Ref:
AD-0600-13

Our Ref:
HYP W50/01

Date:
25th June 2013

Mrs Anne Dillon
Solicitor to the Inquiry
Arthur House
41 Arthur Street
Belfast
BT1 4GB



Dear Madam,

RE: INQUIRY INTO HYPONATRAEMIA RELATED DEATHS – RAYCHEL FERGUSON

I refer to the above matter and to your letter of 17th June 2013. I now enclose the following for your attention: -

- 1) Copy letter dated 5th January 1998 to Mr Hugh Mills, Chief Executive of the Sperrin Lakeland HSS Trust, from Mr P Simpson, Departmental Accounting Officer. This letter encloses the Accountable Officer Memorandum for the Chief Executive of Health and Social Services Trusts.
- 2) Copy letter dated 27th November 2001 to Mrs Stella Burnside, Chief Executive of the Altnagelvin HHS Trust, from Mr DC Gowdy, Departmental Accounting Officer. This letter re-issues the revised Accountable Officer Memorandum for the Chief Executive of Health and Social Services Trusts, to Mrs Burnside.

This now completes the Western Trust's response to your aforementioned correspondence.

Yours faithfully

Joanna Bolton
Solicitor Consultant

Providing Support to Health and Social Care



INVESTOR IN PEOPLE

Office of the Chief Executive

Hidden cc: Mr McGahan

HSS
EXECUTIVE

Tel: [REDACTED] /Fax: [REDACTED]

Mr H Mills
Chief Executive
Sperrin Lakeland HSS Trust
Stathdene House
Tyrone & Fermanagh Hospital
1 Donaghane Road
OMAGH
Co Tyrone BT79 0NS

✓ January 1998

Dear Hugh,

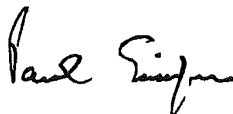
APPOINTMENT AS ACCOUNTABLE OFFICER

I am writing formally to appoint you as an "Accountable Officer" in respect of the Sperrin Lakeland HSS Trust. The attached memorandum outlines your financial responsibilities and duties. The aim of the memorandum is to bring clarity and definition to the accountability process.

It would be useful to bring this letter and the associated memorandum to the attention of your Chairman and Board, and take the opportunity to discuss its contents.

I should be grateful if you would acknowledge receipt of this letter and the accompanying memorandum of responsibilities.

Yours sincerely



P SIMPSON
Accounting Officer

Enc

ACCOUNTABLE OFFICER MEMORANDUM FOR THE CHIEF EXECUTIVE OF HSS TRUSTS

1. You are hereby appointed as the HPSS officer responsible and accountable for funds entrusted to Sperrin Lakeland HSS Trust. This memorandum describes your responsibilities as an accountable officer, and relates them to my overall accountability for funds voted by Parliament for the Northern Ireland Health and Personal Social Services (HPSS). In fulfilling your role as accountable officer, you will also wish to bear in mind your responsibilities to the Trust board of which you are a member. The corporate role of the board is clearly set out in the Codes of Conduct and Accountability issued by the Minister for Health and Social Services in November 1994.

Functions of Trusts

2. The functions of HSS Trusts are:
 - (a) to enter into and fulfil contracts with purchasers;
 - (b) to meet their statutory financial duties;
 - (c) to maintain and develop their relationships with patients, the local community, their purchasers and their suppliers

The essence of your role as accountable officer is to see that the Trust carries out these functions in a way which ensures the proper stewardship of public money and assets. The paragraphs below set out this responsibility in more detail.

