Independent investigation report into the alleged falsification and/or alteration of service user records- Avon and Wiltshire Mental Health Partnership NHS Trust

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- The investigation was initiated following allegations made under local authority 'Whistle blowing' policies by 30 social workers employed by Wiltshire Council but working in Avon and Wiltshire Mental Health Partnership Trust (AWP) that they had been instructed to falsify or alter service user records and /or that records had been amended by NHS staff without the knowledge of council employees.

- One of the largest mental health service providers in the country, the Avon and Wiltshire Partnership NHS Trust (AWP) provides adult mental health services to a population of 1.6 million in Swindon, Wiltshire, Bath and North East Somerset, Bristol, South Gloucestershire and North Somerset and related specialist mental health services in that area and across the South West of England.

- The integration of health and social care between AWP and Wiltshire Council is subject to a formal letter of agreement rather than a full Section 75 agreement. These joint working arrangements have enabled the secondment of social workers to the Trust, joint team working, and integrating and making seamless the services provided to patients.

- Approximately 4 years ago years the Trust embarked on a service redesign project in acute adult community services which aimed to provide a single point of entry to services for patients, deliver seamless care, reduce inpatient bed numbers and deliver improved efficiency. The redesign process was very protracted and social workers believe that there was very little engagement with them about the redesign plans.

- During February 2012, a small number of social workers reported to a senior manager in Wiltshire Council that they had concerns about false entries in patient records in the electronic clinical record (RiO). A subsequent Wiltshire Council led investigation carried out in March 2012 clarified that nearly 30 social workers working in either adult community or liaison and later life services shared the same concerns.

- Both NHS and social care staff describe the culture of AWP as being preoccupied with targets and systems with little focus on patients and quality of care and little evidence of wanting to engage and listen to either its partners or its staff.

- AWP has a range of policies on record keeping and information governance but they are insufficiently succinct to enable ease of reading and absolute clarity in relation to what the policy intends, what is expected of staff and the penalties for non-compliance.

- All staff reported a relentless focus on completing/entering electronic data in the patient clinical record much of which in their view was not necessary to deliver patient care but was required for target compliance and which required

significant additional time thereby reducing the proportion of patient facing time.

- 17 patient records were reviewed and cross referenced and exposed a lack of consistency, omissions and false reporting. The records contained events that did not happen, such as face to face contacts and events with incorrect outcomes such as patient cancellation as opposed to a Did Not Attend (DNA). The records also contained blank Care Programme Approach (CPA) reviews which supported the social workers contention that information had been falsely entered.

- We have evidenced from our own audit, the verbal admissions of some social care and NHS staff and AWP's report 'Avoiding Contract Breaches opening and closing of referrals', that some patient records in Wiltshire have been falsified by some social workers, some NHS team managers and some RiO administrators working in the adult community and liaison and later life business units.

- Both NHS and social care staff told us that these perverse behaviours were driven by inappropriate targets and/or unrealistic thresholds, a zero tolerance policy of breaches and a threatening performance management culture.

- Whilst senior managers did not offer constructive guidance about how targets might be met there is no evidence that they gave instructions or advice to falsify data.

- Key Performance Indicators (KPI'S) were often met in spirit, but not recorded as such due to complexities of RiO or lack of expertise or time on behalf of clinical staff. As a consequence the review did not find that individual service users had been placed in any direct risk that would be likely to meet the threshold for triggering the multi-agency safeguarding procedures. However, there was the potential for risk to service users in a number of other ways (see Para 4.6.1).

- The result of the falsification when data is aggregated at Trust/Commissioner level may have resulted in contractual financial penalties for some targets being avoided; whilst we have no evidence that there was any deliberate attempt to defraud the potential for fraud may need further consideration

- Wiltshire GP's reported a poor relationship with AWP and distrust of the Trusts 'green' performance score cards and the reliability of the data as this did not resonate with their view of the quality of care being delivered to their patients.

- There has been a recent and significant deterioration in the expected partnership arrangements and relationships between social workers and the AWP at all levels in Wiltshire. Historic arrangements for the professional and operational management of social workers within AWP has been poor and there appears to have been limited understanding in AWP, as the number of

managers from a social care background reduced, about the role of social care professionals in mental health.

- AWP may be failing to process information in accordance with the Data Protection Act. Three specific breaches should be considered. Firstly in relation to the recording of data about 'carers' without their express knowledge or agreement of the individual concerned. Secondly it is questionable whether the records meet the accuracy principle. Thirdly whether there is a breach of the requirement to take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data.

- The complaints probably represented a significant symptom of a system under stress, and cannot be seen in isolation from other difficulties previously identified and reported on. This is a systemic issue. The majority of the staff appeared as hard working and caring clinicians who were under significant duress.

- Given the systemic cause for our findings it is probable that the issues run wider than Wiltshire, however an additional and more extensive audit of patient records in other local authority areas would be required to confirm or deny the probability.

- The Board of AWP needs to change the Trust culture from one that is target driven, top down, centralist, bureaucratic and dictating to one which is open and inclusive, where the patient and quality of service is at the heart of its business and all staff and partners are engaged in the design and delivery of high quality care.

- The performance management culture and framework in AWP needs to be changed as a matter of urgency from one that is punitive and threatening to an approach that is honest, constructive and supportive and celebrates success.

