

Kate Lampard
NHS South of England
York House 18-20
Massetts Road
Horley
Surrey
RH6 7DE

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Dear Ms Lampard,

INTERNAL INVESTIGATION INTO MATTERS RELATING TO JIMMY SAVILE

I am a member of the public and a sometime patient of Stoke Mandeville as a result of living within its catchment. I have no other connection with the hospital or the NHS.

I am writing to you about the following clause within the Terms of Reference:

- Consider whether BHT's current safeguarding, complaints, whistle blowing and other policies and processes relating to the matters mentioned above are fit for purpose.

Child protection policies in 'Regulated Activities' (RA's) are all too often poor. The genesis of this failure initially stems from legislation and accompanying 'statutory guidance' described by Sir Roger Singleton, the former Chairman of the Independent Safeguarding Authority in the following way:

"Governors and proprietors currently have to find their way through a thicket of statutory regulations and standards which carries with it the risk of confusion, mistake and non-compliance."

I am keen to bring this critically important subject to your attention because child protection shortcomings at Stoke Mandeville certainly exist at present, and the same could be replicated elsewhere. The misleading child protection 'legislation' has recently received some press attention as a result of a growing collection of activists, including a number of barristers, bringing the shortcomings to the attention of the media. These airings have more recently included:

- **Newsnight** - Following Jon Brown's (NSPCC) extraordinary performance on the programme in late September I wrote to the Editor. Eddie Mair asked Mr Brown if the law was sufficient to protect children. He did not answer the question but merely listed the reviews and consultations that have occurred from Utting onwards, and from which so few frontline improvements have flowed. I informed the programme of the non-existence of law requiring Regulated Activities to report child abuse. Jim Reed's film was transmitted on **24/10/12**. I provided most the facts regarding the lack of legislation and the effect this has on the culture of safeguarding in Regulated Activities. The non-existence of legislation



means no child has the right to have allegations of abuse or witnessed abuse up to and including rape reported to the LADO (Local Authority Designated Officer).¹

- **R5Live Investigates.** Contacted me via lawyers that work in child abuse (Abney Garsden MacDonald). Subject: **Social Media and Teachers**; my contribution - child protection and the non-existence of law to protect children. Transmission **25/11/12**¹

I am the founding contributor of the 2009 BAFTA award winning documentary Chosen about the architecture and long term effects of institutional child sexual abuse www.chosen.org.uk I continue to lobby for overhaul of the existing safeguarding 'framework' that successive governments suggest protect children. Caroline Keenan, the co author of **CHILD ABUSE: LAW AND POLICY ACROSS BOUNDARIES**, the 2008 Temple Book Award winner, wrote to me in May 2009 saying :

"Reporting Suspicions of Child Abuse

What would be the purpose of a statutory requirement to report suspicions that a child is being abused?

- To make professionals report suspicions in instances in which they would not normally do so.
- To protect those who do report suspicions made in good faith which are not then validated in law.
- To gain redress for injuries sustained after a professional had been made aware of suspicions or problems, but after they have chosen not to take the matter further.

What is the current law?

To start it is important to recognise two problems in the current law relating to child abuse:

- It is a patchwork of different types of law often created as a specific reaction to a particular scandal. It has no cohesion and can be contradictory. It is, for want of a better description, the Dangerous Dogs Act writ large.
- It is unwieldy. There are hundreds of different rules in different places.

We do not have a mandatory reporting statute like other similar jurisdictions (Different examples of mandatory reporting statutes can be found on pp 450-454 of *Child Abuse: Law and Policy Across Boundaries*).")

