



The Draft Health Service Safety Investigations Bill – accreditation of NHS trusts

“While HSIB is intended to become a key player in reforming the investigative landscape, further changes will be required to effect the necessary cultural shift within the health service that would underpin an effective learning culture.”

Will the NHS never learn? Follow-up to PHSO report ‘Learning from Mistakes’ on the NHS in England, Public Administration and Constitutional Affairs Committee, 31 January 2017.

This fact sheet explains how the ‘safe space’ approach to investigations will, over time, be extended to NHS trusts and foundation trusts in England, through a rigorous system of accreditation, governed by the Health Service Safety Investigations Body (HSSIB).

Background

1. The NHS aspires to become the largest learning system in the world, delivering the safest possible care. The Draft Health Service Safety Investigations Bill aims to improve patient safety by helping NHS providers develop their capability to investigate errors in healthcare and to embed a culture of learning and safety improvement in the NHS.
2. The draft Bill makes provision for the HSSIB to assist trusts in improving patient safety investigations and, in time, to accredit NHS trusts and foundation trusts to conduct certain safety investigations under the conditions of a ‘safe space’, which prohibits the disclosure of certain information held in connection with an investigation.
3. An accredited trust will be required to

publish a report which the provider is expected to act upon

4. Unlike the HSSIB, accredited trusts will not be able to apply for a warrant to enter premises or issue a penalty notice.
5. It is expected that a similar duty of co-operation, regarding practical arrangements for co-ordinating the investigations, will exist between accredited trusts and NHS providers and clinical commissioning groups.

How will accreditation work?

6. There are around 24,000 serious incidents in the NHS every year. The Government is committed to developing, over time, the investigative capability and expertise of local trusts, so that when things go wrong, lessons are learned and shared throughout the system.

Accreditation and ‘safe space’

7. It is expected that, once HSSIB investigations using ‘safe space’ have been fully tested and established nationally, there will be an opportunity

to extend 'safe space' to local investigations conducted by trusts accredited by the HSSIB.

8. NHS trusts and foundation trusts will be able to apply to the HSSIB for accredited status. Accreditation will be granted to successful trusts that meet the required standards and demonstrate the capacity and capability to undertake 'safe space' investigations properly and effectively.
9. As with HSSIB investigations, concerns relating to professional misconduct, clinical negligence, or criminal activity, emerging in the course of an investigation by an accredited trust, will be brought to the attention of the relevant regulatory body, or the police.
10. There will be further public consultation on the criteria the HSSIB will use to accredit trusts before any accreditation takes place.

Which criteria will be applied?

11. Only NHS trusts and foundation trusts which have satisfied the highest standards will be considered by the HSSIB for accreditation to conduct approved investigations using 'safe space'.
12. The HSSIB, as the body with expertise in improving investigative practice, will draw up and publish criteria to assess the capability and capacity of trusts to undertake investigations.
13. The HSSIB alone will determine if a trust meets and continues to fulfil these criteria.

How many trusts will be accredited?

14. While trusts will need to demonstrate they are fully capable of carrying out investigations to strict criteria and standards set by the HSSIB, there is no specific limit on the number of NHS trusts and foundation trusts to be accredited.

Will trusts be able to investigate themselves?

15. Initially, under Stage One accreditation, NHS trusts and foundation trusts would only conduct safety investigations into the services of other NHS bodies upon the request of that other body or NHS Improvement, if there appears to be risks to patient safety.
16. Over time, these accredited trusts which have demonstrated excellent investigative practice and capability and meet HSSIB criteria, can apply for Stage Two accreditation to conduct investigations into their own organisation and service provision.

Will patients and families be involved in investigations by accredited trusts?

17. As with the HSSIB, accredited trusts and foundation trusts will have processes in place to involve patients and families in investigations.
18. 'Safe space' is designed to encourage patients, families, NHS staff and other participants to speak freely for the purposes of learning. It is not the purpose of an investigation by an HSSIB accredited trust to apportion blame or liability.

Will accredited trusts be critical enough of themselves?

19. Only accredited trusts which have satisfied the highest standards will, in time, be approved by HSSIB to conduct approved investigations into their own services, using 'safe space'. Accredited trusts will need to apply to HSSIB for this Stage Two accreditation.
20. Accredited trusts will be required to apply impartiality and rigour to any investigation they conduct, whether it is into their own or another NHS provider's services.
21. As with HSSIB investigations, the outcome of any accredited investigation will be published in a final report alongside any recommendations to improve patient safety.

What happens if an accredited trust fails to perform its duties?

22. The HSSIB will review the accredited status of trusts, at least once every three years, and will be able to revoke accreditation if a trust no longer meets the requirements.

23. Within four years, the HSSIB will carry out a review of the effectiveness of the accreditation process.
24. The HSSIB alone will determine if a trust meets and continues to fulfil the required criteria for accreditation.
25. An accredited trust will be reviewed during the period of accreditation to ensure it continues to meet the accreditation requirements. The HSSIB may require the trust to improve or revoke its accreditation status, if the accredited trust is failing to meet these standards.

FURTHER INFORMATION

- *Investigating Clinical Incidents in the NHS*, Public Administration Select Committee, 24 March 2015
<https://www.publications.parliament.uk/pa/cm201415/cmselect/cmpubadm/886/886.pdf>
- *Will the NHS never learn? Follow-up to PHSO report 'Learning from Mistakes' on the NHS in England*, Public Administration and Constitutional Affairs Committee 31 January 2017
<https://www.publications.parliament.uk/pa/cm201617/cmselect/cmpubadm/743/743.pdf>