Manchester University
NHS Foundation Trust

Joint Group Medical Directors' Office
Trust Headquarters
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[redacted]

03 October 2022

Mr C Morris
HM Area Coroner
Coroner's Court
1 Mount Tabor Street
Stockport SK1 3AG

[redacted]

Dear Mr Morris

Dr Lee Winslow, Regulation 28: Report to Prevent Future Deaths (PFD)

Thank you for your PFD report dated 17 August 2022, addressed to [redacted] in his capacity as the Group Executive Director of Workforce and Corporate Business. He has kindly asked me to respond to you in my capacity as Responsible Officer and Joint Group Medical Director for Manchester University NHS Foundation Trust (MFT).

I was not involved in the Inquest hearing itself (although I am aware of the matter in my Executive capacity) and would therefore like to extend my own personal condolences to the family of Dr Winslow. I am very sorry for their loss.

It is the Trust's view that the concerns raised within your report, have all been appropriately addressed previously by live evidence at the Inquest and further clarification provided by letter dated 29 July 2022.

It is my understanding that a PFD report can raise issues and is a recommendation that action should be taken, but it importantly cannot prescribe solutions. As clearly outlined in the Chief Coroner's Guidance Note No. 5 on Reports to Prevent Future Deaths, *"A prevention of future deaths report raises issues and is a recommendation that action should be taken, but not what that action should be"*.

It is not my intention to reiterate the information that you have already received in the Inquest and in the subsequent letter dated 29 July 2022. However, I believe it is important to briefly mention the salient points as they relate to Dr Winslow's case, and I will deal with each of your concerns in turn.

1. ***Following the admission by Dr Winslow in 2020 that he had taken medicines from the Trust with a view to ending his life, it is a matter of concern that the case was not formally referred to the Police and General Medical Council.***

   Making such referrals would have had the potential benefit of:

   I. ***Providing the Trust with ready access to external advice as to the adequacy (or otherwise) of steps taken to mitigate the future risk of staff members misappropriating medicines with a view to self-harming, and***

II. Offered access to a mechanism whereby objective analysis of Dr Winslow's fitness to practice as a Consultant Anaesthetist (both from a health and broader perspective) could have taken place.

Police

A formal referral to Greater Manchester Police (GMP) was not considered necessary following Dr Winslow's extremely serious, nearly 'successful' suicide attempt on 26 August 2020, when it was subsequently determined that he had in all likelihood misappropriated the medications used in this attempt from the Trust.

The Trust previously provided you with a copy of a letter that was sent to all NHS Trusts and Foundation Trust Chairs and Executives from Baroness Dido Harding, the Chair of NHS Improvement, highlighting the tragic case of Amin Abdullah. The letter encourages Trusts to deal with such difficult professional matters with compassion, emphasising whether a formal procedure represents a proportionate and justifiable response, and crucially the impact on health and wellbeing of the individual concerned.

In late Summer/Autumn of 2020 the country had of course been coming out of the first wave of the COVID-19 pandemic, the effects of which were felt particularly acutely by the Critical Care Consultants such as Dr Winslow who had cared for the sickest patients at some personal risk.

The Trust therefore had to make a difficult decision as to what action was taken, and crucially if a formal Police referral was warranted given Dr Winslow's very delicate state. It was understood that he had misappropriated medication for the purpose of taking his own life, and that there had been no previous incidents of this nature concerning Dr Winslow. There was no evidence of drug addiction/dependence that might harm patients, and there was no evidence of any other associated criminality, for instance drug-dealing. Dr Winslow had not taken this medication from a patient, the drugs were either left over from a previous prescription or taken from Trust stock; therefore, no patient was directly or indirectly harmed by Dr Winslow's actions. From my discussions with the GMC Employer Liaison Advisors, I believe that such factors are also considered by the GMC in deciding whether a doctor who misuses medication should be managed under a conduct process.

Dr Winslow was off sick from work following an overdose of extremely serious intent. The Trust therefore had to decide about the risks of Police involvement and potential criminalisation of an already vulnerable individual. It is in this context that the Trust determined that a referral to Greater Manchester Police was not required at this time.

The Trust would not hesitate to make a Police referral in appropriate circumstances.

The PFD report specifically refers to a formal referral to the GMP as providing the Trust with an opportunity to obtain external advice as to the adequacy (or otherwise) of steps taken to mitigate the future risk of staff members misappropriating medications with a view to self-harming.