- The commissioners have advised that all KPIs, whether national or local, have been signed off and agreed with AWP. Nevertheless it is our view they need to work together urgently, with social care, to agree a revised set of clinically evidenced KPIs, withdrawing KPIs that have little or no clinical validity, and consider how contractual financial penalties can be structured to motivate staff and improve services rather than be used as a punitive threat.

1. Background

1.1 The investigation was initiated following allegations made under local authority 'Whistle blowing' policies by a number of social workers employed by Wiltshire Council but working in Avon and Wiltshire Mental Health Partnership Trust (AWP) that they had been instructed to falsify or alter service user records and/or that records had been amended by NHS staff without the knowledge of council employed staff.

1.2 The independent investigation was commissioned by NHS South Gloucestershire, NHS Wiltshire, Wiltshire Council and NHS South of England in response to concerns that there may be a significant systemic systems failure associated with the management and governance of data concerning the treatment and care of people using mental health services provided by Avon and Wiltshire Partnership NHS Trust.

1.3 Investigation review team members were selected and approved by the investigation steering group and were as follows:

Dr Stephen Colgan - Consultant Psychiatrist and Medical Director Greater Manchester West Mental Health NHS FT
Ms Jo Lappin - Head of Safeguarding, Mental Health and Learning Disability Southern Health NHS FT and a social worker by background
Mr Steve Pitt - Independent consultant, previously Director of Adult Social Services Dorset County
Mrs Sue Sutherland (Lead reviewer) - Independent consultant, previously Chief Executive Poole NHS FT
Mr Mark Underwood - Head of Information Governance, Oxford Health NHS FT.

1.4 The terms of reference for the investigation are attached at Appendix 1.

2. Methodology

2.1 The investigation was conducted as follows:

2.1.2 Reviewing a range of documents including the Wiltshire Council report into their own investigation following the allegations made and AWP's reports with findings from their own internal investigations. The full list of documents reviewed is at Appendix 2.

2.1.3 Face to face interviews on the 13th and 14th of June 2012 with:

- 4 social work team leaders
- 12 social workers chosen randomly from a numbered list of 30 who had made the original allegations and/or had been interviewed in the local authorities own investigation.

- 2 General practitioners based in Wiltshire who had raised concerns with commissioners about reliability of performance data and potential falsification of patient records.
- 4 community team managers from the Adult Acute Community SBU

Other than the GP's the staff interviewed worked in either adult acute community services or liaison and later life services.

2.1.4 Interviewing employed a semi structured approach that sought responses to the following themes:

- Organisational structures, relationships and communication paths
- Staff understanding, knowledge and practice in relation to record keeping
- Witnessed or known instances of the falsifying or altering of records
- Quality of care and safeguarding arrangements

2.1.5 Examining, under supervision, 17 individual electronic patient records on the live patient administrative system (RiO) to verify whether or not there was evidence to support the allegations made.

2.1.6 The review team deployed a comprehensive range of skills and experience to undertake the review and make the necessary professional judgements to draw conclusions including:

Steve Pitts 38 years experience of social care, experience as a regional director in the Social Service inspectorate and as a Director of Adult and Community Services.

Jo Lappins experience as a social worker with academic qualifications in mental health, psychology and law and as a current NHS Head of Safeguarding with extensive training in and experience of investigations and reviews.

Steve Colgans 20 years clinical experience as a Consultant Psychiatrist and 13 years leadership and management experience as a medical director in a Mental Health Foundation Trust and extensive experience as an independent reviewer.

Sue Sutherlands qualifications in nursing and HR management and significant leadership, governance and management experience gained through over 20 years as an executive director including 10 years as an NHS Chief Executive and extensive experience as an independent reviewer.

Mark Underwoods experience of governance as a Mental HealthTrust Head of Governance and his technical knowledge of the RiO system and patient records.

3. Context

3.1 One of the largest mental health service providers in the country, the Avon and Wiltshire Partnership NHS Trust (AWP) provides adult mental health services to a population of 1.6 million in Swindon, Wiltshire, Bath and North East Somerset, Bristol, South Gloucestershire and North Somerset and related specialist mental health services in that area and across the South West of England.

3.2 The Trust was formed in 2001 from a number of different Trusts and services, including forensic services, across the whole of the AWP area, all of which had differing standards of performance and management arrangements.

3.3 In the last 6 years the Trust has been restructured from a locality based organisation to 4 and more recently 5 Strategic Business Units (SBU) based around the care delivery themes of secure and specialised, adult acute inpatients, drug and alcohol services, liaison and later life, and adult acute community services. Each Business Unit provides services across the geographic area of the Trust.

3.4 Leadership of each SBU is provided jointly by a Clinical Director who is accountable for the quality, safety and governance agenda and who reports to the Director of Nursing, Compliance, Assurance and Standards and a Service Director who is accountable for finance, performance and operational management and who reports to the Director of Operations.

3.5 For the past few years steps have been made to formalise the integration of health and social care between AWP and Wiltshire Council under a S75 agreement, but this has not yet been achieved. In the current year a formal letter of agreement has been agreed between the two organisations. The Health Act flexibilities (first introduced in the Health Act 1999 as s31, repealed and replaced by the National Service Act 2006 to become s75) intended to allow Local Authorities and Health partners to work together more effectively through the design and delivery of services around the needs of users rather than being influenced by organisational boundaries. However, even in the absence of full integration under Section 75, we understand that joint working arrangements have enabled the secondment of social workers to the Trust, joint team working, and integrating and making seamless the services provided to patients. It would therefore be expected that partnerships would be well established with appropriate communication and collaboration at both strategic and operational levels.

