**SHOOT THE MESSENGER**

How NHS whistleblowers are silenced and sacked

*A Private Eye Special by Dr Phil Hammond and Andrew Bousfield*

**THE NHS will always need whistleblowers. Healthcare is complex, rapidly changing and dangerous; staff are fallible, variably trained and widely spaced; and demands are huge and resources limited. No matter how much is spent on regulation and risk management, shit will always happen – mistakes, incompetence, inhumane treatment and corruption.**

Safeguards need to keep on happening. If it’s picked up and acted on, many lives and much money can be saved. If staff, patients and carers are encouraged to speak up, you can even stop mistakes in their tracks before harm is done.

As this special report highlights, however, the shocking treatment of NHS whistleblowers persists as the body that is trusted to care for us from cradle to grave systematically covers up scandals, crushes dissent and kills patients unnecessarily…

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**Dr Kim Holt, Baby P and Great Ormond Street Hospital**

**AFTER finally issuing an apology to whistleblower Dr Kim Holt last month, Great Ormond Street Hospital (GOSH – a foundation trust-in-waiting) and its Teflon-coated CEO Dr Jane Collins were doubtless hoping to draw a line under Baby P. But Lynne Featherstone MP is now calling for an investigation into Collins’ actions in withholding vital information – the Sibert report – from the original serious case review into the death of baby Peter Connelly. Collins says this was on legal advice and her review into the death of baby Peter Connelly was doubtless hoping to draw a line under the baby. But Lynne Featherstone MP is now calling for an investigation into Collins’ actions in withholding vital information – the Sibert report – from the original serious case review into the death of baby Peter Connelly. Collins says this was on legal advice and her review into the death of baby Peter Connelly was doubtless hoping to draw a line under the baby. But Lynne Featherstone MP is now calling for an investigation into Collins’ actions in withholding vital information – the Sibert report – from the original serious case review into the death of baby Peter Connelly. Collins says this was on legal advice and her review into the death of baby Peter Connelly was doubtless hoping to draw a line under the...**

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**‘If our concerns had been taken seriously at the time we raised them, we could have prevented the death of Baby Peter’**

*Whistleblower Dr Kim Holt*
"After someone has been killed in a patient safety incident, you can often see that all the ingredients were in place for a disaster... It was almost as if the person who died was a “dead patient walking” as they stepped through the entrance of the hospital.’

Sir Liam Donaldson, former chief medical officer for England, 18 November 2005

subject to these allegations being withdrawn. Kim Holt bravely refused. GOSH also failed to tell the Treasury that the £120,000, taxpayers’ expense, would be tied to a silencing agreement. Faced with Dr Holt sticking to her principles, the strategic health authority sprang into action. NHS London sent the GOSH, on a report from a firm of solicitors, which appears to exonerate NHS managers. GOSH spent £286,797.41 on Verita management consultants who also seemed to find no fault with management (and did not interview the four consultants who signed the 2006 letter).

Dr Holt, meanwhile, remained on special leave at a cost of £95,000 a year, and GOSH had spent £82,218 on legal advice to date in her case. No manager has faced any sanction as a result of their failings in running the child protection clinic.

And what of the Care Quality Commission? In February 2009 Dr Holt sent it the letter written by all four consultants, and her letter to Cyril Chantler, GOSH chairman, and Jane Collins from November 2006. In May 2009, the CQC responded by releasing a report in which the problems at the child protection clinic were all put down to “communication”. No blame was levelled at any manager and the whistleblowing letter of the four paediatric consultants was ignored.

What if Holt contacted the CQC to make it aware of previous whistleblowing disclosures, she was told that the CQC had considered her information. However, recently the CQC has “lost” all communications with Great Ormond Street and has said that the any information may have been used for “horizon scanning” or to contact people with concerns.

Were people contacted? Not that the Eye could ascertain. And certainly not the Care Quality Commission. GOSH is absolutely marvellous. As The Lancet observed: “If GOSH’s management team had been in Wigan they would be gone by now.”

In the meantime, health secretary Andrew Street and has said that the any information request reveals, his circular, NHS managers are still hosing down accountability. There are over 200 lobbying groups, and most of them are for whistleblowers, signing deals off with the Treasury and escaping any form of accountability.