My grave concern is that seeking to criminalise a doctor after a failed suicide attempt might well dissuade further misappropriation of medication from the Trust but has the very real risk of accelerating another suicide attempt by other, potentially more violent, methods. I have elaborated further below with respect to a formal GMC referral, the broader risks the Trust considers, as a compassionate employer, when deciding whether formal referrals are appropriate in the employee's specific circumstances.

I am therefore disappointed that this forms part of the PFD report sent to the Trust. The Chief Coroner's Guidance, referred to above, makes it clear that when considering whether or not a Coroner is under a duty to make a PFD report, the Coroner should consider the current position

including plans to implement such change. As previously highlighted, the Trust is setting up a regular liaison meeting with the GMP where we can discuss matters with the Police. By way of an update, from October 2022 the Trust and GMP will be convening regular, documented, senior level meetings to ensure protocols and information-sharing arrangements between the two organisations are standardised and monitored. These meetings will review a range of touch points between the two organisations including, but not exclusive to, the reporting, management, and investigation of crime; 'missing from homes'; and emergency responses. The aim of these meetings will be to ensure that collectively the safety of the public and patients is prioritised through the appropriate implementation of agreed protocols. At the same time, these meetings will provide both organisations with opportunities to review situations and decisions where there are potential conflicts of purpose to ensure that at all times safeguarding is at the centre of all decisions. I hope this reassures you that appropriate liaison with GMP will take place on a regular basis.

In addition to this, our Pharmacy team has strong working relationships with the local Controlled Drugs Liaison team (CDLT) who I understand provides invaluable support and guidance in matters concerning medicines management and misappropriation. We are reiterating that all staff must adhere to our internal processes to ensure Pharmacy are involved at the earliest possible opportunity following any incidents concerning medicine misappropriation and reinforcing processes to ensure the CDLT are in turn involved in a timely manner.

GMC

Contact with the GMC

I am disappointed that this remains a concern, but I hope that the information below will provide you with assurance.

In August 2020 following Dr Winslow's first, extremely serious, suicide attempt, Dr Winslow was not directly discussed with the GMC Employer Liaison Advisor (ELA) by me as Responsible Officer, as I understood Dr Winslow at this stage to be out of the workspace (on sickness absence) and therefore to present no risk to patients. Dr Winslow was under the care of appropriate professionals and therefore I understood that his own welfare was being safeguarded. A high impact learning review was commenced with respect to medicines security.

However, as previously confirmed, once I was made aware in December 2020 that Dr Winslow had been continuing to work in the private sector (The Alexandra Hospital, BMI) whilst off work sick, I raised this with the GMC on 16 December 2020 at the quarterly GMC ELA meeting and followed it up with additional detail. The Trust advised the GMC that an investigation had been commenced after allegations that Dr Winslow had been working privately whilst off work sick on multiple occasions, despite having been told by his Line Manager that he should not work privately. Included in the information provided to the GMC on 16 December 2020 was that:

- Dr Winslow was off sick after an episode of deliberate self-harm; he allegedly misappropriated drugs from Manchester Royal Infirmary and took an overdose
- the Trust were investigating the taking of medication as a clinical governance issue, but because of the health issue, the Trust had decided to be supportive and not pursue his alleged drug misappropriation as misconduct
- Dr Winslow was off sick from that episode of self-harm when he worked at The Alexandra. We contacted The Alexandra and the fact-finding around that issue confirmed that the doctor admitted to working on those dates believing he was well, and therefore a full conduct investigation was commenced

A formal Fitness to Practise (FtP) referral around health was considered; however, based on the information we provided to the GMC, the GMC confirmed that it was sensible for the health

aspect to continue to be managed locally. In relation to the doctor's conduct, the GMC would await the outcome of the investigation around working in the private sector on multiple occasions when off sick, before making any decision on this aspect.

An update was provided to the GMC on 11 March 2021, and Dr Winslow was also discussed at subsequent meetings after his death.

If you would like copies of the meeting notes/email correspondence with the GMC, please let me know.

This communication reflects a verbal referral to the GMC, there are regular meetings with the GMC ELA which constitute a formal mechanism that is set up between the GMC and all its Designated Bodies (in this instance the Trust) to identify and formally refer clinicians of concern to the GMC. It is via this very mechanism that Trusts have access to external advice from the GMC, as specifically mentioned in the PFD report; therefore, the Trust is unable to see how a further 'formal' referral could have made any positive difference when this matter was formally discussed with the GMC via the appropriate mechanism. The risk is that a formal FtP referral around the doctor's conduct that triggered direct correspondence from the GMC, would have been detrimental to his mental health (I have elaborated upon this below).