Relationship between the Accounting Officer and Accountable Officers

3. My responsibilities as Accounting Officer are set out in a memorandum sent to me on appointment. In essence, I am responsible for the propriety and regularity of public finances in the HPSS; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the resources in my charge.
4. Your role as accountable officer for your Trust is very similar to mine as Accounting Officer for the HPSS. I require you to observe the same general requirements as are laid on me, and to ensure that the Trusts officers also abide by them. Your Trust is an integral part of the HPSS and is largely dependent on public funding even though this is routed through contracts with purchasers.
5. Trusts have the following key relationships:

- (a) with purchasers, through contracts to deliver health and social services to agreed specifications;
 - (b) with their local Communities, through holding an annual meeting, and publishing an annual report and accounts;
 - (c) with patients, through the management of standards of patient care;
 - (d) accountability to the Department of Health and Social Services for the performances of their functions and meeting statutory financial duties.
6. This memorandum deals with the fourth relationship. The first three are covered in other guidance.
7. HSS Trusts are directly accountable to the Department of Health and Social Services. As Chief Executive of the Health and Personal Social Services Executive I am responsible both to the Secretary of State and, in my Accounting Officer role, directly to Parliament. A similar dual accountability applies to the Chief Executives of Trusts, who are responsible both to their boards and, via the Accounting Officer, to Parliament. You are therefore accountable through me to Parliament for the stewardship of resources within your Trust.

Statutory Accounts

8. I sign the Summarised Accounts of HSS bodies in Northern Ireland, and the Appropriation Account of the Department of Health and Social Services, and by virtue of this responsibility I can be summoned to appear before the Committee of Public Accounts (PAC) to deal with questions arising from those accounts or from reports made to Parliament by the Comptroller and Auditor General.
9. The summarised accounts are derived from the Statutory Accounts of individual Trusts. You, together with the Director of Finance, are responsible for ensuring that the Accounts of the Trust presented to the Board for approval are prepared under principles and in a format directed by the Department. These accounts must present fairly the Trust's income and expenditure and its state of affairs. You will sign these Accounts, along with the Chairman, on behalf of the Board.
10. Reflecting your role as accountable officer, you will sign a statement (as indicated in the Manual for Accounts) outlining your responsibilities as accountable officer.
11. The PAC will continue to regard me as the main respondent to any enquiries about matters relevant to the proper stewardship of monies voted to HPSS in Northern Ireland, especially where the issues are wider than an individual Trust. The Committee may however call other witnesses, and I may require

you to accompany me at a hearing. I shall in any event look to you for support and information in my dealings with the PAC.

Effective management systems

12. You should ensure that the Trust has in place effective management systems which safeguard public funds and should assist the Chairman to implement the requirements of corporate governance as laid down in the Codes of Conduct and Accountability. Managers at all levels should:
 - (a) have a clear view of their objectives and the means to assess achievements in relation to those objectives;
 - (b) be assigned well-defined responsibilities for making the best use of resources;
 - (c) have the information, training and access to the expert advice they need to exercise their responsibilities effectively.

Managers should be appraised and held to account for the responsibilities assigned to them under (a) and (b) above.

13. You are responsible for achieving value for money from the resources available to the Trust, and for avoiding waste and extravagance in the organisation's activities and for following through the implementation of and recommendations affecting good practice as set out in reports from such bodies as Health Services Audit and The Audit Office (NI) (NIAO).
14. My Accounting Officer responsibilities require me to obtain value for money from all HPSS resources. In order that I can discharge this responsibility effectively, I expect you to have due regard both to the good of your individual Trust and the wider good of the HPSS as a whole. In the event there being a conflict between the interests of your individual Trust and those of the wider HPSS, I expect you to draw the relevant factors to the attention of the board of the Trust and the board to act in the interests of the HPSS as a whole.
15. You should provide such information as is requested by the NIAO. You should co-operate with external auditors in any enquiries into the use your Trust has made of public funds. I may also ask you to provide information on any points raised by external auditors which generate public or Parliamentary interest. Your arrangements for internal audit should comply with those described in the NHS Internal Audit Manual. You must ensure prompt action is taken in response to concerns raised by both external and internal audit.
16. Effective and sound financial management and information are of fundamental importance. Whilst this is the operational responsibility of the Director of Finance, as the Chief Executive and accountable officer you have a primary duty to see that these functions are properly discharged. As Chief Executive

of a trading body you are required to ensure the continuing financial viability of the Trust, and in particular to ensure that expenditure is contained within available levels of income, and to achieve any other financial objectives set by the Department, with the consent of the Department of Finance and Personnel. You should also ensure that the assets of the Trust are properly safeguarded.