3.6 In common with many other NHS mental health providers AWP recently completed the implementation of an electronic patient information system – RiO, the concept of which was broadly welcomed by staff as an improvement to care delivery. The implementation had been subject to a detailed project plan which included a comprehensive training programme from January 2010 until May 2011 in which nearly 4000 staff participated and of which 95% passed.

4. Findings

4.1 Structures and relationships

4.1.1 Approximately 4 years ago years the Trust embarked on a service redesign project in acute adult services which aimed to provide a single point of entry to services for patients, to deliver seamless care, reduce inpatient bed numbers and deliver improved efficiency. Project implementation was troubled by many factors, not least the complexities of consulting with multiple PCTs and local authorities. The redesign process was very protracted with NHS posts being redesigned, ring fenced and protected for existing staff to apply for leading to increasing numbers of vacancies and some staff having to reapply for their jobs. We were told that this caused considerable and enduring anxiety and concern and high sickness absence levels although the Trusts records confirm that sickness absence targets were not breached. Whilst social workers in the Acute Adult Community SBU were not affected by the prospect of job insecurity to the same extent, the impact was that the overall capacity of patient care teams was reduced, social workers became a more dominant proportion of the team and they reported that they were required to take on increasing caseloads some of which was felt to be inappropriate and not within their usual professional scope of responsibility.

4.1.2 Whilst latterly a service redesign consultation document was circulated, social workers believe that in reality there was very little discussion and engagement with social care partners about the redesign plans and that any response they made was not listened to. One comment was that 'AWP cracks on doing what it wants and ignores partners'. This is probably one of the issues that led to the significant deterioration in the expected partnership arrangements and relationships reported to us.

4.1.3 We are told that the redesign project in the Adult Acute Community SBU commenced in December 2011 and was due to be completed by October 2012, however significant change occurred in the week prior to our visit with all NHS and social care staff interviewed reporting that they now worked in new posts and/or new locations.

4.1.4 During February 2012, a small number of social workers reported to a senior manager in Wiltshire Council that they had concerns about false entries in patient records in the electronic clinical record (RiO). These concerns were reported to the Director of Nursing, Compliance, Assurance and Standards in AWP by Wiltshire Council's Head of Service – Mental Health on the 15th February. A subsequent Wiltshire Council investigation into the allegations carried out in March 2012 clarified that nearly 30 social workers working in either adult community or liaison and later life services shared the same concerns.

4.1.5 Social workers reported to us increasingly poor relationships with AWP. Some also reported poor relationships with NHS team colleagues and managers and a general feeling of mistrust caused by a multiplicity of issues including the relentless

drive to achieve targets (in which they admitted they were not always complicit), falsification of records and the allocation of work and caseloads, some of which was inappropriate but which was deemed necessary to avoid breaches of commissioner agreed service standards. We heard, for example, of social workers being asked to see patients who had been referred by GPs specifically for a medical opinion and which might explain the high number of referral cancellations and re-books as the capacity of medical staff was often insufficient to see the patient within the 4 week target.

4.1.6 GP's reported a very poor relationship with AWP and described the organisation as 'dysfunctional'. It is their view that the largely 'green' performance score cards most particularly in relation to service for adults of working age bear no relationship to quality of care delivered to their patients and believe the score cards to be based on incorrect data. The GPs commissioned, with the PCT, an analysis of data to triangulate their concerns specifically about urgent referrals that GP collected data does not match that reported by RiO. The outcome of that analysis is the subject of continuing debate.

4.2 Culture, leadership and management

4.2.1 Both NHS and social care staff describe the culture of AWP as being preoccupied with targets and systems with little focus on patients and quality of care and little evidence of wanting to engage and listen to either its partners or its staff.

4.2.2 Both NHS and social care staff reported working in a pressured environment with stressed staff at all levels and high sickness absence and turnover levels although the Trusts sickness and turnover data does not support this.

4.2.3 Both NHS and social care staff described working in a bullying and intimidating environment with a relentless focus on achieving targets, avoiding breaches and 'staying green' (the scorecard) and threats of fixed penalties being applied to team budgets for breaching targets. We were shown an email from a care team administrator to a social worker that confirmed a £3000 fine would be applied to the team for breaching a referral to assessment target for a single patient. The email went onto confirm that despite the fact that the social worker had recorded multiple telephone contacts with the client, the administrator had added a face to face contact visit to the social workers RiO diary to avoid the breach.

4.2.4 In addition we were told there is culture of 'scapegoating' with AWP blaming others such as commissioners and other organisations and this then fed down into the front line with social workers in particular believing that they were blamed in some instances for breaches.

4.2.5 We were told that the historic arrangements for the professional and operational management of social workers have been poor with very few social workers currently occupying leadership positions in AWP and that this has served to significantly restrict cross organisational understanding about the role and value of

social workers in mental health and which led to Wiltshire Council establishing a separate professional leadership structure for their social workers in 2009.

