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medico-legal consultancy

APIL CLINICAL NEGLIGENCE SPECIAL INTEREST GROUP

RAPID REDRESS AND RESOLUTION: OUR EXPERIENCE

JESSICA THURSTON, CHIEF OPERATING OFFICER

LINDA CROCKER-EAKINS, EXPERT WITNESS

WHO ARE WE?

Jessica Thurston

Chief Operations Officer

Occupational therapist – 25 years

- Expert witness – 19 years; CUBS certificate
- Amputee /multiple limb loss specialist

Linda Crocker-Eakins

Expert Witness since 2013

Midwife – 37 years

Integrated role specific interest in fetal monitoring and interpretation of fetal heart rate patterns

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AGENDA

1. Background to S&A
2. ENS and S&A
3. How ENS works and plans for change
4. Learning for the NHS
5. Discussion & questions

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SOMEK & ASSOCIATES LTD

- Established in 1997
- Medico-legal consultancy
- Headquarters - Chesham, Bucks
- Alison Somek, CEO and Jessica Thurston, COO – OT's and very experienced expert witnesses
- Over 200 associates across the UK
- We have approximately 2,000 open cases
- Robust recruitment and training
- Balanced portfolio of Claimant and Defendant instructions
- Corporate Partner of the Expert Witness Institute.

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SERVICE OPTIONS

QUANTUM	Care & Occupational therapy	Physiotherapy S&LT
LIABILITY	Nursing	Midwifery

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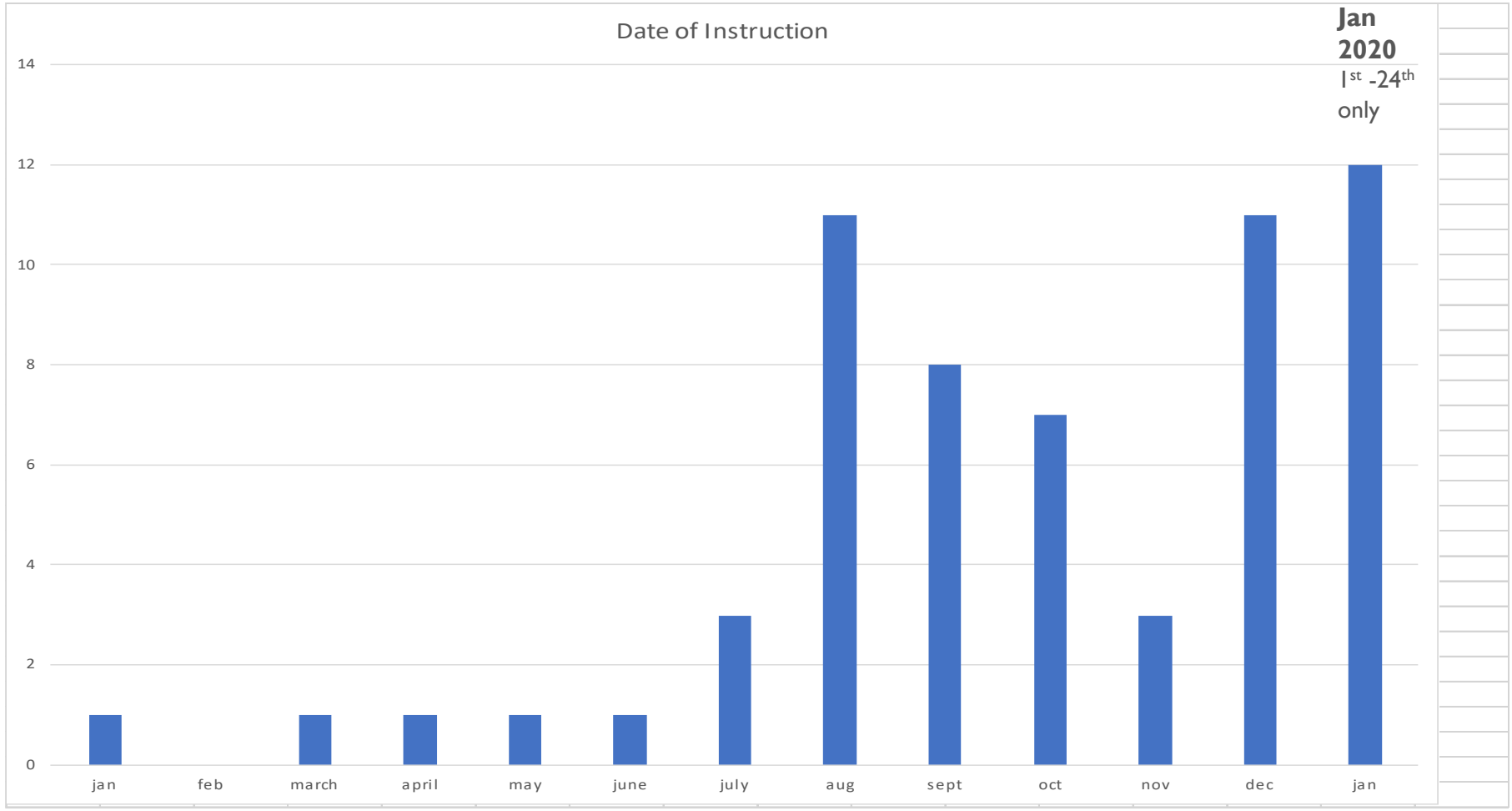
ENS INSTRUCTIONS S&A



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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (1)

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Criteria for Trust reporting

- Diagnosed with grade III hypoxic ischaemic encephalopathy (HIE) or
- Was therapeutically cooled (active cooling only) or
- Had decreased central tone AND was comatose AND had seizures of any kind

Key themes so far include: support for staff, fetal monitoring, impacted fetal head, concurrent maternal medical emergencies and immediate neonatal care/resuscitation (report dated September 2019)

https://resolution.nhs.uk/wp-content/uploads/2019/10/NHS-Resolution_Early-Notification-Scheme-Summary-Report.pdf

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (1)

Continued…

Process

Clinical Team → The Trust legal services department (<14 days) → report to NHSR (<30 days) → NHSR review → instruct Expert Witness → Prepare Report

Following Receipt of Reports and Review

Case Closed

OR

Case Conference/Case Summit

NHSR inform family of Findings

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (2)

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NHSR inform the family that they consider that they can defend the case → File closed.