Behind the gag

NONE of the NHS trusts would provide names for the staff they had paid off and gagged, or the reasons why. When the Eye contacted Alder Hey Hospital to ask about gagging orders, the answer was a very firm: “Alder Hey has never placed gagging orders on any member of staff.” But the Eye already had in its possession the compromise agreement relating to a senior child heart surgeon, Mr Marco Pozzi, and the amount he was paid, namely £516,000. That agreement prevents Mr Pozzi making any adverse or derogatory statement about the trust and communicating with any media. When we put this to the trust, it apologised for the “misunderstanding” but wouldn’t say what it wanted to keep quiet.

Marco Pozzi gave evidence to the Bristol Inquiry and became the lead surgeon in children’s heart surgery at Alder Hey. From 2003 to 2008, a freedom of information request reveals, his mortality rate for 80 arterial switch operations was an enviable zero. Not a surgeon one would want to lose. From a local MP, however, we have learned that Mr Pozzi had been instrumental in limiting the practice of an underperforming surgeon and had concerns about

Gagging for it

PUBLIC money should never be used to suppress information that’s in the public interest. There are several doctors at GOSH who’ve been gagged and who can’t now speak about their safety concerns. Indeed, it’s hard to think of a more ridiculous gag than the one imposed on Dr Pozzi. The trust wrote to Alder Hey Hospital

Pay off, shell out, shut up

THE Treasury made 2008-09 a bumper year for non-compromise pay-offs, approving 192 at a cost of £5,990,504. Foundation trusts now hold the baton with 105 pay-offs worth £2,408,026 so far in 2010-11. The top five FTs for pay-offs are: 

£330,850

Sherwood Forest Hospitals (09/10)

£224,253

Central Manchester University Hospitals (10/11)

£198,726

Alder Hey Children’s (08/09)

£177,388

University College London Hospitals (10/11)

For figures for all NHS trusts see www.medicalharm.org.
‘My experience of the DoH is they have a tendency to shoot the messenger rather than embrace changes that need to be made.’ Sir Ian Kennedy, evidence to Mid Staffs Inquiry, 2011

Lansley’s broken promises

Health secretary Andrew Lansley hasn’t had a good year. Having promised to depoliticise the NHS, he’s managed to turn it into a massive political bun-fight; and having promised to reduce top-down control, he’s somehow increased it, juggling two levels of bureaucracy to create four. Out go strategic health authorities and primary care trusts (SHAs and PCTs), in come a National Commissioning Board, Regional Branches of the Board, Clinical Senators and Clinical Commissioning Consortia.

But easily the most important pledge he made before the House of Commons on 9 June 2010 has been quietly shelved. Then, the new health secretary announced a public inquiry into “events” at the Mid Staffordshire NHS Trust, where up to 1,200 patients may have died due to appalling standards of care. Three previous inquiries had unearthed a culture of fear, secrecy and bullying, where whistleblowers were being punished and silenced. Lansley pledged “a range of measures to build on and give teeth to the current safeguards in the public interest disclosure act 1998 (PIDA)”. Thirteen months later, we’re still waiting.

Even GPs are gagged. Dr Louis d’Arcy was a single-handed GP at Hanson Place surgery in Wyke, near Bradford, where he had practised for more than 25 years. In 2004, Bradford primary care trust (PCT) sent in a nurse practitioner to his surgery to help manage his diabetic patients in a nurse-led clinic. Over a few years, d’Arcy became concerned that some might be testing “false positive” for diabetes and be wrongly diagnosed and treated for life. A consultant endocrinologist saw one patient and confirmed the diagnosis. Dr d’Arcy was accused of challenging the “management authority” and submitted to a disciplinary procedure. He was alleged to have bullied the nurse and was eventually offered more than £100,000 to sign a compromise agreement, and asked to leave his surgery the next day. The local GP was there one day and gone the next, having signed a super-gag clause whereby not only his medical concerns but also the very fact of the agreement must be kept secret.

The PCT could not confirm whether the 60 “diabetics” were properly screened. The Eye approached the Department of Health who issued an immediate background briefing notice claiming Dr d’Arcy had been dismissed. No comment was made about the safety concern. Later, the DoH reissued the statement and asked to leave his surgery the next day. The local GP was there one day and gone the next, having signed a super-gag clause whereby not only his medical concerns but also the very fact of the agreement must be kept secret.

