ANNUAL REPORT OF THE INDEPENDENT REVIEW BODY (IRB)
FOR THE YEAR 1 APRIL 2012 – 31 MARCH 2013

Purpose: The Independent Review Body exists to investigate complaints made in relation to the National Health Service (NHS) which have not been dealt with to the complainants' satisfaction by the service providers' own local resolution procedure. Such complaints can relate to Noble's Hospital or a Practitioner (i.e. a G.P., Pharmacist, Dentist or Optometrist). Equally, complaints can relate to purely process or procedural matters such as traffic management at the hospital, clinic organisation OR to medical practice, competence or any other aspect of care which fails to meet a service user's expectation. According to the IRB's statutory purpose and obligation, it is entitled to investigate all matters that relate to a health service complaint that is unresolved.

Membership: The IRB consists of three Convenors: Mr. Philip Bannan (Chairman - appointed by IRB Membership to oversee business matters), Dr. Andrew Guy (Deputy Chairman - similarly appointed), and Mrs Vivienne Hare; together with three lay members: Mr. Francis Masserick, Mr. Colin Brown and Mr Brian Holt.

The intention is that members of the IRB are initially appointed as Lay Members and, after training and shadowing existing Convenors, they eventually become Convenors in their own right.

The members of the Independent Review Body meet on a quarterly basis to transact any formal business and discuss, for training purposes, Convenors' and Panel decisions in respect of matters which have been concluded. The individual Convenors and Lay Members are required to read through, in their own time, often extensive medical records and complaint management files in connection with matters into which they are enquiring.

Mode of operation: The IRB operates on the basis that one Convenor enquires into the initial complaint and would usually request copies of the service provider's complaint management file and/or the complainant's medical records. If considered appropriate, the Convenor has the power to seek qualified medical advice. The options open include calling a full Panel Hearing to investigate further, declining to hold a Hearing but making a number of recommendations (although these may not include a recommendation of financial awards nor disciplinary action by the NHS but may include a referral of an individual to an appropriate professional body if the Panel deem it necessary), or turning down the request for a Hearing without making any recommendations. On occasion, the suggestion may be made that local resolution be re-opened, if it is felt this could help resolve the issue.

Procedure on receipt of complaint: If the complainant is not satisfied with the decision of the first Convenor an appeal can be made to a second Convenor. This person then has access to all the documentation produced in the case to date but would not be permitted to see the report of the first Convenor; thus it would constitute a second, independent, investigation. Should the second Convenor also turn down the request for a full Panel Hearing then that completes the complaints procedure.

Should either the first or second Convenor decide to call a Panel Hearing this member sits on the Panel but the Hearing is chaired by another Convenor not previously having had any involvement with the complaint. One of the three Lay Members completes the Panel. The complainant is invited to attend the Hearing, as are other individuals whose presence is thought to be helpful to the investigation. If the complaint involves a medical issue, independent assessors from the UK are engaged to attend the Hearing, advise the Panel Members, and then submit separate reports. These form the basis of the Panel's own final report which is circulated to all parties, including the Department of Health (DoH) or other appropriate body.

Number of complaints: As will be appreciated, arrangements for investigating complaints are ongoing and do not fall neatly into a yearly cycle. Thus, during the year 2012-2013, 20 complaints were under consideration. These can be summarised as follows:

- Hospital: 15
- General Practitioner: 1
- Dental Service Providers: 3
- Manx Emergency Doctor Service (MEDS): 1

This number includes a total of 11 new complaints received in 2012-2013, which consisted of:

- Noble's Hospital: 9
- Dental Service Providers: 2

Five full Hearings were held during the year, four of which involved complaints against Noble's Hospital and one against the Dental Service. At the end of the year under review, Convenors had called Hearings in connection with three other matters, all involving complaints against Noble's Hospital. A date had been fixed for one Hearing while dates were being arranged in respect of the two remaining matters. Four other complaints were still under investigation at the end of the year.