I enclose the extract to which Caroline referred (.pdf Hoyano). Since her email the Coalition has dismantled the all too few good initiatives that were showing promise. Safeguarding under the current government is being returned to a sepia age when those 'in charge' were

¹ I was invited to contribute to the programme but was requested by the police to decline. I am a witness for the prosecution in a significant child abuse case which is currently in the court system.

trusted to do the right thing without question. This direction of travel prompted a robust performance by Jim Gamble at the Select Committee hearing for Child Protection in October 2011. I enclose an article from the Independent which provides helpful background. (.pdf - Jim Gamble Ed Select Committee)

In May 2012 the NSPCC updated its 'INTRODUCTION TO CHILD PROTECTION LEGISLATION IN THE UK' which I also provide (.pdf NSPCC). Unsurprisingly it confirms there is no legal requirement to inform the LADO of allegations or witnessed abuse (Page 3 Para 5.). Nonetheless current 'guidance' issued by the London Safeguarding Children Board in clause 15.2.1., says: **'The employer must inform the local authority designated officer (LADO) immediately an allegation is made.'** However this is only guidance and no 'Regulated Activity' need adopt it and most do not. Surprisingly this critical clause in London's guidance is contradicted by DfE Guidance on the very same subject. It promotes a partial self investigation from which a Regulated Activity will then itself decide whether to inform the LADO or handle the matter itself. One can choose either, neither, or a mix, in other words the decision lays with the RA to engross the protocol of its creation into its child protection policy. Institutions tend to commit to doing the minimum demanded of them in child protection, with the occasional but rare exception. This includes for example St Benedict's School in Ealing which was revealed to have concealed decades of child abuse from the authorities as the media, particularly the Times, reported. The school reached compromise departures with known perpetrators who went on to teach at other schools where some continued their abuse of boys. This was confirmed during trials in 2011/12, yet today the school still does not adhere to London SCB guidance and yet it does achieve National Minimum Standards for safeguarding which are set at a very low threshold. In its current policy the school qualifies the circumstances in which it will refer incidents to the LADO and with each qualification, spread throughout the policy, justified non referral to the LADO is increased.

Of course a child protection policy is authored by each Regulated Activity and its composition is mostly the prerogative of the Board of Trustees because the child protection obligations on 'Regulated Activities' are broad brush statements that confer institutional responsibility for safeguarding without any accountability. In such circumstances all too often the interests of the child come a very distant second to that of the institution when abuse is suspected or discovered. On close examination the legislative framework has all the appearances of being designed to fail. Some of these complexities were mentioned by Louise Tickle in this recent article for the Guardian titled **'Children failed by lack of clarity about reporting allegations of abuse'**
<http://www.guardian.co.uk/education/2012/dec/03/child-abuse-mandatory-reporting-to-lado> .

This legislative hologram is supported by 'statutory guidance' (an oxymoron) which once again no organisation is mandated to follow. The protection afforded to children in any institution is not grounded upon law that gives a child the right to expect responsible adults employed by the institution to inform their Designated Safeguarding Officer in the Hospital, or the DSO to then inform the LADO of any allegation or incident of abuse.

This brings me to the Stoke Mandeville 'Child Protection Policy' which I downloaded on 20 December 12 and which I attach. It is not my intention to go through every shortcoming it

contains but instead concentrate on the current circumstances in which the LADO will be informed of allegations of abuse by an adult at the hospital, and what expectations exist on staff to inform their respective Designated Safeguarding Officer, and the requirement on the DSO to inform the LADO. I can find no other policy despite a detailed search of the Trust's website, so I have to assume that although the attached policy is overdue for review it remains current. Perhaps you would inform me?, and it might also be helpful if the status of this policy is explained on the Trust's website. At present one is left uninformed which might be an indication of the cultural approach to child protection within the Trust.

In the Exposure documentary and the media that followed, we were informed that nursing staff allegedly told child patients at Stoke Mandeville to 'pretend to be asleep' if Savile 'visited' them in the evenings. By any measure this is bewildering information for any nurse to give a child because it suggests nursing staff had concerns about Savile's behaviour towards children. This prompts a number of questions including:

- What witnessed or suspected behaviour prompted nursing staff to hold this concern?
- Was it reported to the management of the hospital?²
- If it was not contemporaneously reported – why not?

