

To Rt Hon Ben Gummer 15 July 2016

Dear Mr Gummer,

Whistleblower confidence in the National Guardian

I am an NHS whistleblower and former consultant psychiatrist. I write to echo the issues raised by Dr Philippa Whitford, in Wednesday's debate on Liverpool Community Health NHS Trust and NHS whistleblowing, about confidence in CQC's most recent National Guardian appointment.

<https://hansard.parliament.uk/commons/2016-07-13/debates/16071339000002/CapsticksReportAndNHSWhistleblowing>

Although you commented in response that Dr Henrietta Hughes, the new National Guardian, is a practising GP her substantive post is currently Medical Director of NHS London (NC&E), and she is Responsible Officer for 3000 GPs. CQC advises that she will not be retaining these responsibilities when she takes up her post as National Guardian, but I am sure that you can imagine why whistleblowers naturally feel a concern that she comes from the NHS corporate culture that has failed them for many years. A Medical Director and Responsible Officer is also not a natural choice for National Guardian given all the evidence over the years – including that revealed by Sir Anthony Hooper's report on GMC's handling of whistleblowing - of such senior doctors' pivotal role in harming whistleblowers. Whilst I do not suggest any such impropriety by Dr Hughes, perception and trust are all in creating a safe environment for staff to speak up.

Furthermore, the CQC did not see fit to include expertise in whistleblowing in the person specification for the National Guardian (despite concerns). This was demonstrated to be a significant issue when Eileen Sills the previous National Guardian gave inaccurate advice that the National Guardian had no Prescribed Person functions under the Public Interest Disclosure Act, which subsequently had to be corrected by CQC.

<https://www.opendemocracy.net/ournhs/minh-alexander/no-one-believes-jeremy-hunt-on-patient-safety-and-whistleblowers-not-even-his-#.VuLP8Vb5NRs.twitter>

No information has been provided about whether Dr Hughes has any whistleblowing expertise.

You commented that as the National Guardian is set aside from the DH you hoped this would give whistleblowers confidence in the office's independence. I am afraid that whistleblowers do not find that the CQC is truly independent, and in fact usually view CQC as part of the problem. Therefore, the majority of whistleblowers do not feel that the DH's choice of CQC as a host for the National Guardian is appropriate.

Lastly, it is very unclear what the National Guardian's role and powers will be. Clauses in the position specification which significantly restricted the National Guardian's role were removed after Eileen Sill's departure. Despite being asked, neither Sir Robert Francis on behalf of CQC nor Dr Hughes have yet shed light on what this means. I hope you can understand that this does not encourage confidence. People who may lose careers and livelihoods as a result of making disclosures need at least to know what the National Guardian's office will do or not do. Many whistleblowers have already suffered disastrous detriment after making external disclosures to central NHS bodies. It is therefore disappointing that there is lack of clarity, at this late stage, about whether the National Guardian actually has any real remit to protect future whistleblowers if they seek help from her.

The Liverpool whistleblowers were extremely fortunate to have Rosie Cooper as a committed protector and champion, and staff were reportedly not harmed during the Liverpool investigation, but this is a rare outcome. Even when experienced MPs have intervened robustly in other cases, this has not always prevented sackings and other reprisal.

I would be grateful if the DH would share its plans for evaluating and tracking the effectiveness of the National Guardian model and also advise whether it will ensure that there is no further delay in clarifying the extent of the National Guardian's role and powers.

Effective NHS whistleblowing governance is a key component in preventing further Bristols, MidStaffs and Liverpools, but we are a very long way off from safe culture and systems. As long as staff remain too frightened to speak out, patients will be at risk of harm.

Yours sincerely,

Dr Minh Alexander

cc Rosie Cooper
Dr Philippa Whitford
Justin Madders
Sarah Wollaston
Meg Hillier
Bernard Jenkin
Diane Abbott
Alistair Burt
Jeremy Hunt
Chris Wormald
Katherine Murphy