4.3 Performance management

4.3.1 AWP performance management meetings are held regularly and in some cases weekly with and between the Trust performance team, strategic business unit managers and local clinical team managers.

4.3.2 Social workers expressed concern about their NHS colleagues, team managers, coming back 'frazzled like they had been put through a mangle'' from performance meetings with senior Trust managers.

4.3.3 Both NHS and social care staff interviewed described a zero tolerance policy to breaching targets with a threatening performance culture in which financial penalties would be applied to individual teams if targets were not achieved. Social workers informed us they were told 'they must not flag' and 'they must not breach'.

4.3.4 It was reported that senior managers offered neither constructive guidance about how targets might be met nor advice to falsify data, behaviour which appears to have been originated by team managers under pressure to deliver from above. In fact some social workers told us that they were merely directed to talk to other business units, especially in relation to the 'carer' key performance indicators (KPI) whose performance was satisfactory to ask them how they did it. It became clear to social workers that this particular business unit's achievement was due to falsifying data.

4.3.5 When asked about feeding back concerns about the appropriateness and deliverability of targets staff told us that their team managers listened and were sympathetic. The managers confirmed that they fed the concerns back to more senior Trust officers at performance meetings but the latter just reinforced the zero tolerance policy and threatened fines to local budgets.

4.3.6 Both NHS and social care staff were able to tell us their understanding of the thresholds for specific targets. As an example the identification of carers threshold was variously quoted as between 35-75% and the DNA rate 5%. On further examination the actual contract the DNA rate is correctly understood but the contractual target threshold for the identification of a carer is 25% or 35% depending on the service. This suggests that staff either misunderstood or were misled about the contractually required threshold.

4.4 Policies and guidance

4.4.1 AWP has a range of policies on record keeping and information governance which are made available electronically to both health and social care staff and updates provided via a management cascade system.

4.4.2 The policies are academic in nature, but thin on practical content for staff (what does the Trust expect of me in this area?), and the Health & Social Care Records Policy was overly long (38 pages). However, whilst quality of policies and their fitness for purpose is subjective there were clear statements in the documents that neither the organisation nor staff were complying with. For example; The Overarching Information Governance Policy has the express purpose "to ensure the integrity of information and systems" (para 5.1). The Health & Social Care Records Policy has enough in it for staff to understand their record keeping duties: "ensure that 'personal data' and 'sensitive personal data' is fit for purpose (data quality), and is protected from accidental or deliberate loss or damage (data security) (para 1.4); "accurate, up-to-date" (para 1.5.1 and 18.1); "alteration or erasure" (para 4.2.1.3); "be consecutive" (para 18.1.1); "be factual, objective, and clear" (para 18.1.3).

4.4.3 Social work team leaders told us that 'staff do not have time to read lengthy policies' and in their view any updates did not clarify succinctly the parts of the document that had been changed.

4.4.4 The majority of health and social care staff also told us that in relation to RiO there was a lack of clarity and flexibility around some of the rules for using the system and/or the definitions that were needed for data collection for the patient electronic clinical record, one of the examples given being what constitutes a 'carer' for data collection purposes.

4.4.5 Whilst we understand that it is possible to attribute clinical entries to a record on behalf of others it must be genuine and logical and comply with guidance, staff interviewed did not refer to seeing any specific guidance on this matter.

4.5 Records and record keeping

4.5.1 By May 2011 AWP had fully implemented a new electronic clinical record – RiO, the last area to 'go live' being the adult service business unit. The system enables the collection of a wider range of data than hitherto and has a comprehensive reporting system to enable scrutiny and performance management of key performance indicators. When the first performance reports were run it exposed in a brutal fashion failure to meet some KPI's.

4.5.2 Whilst the implementation appears to have gone smoothly staff report being trained before the system was implemented so that they had forgotten some of the key skills when the system went live.

4.5.3 All staff reported a relentless focus on completing/entering electronic clinical patient record data 'in the office' much of which in their view was not necessary to deliver patient care but was required for target compliance and which required significant additional time thereby reducing the proportion of patient facing time very significantly. Some social workers said the proportion of time spent on data collection had increased from about 20% to 70% reducing patient contact time to 30% of their working day. Other staff informed us that clinicians would at times work late into the evenings to ensure their records were updated in a timely fashion.

4.5.4 We did not hear any evidence of the use of, or plan for the use of mobile technology that would enable data to be entered with the client and or carer in attendance in their home setting e.g. a co-produced care plan, although we understand that the Trusts IMT strategy sets outs a plan for mobile working and has a project underway.

4.5.5 We have evidenced from our own audit, the verbal admissions of some social care and NHS staff and AWP's report 'Avoiding Contract Breaches opening and closing of referrals', that patient records have been falsified in Wiltshire by some social workers, some NHS team managers and some RiO administrators.

4.5.6 We examined 17 records of individual patients whose names we were given by staff we interviewed who told us they had had their records falsified or amended by a range of other people. The examination included cross referencing a number of areas in the RiO system including contacts, progress notes and contemporaneous text. In addition we reviewed carer information. We evidenced a lack of consistency, omissions and false reporting. The records contained events that did not happen, such as face to face contacts and events with incorrect outcomes such as a patient cancellation rather than a DNA. The records also contained blank Care Programme Approach (CPA) reviews which supported the social workers contention that information had been falsely entered.