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The National Harm Service

Healthcare is an industry that causes significant harm while bringing enormous benefits. Overall, one in 10 patients are harmed significantly while bringing enormous benefits. A consultation and introduced a new National Harm Service in 2008.

The Bristol Inquiry acknowledged that the black box of general practice

General practice remained hidden away until the horrors committed by Dr Harold Shipman emerged. Whether he’d killed more than 200 people by murder or incompetence, the real shock was that no one had picked it up. He wasn’t even offered retraining.

A decade ago, Dame Janet Smith called for reforms of death certification, coroners, controlled drugs and the regulation of doctors.
Her recommendations have been watered down or ignored to the point that she has openly questioned whether her £21m public inquiry was worth it.

But the NHS can get results. Tower Hamlets PCT has worked with whistleblowers and patients to remove the unacceptably bad GPs. Between 2001 and 2009, the careers of 23 GPs were terminated. They included:

- A whole practice of three partners and a locum who systematically oversaw the premature death of hundreds of people every year, by passivity, ignorance and neglect.
- A GP who was convicted of sexually assaulting a pregnant Somali patient at an antenatal clinic in his surgery. This GP had asked partners to pray to help him resist “temptation from the devil” but no one had explored his “temptation” further.
- A GP who had come to the UK from Nigeria via Bulgaria and Germany who was woefully deficient in all areas of clinical knowledge and practice.
- A GP who kept records on patients that were unintelligible, and who failed to act on letters from hospital keeping hundreds of them in a cardboard box under the stairs.
- A husband and wife GP practice caring for 11,000 patients so poorly that thousands of them had to be recalled for immunisation checks after it emerged that refrigerators at a practice were totally inadequate. They also employed a “nurse” who was not qualified.

The process of removing dangerous doctors in Tower Hamlets took great effort and cooperation between those raising concerns and those acting on them. It’s a beacon of how the system works against whistleblowers to suppress scandals that might be politically or commercially damaging.

Steve Bolsin and Ash Pawade

POLITICAL reforms often court disaster. Twenty years ago, the Bristol Royal Infirmary was keen to become a trust hospital under the Tories, just as Mid Staffs wanted to be a foundation trust under Labour and GOSH docked the South. This was balancing the books and burying any scandal.

The BRI also wanted the money and status to the CEO’s office and asked to apologise for turning round a disastrous service, was ordered to the CEO’s office and asked to apologise for the “malpractice” further.

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The BRI had learned none of the lessons of the Bristol Inquiry --triggered by disclosures in the Eye - found a management culture that “veers towards the management of crisis” that is defensive, responds aggressively to criticism, is sometimes unwilling to acknowledge, let alone learn from, mistakes, and which is based on overconfidence bordering on arrogance”. It’s as if the system had been designed into child heart surgery had never happened. The Bristol disease appears incurable.

As for child heart surgery itself, Labour bottled out of safely centralising the units, despite another scandal in Oxford and a report of another 76 “excess deaths” in four small units. Current attempts are being delayed by petty local politics, ego and intransigence. Meanwhile babies continue to be harmed unnecessarily (see Medicine Balls in the last Eye).

Nicholson and Bower: asleep at the wheel?

LIKE an angry doctor prescribing the wrong treatment again and again, Labour got annoyed that its army of regulators couldn’t stop the scandals.

Mid Staffs hit the fan in the fag end of the Labour administration just as Bristol had done for the Tories. Labour blamed the regulators, that its vast army of regulators couldn’t stop the scandals.

Mid Staffs is equally embarrassing for the current coalition because it implicates the two most powerful people in the NHS.

Cynthia Bower had been chief executive of the Care Quality Commission since 2008 and was chief executive of NHS West Midlands from 2006 to 2008. Her evidence to the Mid Staffs inquiry has been very revealing. The strategic health authority failed to act on very high death rates at Mid Staffs and other hospitals in the region, and failed to scrutinise complaints from patients or relatives about poor care. Even worse, it commissioned a lame piece of research from Birmingham University to justify not taking action.