Regularity and propriety of expenditure

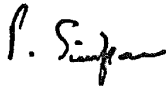
17. You have a particular responsibility for ensuring that expenditure by the Trust complies with Parliamentary requirements. The basic principle which must be observed is that funds should be applied only to the extent and for the purpose authorised by Parliament. You must:-
- draw the attention of the Department to losses or special payments by appropriate notation of the statutory accounts;
 - obtain sanction from the HSS Executive for any expenditure which exceeds the limit delegated to the Trust; this includes any novel, contentious or repercussive expenditure, which is by definition outside your delegation;
 - ensure that all items of expenditure, including payments to staff, fall within the legal powers of the Trust, exercised responsibly and with due regard to probity and value for money;
 - comply with guidance issued by the HSS Executive on classes of payment which you should authorise personally, such as termination payments to general and senior managers.
18. The Codes of Conduct and Accountability issued to HSS boards by the Minister for Health and Social Services under cover of HSS(PDD) 8/94 on 15 November 1994 are fundamental in exercising your responsibilities for regularity and probity. As a board member you have explicitly subscribed to the Codes; you should promote their observance by all staff.

Advice to the Trust Board

19. As the accountable officer you have a responsibility to see that appropriate advice is tendered to the board on all matters of financial probity and regularity, and more broadly on all considerations of prudent and economical administration, efficiency and effectiveness. The Director of Finance has a special responsibility to support you in this role; and you should ensure that he or she is fully aware of this obligation and has the requisite skills and experience.
20. If the board or the Chairman is contemplating a course of action which you consider would infringe the requirements of propriety and regularity, you should set out in writing to the Chairman and the board your objection to the

proposal and the reasons for it. If the board decides nonetheless to proceed, you should seek a written instruction to take the action in question. You should ensure that the Audit Committee, which has specific terms of reference and delegated powers to inquire into matters of propriety and regularity, and may require your attendance before it at any time, receives copies of the documents which describe your objections.

21. You should also inform me, if possible before the board takes its decision or in any event before the decision is implemented so that I can, if necessary, intervene with the board and inform the Department of Finance and Personnel.
22. If the board is contemplating a course of action, which raises an issue not of formal propriety or regularity but affects your responsibility for obtaining value for money from the Trust's resources, it is your duty to draw the relevant factors to the attention of the board. If the outcome is that you are overruled it is normally sufficient to ensure that your advice and the overruling of it are clearly apparent from the papers. If you have given clear advice that the course proposed could not reasonably be held to represent good value for money and the board seems likely to overrule you, you should inform me as Accounting Officer so that I can intervene if necessary. In such cases, and in those described in paragraph 20 above, the accountable officer should as a member of the board vote against the course of action rather than merely abstain from voting.



P SIMPSON

Accounting Officer



Altnagelvin Hospitals Health & Social Services Trust

Office of the Chief Executive

23

SB/CG/am

5 December 2000

Ms Alison Jeynes
Policy and Accounting Unit
Room 512A
Dundonald House
Stormont
BELFAST
BT4 3SF

Imed P 11.12

Dear Ms Jeynes

I am writing to acknowledge receipt of Mr Gowdy's letter dated 27 November 2000 and the accompanying revised memorandum of my accountable officer status for Altnagelvin Hospitals H&SS Trust.

I will endeavour, as Accountable Officer for the Trust, to ensure the integrity of our public service.

Yours sincerely

STELLA BURNSIDE
Chief Executive

From The Permanent Secretary

Department of Health, Social
Services & Public Safety

An Roinn Sláinte, Seirbhísí Sóisialta
agus Sábháilteacht Phoiblí

Mrs S Burnside
Chief Executive
Altnagelvin HSS Trust
Glenshane Road
LONDONDERRY
BT47 1SB

27 November 2000

Dear Stella,

APPOINTMENT AS ACCOUNTABLE OFFICER

Mr John Hunter wrote to you on 29 April 1996 in his capacity as Accounting Officer for the HSS Management Executive to designate you formally as the Accountable Officer for Altnagelvin HSS Trust.