The unfortunate thing here is that even if concerns had been reported to the management of the hospital, the management are not obligated by law to report the matter to the police. With Savile playing such a crucial role in fund raising for the Trust, the board could have been very challenged to report to the police because legally there was no requirement, and there were/are no consequences for non-reporting. This set of circumstances presents all Regulate Activities with a dilemma which should not be permitted to exist. Adult logic needs to be suspended when child abuse is suspected, and the independent assessor (the experienced LADO) must be introduced to the all concerns immediately. In order for us to be assured this will in future occur, the public need to see the Trust undertake within its policy to inform the independent and knowledgeable LADO of all allegations in other words 15.2.1 of the London Safeguarding Board guidelines.

According to the Exposure programme there also existed a Stoke Mandeville doctor who allegedly reported his concern to a policeman, who in turn took the report to his station.

But this prompts us to ask why did the Doctor report his concerns to a policeman rather than the administration of the Hospital? There could be a number of important reasons, some of which ask serious questions of the hospital administration at the time. Following the doctor's report to the police nothing further happened because the police were disinclined to pursue the complaint because of Savile's standing. Did this same cultural deficit exist on the board of the Trust? I am acquainted with Thames Valley Police and

² In a reply from the Trust to an FOI from Ms Jan Cosgrove: Reference FOI2012-268 on 13 November 2012
Were there ever any such reports regarding Jimmy Savile?

We have not found any record or report of allegations of this nature involving Jimmy Savile.
http://www.whatdotheyknow.com/request/jimmy_savile

Quite worryingly the Trust does not quite fully answer Ms Cosgrove's question.

expect this will be revisited by the force and so I hope your review will include information of what happened with this report.

Returning to what I believe is the current child protection policy:

- What is the Trust's policy for adults being on their own with children?
- What is the policy for training of peripatetic staff and volunteers?
- What is the policy for staff training for employees of embedded retail outlets?
- How often are staff trained?
- What (must) staff do when faced with a concern about the behaviour of an adult towards a child?
- In what circumstances is the LADO (and Welsh/Scottish/ NI equivalents³) going to be informed of concerns?
- S64 of the Protection of Freedoms Act contains some very complex considerations to navigate that challenge many RA's. Unfortunately the current Stoke Mandeville policy has not been updated since the Act received Royal Assent in December 2011 and so no reader of the policy understands what stance the Trust is taking to plug the holes presented by his clause of the Legislation. Furthermore if a CRB check indicates there is a cause for concern about an adult, the decision whether to employ the individual is discretionary. What is the Trust's policy regarding this and will the Trust please make this clear in its safeguarding policy?

The policy informs us of very little.

Allegations of child abuse are a significant challenge to staff and management of any institution. Your child protection policy currently says:

6.4 Safer Recruitment and Allegations Management

NHS Buckinghamshire will ensure that recruitment and human resources management procedures and commissioning processes, including contractual arrangements, take into account the need to safeguard and promote the welfare of children and young people, including arrangements for appropriate checks on new staff and volunteers and adoption of best practice in the recruitment of new staff and volunteers.

NHS Buckinghamshire has procedures for dealing with allegations of abuse against members of staff or volunteers and has contractual arrangements with providers that ensure these procedures are in place.

<http://www.buckspct.nhs.uk/sites/policies/Policies/Human%20Resources/HR-007-01%20Recruitment%20Selection%20Policy.pdf>

³ I have no appreciation of how the NHS Trust system works in Scotland, Wales and NI, but I understand your review stretches across the NHS estate in countries where different rules apply e.g. NI where there is mandatory reporting of child abuse.

1. The link above remains broken since I first downloaded the policy on 20 December 12. A key document – and it is unavailable as a result of using an HTML Link.
2. Key documents that explain safety critical protocols **must** be engrossed into the policy document. No one can refresh their memory about the protocol if faced with a concern; no parent can hold the Trust to account for delivery of the protocol. This is thoroughly unsatisfactory and strongly suggests child protection is an afterthought at the Trust.