The CQC under Bower even made Dr Heather Wood – lead investigator for the Mid Staffs scandal – sign a gagging clause when she left the office. Dr Wood believes that the CQC in its current form would not spot another Mid Staffs.

David Nicholson was also soundly asleep at the wheel. He’s been chief executive of the NHS since 2006 and has continued the culture of centralised, top-down enforcement. In 2003 he was appointed chief executive of...
Birmingham and The Black Country SHA and in August 2005 became chief executive of Shropshire and Staffordshire SHA and West Midlands South SHA. Mid Staffs started on his watch and his evidence to the public inquiry is likely to be equally revealing. Or at least it would have been if the DoH hadn’t delayed producing key documents and postponed his appearance.

Nicholson has now been appointed – without any apparent competition – as chief executive of the coalition’s new NHS Commissioning Board. The combination of rapid structural reform and impossible efficiency savings is a perfect storm for more scandals, particularly if the same leaders are enforcing the same culture of denial and blame.

At Mid Staffs staff have even been blamed for not blowing the whistle. In fact there is evidence that plenty of concerns were raised over a period of years. The problem is that they were not acted upon.

Raj Mattu

IN 1999, managers at University Hospitals Coventry and Warwickshire NHS Trust (UHCW) – a neighbour of Mid Staffs – came up with a clever policy to hit Labour’s waiting time targets. They decided to stuff five beds into wards designed for four, so three beds had no easy access to suction or oxygen sockets and there was very little space to move between them.

In December, a 35-year-old man was admitted to the cardiology ward having arrived at A&E the night before and had a cardiac arrest. Unfortunately he was put in one of the beds with no suction or oxygen supply nearby.

With the patient blue and choking, Dr Raj Mattu – a consultant cardiologist and world-renowned researcher – looked down his throat and found a large blood clot. This could have been removed by suction, but there was none available and the crash trolley could not get to the side of the bed. Dr Mattu could not remove the clot as the crash team looked on helplessly. The patient died soon after.

Mattu filled out a clinical incident form, also signed by two of the emergency nurses. There were other alleged deaths implicating the 5-in-4 beds policy, one just three weeks later. Mattu received no response to his clinical incident form and wrote to CEO David Loughton chasing a response. None came.

Sixteen months later, 80 clinical incident forms had been filled in by doctors and the trust had still not acknowledged Mattu’s letters. Mattu was twice voted in by his colleagues as clinical director and twice vetoed by management.

In September 2001, the Commission for Health Improvement (CHI) visited the site. It issued a damning report, saying the practice of 5-in-4 was “wholly unacceptable” and “must stop and cease immediately”. To add to the trust’s woes, the mortality ratio was higher than even Mid Staffs. Loughton went on local TV and claimed that there had been no deaths he knew of as a result of the “5 in 4 policy”. In consultation with his union, Mattu went on TV a week later and described the death he had witnessed.

Loughton then commissioned a secret review of the death from an anaesthetist, Dr Mark Porter, now the BMA’s lead spokesperson on whistleblowing. Dr Porter’s report declared “this is a failing that should not have happened”, but adds: “There are records of medical problems sufficient to conclude that his death may have been unavoidable, or was not avoided by medical management that could have been taken.” The report was a godsend to Loughton.

Mattu’s representative, Stephen Campion, was called to an off-the-record meeting with Loughton at a local hotel. At that meeting, Campion claims Loughton said: “I’m not interested in giving Dr Mattu a parking ticket, I want him off the road.” Two months later, Mattu was suspended on an allegation of bullying. He remained suspended for six years. Loughton left the trust in 2002.

An independent QC was employed by the trust to conduct an internal review at a cost of more than £1m in 2005. He recommended that Mattu be reinstated. After the suspension was finally lifted in 2007, the trust sent more than 200 allegations about Mattu to the GMC. Every allegation was dismissed by the GMC, but the stress was huge. Finally in November 2010, the hospital sacked Mattu for becoming ill during the process. Mattu suffers with a multisystem autoimmune disease which comprises sarcoidosis, pancreatitis and lung disease, and is known to be exacerbated by stress. The trust had been fully aware of his condition since 1999.

