

From: Minh Alexander <*****>
Subject: Audit of how CQC maintains whistleblowers' confidentiality
Date: 9 April 2018 at 09:24:31 BST
To: Peter Wyman <*****>
Cc: Steve Barclay ***** , Robert Francis

BY EMAIL

Peter Wyman
Chair, Care Quality Commission
9 April 2018

Dear Mr Wyman,

Audit of how CQC maintains whistleblower's confidentiality

Thank you for your letter of 4 April 2018, copied below.

I am concerned by CQC's continuing reluctance to be accountable.

To sum up where we are:

- CQC is accused of breaching many whistleblowers' confidentiality
- CQC has admitted breaching the confidentiality of at least three whistleblowers
- You maintained to me that CQC monitors its compliance with its policy of confidentiality but provided no evidence of this
- You flatly refused to instruct an audit of CQC's safeguarding of whistleblowers' confidentiality
- David Behan breached my confidentiality, ironically at the National Freedom To Speak Up Guardian's conference on 6 March 2018
- He apologised verbally at the time when made aware of what he had

done

- He ignored a reference to it in subsequent correspondence, and appeared reluctant to acknowledge formally that he had breached my confidence, or the relevance of this to CQC's decision not to audit how it safeguards whistleblowers' confidentiality
- You now appear to belittle the matter and possibly deny that it even happened in that you have stated "*I also do not intend to comment on a private conversation that you had with David Behan*"

For your information, David Behan approached me, and the breach of confidence took place in a crowded conference hall full of hundreds of people and it was witnessed.

I have already accepted David Behan's apology in this matter as my perception was that he made a simple mistake.

I will not take up CQC's time or mine with a complaint, but I must register my concern that CQC seems unable to handle even a relatively small slip up with grace.

If it cannot put its hand up properly to even minor errors, what does that say about its transparency and accountability on the most important issues.

As for your remark that you are "*pleased that I have accepted the invitation to meet with Professor Edward Baker*", I should clarify that Professor Baker agreed after some months to meet with me, following an initial refusal to do so.

This change of position occurred after the BBC exposed CQC's breach of whistleblowers' confidentiality and reported that CQC had claimed that it "encouraged" me to submit evidence, when in fact it had been trying to limit interaction.

The meeting has yet to take place as I have been waiting for the return of a key CQC manager from extended leave.

Yours sincerely,

Dr Minh Alexander

Cc Steve Barclay Minister of State
Sir Robert Francis CQC NED

Dear Dr Alexander,

4th April 2018

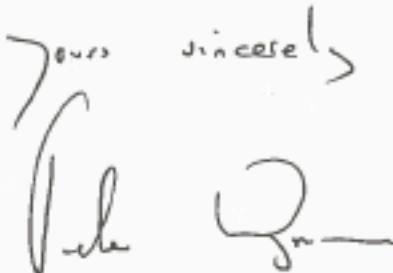
I am writing in response to your email of 3 April 2018 in which you asked for me to reconsider CQC's decision not to audit our protection of whistleblowers' confidentiality.

I can again confirm that CQC are satisfied with our current policies and processes with regards to our handling of information shared by whistleblowers. Therefore we do not intend to take any further action to audit our protection of whistleblowers' confidentiality, and we do not intend to correspond further on this matter.

I also do not intend to comment upon a private conversation that you had with Sir David Behan, but I trust that his response of 29 March 2018 to your letter of 9 March 2018 adequately answered the concerns that you had discussed.

You will be aware that the Government have announced a review of the scope and implementation of the Fit and Proper Persons Requirement (FPPR) and you may also be aware that the CQC Board have welcomed this review, the outcome from which we will await with interest.

I am pleased that you have accepted the invitation to meet with Professor Edward Baker, Chief Inspector of Hospitals at CQC to discuss our approach to whistleblowing, and hope that you will find the meeting useful.

Yours sincerely,


Peter Wyman CBE DL
Chairman

From: Minh Alexander <*****>

Subject: Audit of how CQC maintains whistleblowers' confidentiality

Date: 3 April 2018 at 13:10:10 BST

To: Peter Wyman <*****>

BY EMAIL

Peter Wyman
Chair
Care Quality Commission

3 April 2018

Dear Mr Wyman,

Audit of how CQC maintains whistleblowers' confidentiality

Please see the correspondence copied below and attached.

In summary, at the National Guardian's conference on 6 March 2018 Mr Behan inadvertently breached my confidentiality.

Whilst there was fortunately no harm done, the incident did illustrate how easily slips can happen.

Mr Behan apologised at the time but has appeared less ready to acknowledge the incident in subsequent correspondence, and he has today declined to review CQC's decision not to audit its practice in this area.

I would be grateful if you could confirm that it remains your opinion that no audit on whistleblower confidentiality is needed, or alternatively let me know if your view has changed.

I should add that I am arranging to meet with Prof Baker on CQC's approach to whistleblowing in general, but that is a separate matter to the specific question of whistleblower confidentiality, which I address to you.

Many thanks,

Dr Minh Alexander

From: "Docherty, Matthew" <*****>
Subject: POCU 1516 0181 Dr Minh Alexander - Discussion on 6 March 2018 - National Guardian's conference
Date: 3 April 2018 at 12:19:39 BST
To: Minh Alexander <*****>

Dear Dr Alexander,

Please find attached a letter from Sir David Behan, Chief Executive of the Care Quality Commission.

Thank you for writing to us.

Kind regards

Matt

Matt Docherty
Correspondence Secretary
Governance & Private Office
Care Quality Commission
151 Buckingham Palace Road
London
SW1W 9SZ

Email: *****



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Citygate
Gallowgate
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Telephone: 0300 061 6161
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Dr Minh Alexander

By email: minhalexander@aol.com

29 March 2018

Dear Dr Alexander,

I am writing further to my email of 9 March 2018, and in response to the issues you raised in your letter of the same date.

