

- 2nd – RCPCH
- 3rd – Dr J Hawdon
- 4th – QC – Purpose to involve was to help clinicians understand the difference between what they thought was criminal evidence and something that may not constitute as criminal evidence.

COCH doctors would state that the other route that has not been taken is a criminal investigation. COCH have been transparent and kept the HM Senior Coroners, Mr Rheinberg and Mr Moore, fully informed.

It is evident that based on the email from Dr Jayaram, the clinicians do not think that the enquiry is complete. As a board and organisation, now the broader forensic review has been explored with Cheshire Constabulary and ascertain based on evidence and trails, now would be the time to focus on the future than continually look back.

The RCPCH review did not express any single causal factors, it expressed a range of things that collectively could be argued that this is an explanation. It would be an unsatisfactory outcome for the clinical team.

TC was unsure of where COCH could go, but also comfortable if explanations were clear to take back to board to state all reviews have been satisfied and just because clinicians state differently it does not make this right.

SC added that it is worth bearing in mind the report from Dr Jayaram has been sent 11 months on. If the clinicians had such a concern they have been advised from the beginning to contact the police.

TC stated that there have been 13 babies die, but at what point did the only reasonable explanation link to a single nurse. When there is a death, there is an M&M review within the organisation, some of this will be recorded accurately. COCH spoke to the general managers, asking if it felt uncomfortable. They went back to the clinical team asking if there is anything to be worried about, any problems with the environment / staffing levels etc. The feedback that the general managers received was that everything was fine.

IH has repeatedly challenged the clinicians asking if there has been any act(s) which COCH need to be aware of which would effectively give a case but repeatedly they have said no.

IH met with the seniors and the network lead in February / March with all the reviews. Each case was gone through with a hope to come to a consensus for each of the families (all of which the COCH have had contact with). Although there was a cause of death and the coroner had been comfortable either with or without inquest, they were still uncomfortable with the collapses. As far as they were concerned there was no other way COCH could complete an investigation or commission an investigation from another NHS body that would satisfy the clinicians.

DM clarified that there was nothing new that has come out of the email that COCH were not already aware of, and nothing contained in email that makes specific allegation, which would cause COCH to believe that potential criminal offences have been committed. TC and IH both agreed there was nothing to suggest this and nothing new within email.

IH noted that the clinicians had their own separate session with the RCPCH reviewers and in that they raised concerns about the individual. This was not in the RCPCH TOR as they considered this a HR issue, but the RCPCH did produce separate observations outside of the report in which they called out the pediatricians concerns. RCPCH stated that their allegations were based on nothing more than coincidence and 'good feeling'. There was nothing definitive.

Meeting with COCH, Operation Hummingbird - Minutes / Actions

Held at 09:00 on Friday 12th May 2017

Meeting Room 5, Cheshire Constabulary HQ

At this stage, COCH have exhausted all lines possible and there is nothing that could potentially be evidence of a criminal investigation. The concerns raised by the consultants have been raised previously and there is nothing they are aware of that they would consider or believe that potential criminal offences may have been committed.

TC stated a meeting had been held on 11/05 with COCH executives, and it was felt that the explanations of what has happened do not lie in a single place or cause, and certainly not criminal. Concerns from the consultants were also expressed to RCPCH as it is referenced in their review.

IH added COCH are mindful they do not want to use Cheshire Constabulary as a HR process for staff. If you place yourself in the mindset of paediatricians to see what the motivation is, there is a strong sense of personal accountability that a clinician feels and when there is no clinical explanation they feel uncomfortable. It is unusual that they have a collective mindset. This is a problem which COCH need to manage as it is not a criminal issue.

TC satisfied that Cheshire Constabulary would determine whether or not there has been any criminal intent. COCH have maintained an open mind and would welcome an enquiry, if necessary but this has never felt the issue. It was felt amongst the executives that it needed to be checked.

DM was clear to TC that all Cheshire Constabulary have done to date is look through reviews and reports they have not investigated. There is a need to clarify points made in Dr J Hawdon's review in relation to the coronial position of the 4 babies in category 2. If there is no direct allegation or suggestion from COCH of any potential criminal wrongdoing then DM would be comfortable to put into writing, based on meetings and documentation so far in response to TC letter that Cheshire Constabulary will not conduct a criminal investigation at this stage with caveat if further information comes to light.