Throughout Dr Mattu was offered pay-offs with gag clauses that he courageously refused. The entire episode has cost the trust £5m; it has destroyed the career of one of the finest consultants it ever had; and staff at nearby Mid Staffs were left in no doubt about the dangers of whistleblowing.

UHCW told the Eye it had conducted an independent review into deaths from 5-in-4 wards. However, the trust was unable to provide the name of the reviewer or the text of the independent review. The review therefore remains secret and we have no evidence that it took place. UHCW denied that 200 complaints had been made to the GMC about Dr Mattu but did not provide the real number.

Gary Walker

THE United Lincolnshire Hospitals Trust was in trouble, with seven CEOs between 2000-2006, each lasting on average only nine months. During that time, seven doctors were on the receiving end of compromise agreements, all with gag clauses.

In 2006, the trust appointed Gary Walker, a turnaround chief executive who would stay. One of the first things Walker did was to abolish a middle manager fix which had seen A&E beds being pushed into corridors and cupboards without an oxygen supply to ensure that waiting time targets were achieved.

Within two years financial deficits had been paid off and targets were met. In the winter of 2008, the trust experienced a dramatic rise in A&E admissions, sustained for eight months. Clinicians approached Mr Walker about the increased risk of hospital acquired infections...
and avoidable mortality in the overstretched department. The overwhelming view was that targets could not be met without compromising patient care.

Mr Walker wrote a letter to his SHA: “I believe the health system is in distress. I am extremely concerned about safety and have asked for a series of urgent reports on safety issues including mortality.” The chief executive of the SHA, Barbara Hakin, wrote on an internal email seen by the Eye: “You need to meet targets whatever the demand.” Two months later Hakin took to the local media to voice her “considerable concerns as to whether governance arrangements in the trust were right”.

In internal board documents seen by the Eye, it is claimed that at a meeting with Walker the SHA suggested Walker should leave and construct a story for the hospital board, and that he was told if he did not leave, “his career would be in ruins”. Mr Walker was offered £43,000 to sign a compromise agreement with a gag clause and leave. He refused. He was then summarily sacked, in February 2010, for the gross misconduct of allegedly using the “f-word” nine times at three meetings over a two-year period, not directed at any one individual but in general. He is now claiming unfair dismissal.

Since Walker was sacked, mortality rates and debt at the trust have risen and safety concerns have continued. Recently, after a road traffic accident, it is claimed that an experienced surgeon was pulled out of theatre to operate on an 18-week target patient. A staff grade surgeon took over but ran into difficulties and it is claimed the patient has since had a leg amputated. Another patient died unexpectedly after a prostatectomy.

In May 2010, the CQC undertook an unannounced site visit but did not contact or speak to any doctors with concerns. The regulator says it checked the notes of six patients but otherwise left the hospital untroubled. Since the Eye started sniffing around, it has now decided to go back in. No one should hold their breath.

Barbara Hakin, meanwhile, has been promoted to the DoH’s director of commissioning, slotting in beside David Nicholson. In a statement, the DoH denied the commissioning, slotting in beside David匿

John Watkinson

ONE of John Watkinson’s first actions as CEO of Royal Cornwall Hospitals NHS Trust (RCHT) in January 2007 was to bring back to work two employees who had blown the whistle on the trust for making false declarations. Eighteen months later, Watkinson was suspended and subsequently dismissed for whistleblowing plans to move cancer services without the legally-required public consultation.

RCHT was the worst performing trust in England, with a £35m debt and staff utterly demoralised. Within a year, Watkinson delivered a £1.2m surplus and RCHT was in the top four A&E performers in the country. Then NHS South West, the SHA, decided to concentrate upper gastro-intestinal services in Plymouth, with Cornwall and Exeter forming a centre of excellence. Two statutes say that such major service changes require formal public consultation – “no decision about me without me” – but neither the SHA nor the PCT wanted delay. Watkinson’s chairman, Peter Davies, resigned over the issue and when Watkinson sought legal advice confirming the obligation to consult publicly, his days were numbered. He was sacked six months later.

An employment tribunal found Watkinson had been “got rid of” because of his support for doing what the law requires. The findings were damning of RCHT and the SHA and it awarded him £1.2m compensation, now reduced to £900,000. The trust admitted he had been unfairly dismissed, but appealed the finding of whistleblowing, the outcome of which is awaited.