In my email, I committed to responding to your query in relation to meetings between the Care Quality Commission (CQC) and the Parliamentary and Health Service Ombudsman (PHSO) in relation to CQC's application of the Fit and Proper Persons Requirement (FPPR).

CQC did meet with the PHSO and discussed the application of FPPR with regards to a complaint made to them by an individual. The context of this discussion was therefore in relation to a particular item of PHSO casework.

We do hold an email containing notes of a meeting regarding this complaint. The notes were made by the PHSO Investigator but do not contain "any general advice or feedback [...] from PHSO on how to conduct FPPR differently in future". Nor do the notes hold any decision, advice or feedback from the PHSO on how the FPPR process was handled in that specific case.

You also asked for me to reconsider CQC's refusal to audit our protection of whistleblowers' confidentiality. I understand that you are referring to a response of 21 September 2017, from Peter Wyman, Chairman of CQC following receipt of correspondence about whistleblowing concerns raised with CQC by an individual.

We have been clear about our response to the concerns raised and I can confirm that CQC are satisfied in our response, both to the individual in this case, and to our policies and processes with regards to our handling of information shared by whistleblowers. Therefore we do not intend to take any further action to audit our protection of whistleblowers' confidentiality.

From: Minh Alexander <*****>
Subject: Discussion on 6 March 2018
Date: 19 March 2018 at 11:41:19 GMT
To: David Behan <*****>
Cc: Matthew Docherty <*****>

Dear Sir David,

I would be grateful if you would confirm receipt of my email below of 9 March.

Dr Minh Alexander

From: Minh Alexander <*****>
Subject: Discussion on 6 March 2018
Date: 9 March 2018 at 21:45:03 GMT
To: David Behan <*****>

Dear Sir David,

Thank you for your email and for looking into the meetings with PHSO.

I also asked you to reconsider CQC's refusal to audit its protection of whistleblowers' confidentiality, and to involve whistleblowers in audit. I would be grateful for your response on this point.

Yours sincerely,

Dr Minh Alexander

From: "Behan, David" <*****>
Subject: RE: Discussion on 6 March 2018
Date: 9 March 2018 at 13:07:13 GMT
To: Minh Alexander <*****>
Cc: Private Office Correspondence Unit <*****>

Dear Doctor Alexander,

Thank you for your letter .

As I advised in our conversation I was unaware of minutes of meetings between CQC and the PHSO . I will ask colleagues here and if there is anything further to report I will come back to you .

More generally in respect of FPPR I have previously welcomed the government announced review, post Kirkup ,in to the scope and operations of the FPPR and will await the outcome of the review .

Yours sincerely,
David Behan

Sir David Behan CBE
Chief Executive
Care Quality Commission

151 Buckingham Palace Road
London
SW1W 9SZ

Statutory requests for information made pursuant to information legislation, such as the Data Protection Act 1998 and the Freedom of Information Act 2000, should be sent to: information.access@cqc.org.uk

-----Original Message-----

From: Minh Alexander [*****]
Sent: 09 March 2018 11:46
To: Behan, David
Subject: Discussion on 6 March 2018

Please see the attached letter,

Minh Alexander

BY EMAIL

Sir David Behan
Chief Executive
Care Quality Commission
9 March 2018
Dear Sir David,

Discussion on 6 March 2018

I write further to the brief conversation you instigated with me on Tuesday, at the National Guardian's conference.

As most of our correspondence over the last few years has concluded with you advising me that you are ending the discussion and or that the CQC has nothing further to say. I was rather surprised by both the manner and the fact that you approached me. You will no doubt recall that your head of legal services even intimated at one point that I might be declared vexatious. I was therefore unsure, as you appeared to be, what you would wish to talk to me about.

Perhaps as a large influential white man, you should consider the effect of imposing your presence on a small BME woman, especially when there is an earlier history of serious CQC failure to support and protect a worker who was doing their duty and helping the regulator.

I accept your apology that you broke my confidence by starting to talk about the fact that I had made a Subject Access Request (SAR) to CQC for personal data. I appreciate that it might have been because that you too found our encounter awkward, in contrast to your very relaxed manner I observed earlier when you were laughing and chatting with Roger Kline.

I feel it would be worth clarifying the details regarding the issue of FPPR which we briefly touched upon, following on from the mention by Clare Sardari of her current complaint with PHSO against the CQC.

I informed you that PHSO had disclosed that it had met with CQC to discuss CQC's conduct of FPPR, and I asked you if you would be prepared to share the minutes of those meetings. In response you initially seemed to think that I was referring to your own quarterly meetings with PHSO and said that the meeting records were not disclosable if they consisted of third party information. I clarified that I believed the meetings were primarily to

discuss CQC's general conduct of FPPR. Therefore any third party information aired to illustrate issues would be secondary, and redactable. That is when you began talking about my SAR, and there seemed to be some crossed wires.

This is nothing whatsoever to do with my personal data. It is a request for CQC to allow transparency about any general advice or feedback that it may have received from PHSO on how to conduct FPPR differently in future. This is especially pertinent given Bill Kirkup's recent recommendations on this issue and the Minister of State's decision that there should be further review of how FPPR operates in Health and Social Care.

My only interest is patient safety and I regret that we usually end up in opposition. I would ask you to reflect on CQC's behaviours in these matters, and its recent flat refusal to audit how well it is safeguarding whistleblowers' confidentiality. It would be a substantial show of good faith if you would reconsider this, and involve whistleblowers in an audit.

As you can see for yourself, slips are only too easy to make.

Yours sincerely,

Dr Minh Alexander

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