The records altered were limited to those linked to contractual target thresholds that were especially difficult to achieve and in some cases were unrealistic, specifically:

- DNAs which were recorded as patient cancellations to avoid a breach of the 5% target
- CPA reassessments were uploaded as blank forms to meet 3 month timescales
- Carers details were added to a local drive database without the knowledge or agreement of the individual who may or may not have considered themselves a carer to achieve the target to increase the number of clients with a 'carer'
- Care plans were uploaded without the care co-ordinators' knowledge to achieve the 4 week target.
- Referrals were cancelled and rebooked to avoid breaching the 4 week waiting times

4 of the 5 targets listed above attracted contractual financial penalty for breaches at Trust level under the commissioner contract for service.

4.5.7 We noted that social workers had entered clinically appropriate information that was consistent, contemporaneous and diligently completed. However it was rarely accompanied by other information making the notes appear unidisciplinary and incomplete which could pose a significant clinical risk.

4.5.8 Both NHS and social care staff told us that these perverse behaviours were driven by inappropriate targets and/or unrealistic thresholds, a zero tolerance policy of breaches and a threatening performance management culture.

4.5.9 However to some extent almost the majority of NHS and social care staff interviewed were complicit in 'massaging' data. For example following a directive to use the electronic diary to list proposed patient contact appointments it became clear that if a patient did not attend (DNA'd) this would negatively impact upon the target. Staff were therefore advised to list the day's contacts retrospectively i.e. at the end of the day, thereby not listing any failed contacts as DNA's.

4.5.10 Often KPIs were met in spirit, but not recorded as such due to complexities of RiO or lack of expertise or time on behalf of clinical staff who became the main staff to enter data. Some we interviewed considered the RiO system inflexible and not fit for purpose and thought it necessary to provide interpretation of events that were to be recorded on RiO that would meet the target. For example, in relation to care reviews, clinicians would meet regularly with patients, and although this frequently involved a review of needs, it would not be scheduled or recorded as a 'care review'. Team managers suggested that such events could be retrospectively 'badged' as a care review for the purpose of achieving the target and indeed managers and administrators did just that mostly without the express permission or knowledge of the care co-ordinator. This would not be recognised within the CPA guidance as good practice.

4.6 Patient welfare, quality of care and safeguarding

4.6.1 The review did not find that individual service users had been placed in any direct risk that would be likely to meet the threshold for triggering the multi-agency safeguarding procedures. A safeguarding referral made under the multi agency safeguarding policy applies where vulnerable adults experience abuse or neglect usually by a perpetrator in a position of power, trust or authority over that individual which results in significant harm. Whilst service users in AWP meet the definition for vulnerable adults, from the interviews we undertook there was no evidence that service users did experience significant harm (although there was potential for this) and those responsible for falsifying records were not intending to exploit the vulnerability of service users, no abuse occurred and therefore the threshold for triggering the multi agency policy is not met. However, there was the potential for risk to service users in a number of ways:

- The focus on less meaningful performance targets means that there is less emphasis on quality of care, direct contact and meaningful care planning.

- Whilst no clinical narrative or material was invented as such, other incorrect information about the contact between care co-ordinators and service users could cause difficulty in the absence of the care co-ordinator. For example, if the system was showing that a review had taken place when it had not, this may lead to a manager or staff member covering to give less priority to this service user in terms of contact and monitoring visits.

- In the event of a critical incident involving a service user, incident management procedures and/or any inquest would require a review of the contact between the professional and the client. The service would undoubtedly be compromised if recorded information was found to be incorrect.

4.6.2 Any opportunity to improve patient/client care by increasing the amount of client facing time is sacrificed by requiring staff to spending increasing amounts of time on data collection for the clinical patient record and input for targets for which there is no clinical validity or evidence.

5. Conclusions

5.1 The falsification of records has undoubtedly occurred in Wiltshire. We believe that the majority of records altered were linked to unrealistic, unnecessary and non-evidence based local contractual targets and/or thresholds. We believe that the falsification probably commenced when RiO was first implemented and the first performance reports were run exposing hitherto unreported gaps in the achievement of targets.

5.2 Falsification occurred as an attempt by front line staff to achieve a green (good outcome) balanced score card as a result of a zero tolerance approach to breached performance against targets. However whilst it appears managers were unable to offer any credible suggestions as how to improve service delivery there is no evidence that senior managers in AWP prescribed the manipulation of data. Rather, they created the environment where middle managers felt unsupported, and had to use increasingly creative measures to survive.

5.3 There is no evidence that patient care has been affected, although the chronology of care interventions as documented will be incorrect in some circumstances and this could pose a problem should there be a critical incident.

5.4 The result of the falsification when data is aggregated at Trust/Commissioner level may have resulted in contractual financial penalties for some targets being avoided. We have no evidence that there was any active attempt to defraud i.e. to gain an unjust financial advantage, rather efforts at a senior level probably reflected attempts to achieve compliance in the pursuit of Foundation Trust status and at a more junior level to avoid ‘hassle’ from senior managers. Never the less the potential for fraud exists and may need to be considered further.

5.5 The organisation is unlikely to be processing information in accordance with the Data Protection Act. Three specific breaches should be considered. Firstly in relation to the recording of data about 'carers' without their express knowledge or agreement of the individual concerned which does not satisfy fair processing requirements. Secondly as patient records contain entries and information that is incorrect it is questionable whether the records meet the accuracy principle Thirdly AWP should consider whether it is in breach of the requirement to take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data.

