

# Inside investigations

The Healthcare Safety Investigations Branch (HSIB) wants to reassure O&G professionals about the process of maternity investigations

**T**HE MATERNITY investigations division of the Healthcare Safety Investigations Branch (HSIB) started operating in 2018 in a difficult national context. The Bawa-Garba case was high on news agendas, raising the spectre of doctors' own records of incidents being used against them. A few negative stories appeared in the health trade press about the culture at the HSIB, which did not help to quell nerves among the O&G profession about the new investigative process.

RCOG members understandably have questions about the investigation process. Here, we put those questions to Jimmy Walker, the HSIB's clinical director of maternity investigation.

## 1 Interviews for investigations are recorded: who can see and use those recordings?

Recording interviews is the standard way most independent reviews are carried out. It is not an interrogation. The interviewee is not asked to justify themselves or their actions or reflect on their practice. We want to hear the story of what happened. The interviews are listened to by the investigators and any others in HSIB who are involved in the investigation, for

example, the clinical advisors.

The investigator will ask you to consent to the recording and you can refuse. But the Medical Protection Society advises members to be recorded as it is the best protection because their version of the story is given full recognition. You can request a copy of the recording too. The recordings are held on our secure servers for 20 years (according to NHS rules of retention). If someone wants to access them they must go through some sort of court action. It is likely that coroners, the GMC and the NMC would gain access through the courts because they are legal bodies and have rights under criminal law. However, this hasn't played out yet.

The actual report is the family's or the trust's to do with as they see fit – they can give it to a lawyer to use in a court case. No one is named in the report and no blame attached to any action or inaction.

## 2 Should trusts do their own investigations? And will HSIB take those into account?

HSIB has been given directives to investigate all cases in England that fulfil Each Baby Counts, as well as maternal deaths apart from suicide. The trust needs to carry out its normal actions of notification, duty of candour and the 72-

hour report. If there's anything worrying in that, they'd be expected to act on that.

However, trusts should not do their own investigation for two reasons: it duplicates interviews; and the trust would then have to share the report with the families and the commissioners and explain any differences between their report and the one from HSIB. HSIB wouldn't take the trust's report into consideration prior to the investigation because that could produce bias. However, we would include it at the report stage, commenting on what they found and did not find and any action taken.

We know some trusts are doing their own investigations, and I think that's because they're wary of us still. Also, our reports have been taking a long time (see below) so trusts perhaps felt they needed to protect themselves because of our delays, and see if there was anything they needed to do immediately.

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**“They are not there to question what you did, but to find out what happened”**

### 3 Why does it take so long for a report to get back to the family and trust?

Our directives are that we should complete our reports within six months. The longest report we have done took just under a year. At the moment the average is 35 weeks. However, the investigations that have started most recently are on track to report within six months. Report times are getting shorter because we're refining our processes. For example, the report goes to the trust and to the families for fact checking – we've now put a time limit on that, which we didn't to begin with.

Sometimes there are factors outside our control. We need consent from the families to allow us access to their case records to carry out our investigation. We also need the trust to contact the family and ask them if they wish to talk to us, which can sometimes take two to three weeks to get written consent.

### 4 Who are the investigators?

Our investigators come from different backgrounds but they are mostly midwives with a history of quality and safety. There are also police officers, coroner's officers, teachers and investigators from other areas. They all undergo a three-week residential course prior to taking up post.

They are not there to question what you did, but to find out what happened. They may ask what appears to be a silly question due to lack of clinical knowledge, but these are generally very informative and they don't come with a preconceived idea of what 'normally' happens.

They are employed on a one-year full-time contract initially. Sometimes they're on secondment. We have 14 teams around the country, each with eight to 10 investigators and a team leader. Most investigators have four to six cases on the go at once. They work from home through a secured communications system, using encrypted laptops and phones.

For enquiries, please contact [enquiries@hsib.org.uk](mailto:enquiries@hsib.org.uk). If you would like to provide feedback on your own experiences of the HSIB investigation process, please contact your RCOG Council Representative. Representatives have been asked to raise feedback with Council and College Officers. ●

## THE INTERVIEW PROCESS



The investigator contacts the family and interviews them to get their story and discuss concerns that they may have. The investigator then produces a timeline from the case records and the family story.



The investigator presents this information to the HSIB clinical panel who scope the investigation, including deciding the areas to be investigated and who should be interviewed.



The doctor is notified that they will be interviewed, usually by the trust.



Investigators and interviewee agree on a convenient time and place for the interview, with plenty of notice (usually in trust premises but it can be arranged elsewhere).

### INTERVIEW TAKES PLACE

- There are two investigators: a lead and a supporting one.
- The doctor can bring someone for support. We recommend a friend/colleague, not a manager.
- The investigators ask open questions about the doctor and their memory of the time around the incident. They are asked about all contacts with the mother and her family. The investigators look at all aspects of care from conception to the event itself and discharge from hospital.
- If the interviewee feels uncomfortable or if the investigators feel that the doctor is not free to speak openly, the interview can be stopped and rearranged.
- After the interview, you can request a copy of the recording and/or a transcript.



The investigators prepare a report from the family story, the case records and staff interviews. This is reviewed by an HSIB clinical panel who advises if any more information is required for the case.



Once the report is signed off internally at HSIB, it is sent to the trust for factual checking. All staff interviewed have a chance to review it.

The family then review it and, once all agreed, it is published to the trust and the family.