

## **CORRESPONDENCE WITH ROBERT FRANCIS JANUARY & FEBRUARY 2017**

**From:** Minh Alexander <\*\*\*\*\*>  
**Subject:** Meeting and concerns about the National Guardian's office  
**Date:** 3 February 2017 at 12:11:21 GMT  
**To:** \*\*\*\*\*

Dear Sir Robert,

### **Meeting and concerns about the National Guardian's office**

Thank you very much for your reply to my emails of 5 and 19 January and for taking the trouble to engage with some of the issues that I have raised.

I have now met twice with Dr Hughes, by telephone and in person. In addition to a concern that whistleblowers have about the ineffective design of her office, I am concerned that the implementation of your vision is also now in question. Dr Hughes has told me that she received no handover, and could not therefore account for why work scheduled by her predecessor appears not to have been undertaken. The continuing delays are impacting on whistleblowers who are, at this moment, trying to seek her help.

I have received evidence that some local Guardians are failing whistleblowers and leaving them at the mercy of abusive employers. To my concern, Dr Hughes does not appear to have fully acknowledged this in her conversations with me.

Arising from the two meetings, I also have concerns about whether there will be sufficient emphasis by Dr Hughes on holding serious wrongdoers to account. This is a particular concern in the wake of the failure of FPPR by CQC.

In particular, I am worried that Dr Hughes is reluctant to accept the full extent of CQC failure on whistleblowing, and so will not help to remedy this gross failure.

I do appreciate that you invested a lot of time and effort in thinking about the problems that exist in whistleblowing governance. Your views clearly matter a great deal and I would very much value an opportunity to understand what they are now, two years on from the Freedom to Speak Up Review. Accordingly, as it was your report that resulted in the creation of the office, and you still have a major part in its development including chairing the NGO Accountability and Liaison Committee which provides tripartite input from the three funding bodies. I really do think it would be very useful to meet at some point.

With best wishes,

Minh Alexander

**From:** Sir Robert Francis QC <\*\*\*\*\*>

**Subject:** Re: Meeting

**Date:** 19 January 2017 at 09:55:24 GMT

**To:** Minh Alexander <\*\*\*\*\*>

Dear Dr Alexander

I must apologise for not replying before now to your earlier request for a meeting but I have of course followed your correspondence with Dr Hughes. As you may be aware I am in full time practice as a barrister and have a limited amount of time to devote to the aftermath of Mid Stafford, the FTSU review and subsequent developments. and the contribution I can make in my spare time is therefore limited. I have noted that you are in dialogue with Dr Hughes and it seems to me that pursuing that is likely to be more fruitful for you than a meeting with me, Your views are well known to me, and I respect them even if I do not always agree with them.

Thank you for alerting me to the Burton essay giving his view of CQC's performance in the regulation of adult social care. I do not accept that it is a fair characterisation of its work. In particular my own experience of observing the inspection of a care home is very different from that he describes. The same applies to his view of the function of the Board. Of course nothing is t perfect and the organisation recognises this: under the leadership of David Behan, it is constantly - and openly – striving to improve the way it regulates the sector. I note that Mr Burton gives no credit to CQC for the way in which it speaks truth to power in the State of Care Report in relation to the dangers caused by the under funding of the sector and its concern that the sector is approaching a tipping point, a view based on evidence gathered in the course of its work. I do think those who criticise CQC in the way Mr Burton does should be wary if getting what they ask for. No regulator is popular with those it regulates. and it is not difficult to pick holes in the work it does. However I believe that to do away with national regulator as he suggests would play into the hands of those who would exploit vulnerable service users for their own profit.

Yours sincerely

Robert Francis

Sir Robert Francis QC | Barrister

**From:** Minh Alexander <\*\*\*\*\*>

**Subject:** Meeting

**Date:** 19 January 2017 at 00:19:18 GMT

**To:** \*\*\*\*\*

Dear Sir Robert,

I wonder if you could possibly let me know if you are agreeable to a meeting, as per my email below of 5 January. I would be very grateful if this is possible.

If you have not seen it yet, the Centre for Welfare Reform has added it voice to concerns about continuing CQC failures, including not detecting abuse:

<http://www.centreforwelfarereform.org/news/why-cqc-failre-correctly/00316.html>

The CEO of the Centre has been forthright about CQC's political function:

***"The illusion that it is performing a useful function is critical to Government policy. As severe cuts and rising cost savage an already inadequate social care system, it may be that the Government will not want to address these problems. For the CQC adds a patina of respectability to its failed policies"***

It would very valuable to discuss all these matters with you.

With best wishes,

Minh Alexander

**From:** Minh Alexander <\*\*\*\*\*>

**Subject:** Meeting

**Date:** 5 January 2017 at 11:16:55 GMT

**To:** \*\*\*\*\*

Dear Sir Robert,

I wonder if you would be open to meeting with me to discuss the way forward on NHS whistleblowing governance, now that it is almost two years since the Freedom To Speak Up Review report was published?

I was interested to see your recent comments that Regulation 5 Fit and Proper Persons was not working. I would be interested to know whether you may think other areas also need re-thinking, and what you think of the evidence that I have sent your way of ongoing governance failures.

With best wishes,

Minh Alexander