Following devolution and the reorganisation of Northern Ireland Government Departments I am now the Departmental Accounting Officer for all HSS bodies.

My purpose in writing is to re-affirm our respective responsibilities by re-issuing your accountable officer memorandum which has been revised to reflect devolution and accountability to the N.I Assembly including the Public Accounts Committee.

I am sending copies of this letter to the Comptroller and Auditor General for Northern Ireland, the Clerk of the Public Accounts Committee of the N.I Assembly, the Northern Ireland Treasury Officer of Accounts and Ms L S Wilson in DFP Supply.

I should be grateful if you would acknowledge receipt of this letter and the accompanying memorandum.

Acknowledgements should be sent to Alison Jeynes, Policy and Accounting Unit, Room 512A, Dundonald House, Stormont, Belfast BT4 3SF.

*Yours sincerely,
D C Gowdy*

D C GOWDY
Departmental Accounting Officer

Castle Buildings, Stormont, Belfast BT4 3SJ
Foirgnimh an Chaisleáin, Cnoc an Anfa, Béal Feirste, BT4 3SJ
Telephone: 028 9052 0559 Facsimile: 028 9052 0573 E-Mail: d.c.gowdy@dhsni.gov.uk



INVESTOR IN PEOPLE

ACCOUNTABLE OFFICER MEMORANDUM FOR THE CHIEF EXECUTIVE OF HEALTH AND SOCIAL SERVICES TRUSTS

1. You are hereby appointed as the HPSS officer responsible and accountable for funds entrusted to Altnagelvin Health and Social Services Trust. This memorandum describes your responsibilities as an Accountable Officer, and relates them to my overall accountability for funds voted by the N.I Assembly for Health and Personal Social Services (HPSS). In fulfilling your role as Accountable Officer, you will also wish to bear in mind your responsibilities to the Trust board of which you are a member. The corporate role of the board is clearly set out in the Codes of Conduct and Accountability issued by the Minister for Health and Social Services in November 1994.

Functions of Trusts

2. The functions of HSS Trusts are:
 - (a) to enter into and fulfil service level agreements with commissioners;
 - (b) to meet their statutory financial duties;
 - (c) to maintain and develop their relationships with patients, the local community, their commissioners and their suppliers.

The essence of your role as Accountable Officer is to see that the Trust carries out these functions in a way that ensures the proper stewardship of public money and assets. The paragraphs below set out this responsibility in more detail.

Relationship between the Accounting Officer and Accountable Officers

3. My responsibilities as Accounting Officer are set out in a memorandum sent to me on appointment. In essence, I am responsible for the propriety and regularity of public finances in the HPSS; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the resources in my charge.
4. Your role as Accountable Officer for your Trust is very similar to mine as Accounting Officer for the Department of Health, Social Services & Public Safety. I require you to observe the same general requirements as are laid on me, and to ensure that the Trust's officers also abide by them. Your Trust is an integral part of the HPSS and is largely dependent on public funding even though this is effected through service level agreements with commissioners.
5. Trusts have the following key relationships:
 - (a) with commissioners, through service level agreements to deliver health and social services to agreed specifications;

- (b) with their local Communities, through holding an annual meeting, and publishing an annual report and accounts;
 - (c) with patients, through the management of standards of patient care;
 - (d) accountability to the Department of Health, Social Services & Public Safety for the performance of their functions and meeting statutory financial duties.
6. This memorandum deals with the fourth relationship. The first three are covered in other guidance.
 7. HSS Trusts are directly accountable to the Department of Health, Social Services & Public Safety. As Permanent Secretary of the Department of Health, Social Services & Public Safety I am responsible both to the Minister for Health and, in my Accounting Officer role, directly to the N.I Assembly. A similar dual accountability applies to the Chief Executives of Trusts, who are responsible both to their boards and, via the Accounting Officer, to the N.I Assembly. You are therefore accountable through me to the N.I Assembly for the stewardship of resources within your Trust.

