

From: REDACTED

Subject: Disbarring unfit NHS senior managers

Date: 29 May 2023 at 08:01:59 BST

To: REDACTED

Cc: REDACTED

BY EMAIL

Steve Barclay
Secretary of State
Department of Health and Social Care

29 May 2023

Dear Mr Barclay,

Disbarring unfit NHS senior managers

I write to follow up a letter to you of 7 February 2023 to which I did not receive a reply, which was a heartfelt request that you give further thought to Tom Kark's recommendation of a disbarring mechanism for unfit NHS managers.

Since I wrote, the circus of recycling and unashamed NHS waste continues.

As two examples, Mark Cubbon the former CEO of Portsmouth Hospitals NHS Trust who failed to protect exonerated and fully validated whistleblower Dr Jasna Macanovic was promoted to a high profile job at NHS England. Most recently he was rotated to a plum job as CEO of Manchester University NHS Foundation Trust. I wrote to Stephen Powis Chief Medical Officer NHS England about unresolved system issues that posed patient safety risks arising from Dr Macanovic's whistleblowing case, but did not receive the courtesy of a reply, even after chasing.

The second example is that I have found over a million pounds has been spent by seven NHS trusts on consultancy services by a private company, TheValueCircle LLP Company number OC419158 but with great secrecy and no tangible product in the public domain to show for this expenditure. This is the company that has been hired by the scandal-struck University Hospitals Birmingham NHS Foundation Trust to conduct a culture review on itself. Most troublingly, TheValueCircle has also been hired on the equally scandal-struck North East Ambulance Service NHS Foundation Trust (NEAS) where many lives have been lost and it is alleged that there have been criminal breaches of coronial law. NEAS hired TheValueCircle to conduct a Well Led review and a full review of Trusts Governance and Assurance Framework, and refuse to disclose the reports from these reviews which were paid for out of public money, on the extraordinary grounds of prejudice to the conduct of public affairs. After all the lives lost.

NEAS bereaved families, severely harmed whistleblowers and their advocates want a public inquiry, not the dubious investigation currently being run by NHS England which has a vested interest in the matter after having failed the whistleblowers who came to them originally.

It is quite extraordinary that NEAS has the hubris to claim FOAI Section 36 prejudice to the conduct of public affairs, after spending a quarter of a million of our money on the services of TheValueCircle.

I would be very grateful if you would consider once more the vital importance of Tom Kark's disbarring mechanism to deter egregious abuses, and to protect patients, families and NHS staff

from incapable and unfit NHS managers. It is particularly unjust that unfit NHS managers may persecute professionally registered NHS staff, as has happened at University Hospitals Birmingham NHS Foundation Trust, and happily evade consequences if they are not themselves registered or remove themselves from registers.

I attach a relevant FOI response from NEAS.

With best wishes,

Minh

Dr Minh Alexander

Cc

Tom Kark KC
Health and Social Care Committee
Public Accounts Committee
Grahame Morris MP
Dr Chaand Nagpaul UHB External Reference Group
Preet Kaur Gill MP UHB External Reference Group
Dr Phil Banfield Chair BMA

From: REDACTED

To: REDACTED

Cc: REDACTED

Sent: Tuesday, 7 February 2023 at 06:49:25 GMT

Subject: Disbarring unfit NHS senior managers

BY EMAIL

Steve Barclay
Secretary of State
Department of Health and Social Care

7 February 2023

Dear Mr Barclay,

Disbarring unfit NHS senior managers

I write as NHS England have informed me that the Department is not currently implementing the [recommendation from Tom Kark's review of the Fit and Proper Persons test in the NHS for a disbarring mechanism](#).

I was deeply concerned at how we have arrived at this ten years on from the Mid Staffs public inquiry, following which [you campaigned for David Nicholson's removal](#).

Suppression and related patient harm in the NHS continue and I do not see how they can be less important today than they were ten years ago.

As an example of a blameless whistleblower, Dr Jasna Macanovic was found by an Employment Tribunal to have been the victim of a campaign of harassment by her employing trust,

Portsmouth Hospitals University NHS Trust. Her evidence has been accepted as credible by the Tribunal. She was found to have been unfairly dismissed as a predetermined act, expressly because she had made protected disclosures about serious patient safety issues. Her employer not only failed to recognise that her disclosures to the GMC were protected, and that they were made as part of her professional duty as a doctor, but punished her for making the disclosures. The Tribunal found that her medical director was centrally involved in her predetermined unfair dismissal. The Tribunal found no contributory fault by Dr Macanovic.

But when a Regulation 5 Fit and Proper Persons (FPPR) referral was later made to the Care Quality Commission on the above medical director, the CQC concluded that the trust was not in breach of the regulation. This is in the context of the CQC previously promising Dr Macanovic, at the outset of her whistleblowing journey, that it would protect her by warning the trust against attempts at reprisal. It also promised her that it would review the trust under Regulation 5 if reprisal occurred. However, the CQC reneged and did not step in when gross reprisal occurred, and it only conducted the FPPR review when it received a formal referral. All this illustrates plainly the ineffectiveness of current arrangements for protecting staff and patients from failing managers.

Without a disbarring mechanism, erring managers will simply continue to be protected and recycled, and be free to repeat harms.

I would be grateful if you would reconsider the Department's decision not to implement this aspect of the Kark recommendations.

The details of CQC's false promise of protection to Dr Macanovic can be found here:

[CQC's reputation management of serious whistleblower reprisal, false promises of protection & denial of sensitive information sharing between CQC & National Guardian's Office. Shyam Kumar's & Jasna Macanovic's cases.](#)

I do not consider conventional routes of disclosure (employers, regulators, other designated whistleblowing mechanisms) for NHS whistleblowers reliable at present.

With best wishes,

Dr Minh Alexander

Retired consultant psychiatrist

Cc Health and Social Care Committee
Public Accounts Committee