An Eye freedom of information inquiry revealed that RCHT has already spent £400,000 on legal costs. Watkinson has spent a similar, non-recoverable, amount of his own; and if the trust keeps throwing public money at appeals he may never get any compensation.

In doing the right thing, Watkinson lost a 35-year career, any prospect of employment and a £150,000 a year salary. Suspension required him not to talk with former colleagues, while not a single NHS chief executive – of whom he knows dozens – has been in contact since his case began. Worst of all, RCHT – like ULHT – has lost an excellent NHS manager who had the balls to stand up to the bullies at the centre on behalf of patients.

Be a fraud...

NATIONALLY renowned cancer expert Dr K had a brilliant career both academically and as a caring and much-loved doctor to his patients. In 1990 he began training in clinical oncology at Christie Hospital, Manchester – the largest single-site cancer centre in the UK – and became a consultant in 1996.

Dr K became concerned that the trust was not treating a sufficient number of cancer patients with radiotherapy. He was also worried that pathology results were missing

The disgrace is that considerable public funds are squandered crushing whistleblowers and hiding the truly culpable…”

Bob Schofield, former NHS manager and friend of whistleblowing NHS CEO, John Watkinson
Criminal sanctions should be enforced against individuals and NHS bodies for the victimisation of whistleblowers and the corporate manslaughter of patients who are harmed as a result of the failure to act.

Dr Peter Gooderham, academic lawyer and whistleblowing expert

from patients’ notes and that the medical cover for patients on a private ward called Nathan House was insufficient.

Dr F has since found an unrelated four-page letter from a patient who wrote “to demonstrate a remarkable, disappointing and very alarming drop in the quality of care” at Nathan House. Chemotherapy tablets were allegedly not prescribed; a dose of erythropoietin was lost; a nurse didn’t know where vital equipment was and couldn’t take blood; urine collectors were removed without gloves; a patient was told to swallow a tablet that was meant to be chewed; and a diagnosis of septicema was delayed because a thermometer wasn’t working.

The trust investigated Dr K’s concerns and found no substance to them. However, it did launch an investigation into his conduct and referred him to the GMC for fraud.

Dr K’s BMA rep said the charges were “completely incredible” (sic) but they placed him under enormous stress. The GMC summoned him to an interim orders panel, where he collapsed and died of a brain haemorrhage at the age of 46.

When Private Eye contacted the Christie to ask about the concerns on pathology notes and radiotherapy treatment, the trust said a “serious untoward incident” process had been completed, and that a “senior oncologist involved in the case” was found no substance to them. The trust was unable to say whether the oncologist was from within the trust, nor to provide any details of the investigation.

Gideon’s libel

IN JULY 2010, the GMC suspended surgeon Gideon Lauffer for six months. He’d previously been banned by Barking, Havering and Redbridge University Hospitals NHS Trust in Essex from carrying out laparoscopic and varicose vein surgery, but neglected to tell three private hospitals because he was too “embarrassed”.

The GMC also declared that he operated on his competence and had failed to tell a patient that he had damaged the man’s left testicle during an inguinal hernia repair. In March 2008 he had failed to tell a patient who was due to undergo a laparoscopic cholecystectomy and was found notmosing on her and that another surgeon would perform the procedure. And although he was not allowed to do laparoscopic surgery, he performed the first stage of the operation by putting the umbilical port into the patient before the other surgeon arrived.

A finding of dishonesty normally leads to erasure from the medical register, but the panel decided that his dishonesty was “at the lower end of the spectrum” and took account of evidence that as a surgeon he was “too busy”. Or it could have been because the GMC had known about Lauffer since 2000 and not acted to protect the public, and is now itself too embarrassed to do so.

This was the third time Lauffer had been in front of the GMC. The first time, in 2005, followed the deaths of three patients: Arthur Rogers, 53, from Ilford, in December 1998 after Lauffer allegedly failed to close his patient’s bowel after a laparoscopic cholecystectomy operation; Mohammad Anwar, 61, in July 1999 after his punctured bile duct led to blood poisoning; and another, 41-year-old widow Manjit Dhillon, of Ilford, who needed a transfusion of blood after having her gall bladder removed.