5.6 The ability to deliver a safe standard of care is hampered by the increasing proportion of time staff spend undertaking activities that are required to deliver a non-evidenced target and collecting and inputting data into the patient electronic clinical record, thereby significantly reducing the time that they could otherwise spend on more urgent patient facing activity.

5.7 Having considered the evidence presented in AWP's own report on 'Avoiding Contract Breaches – opening and closing of cases' (which confirms that patient referrals were opened and closed and re-booked we believe to ensure compliance with contractual waiting times targets) we draw the conclusion that this is yet further proof that data was manipulated, that the cause is systemic. Whilst it is therefore probable that some altering of records merely to meet targets described by staff as 'perverse' is likely to have happened elsewhere in AWP, we have only examined the records of patients in Wiltshire and an additional audit of patient records in other local authority areas would be required to confirm or deny the probability.

5.8 Evidence from AWP's report 'Avoiding Contract Breaches - opening and closing of cases' confirms that this went on in Wiltshire teams at times throughout 2011/12. Whilst we think the quantity of falsified records will have diminished in 2012/3 as managers and staff have got better at anticipating breaches and taking constructive remedial action such as local service redesign we believe it may still continue.

5.9 AWP was described as a dysfunctional organisation focussed predominantly on the delivery of targets many of which lack clinical validity as indicators of good clinical care and an organisation that has been isolationist in its approach and with very poor partner relationships.

5.10 The Trust has been driving a redesign programme for the last 4-5 years of which changes to Acute Adult Community Services started in December 2011 and were due to conclude in October 2012. The consequences of this were that NHS posts were redesigned, ring fenced and protected for existing staff to apply for causing considerable and enduring anxiety and concern. While social workers were not affected by the prospect of job insecurity to the same extent, the impact was that the overall capacity of patient care teams was reduced, social workers within the Acute Adult Community SBU's became a more dominant proportion of the team and reported that they were required to take on increasing caseloads some of which were inappropriate.

5.11 The historic arrangements for the professional and operational management of social workers within AWP had been poor with many social workers receiving little if no support to which Wiltshire Council responded by implementing new professional leadership arrangements in 2009 giving social work staff joint accountability to both organisations. We accept that because of the social workers' joint accountability to both the NHS and Wiltshire Council they felt empowered to expose inappropriate practice whilst NHS staff could not because of an intimidating culture coupled with a redesign that caused personal job insecurity. In addition there appears to have been limited understanding in AWP, as the number of managers from a social care background reduced, about the role of social care professionals in mental health.

5.12 There can be no doubt that when the falsification issue came to light, this was probably the last straw for Wiltshire County Council as it compounded the concerns about staff support it had been actively trying to address with the Trusts Director of Nursing, Compliance, Assurance and Standards since October 2011. We understand that the very significant concerns which led to the removal of social work staff from the direct management of the Trust were escalated to AWP's Chief Executive (CE) by Wiltshire Councils Director of Adult Social Services on 4th April 2012 in an attempt to avoid the schism that has now occurred at all levels, once it was clear that less senior officers had failed to find a positive resolution and after the Trusts Director of Nursing, Compliance and Standards had, on the same day asked WCC to take back the management of social workers. We were surprised that given the seriousness of the issue that the CE suggested that the matter should be dealt with informally.
Whilst social care staff were relieved to have new management arrangements with the council given the difficult situation they found themselves in; we found that staff across both organisations regretted the negative impact of the decision on joined up working which, in their view is detrimental to the delivery of high quality care.

5.13 Our review identified that the complaints probably represented a significant symptom of a system under stress, and cannot be seen in isolation from other difficulties previously identified and reported on in various published review reports and which we believe the Trust are actively addressing. This is a systemic issue. The majority of the staff appeared as hard working and caring clinicians who were under significant duress, whilst attempting to make a broken system work, and prevent the Trust from being seen as failing.

6. Recommendations

6.1 As a matter of urgency AWP should review and where necessary update and amend its arrangements for data protection to ensure compliance with legislation.

6.2 The Board of AWP needs to change the Trust culture from one that is ~~a~~ target driven, top down, centralist, bureaucratic and dictating to one which is open and inclusive, where the patient and quality of service is at the heart of its business and all staff and partners are engaged in the design and delivery of high quality care.

6.3 The performance management culture and framework in AWP needs to be changed as a matter of urgency from one that is punitive and threatening to an approach that is honest, constructive and supportive and celebrates success.

6.4 The Commissioners told us that they are very wary of imposing financial penalties that may have a negative financial affect on the organisation as a whole but some were inevitable where serious harm could occur as a result of a breach. Nevertheless we suggest that AWP and its commissioners need to work together urgently with social care to agree a revised set of clinically evidenced KPIs, withdrawing KPIs that have little or no clinical validity, and consider how financial penalties can be structured to motivate and improve service rather than be used as a threat with counter intuitive consequences.

6.5 AWP should revise and reissue all policies relating to information governance and record keeping making them more explicit about what staff should do and not do, ensuring that they are sufficiently succinct that staff can access key information quickly and easily, maybe through the use of a summarised key points page.