Statutory Accounts

8. I sign the Summarised Accounts of the HPSS bodies in Northern Ireland, and the Appropriation Account of the Department of Health, Social Services & Public Safety, and by virtue of this responsibility I can be summoned to appear before the Public Accounts Committee of the NI Assembly (PAC) to deal with questions arising from those accounts or from reports made to the N.I Assembly by the Comptroller and Auditor General.
9. The Summarised Accounts of the HPSS bodies include a summary of the Statutory Accounts of individual Trusts. You, together with the Director of Finance, are responsible for ensuring that the accounts of the Trust presented to the board for approval are prepared under principles and in a format directed by the Department. These accounts must present fairly the Trust's income and expenditure and its state of affairs. In your capacity as Accountable Officer you will sign these accounts, along with the Chairman, on behalf of the board.
10. Reflecting your role as Accountable Officer, you will sign a statement (as indicated in the Manual for Accounts) outlining your responsibilities as Accountable Officer.
11. The PAC will continue to regard me as the main respondent to any enquiries about matters relevant to the proper stewardship of monies voted to the HPSS in Northern Ireland, especially where the issues are wider than an individual Trust. The Committee may however call other witnesses, and I may require you to accompany me at a hearing. I shall in any event look to you for support and information in my dealings with the PAC.

Effective Management Systems

12. You should ensure that the Trust has in place effective management systems which safeguard public funds and should assist the Chairman to implement the requirements of corporate governance as laid down in the Codes of Conduct and Accountability. Managers at all levels should:

- (a) have a clear view of their objectives and the means to assess achievements in relation to those objectives;
- (b) be assigned well-defined responsibilities for making the best use of resources;
- (c) have the information, training and access to the expert advice they need to exercise their responsibilities effectively.

Managers should be appraised and held to account for the responsibilities assigned to them under (a) and (b) above.

13. As Chief Executive of a trading body you are required to ensure the continuing financial viability of the Trust, and in particular to ensure that expenditure is contained within available levels of income, and to achieve any other financial objectives set by the Department, with the consent of the Department of Finance and Personnel. You should also ensure that the assets of the Trust are properly safeguarded and that reasonable steps are taken to prevent and detect fraud and other irregularities.
14. You are responsible for achieving value for money from the resources available to the Trust, and for avoiding waste and extravagance in the organisation's activities and for following through the implementation of recommendations affecting good practice as set out in reports from such bodies as Health Services Audit and The Audit Office (NI) (NIAO).
15. My Accounting Officer responsibilities require me to obtain value for money from all HPSS resources. In order that I can discharge this responsibility effectively, I expect you to have due regard both to the good of your individual Trust and the wider good of the HPSS as a whole. In the event of a conflict between the interests of your individual Trust and those of the wider HPSS, I expect you to draw the relevant factors to the attention of the board of the Trust and the board to act in the interests of the HPSS as a whole.
16. You should provide such information as is requested by the NIAO. You should co-operate with external auditors in any enquiries into the use your Trust has made of public funds. I may also ask you to provide information on any points raised by external auditors which generate public or N.I Assembly interest. Your arrangements for internal audit should comply with those described in the NHS Internal Audit Manual. You must ensure prompt action is taken in response to concerns raised by both external and internal audit.

17. Effective and sound financial management and information are of fundamental importance. Whilst this is the operational responsibility of the Director of Finance, as the Chief Executive and Accountable Officer you have a primary duty to see that these functions are properly discharged.
18. The Chief Executive as Accountable Officer, together with the other Directors, has responsibility for reviewing the Trust's system of internal financial control to confirm that the Trust has an appropriate system in place and that the "minimum control standards" laid down by the Department have been in place throughout the financial year.
19. You, as Accountable Officer, are responsible for signing the Statement on Internal Financial Control for insertion on behalf of all Directors in the Annual Accounts.