The GMC decided that what Mr Lauffer needed was “a performance assessment”. But in 2005, King George Hospital in Essex claimed that he had actually had a “fascinating” career and promoted him to clinical director of surgery.

In 2008 Lauffer was back in front of the GMC following four deaths, including those of Allan Scammell, 63, who died in September 2007 following a laparoscopic cholecystectomy; Lauffer allegedly sewed his bowel to the wall of his abdomen; and Terry Harris, 68, who died after his bowel was punctured during a routine gall bladder operation.

Anne Harris, Terry’s wife, has counted 32 grieving families who lost someone or suffered serious injury following routine surgery with Mr Lauffer. In July 2008 the GMC ordered the interim suspension of Lauffer for 18 months.

But could much of this harm have been prevented? Private Eye has learnt from a local MP that in July 1999 Mr F – a courageous gut surgeon who can’t be named – was the audit who had a meeting with Mr Lauffer, the medical director about the “much higher than expected number of hospital deaths for elective major upper GI [gastro-intestinal] cases... as well as the case of elective major gasterctomy who bled and died immediately after the operation”. Within two months, Mr F was facing disciplinary action, not for allegedly calling a patient at home. An internal hearing followed and he was summarily dismissed by the trust. Mr F took the trust to an employment tribunal and, three years later, the trust packed the employment court with five lawyers and a barrister at public expense.

After two weeks in court, Mr F accepted £200,000 in a compromise agreement and an undertaking that he would be allowed to work in a private hospital. He was a good faith whistleblower. His own lawyers swallowed up £125,000, and the agreement, which included a “gagging” clause. Mr F could only talk to his immediate family and could not, directly or indirectly, make any comments about the trust. When the Eye asked for details of compromise agreements from Barking, Havering and Redbridge University Hospitals Trust, Mr F’s agreement was omitted. His concerns, and the record of his gag, remained secret. Mr F has been unable to talk to Private Eye.

None of the surgeons recently involved in restricting Lauffer’s practice has heard of the concerns raised back in 1999. Whistleblower Mr F has since found NHS employment hard to come by. Mr F wrote to the GMC about Lauffer in 2000. On one occasion that Lauffer ended up in front of the GMC, Mr F received a letter from lawyers warning him to remain silent. King George Hospital told the Eye there was “nothing illegal” about gagging clauses and that they no longer held Mr F’s details on file. No one we asked has any idea where Mr Lauffer is working now, who is auditing his work and whether he is safe. The GMC is just hoping it all quietly goes away, Anne Harris will make sure it doesn’t.

Dr Peter Wilmshurst

DR PETER Wilmshurst is the godfather of healthcare whistleblowers. He has taken on corrupt colleagues and the pharmaceutical industry for more than 30 years, and is still holding down a job as consultant cardiologist at Royal Shrewsbury Hospital.

He is currently fighting three defamation actions against a £200,000 in legal fees before his lawyers agreed to act on a “no win, no fee” basis. Dealing with thousands of pages of documents has taken up all his free time for the last three years. He works each weekend and during his annual leave. And the case has been very stressful for his family. If he loses, he will be bankrupt and may lose his home.

NMT recently went into liquidation so Wilmshurst’s ordeal seems to be over, no thanks to English libel law which does nothing to protect whistleblowers acting in the public interest. But Wilmshurst knows the score.

In 1981 he started research on amrinone, a heart drug which did not have the desired actions and had severe side effects. Amrinone’s manufacturer, Sterling-Winthrop, offered Wilmshurst and a colleague money if they did not publish their findings. “When we refused, they threatened legal action if we published. Doctors who were paid consultants for the company, tried to discredit me when I presented our findings at scientific meetings.”

Wilmshurst discovered that the company had conducted illegal clinical trials in the UK and had submitted falsified documents for applications to market the drug in other European countries. By publishing his results
Something must be done

WHISTLEBLOWING is bad for your health. Stress-related illnesses, relationship breakdown and financial hardship are very common. Even if you win it can feel like a defeat.

Consultant surgeon Ramon Niekrash was suspended from his job at Queen Elizabeth Hospital, Woolwich for 10 weeks after raising concerns about the impact of closing a urology ward. He was high on patient care. The tribunal found in his favour but left him with £160,000 legal bills. The trust used taxpayers’ money to pursue its vendetta. All the managers involved are still employed by the NHS and some have been promoted.