Two further clauses inform us:

2 Scope

*All health providers will have child protection policies that are **in line with BSCB** procedures and statutory guidance and are easily accessible for staff at all levels within each organisation.*

[Except critical protocols are not available to the reader because of broken links to protocols that must in future be included into the body of the policy.]

5.3 Director of Organisational Development & Human Resources

*The Director of OD & HR is responsible for ensuring safe recruitment practice is embedded in the organisation's recruiting and employment processes. S/he is also responsible for ensuring that there is a process for managing allegations against staff who work with children which is **in line with BSCB** procedures.*

My emboldening

Can anyone at the Trust explain what is meant by a policy being 'in line' with the 'guidance' which issued by Bucks Local Safeguarding Children's Board. Nothing in any 'guidance' has the force of statute because it is only guidance, and 'in line with' is an interpretation of guidance. Is any purpose served by these two clauses other than sounding very managerial but delivering little? And where is the process for managing allegations which the Director of OD + HR has apparently authored? It is not available to me or anyone who wants or needs to read the policy it seems. I would like to read this document and would appreciate being sent a copy to judge if it supports good staff bring concerns to their Designated Officer and what happens to a concern thereafter. Presently I can do neither of these things because the protocols are unavailable. The diagram in Appendix 2 does not help – it is a flowchart not a statement of protocol, process or policy.

Any policy that makes frequent use of HTML links for safety critical clauses is courting trouble. Can one imagine the operational policies of Sellafield replicating the Stoke Mandeville's HTML addiction? A policy featuring multiple links is often referred to as a 'flatpack' because the reader has to self-assemble it in order to see it in full. Because the author has little or no control over the links the assembler (non-employee parents; contractor; patients) does not know whether s/he has correctly assembled what the author intended because there is no equivalent of a picture on the box. 'Flatpacks' often indicate an underlying lack of interest in safeguarding or sometimes a wish to obstruct the reader from examining a complete policy. As a matter of principle a child protection policy must have all key information engrossed into one document over which the author has complete

control. It must be dated, signed by the individual who has the statutory responsibility for child protection, and feature a review date which should not exceed twelve months.

Take clause 1 of the Stoke Policy :

1. Purpose

This policy sets out the key arrangements for safeguarding and promoting the welfare of children for NHS Buckinghamshire. It should be read in conjunction with Buckinghamshire Safeguarding Children Board (BSCB) procedures <http://www.bucks-lscb.org.uk>

Again, what does it mean? I am reasonably experienced in this subject but I have no clue what of the a la carte guidance promulgated by BSCB the Trust has chosen to adopt. I am not even informed by the Trust of any of the procedures that will be followed by the Trust should an allegation against an adult be made.

Here are the broken links in the document

<http://nww.buckspct.nhs.uk/sites/policies/Policies/Human%20Resources/HR-016-02%20Whistleblowing%20Policy.pdf> (Lack of attention to detail, but even with a 'w' the link is broken.)

http://www.rcpch.ac.uk/doc.aspx?id_Resource=7967

<http://nww.buckspct.nhs.uk/sites/policies/Policies/Human%20Resources/HR-031-01%20Statutory%20and%20Mandatory%20Training%20Policy.pdf>

<http://www.dcsf.gov.uk/everychildmatters/resources-and-practice/IG00182/>

<http://www.bucks-lscb.org.uk/intent-agency-training>

http://www.bma.org.uk/images/childprotectletter_tcm41-192105.pdf

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_109401.pdf

<http://nww.buckspct.nhs.uk/sites/policies/Policies/Human%20Resources/HR-007-01%20Recruitment%20Selection%20Policy.pdf>

Some of these links, if they worked, would lead us to large documents. The Trust needs to inform us what part of a document it is adopting by engrossing it into its child protection policy so the reader does not have to attempt the impossible and try to interpret the Trust's intent. The objective for the Trust is to produce a child protection policy that has the clarity of a Haynes Manual.