6.6 AWP should aim to increase the proportion of time patient-facing staff are able to spend with patients by reducing the burden of data collection and input and in addition consider introducing mobile hand held technology so that data can be collected and input in conjunction with patients and carers.

6.7 AWP should reach agreement with both social care and NHS staff about the patient care data that may be appropriately entered by staff other than the care co-ordinator such as RiO administrators, and issue revised guidance on responsibility for data entry and validation to all staff.

6.8. As a matter of urgency Wiltshire Council needs to clarify its future vision for mental health services and this should involve, in the interests of patients / users, an integrated service with the NHS covered by a Section 75 agreement. In reaching any conclusion about the future the Council should have discussions with AWP at the highest level.

6.9 In addition AWP would benefit from the appointment of a skilled and experienced social care leader at director level in the organisation who might also act in a lead professional role.

6.10 Both AWP and Wiltshire Council need to invest in team building activity that assists in an active way with forging positive, collaborative approaches and relationships that will be maintained in the long term and enable teams to work together to deliver the best possible service to patients and carers.

6.11 This investigation report is limited to Wiltshire and does not conclude with certainty whether or not the concerns were/are more widespread. In order to fully meet the terms of reference in this respect the investigation steering group should consider whether further investigation is required.

Appendix 1

NHS
South of England

South of England Strategic Health Authority

NHS South Gloucestershire,

Wiltshire Council, NHS South of England

Terms of Reference for an independent investigation into the alleged falsification and/or alteration of service user or service user associated records, Avon and Wiltshire Partnership NHS Trust mental health services

28 May 2012

Introduction

This investigation has been initiated in accordance with Department of Health guidance (2005) concerning the conduct of independent inquiries into mental health services, replacing paragraphs 33 -36 in HSG (94) 27, (LASSL(94)4).

The investigation has been initiated within a commissioning framework, as requested by Wiltshire multiagency safeguarding strategy meeting and as agreed by the Lead Commissioning Group (Section 4), in response to concerns that there may be significant systemic system failure associated with the management and governance of data concerning the treatment and care of people using mental health services provided by Avon and Wiltshire Partnership NHS Trust.

The investigation has been commissioned jointly by,

NHS South Gloucestershire**, as the lead NHS commissioner of services from Avon and Wiltshire Partnership NHS Trust;**

NHS Wiltshire;

Wiltshire Council;

NHS South of England.

Aim

The aim is to investigate the allegations of the falsification and/or alteration of service user or service user associated records, and/or the request to do so by staff within Avon and Wiltshire Partnership NHS Trust mental health services, as reported by Wiltshire Council social services staff in order to confirm;

Whether there is evidence to support the allegations;

Whether any concerns are isolated to the Wiltshire area.

Objectives

The investigation should consider,

the chronology, source, nature and type of allegations

the context and circumstances associated with the allegations

the extent to which the allegations are contained within Avon and Wiltshire Partnership NHS Trust's services in Wiltshire, and/or the extent to which they feature elsewhere in the Trust's services;

adherence to, or deviance from Avon and Wiltshire Partnership NHS Trust policy, Wiltshire Council social services policy, professional codes of conduct and practice, and legislative requirements; and the policies of Councils party to this investigation, if required;

the impact on the safety, care, treatment and welfare of service users and their carers/families as a consequence of any falsification or alteration of records, including the assessment and management of risk and any safeguarding issues,

any issues associated with governance, management and leadership of staff and services in question,

any issues associated with the governance, management and leadership of staff and services across Avon and Wiltshire Partnership NHS Trust,

any issues associated with other organisations and services engaged in the welfare, treatment, care and safeguarding of the service users and carers/families in question;

any impact of allegations on the reported performance by the Trust;

to identify key issues, lessons learnt, recommendations and actions by all directly involved;

identify lessons and recommendations that have wider implications so that they are disseminated to other agencies and services.

Terms of Reference

The investigating team will develop methods and a methodology to investigate the allegations. This should include review of,

the reported allegations;

Wiltshire Council's report of its investigation in response to allegations made by social services staff;

concerns raised by General Practitioners in Wiltshire in relation to the reliability of performance data and potential falsification of patient records;

with respect to services and/or teams associated with the allegations,

staff understanding, knowledge and practice in relation to the recording of patient information, management and performance data;

the recording of information via information system(s);

identification of any instances where records have been falsified or altered;

assessment of any impact on the welfare, safety, care and treatment of service users and/or their carers/families, as a possible consequence of any instances where records have been falsified or altered. This may include, for example, staff understanding, knowledge and practice of policy and legislation associated with the Mental Health Act (2007), multiagency adult safeguarding, Mental Capacity Act (2005), deprivation of liberty safeguards, and the risk assessment and management of people who are vulnerable.

The investigating team should establish whether any of these issues and concerns are associated with services provided by Avon and Wiltshire Partnership NHS Trust in other local authority and Primary Care Trust areas.

Should issues emerge relating to potential risk to people using services, potential unlawful activity or misconduct, or human resources issues, these should be reported forthwith to the relevant authorities(s) which may include the Police, NHS Counter Fraud, the Care Quality Commission, and/or the relevant commissioning agencies. Reporting lines and contact details shall be clarified upon commission of the investigation.