The GMC obliges doctors to raise concerns about patient harm or risk being struck off, but it then fails to support them and will even spend years investigating vexatious complaints against those who blow the whistle. Many surveys have found doctors and nurses are still too frightened of repercussions to report concerns about patient safety.

The BMA claims to support whistleblowers but the largest portion of compromise agreements with gag clauses are written about by... the BMA. Professor David Hands knows why: “Professional bodies frequently collude with managers to define the problem as an employment issue because the sacrifice of one employee (who will shortly no longer be paying subscriptions) is better than losing a cosy relationship with an employer.”

NHS whistleblowers are not always right, but are usually genuine in their concerns. They often end up leaving employment while those who suppress their concerns are promoted. Their dedication and altruism are lost forever, and the harm they’ve tried to expose is buried. Lessons are not learned, dangerous care is repeated and thousands of patients die from avoidable harm.

America has its own National Whistleblower Centre and offers huge support to whistleblowers. Why? There is good evidence that whistleblowing is more effective than regulatory authorities, saves vast sums of public money and many lives. The UK should follow suit.

What’s needed is not just better statutory protections for NHS employees who raise concerns, but statutory enforcement of sanctions for any professional – managerial or clinical – who faill in their duty to investigate the concerns. And the investigation needs to be truly independent.

The NHS needs its own crash investigation team, free from the NHS brotherhood, that goes in fast and dirty in response to poor outcomes, an unexpected death or injury, serious patient complaint or whistleblowing concern, do a thorough analysis and publish it. This was proposed by Dr William Pickering in 1998 and endorsed by the Eye. The CQC cannot be both regulator and inspector.

The key Bristol Inquiry reforms must now be enforced to endshrine safety, humanity and transparency at the heart of the NHS. All gagging clauses in public services should be revoked. Junior staff must be properly trained, not left unsupervised and dangerously overworked. Managers must be free to serve patients, not ministers. Patients need to be given an independent voice, not hidden inside the CQC. The NHS needs an Outcomes Board not a Commissioning Board. Above all, patients, relatives and staff must be encouraged to speak up to stop shit happening. Patient harm must be monitored and displayed in real time, like a smoke alarm for the NHS.

There are still plenty of brave NHS whistleblowers out there, and they need to be recognised and rewarded. And those in authority must be held to account for ignoring them. Dr Peter Gooderham (see below) had no doubt what needs to be done: “Criminal sanctions should be enforced against individuals and NHS bodies for the victimization of whistleblowers and the corporate manslaughter of patients who are harmed as a result of the failure to act on whistleblowers’ concerns.”

For more whistleblowers’ stories, references and supporting documents go to www.medicalharm.org.

How to skin a whistleblower

PETER GOODERHAM (1965-2011) was an academic lawyer and former doctor who devoted much of his life studying and supporting NHS whistleblowers. Before his death, he worked with the Eye to define the methods the NHS uses to shoot the messenger...

- Threaten whistleblowers and the media with libel suits if concerns that could affect the reputation of a trust are to go public.
- Rely on the cowardice and apathy of the Department of Health. It usually refuses to intervene, saying it’s a local employment matter.
- Make vexatious complaints to a professional regulatory body. The General Medical Council’s “Duties of a Doctor” guidelines are so vague they allow trusts to target dozens of complaints.
- Throw public money at an employment tribunal (ET). Trade unions rarely give adequate legal support to members, who are usually tribunal novices while NHS trusts are “frequent flyers” with unlimited public resources. Whistleblowers can be saddled with crippling legal bills even if they win.
- If the trust loses the ET – or any legal ruling - it can keep appealing, using public money, until the whistleblower is bankrupt.
- Arrange an “in house” investigation. Often this is a sham instigated by the trust’s own managers who are not impartial.
- If the press insists on an external investigation, the trust can still organise and pay for it, recruit the panel, agree the terms of reference, hold the inquiry in secret and control how much, if any, of the report reaches the public.
- Don’t fear public inquiries. They’re belated exercises in grief management that seldom change anything. They occur long after the event, when many of those in the dock have moved on and problems, like whistleblowers, are dismissed as ‘historical’.