What is not understood by the majority of people responsible for child protection, and I include many sector related NGO's, is the absence of law means good staff employed in institutions are unsupported when the worst happens. Because RA / institutional policies are grounded on law that does not exist, it becomes necessary to use contract law to create an effective policy that of course must include written undertakings of what will happen if

an adult is considered to be a risk to a child, or indeed a child to a child. In reality these are Terms and Conditions which a parent / doctor / visitor accepts when they cross the threshold. Regrettably the majority of Trust 'users' do not read child protection policies but it is vital for RA/Institutional staff to be fully aware of the Trust's culture and the protocols to follow.

Presently all staff in RA's are mostly trained by trainers who have little appreciation of the legal position. No safeguarding trainer or company is accredited because no accreditation scheme exists. The way in which the 'law' and statutory guidance is presented by the DfE suggests the existence of supportive law and of course our respective moral compasses tell us this 'must be so.' But we are wrong, and the trainers training us, all too often misinform because they were misinformed in their training. The scale of it all beggars belief and has resulted in senior civil servants at the DfE, the Schools Inspectorates, and two Children's Ministers to my personal knowledge being wrongfully informed. Few of them could grasp the very serious challenge to coalface delivery of child protection this chasm presents.

This was further revealed when I attended a safeguarding conference in 2012 that had a number of leading safeguarding practitioners speaking. Towards the end of the event five of them from different areas of child protection were gathered on the dais for a Q&A session. This included a senior person from the NHS with a significant child protection remit and who is also a member of a number of Safeguarding Children Boards. Several questions were asked about referrals, and on each occasion it was clear that concerns 'must' be made to Children's services or in the case of adult on child allegations the LADO. Rather than cause embarrassment I managed to corral three of the 'experts,' after this session, including the individual from the NHS. Each confirmed to me that it was a 'mandatory' requirement of law to report such allegations. Following the conference I had several conversations and email exchanges with the NHS manager who clearly understood that as a result of the information I provided and subsequently evidenced, the policies in his/her area were not grounded on law s/he thought existed. S/he also clearly realised the seriousness of the situation. Did s/he break ranks and create a policy that was effective as a result of not being an NHS default policy and potentially cause more than a ripple with neighbouring NHS colleagues (groupthink) who are operating an NHS default policy - or what? Candidly I do not know what actions followed if any, but here is an example of serious consequences of the dishonest approach to child protection that has been taken by successive governments which 'designs in' failure.

Is this an isolated occurrence in the health sector? Please also see pdf 0540_001 attached to this email. The letter is self explanatory and is a mea culpa combined with an extraordinary attempt by the author to convince the addressee that members of the RCN have a 'duty' to report allegations. Despite the RCN's complete non understanding of the law, for which it took knowledgeable people some weeks to confirm to the RCN that I was correct, the College is nonetheless a member of the 'WORKING TOGETHER PROFESSIONAL ADVISORY GROUP' (.pdf Professional Working Group) for the revised and stripped down Working Together Guidance'. It really would be challenging to conjure such an absurd set of circumstances.

Doctors, teachers, clerics &c., &c. have always had a 'duty' to refer but all too often these 'professionals' don't fulfil their duty and no legal sanction exists for failing to fulfil 'duty' and

refer. It is also quite clear that 'duty' does not impact the culture of child protection in Regulated Activities. This positive influence on culture can only stem from a solid foundation of supportive law, however in its absence each Regulated Activity needs to include written undertakings (contract law) in its policy, for nothing else is available.

In order to introduce NHS to the principles needed to create an effective child protection policy I provide a rare and stellar example from WELBECK DEFENCE SIXTH FORM COLLEGE near Loughborough (.pdf Welbeck). This is a specialist State sixth form college that educates young people who are going into scientific and technical disciplines of the three services as well as the Defence Engineering Science Group. It is a school owned by the Secretary of State for Defence, and operated under PFI by a contractor. The college management / ownership / Governor structure is complex. So here we have a publically owned college which shares some of the complexities of the NHS but in addition has the potentially challenging addition of mixed sex boarding. It is a fee receiving institution⁴ which adds a very complex dynamic to child abuse when it is discovered. This policy is everything the Stoke Mandeville's is not. Those links that are present are not needed to operate the policy because all the protocols are engrossed into the document and far exceed law and guidance. The key clause is 12 b) (i) on page 6 which states:

b. Referrals – the Designated Senior Person for Child Protection will:

- i. Inform the Local Authority Designated Officer (LADO) of all cases of suspected or alleged abuse.