At any point, should concerns arise or issues be identified regarding the safeguarding of vulnerable adults they shall be escalated and reported forthwith to:

the appropriate local authority in line with local authority safeguarding procedures; and

the chairperson of the Investigation Steering Group, so that consideration may be given to the relay of information to other agencies party to the commissioning of this investigation.

The investigating team will present methods and methodology to commissioning agencies; finalise; and agree process and time frame for delivery.

The investigating team will undertake an independent investigation, providing updates on progress at agreed intervals and an interim report to commissioning agencies in order to establish whether adjustments to methods and methodology, and/or revisions to the scope of the investigation are required.

The investigating team will complete independent investigation, reporting to the commissioning agencies with findings and conclusions, making recommendations for actions to be taken by Avon and Wiltshire Partnership NHS Trust and the commissioning agencies.

Outcomes

The investigating team shall supply, within agreed timescales;

proposed methods and methodology for undertaking the investigation, and associated schedule for delivery;

an interim report;

a comprehensive report including executive summary and recommendations for action.

Governance

The investigation shall be overseen by a Steering Group, acting as a sub group of the Lead Commissioning Group (refer to Section 5, Membership).

The investigation Steering Group shall be chaired and administered by NHS South Gloucestershire or a nominated representative.

The Steering Group shall meet at agreed intervals in order to receive progress updates and reports, and to manage internal and external communications.

On receipt of the interim and final report a review of the Terms of reference will be undertaken by the Steering Group which will include confirmation to Avon and Wiltshire Partnership NHS Trust of any further joint investigation or intended next steps.

Frequency of meetings shall be agreed with the Steering Group. In exceptional circumstances extraordinary Steering Group meetings shall be called by the Chairperson.

Internal and external communications

A communications plan shall be agreed by the commissioning agencies, and led by the investigation Steering Group.

The Steering Group shall undertake a stakeholder mapping exercise in order to inform its communications plan.

Internal and external communications shall be a standing item on the agenda of the Steering Group.

Membership

Lead Commissioning Group

Membership of the Lead Commissioning Group is set out in Table 1, below.

Table 1: Lead Commissioning Group

Agency	Name	Job Title
NHS Bristol, North Somerset, South Gloucestershire	Lindsey Scott (Chair, Lead Commissioning Group)	Director of Quality and Governance
NHS Wiltshire	Mary Monnington (Chair, Investigation Steering Group)	Joint Director of Nursing, NHS Wiltshire & Bath and North East Somerset PCT Cluster
NHS Bristol, North Somerset, South Gloucestershire	Alison Robinson	Deputy Director of Quality and Governance
NHS North Somerset	Julie Kell	Commissioner, Mental Health
NHS Bristol	Sally Whitley	Commissioner, Mental Health
NHS Bath and NE Somerset	Andrea Morland	Commissioner, Mental Health
NHS Swindon	Claire Allen	Commissioner, Mental Health

Investigation Steering Group

Membership of the Investigation Steering Group is set out in Table 2, below.

Table 2: Investigation Steering Group

Agency	Name	Job Title
Wiltshire Council	George O'Neill	Head of Service Mental Health, Substance Misuse and Safeguarding Adults. (Lead co-ordinator for information to other relevant local authorities).
NHS Wiltshire	Mary Monnington (Chair)	Joint Director of Nursing, Bath and NE Somerset and Wiltshire PCT Cluster
NHS South Gloucestershire	Alison Robinson	Deputy Director of Quality and Governance
NHS South of England (West)	Geoff Baines	Associate Director, NHS South of England
NHS South of England (West)	Kate Schneider	Programme Lead, Mental Health, Dementia, Autism
NHS South of England (West)	Julian Brookes	Associate Director, NHS South of England
South of England Specialist Commissioning Group	Patrick Neville	Associate Director, Specialist Commissioning

Appendix 2

Staff interviewed

4 Social work team leaders employed by Wiltshire County Council

10 social workers employed by Wiltshire County Council but working with AWP in adults of working age community services

2 social workers employed by Wiltshire County Council working with the AWP Liaison and later Life strategic business unit

2 General practitioners based in Wiltshire

4 AWP team managers from Adult Acute Community SBU, 3 of whom were nurses by professional background and I of whom was a social worker by professional background

Appendix 3

Documents reviewed

Wiltshire Council Initial Investigation into allegations made by some social care staff about performance data.

Wiltshire Council AWP Safeguarding Update Undated

Wiltshire Council Spreadsheet Listing concerns about RIO reporting by numbered member of staff

Across SBU RiO & Blue Secondary Folder Records Audit Inpatient & Community AWP

Email from George O'Neill to David Bolwell re Wiltshire Council concerns dated 15th Feb 2012

Avon and Wiltshire Partnership NHS Trust Records management policy Dec 2009

AWP Health and social care records policy Nov 2011

AWP overarching governance policy 2010

Briefing on Avon & Wiltshire Partnership NHS Trust – Strictly Confidential George O'Neill 17th Feb 2012

AWP Avoiding Contract Breaches opening and closing of cases 11th May 2012

AWP Investigation into safeguarding concerns of 15 service users (undated)

AWP Supervision of staff in relation to safeguarding report 11.05.2012

AWP Email dated 8th March 2012 re Face to face Contact JC (client)

Letter dated 30th April 2012 from Mary Monnington to Paul Miller re: notification of an independent investigation