If the GMC were not in agreement with the action being taken by the Trust, they would of course be able to advise alternative action such as formal FtP referral, and their decision would be final; however, the Trust and the GMC agreed with the action being taken.

Fitness to practise – health concerns

I have considered very carefully whether, on reflection, I should have discussed Dr Winslow with the GMC ELA in September 2020, specifically in light of your concerns that a formal referral offers access to a mechanism whereby objective analysis of Dr Winslow's fitness to practise as a Consultant Anaesthetist (both from a health and broader perspective) could have taken place. The Trust appreciates that a formal FtP referral around health can lead to more extensive assessment of a doctor; however, we are conscious that this possibility of assessment does not justify automatic referral to the GMC with the associated stress this generates for doctors. Nevertheless, it would be good practice for the Responsible Officer to inform the GMC ELA of all incidents of doctors attempting suicide, and I will ensure I follow this practice going forward (see below under 'Fitness to practise – conduct issues').

The Trust has considered the GMC guidance entitled, *'Guidance for decision makers on assessing risk in cases involving concerns'* (updated April 2022), which highlights that a GMC investigation may have a significant impact on the welfare of a doctor, and that it should be possible, where the doctor is willing to discuss their health with their Responsible Officer, for the majority of health conditions to be managed at a local level without the need for a GMC investigation. The guidance confirms that the issues of whether a doctor poses a risk to public protection and the extent of that risk, will be determined on a case-by-case basis. The guidance also states that:

> *"There is no need for our intervention if:*
>
> - *there are not concerns about the doctor's conduct, and*
> - *there is no risk relating to the clinical care they provide, and a doctor is not working or likely to work or, if working, they are seeking and following treatment and advice, and taking steps locally to manage any potential risk to patients.' GMC Thresholds Guidance"*

Therefore, whilst the decision to be made is nuanced, our actions relating to Dr Winslow were in line with the guidance, and it is also worth reiterating that when we did discuss this specific

point with the GMC in December 2020, they agreed that it was sensible for the health aspects to continue to be managed locally.

The Trust is also aware that FtP referrals to the GMC around health are for regulatory purposes, not for treatment. Therefore, whilst as part of a FtP process Dr Winslow may have eventually been assessed by two psychiatrists, we understand that this is not primarily for the purpose of treatment, and that any treatment would need to be arranged by the Trust as Dr Winslow's employer, or through normal healthcare processes. Therefore, to strengthen the support we provide to our employees, we have since employed a Consultant Psychiatrist within our Employee Health and Wellbeing team, to ensure our doctors can be assessed by an Occupational Health Psychiatrist who can in turn determine if a specialist referral is indicated.

I understand that in the first instance, whether an individual is referred to the GMC for their conduct, or on health grounds, the process looks very similar, and that the 'envelope through the door' about 'fitness to practise' is received in a very similar vein by doctors. The Trust is also acutely aware that a GMC referral is perceived as stigmatising and can indeed be detrimental to the doctor's mental health, irrespective of whether the referral is made for conduct, capability and/or health reasons.

In March 2022, the GMC published a report on doctors who have died whilst under investigation or during a period of monitoring GMC publishes report on deaths during investigations - GMC (gmc-uk.org) I understand this work is part of the GMC's wider drive to reduce the impact and stress of its processes. In 2015 a leading independent mental health expert from the University of Manchester, Professor Louis Appleby, was appointed to advise on how the GMC could make its approach more sensitive, supportive, and compassionate to the needs of doctors, which led to wide ranging reforms of the fitness to practise process. This included only carrying out formal investigations where necessary.

The Trust is also aware of the Inquest into the death of Dr Sridharan Suresh, a Consultant Anaesthetist at North Tees and Hartlepool Hospitals NHS Foundation Trust, who tragically killed himself on the day he received communication from the GMC, after being referred to the GMC by the Police. We understand the presiding Coroner wrote to Dr Suresh's employer and the GMC with regards to their processes around vulnerable doctors. The British Medical Association has expressed support for Dr Suresh's widow and stressed that employers should be *'acutely aware of the impact of an investigation by the GMC'* A lack of compassion (bma.org.uk)

Fitness to practise – conduct issues

I have also carefully considered whether I should have had a discussion with the GMC ELA in September 2020 about Dr Winslow's conduct in the context of drug misappropriation, as opposed to health grounds. I appreciate it is hard to separate this issue from Dr Winslow's health, considering the sole reason he misappropriated medication was for the purpose of a suicide attempt; however, on reflection I do consider it would have been useful to have discussed this with the GMC ELA to obtain their valuable input. It is a factor that I will take on board for any further matters of an equally sensitive nature.