This clause establishes the tone and culture of safeguarding in the institution. It also supports staff by stating what the institution will do with all incidents, which is to send them for assessment by someone independent of the RA with in depth experience of the subject. This particular clause in the policy permits a much clearer, simpler, and therefore more effective policy.

The policy is available on the public access side of the school's website removing the need to request a copy from the RA. But there is a further very important reason for having a good policy on the web, especially one with a commitment to inform the LADO of all suspected and alleged abuse for independent assessment because it sends a very powerful deterrent message to all those with an unhealthy interest in the young – 'keep out.'

In the 'Exposure' film a very important contribution from a former BBC employee seems to have been overlooked by almost all commentators. This involved Ms Sue Thompson who was a junior employee in the Leeds Newsroom in 1978. She worked overtime as a runner / helper on Savile's Speakeasy programme, getting cigars, making sure the dressing room was orderly and other tasks. She described knocking on the door and walking in to see Savile abusing a girl of fourteen. She quickly left and returned to the studio where she informed a colleague who laughed at her revelation and did nothing. Mandatory reporting, had it

⁴ A fee receiving RA is presented with a number of additional challenges when child abuse is discovered. This stems from the existence of a balance sheet with the attendant intangible asset of reputation. The RA's lawyers are charged with defending the institution; both the perpetrator and the child are the problem in such circumstances.

existed, might well have stopped Savile in 78 or earlier which is why Regulated Activities must undertake in writing within policies to inform the LADO of all allegations and incidents.

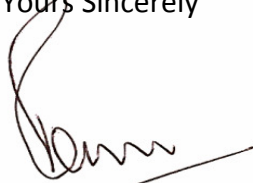
Ms Thompson has clearly been affected by this incident as anyone who has witnessed abuse of a child by an adult will appreciate. She felt she did nothing despite reporting it to a colleague. The power differential between her and Savile was enormous, but I am growing weary of the suggestion that 'it was different then,' an oblique reference to the Woodstock defence so often tripped out when clerical abuse is discussed. It was not different, child abuse was a crime then as it is now, and we continue to deal with it in the most abysmal fashion.

There were multiple incidents in my school in 1963 and in following years. Parental suspicion of child abuse did the rounds on a regular basis, people were alive to it then and to suggest otherwise is mistaken. But very sadly there really has been no improvement to the law to support staff and institutions inform the authorities, and so it is down to effective policies being assembled by Regulated Activities that do not rely on the hopelessly ineffective legislation and guidance.

We have heard incessantly that children did not speak which of course is unsurprisingly true. But what is so infrequently aired are the reasons why adults all too frequently fail to speak when they suspect or witness abuse. Had the nurses at Stoke Mandeville been supported by law or 12 b) (i) above, would we have had to wait until 2012 to learn of Savile's alleged abuses?

A few well run institutions are demonstrating how it can be done but all too often the path of minimums and least resistance is chosen The Buckinghamshire Trust has a great deal of work to undertake to achieve a policy anything close to credible and one which supports staff and fosters a positive culture. Thereafter it's all about effective training. I will be sure to read the outcome of your investigation.

Yours Sincerely



Tom Perry

- Encls: (i) .pdf - Hoyano
(ii) .pdf - Jim Gamble Ed Select Committee
(iii) .pdf – NSPCC
(iv) .pdf – Stoke Mandeville Child Protection Policy.
(v) .pdf - 0540_001 – Copy letter from RCN
(vi) .pdf – Working Together Professional Advisory Group.
(vii) .pdf – Welbeck Child Protection Policy