It should be noted that these figures do not correlate to the number recently included in DoH information, which were set at a much lower rate. Correspondence with the relevant DoH section suggests that this discrepancy on their part might possibly be due to technical failure.

OBSERVATIONS:

1. Statistics

The inaccuracy of the DoH's reporting of complaint statistics is of some concern to the IRB. It does not reflect the true nature of the numbers of complaints referred to the IRB. Inaccurate reporting does not reflect the transparency and openness which is understood to be a significant aspiration of the present Government. The IRB would suggest that this matter requires review and monitoring particularly as a recent item included in the Press indicated that complaint figures on the Island were slightly below the equivalent England rates, which could not necessarily be the case. Indeed, a letter from the Minister of Health to Members of Tynwald earlier in the year, in response to a

supplementary question on another matter, included figures which indicated that the number of complaints received was considerably below those of the English equivalent.

2. IRB contact with Hospital

Whilst, in general, DoH personnel have been extremely helpful, there have been recent occasions where it was felt that there was a certain obstruction of the IRB in its attempts to resolve issues. In this connection, it might be appropriate to remind related staff that the IRB is appointed to review complaints in an independent and impartial manner and this is exactly what it aims to achieve; neither siding with the complainant or service provider, but using all powers allotted to it to make a fair judgement. The objective being to make such recommendations that will improve the service and provide its users with enhanced arrangements.

3. IRB contact with the DoH, Crookall House

There have been two recent instances where interventions by a senior member of the Department have caused concern to the Members of the IRB.

The first intervention was where the DoH executive claimed that the IRB was endeavouring to establish policy, and the second intervention challenged the IRB's right to address clinical issues. The second intervention arose slightly after the end of the year under review, but we mention it here as it was a continuation of a negative trend in our dealings with the DoH.

The IRB Members do not accept the points made: the Members have met to discuss the implications of these interventions and collectively feel that they constitute an attack on the body's independence that runs contrary to the intent of the incorporating Act.

4. Nature of Complainants

In the majority of cases complainants appear to be content with the efforts taken by the IRB to resolve complaints and are aware that, at Panel hearing level, much expense is involved in appointing independent medical experts from the UK who provide the Panel (and complainants) with the medical knowledge to explain the use of clinical procedures. In addition, appeals against decisions not to offer a panel hearing are relatively infrequent.

However, it is worth noting that there has more recently been criticism of, not only the judgement of the IRB, but that of the appointed medical experts as contained in the Hearing reports. The IRB's involvement is finished once the Panel report has been circulated other than to review the service provider's response to any recommendations, but increasingly complainants question results. This may simply be the nature of some recent complainants to pursue beyond resolution and a failure to recognize the limits to which the IRB may go, despite this limit being laid out at the start of the process.

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ADDENDUM

Following discussions between the Independent Review Body (IRB) and the Department of Health the following has been agreed as an addendum to the 2012-13 Annual Report:

Attendance of Clinicians at IRB Panel Hearings

The Department had misunderstood the IRBs request for the attendance of several clinicians from the same clinical department in connection with a specific panel hearing. The IRB had not intended the request to indicate simultaneous attendance which would, as the Department feared, have interrupted services to patients. Whilst attendance at IRB Panel hearings is voluntary, the Department remains very strongly supportive of the IRB and of clinicians attendance at hearings. The Department will continue to strongly encourage, advocate and support attendance.

Intent to Establish Policy

The Department considered that in one specific case the Terms of Reference for the panel hearing could inadvertently lead to the IRB challenging departmental clinical policy. This was resolved by discussion between the IRB and the Department at the time.

IRB Consideration of Clinical Matters

The wording of a letter from the Department to the IRB led the IRB to fear that the Department was seeking to limit or prevent it investigating the clinical aspects of a case. The Department has confirmed that it has no intention of seeking to do so and remains fully supportive of the exhaustive efforts which the IRB makes to investigate and, where possible resolve, patients complaints about health services.