However, the Trust is of course conscious that when we did raise this specific point with the GMC ELA in December 2020, the Trust was not advised to make a formal FtP conduct referral, or indeed advised to take any other action with respect to the misappropriation of medication, and the GMC agreed with the course of action that was being taken by the Trust.

In retrospect, I also do not consider a 'formal' GMC referral would have been warranted at this time on the basis of conduct issues, for the same reasons and concerns that I have outlined above.

2. ***In December 2020, the Trust became aware that, whilst on sick leave from the NHS, Dr Winslow had continued with this private practice notwithstanding an explicit instruction from his manager to the effect that he should refrain from all work. It is a further matter of concern that this development did not, of itself, cause the Trust to reconsider its position and make referrals as set out above.***

   I respectfully disagree. The Trust did inform the GMC in December 2020 as detailed above. The GMC were supportive of the Trust's approach.

   Once the Trust became aware that Dr Winslow had been working in private practice during a period of sickness absence from the Trust, this matter was dealt with formally under the Maintaining High Professional Standards in the NHS (MHPS) process and the outcome of this process was documented in a letter to Dr Winslow dated 27 December 2020 and followed up in further correspondence dated 17 May 2021.

   As [redacted] outlined in his evidence at the Inquest, the Trust has emphasised how seriously it took both the incident of misappropriation of drugs and that of working privately during a period of absence from the Trust. The Trust acted robustly and with compassion, in the very difficult context of Summer/Autumn 2020, which I have referred to above.

3. ***In the absence of any meaningful external review of the case as a whole, it is a particular concern that most of the action which followed the theft of medication by Dr Winslow in 2020 appear to have been taken as a result of decisions made by members of the Trust's medical hierarchy.***

   It would be outside of usual practice to have an external review in this matter.

   When concerns come to light about any doctor at the Trust, they are discussed with the doctor's line management including the Site Medical Director and Site Director of Human Resources in conjunction with the Responsible Officer team. The RO team works across all sites to provide the level of consistency that is necessary across a large, multi-site Designated Body in order to assure equitable decision-making. It is entirely appropriate that concerns about doctors are managed in this way, by the multi-disciplinary 'medical hierarchy' with expert HR support and advice. The information about Dr Winslow's first suicide attempt and the decision not to report him to GMP (or indeed NHS Fraud) was shared anonymously with the Group Executive Director team. It would be inappropriate to seek external input into decision-making at this stage, including from Non-Executive Directors.

4. ***In view of the gravity of the issues raised by Dr Winslow's misappropriation of drugs in 2020, and the previous suicide of a Consultant Anaesthetist employed by the Trust involving misuse of prescription medicines, it is a matter of concern that a more multi-disciplinary approach was not taken, perhaps overseen by someone such as non-executive director of the organisation.***

   I have addressed this in response to the point above.

I would like to emphasise that the Trust fully supports the use of PFD reports as a tool for learning and that as an organisation we are continuously looking for ways to improve patient safety and employee wellbeing. The Trust is therefore grateful to you for sharing your concerns and for bringing this matter to our attention. However, the Trust continues to have serious concerns about the impact on the wider clinical community of any recommendation that a clinician should be criminalised in these circumstances (namely, the alleged theft of drugs used in a failed suicide attempt where there is no other suggestion of criminal behaviour). These doctors need support, and as a Trust we consider a formal referral to the Police would not be proportionate in these situations where there is no evidence of any third-party involvement or issues over patient safety.

In light of the evidence heard at the Inquest and indeed further assurance provided in subsequent correspondence, the Trust considers that the PFD report did not need to be made to this organisation; in the alternative, if it remained an issue in the Coroner's mind, I respectfully suggest that an alternative would have been to direct the PFD to a national level to enable broad consideration of the potential repercussions of the suggestion that formal GMC and Police referrals should have been made in these very sensitive circumstances. The Trust is concerned that there is a risk of inadvertently creating confusion and inconsistent application of national guidance in the context of national initiatives, which I have referred to in this response.

From a local perspective, Medical Directors across Greater Manchester have agreed to work together to ensure we adopt as consistent an approach as possible towards assessing doctors' health and professional practice in circumstances such as these.

If there is anything else I can assist you with, including meeting to answer any queries, please do not hesitate to let me know.

Yours sincerely

[redacted]

[redacted]
Joint Group Medical Director / Responsible Officer
[redacted]

cc: [redacted]
Group Executive Director of Workforce and Corporate Business