DM asked what COCH intentions are in relation to the email sent from Dr Jayaram.

COCH have not spoken to Dr Jayaram yet, it would be dependant on the outcome of this meeting. It cannot be left as they have made the same allegations again, but with more focus than previous. A conversation would be required around the discussions COCH and Cheshire Constabulary have had in light of their email. There is a need to discuss what COCH can do to reach an end point, which they are comfortable with. IH would look at how COCH can manage the end point prospectively.

TC stated it would become a wider GMC issue as there becomes a point where a group of clinicians who are not prepared to take the recommendations of RCPCH are blocking the ability to move forward which creates a more difficult and dangerous environment for sick babies.

TC added that the consultants have made their points, and they have been seen and not judged as sufficient to warrant a police led investigation, looking at how close it constitutes as a criminal act. There was a need to explore to ensure COCH have not missed anything, but there is also a need to move on. It will become a GMC issue, likewise if the media are involved. This is for COCH to manage appropriately.

DM replied that if COCH's position is that they are satisfied where they are, and there is nothing of anything that would cause to believe potentially criminal offences have been committed which may warrant a police investigation then this needs to be placed in writing to DM.

DM would respond that based on meetings and discussions at this stage the police position could be summarised that police investigation will not be led due to these reasons listed.

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COCH would need to convey in writing to Cheshire Constabulary that nothing new has been disclosed to them since Dr Jayaram's email, and DM can close off. All agreed as an appropriate action.

IH wished to raise two items:

1. When the issues were first raised by Stephen Brewery (Neonatal Lead) it was held under the 'speak out safely' policy so that he had protection as a whistleblower.
2. There is a meeting scheduled with COCH and the parents of Child D and their solicitor on 16/05/2017 prior to the inquest scheduled for 25/05/2017. The question that whether this should be deferred pending, as we may not be in a position on Tuesday to have a conversation that we are comfortable is not going to change within a matter of days. The purpose of this meeting on 16/05/2017 is to feedback to the family the reviews, which they have had the opportunity to read and give them a chance to ask any questions / raise any concerns they have. This is a normal pre-meeting prior to the inquest.

DM reiterated what has been agreed :

- On part of Cheshire Constabulary, a meeting will be held with Dr Jayaram on 15/05/2017.
- The meeting will be held with Dr Jayaram only to discuss the contents of the email sent to Cheshire Constabulary, to ensure it has been interpreted correctly, it is factually accurate and is there anything of significance that has not been disclosed which is not in the email.
- If Dr Jayaram does disclose anything which potentially could be evidence of a criminal wrong doing then Cheshire Constabulary would have to consider a criminal investigation.
- Equally if there was nothing new raised in the email or conversation, then would look to COCH to write to Cheshire Constabulary to confirm their position stating we are / are not requesting a criminal investigation.
- Once Cheshire Constabulary has held this meeting with Dr Jayaram, they will then formally report back to COCH with the outcome, and Cheshire Constabulary will put this in writing to COCH.
- An exchange of letters would need to be agreed pending the outcome.

NW agreed, and added that effectively Cheshire Constabulary are just trying to gather further facts and information to inform the decision.

TC agreed that as Dr Jayaram has bypassed COCH executive team, it is appropriate he has the opportunity to speak and when the decision is made to either proceed or not to a full enquiry it will be based on the whole picture and it will be a stronger position for COCH. At this point, TC would feel more comfortable that the clinicians should be able to move on.

SC raised that it could potentially 'leak' that Dr Jayaram is meeting with Cheshire Constabulary, and although there is no police enquiry at present COCH need to be mindful of this.

COCH/006 – Nigel Wenham to arrange a 1-1 meeting with Dr R Jayaram on 15/05/2017 to discuss concerns raised within email sent.

DM stated that at present there does not appear to be any evidence of a criminal wrongdoing from the reports and reviews, which would warrant a police led criminal investigation. However, Dr Jayaram has raised some concerns in an email, which is believed to have been covered in previous correspondence with COCH and we do not believe there is anything new. However, we will agree to give him the opportunity to raise those concerns with the police as he has sent it directly.