Regularity and propriety of expenditure

20. You have a particular responsibility for ensuring that expenditure by the Trust complies with the requirements of the N.I Assembly. The basic principle which must be observed is that funds should be applied only to the extent and for the purpose authorised by the N.I Assembly. You must:-
 - draw the attention of the Department to losses or special payments by appropriate notation of the statutory accounts;
 - obtain sanction from the Department for any expenditure which exceeds the limit delegated to the Trust; this includes any novel, contentious or repercussive expenditure, which is by definition outside your delegation;
 - ensure that all items of expenditure, including payments to staff, fall within the legal powers of the Trust, exercised responsibly and with due regard to probity and value for money;
 - comply with guidance issued by the Department on classes of payment which you should authorise personally, such as termination payments to general and senior managers;
 - comply with all Directions issued by the Department.
21. The Codes of Conduct and Accountability issued to HSS bodies by the Minister for Health and Social Services under cover of HSS(PDD) 8/94 on 15 November 1994 are fundamental in exercising your responsibilities for regularity and probity. As a board member you have explicitly subscribed to the Codes; you should promote their observance by all staff.

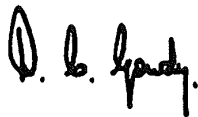
Advice to the Trust Board

22. As the Accountable Officer you have a responsibility to see that appropriate advice is tendered to the board on all matters of financial probity and regularity, and more broadly on all considerations of prudent and economical administration, efficiency and effectiveness. The Director of Finance has a special responsibility to support you in this role; you should ensure that he or she is fully aware of this obligation and has the requisite skills and experience.
23. If the board or the Chairman is contemplating a course of action which you consider would infringe the requirements of propriety and regularity, you should set out in writing to the Chairman and the board your objection to the proposal and the reasons for it. If the board decides nonetheless to proceed, you should seek a written instruction to take the action in question. You should ensure that the Audit Committee, which has specific terms of reference and delegated powers to inquire into matters of propriety and regularity, and may require your attendance before it at any time, receives copies of the documents which describe your objections.
24. You should also inform me, if possible before the board takes its decision or in any event before the decision is implemented so that I can, if necessary, intervene with the board and inform the Department of Finance and Personnel.
25. If the board is contemplating a course of action, which raises an issue not of formal propriety or regularity but affects your responsibility for obtaining value for money from the Trust's resources, it is your duty to draw the relevant factors to the attention of the board. If the outcome is that you are overruled it is normally sufficient to ensure that your advice and the overruling of it are clearly apparent from the papers. If you have given clear advice that the course proposed could not reasonably be held to represent good value for money and the board seems likely to overrule you, you should inform me as Accounting Officer so that I can intervene if necessary. In such cases, and in those described in paragraph 23 above, the Accountable Officer should as a member of the board vote against the course of action rather than merely abstain from voting.

Withdrawal of Accountable Officer status

26. In certain circumstances I have the authority to withdraw Accountable Officer status from a Chief Executive who has failed to carry out his/her duties satisfactorily. This is a most unlikely occurrence. It is a decision I would take only in the most exceptional of circumstances and following very careful and exhaustive consideration of the issues. The process could include commissioning an independent inquiry, during the course of which the Chief Executive concerned would be given the opportunity to comment before a decision was taken. He or she would also have an opportunity to put their point of view to me directly and I would remain in close contact with the relevant Chairman throughout.

27. There is no scope for a formal appeal against a decision to withdraw Accountable Officer status. As Accounting Officer for the Department of Health, Social Services & Public Safety I have a personal responsibility which I cannot delegate or relinquish. It is therefore for me to take decisions regarding Accountable Officer status not least because it is me who will ultimately be called to answer before the PAC.
28. My relationship with an Accountable Officer is based on public law (ie the general principles of proper public administration) rather than any form of employment contract. Therefore, any withdrawal of Accountable Officer status would not automatically lead to termination of the contract of employment of the Chief Executive. This would be a matter for the Chairman and board of the HPSS body concerned. The employer would of course, as a matter of employment law, need to act reasonably in the circumstances of each case.
29. I should stress again that I would only remove Accountable Officer status after the most careful examination of the facts.



D C GOWDY
Departmental Accounting Officer