OR

NHSR Inform family that they wish to admit liability → NHSR (via the solicitor) instruct a case manager to undertake an Initial Needs Assessment and establish a care regime → early access to the therapy, care, equipment, accommodation at the earliest stage possible → Care needs reviewed at 2 and 5 years and potentially by this stage the family will instruct a solicitor and begin legal proceedings (the NHSR will certainly encourage the family to instruct their own solicitor).

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (3)

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CURRENTLY

- Expert instructed on an advisory basis on ENS cases
- Writes report
- Availability for conference requested
- Attend case conference
- Counsel issues letter to NHSR.

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (3)

Continued…

- Time frame from my experience: (124224) Incident September 2017, instructed late 2018, baby born in poor condition, HIE and ? Sepsis. Report submitted Jan 2019; April 2019 request for conference date June/July; May request for Aug/Sept, potential date for Sept given and then date set. In June a request for availability up to Oct; in July 2 possible dates given for Aug and Oct, further docs sent to review late Oct, conference 31/10/19 in London. Some experts in person, others on telephone. This baby as yet has no apparent injury, although it was determined that alternatives in labour care may have altered the initial presentation.

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (4)

IN FUTURE

- Expert requested in advance to attend a case conference (Summit) on 3 cases (likely from the same trust) – dates agreed but expert not reserved on specific cases at the point of commitment
- Expert provided with case details (reinstructed if potential conflict)
- Expert sent bundle of case documentation i.e. clinical records to review (<500 pages) and provide a one-page (or less) summary of the key issues (errors/omissions) relating to practice relative to their field of practice. **No longer be required to prepare a report.**
- Commence reviewing case one week prior to the Summit.

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (4)

Continued…

- Summit, led by Counsel (one obstetrician, a midwife and a neonatal expert).
- Each conference/Summit (usually in London) to consider 3 cases with 1-1.5 hrs allocated to each case.
- Following conference Counsel writes up (< 1 page) the issues discussed and agreed and a copy sent to each expert for agreement and signing.
- Likely to be no further work required of the expert after signing Counsel's issues summary document.

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EARLY NOTIFICATION SCHEME FROM EXPERT'S PERSPECTIVE (5)

Midwifery Issues to Consider

- Benefits to service as a whole
- Availability of some experts regarding timeframes
- Potential conflict of interest if location of incident not provided at outset
- Completeness of Records
- Length of time given to review records
- No report required – positives and negatives
- Location of Summit – London, (NHR may seek fixed fee in future)
- Personnel at summit (place for paediatric neuroradiologist?)

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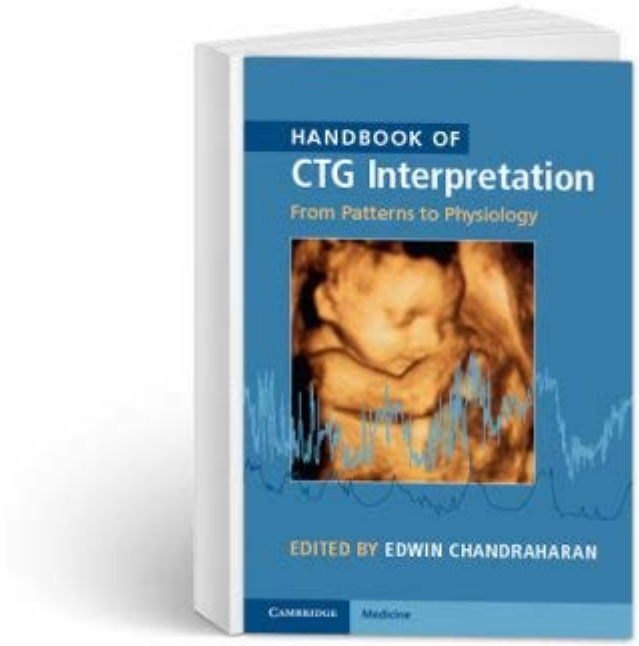
LEARNING FOR NHS



This practical manual promotes an evidence-based paradigm of fetal heart rate monitoring during labour, moving away from the traditional 'pattern-based' interpretation to physiology-based interpretation.

FIGO
International Federation of Gynecology and Obstetrics
THE GLOBAL VOICE FOR WOMEN'S HEALTH

Consensus guidelines on intrapartum Fetal Monitoring: Cardiotocography (2015)

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CTG INTERPRETATION

In addition to NICE (2014) considerations:

- Is the baseline appropriate for gestation?
- Is the baseline in keeping with previous CTG monitoring?
- What is the baseline variability?
- What is the whole clinical picture?
- Is there differentiation with the maternal pulse?
- Is MHR is being interpreted?

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THANK YOU FOR LISTENING
ANY QUESTIONS

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THANK YOU

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