

BY EMAIL

Prerana Issar

NHS England/ Improvement Chief People Officer

22 February 2021

Dear Prerana,

NHS Improvement's risky approach to checking the educational qualifications of trust directors whom it appoints and other Fit and Proper Person issues

I write to ask again why there is a delay in implementing the recommendations of the Kark review on ensuring that senior managers in the NHS are Fit and Proper Persons.

NHS Improvement belatedly released to me the most recent minutes and a powerpoint document from NHSI's Kark reference group but these papers were redacted to the point of near meaninglessness (see attached). One of the released documents referred to a plan to put proposals to ministers, but no timescales were evident, possibly due to the redaction.

Whilst NHSI and or the government continues to delay acting on the Kark review, NHS staff and patients are left at risk from unethical or incompetent senior managerial behaviour.

Since the Kark review report was published on 6 February 2019, reports have continued of serious wrong doing by senior NHS managers.

- False accounting has been found by NAO at University Hospitals of Leicester NHS Trust and the fitness of two former directors has been questioned.

<https://www.leicestermercury.co.uk/news/leicester-news/former-top-leicester-nhs-bosses-4958990>

- A director at Oxford University Hospitals NHS Foundation Trust has been convicted of CV fraud.

<https://minhalexander.com/2020/01/25/nhs-cv-fraud-peter-knight-cqcs-failure-to-safely-implement-regulation-5-fit-and-proper-persons-at-oxford-university-hospitals-nhs-foundation-trust/>

- Various NHS trust directors have been reported to regulators for whistleblower reprisal.

- NHSI appointed Paula Vennells the former CEO of the Post Office as Imperial Healthcare NHS Trust chair despite her role in unsafe convictions and other mistreatment of subpostmasters, and the trust board later failed to comply with its legal obligations to look properly into her fitness.

<https://minhalexander.com/2020/11/27/ccrcs-argument-of-abuse-of-process-by-post-office-ltd-fitness-of-paula-vennells-chair-of-imperial-college-healthcare-nhs-trust/>

<https://minhalexander.com/2020/06/11/post-office-horizon-scandal-how-dido-harding-helped-to-recycle-paula-vennells-fppr-and-a-suggestion-for-the-beis-minister/>

- Mason Fitzgerald an East London Foundation Trust director seconded to Norfolk and Suffolk NHS Foundation Trust, and appointed as NSFT CEO, is now subject to allegations of CV fraud.

<https://www.bbc.co.uk/news/uk-england-norfolk-56041119>

NHSI, as its predecessor body Monitor, would have passed Mason Fitzgerald on its Fit and Proper Person test:

<https://minhalexander.files.wordpress.com/2021/02/nhsi-fit-and-proper-persons-test-final.pdf>

when it appointed him to the Independent Panel for advising NHS trust governors:

<https://www.gov.uk/government/groups/panel-for-advising-nhs-foundation-trust-governors#the-panels-new-role>

Review of CQC inspection records show variability in CQC's checks of trust directors' personnel files during inspections and failure to pick up CV fraud by both Peter Knight and the alleged CV fraud by Mason Fitzgerald.

<https://minhalexander.com/2021/02/21/delayed-kark-review-implementation-nhs-cv-fraud-and-cqcs-woeful-administrative-checks-under-cqc-regulation-5-fit-and-proper-persons/>

These cases follow NHSI's appointment of a fraudster, Jon Andrewes, to the boards of the Royal Cornwall NHS Trust and Devon Partnership NHS trust, because his qualifications were not checked and "staggering lies" about his educational qualifications were not detected.

NHSI previously gave a weak answer when asked what improvements it would make in the wake of the Jon Andrews scandal:

<https://minhalexander.com/2017/04/11/jon-andrewes-fraud-nhs-improvement-responds/>

Arising from all the above, I would be grateful for the following:

1. To appeal against NHSI's excess redaction of the disclosed Kark Reference Group papers under Section 36 exemption and on grounds of protecting personal data under Section 40 FOI.

I believe the public interest in NHSI's progress on a very serious matter of senior managerial fitness outweighs any privacy claims, especially as the members of the large Kark Reference Group include very senior NHS managers who should expect robust scrutiny of their actions. The lack of transparency by NHSI has locked out many parties with legitimate interest in the process, such as whistleblowers who were witnesses in the Kark review, and it has deprived these parties of meaningful opportunity to feed into NHSI's process.

2. (a) Please disclose more clearly what stage work on Kark Review implementation has reached. Has NHSI formulated proposals for ministers, and if so when? When did NHSI put any proposals to ministers? Please disclose a copy of NHSI's proposals and accompanying correspondence to ministers. **Please consider this part of my request as a fresh FOI request.**

2. (b) In 2017 after Jon Andrewes was jailed, NHSI disclosed that its policy had not included checks of qualifications, that it was merely "considering" future checks of candidate's qualifications and that it left DBS vetting to trusts, worryingly implying that NHSI may be content for DBS vetting to be a **post-appointment** check.

"The current policy approach is not to routinely request proof of qualifications unless a particular qualification is listed in the person specification."

"NHS Improvement did not carry out a Disclosure and Barring Scheme (DBS) check. This check and a number of other checks are left to the NHS trust to which the appointment is being made to carry out"

<https://minhalexander.files.wordpress.com/2017/03/nhs-improvement-foi-response-re-jon-andrewes-11-04-2017.pdf>

On 6 June 2017, NHS Improvement posted updated details of its Fit and Proper Person requirements, which revealed that NHSI would undertake DBS checks after

all. However, NHS Improvement planned to undertake **only random checks** of educational qualifications:

“Fit and proper persons requirements

We have specific role in appointing and supporting NHS Trust chairs and non-executives which includes a duty to ensure that the individuals they appoint meet the requirements of the ‘fit and proper persons’ regulations.”

Checks undertaken by NHS Improvement

We also undertake this series of checks to ensure that candidates meet our internal criteria:

- *CV check for gaps in history, potential issues and conflicts of interest*
- *check of self-declaration form completed by the candidate, and renewed for reappointments via appraisal documentation*
- *scrutiny of panel assessment documentation, where appropriate for new appointments*
- *Google and news searches, including high profile roles, any regulated activity, or work with children or vulnerable adults*
- *check with relevant regulators, where individuals have a history of regulated activity*
- *scrutiny of references*
- *search of disqualified directors register*
- *search of insolvency and bankruptcy register*
- *scrutiny of appraisal documentation, where appropriate*
- *check of corporate knowledge where the individual has a background in the NHS*

Further documentation to be completed

All appointments are conditionally offered on satisfactory completion of:

- *Disclosure and Barring Scheme (DBS) checks (where appropriate to the role)*

- *occupational health assessment (for new appointments only)*
- *random checks of educational qualifications*
- *proof of identity, for example passport or driving licence (for new appointments only)*
- *proof of qualifications*
- *proof of right to work, where individual does not provide an EU passport as proof of identity (for new appointments only)”*

<https://improvement.nhs.uk/resources/fit-and-proper-persons-requirements/>

Please advise if in the light of the concerns about Mason Fitzgerald, NHSI will reconsider its risky approach of only randomly checking some candidates' educational qualifications. Surely the appointment of very senior managers with control of safety critical services should be taken much more seriously and comprehensive checks are needed?

I would also be grateful for an answer to my question to you of 26 August 2020:

“I would also appreciate some indication of how you as Chief People Officer for the NHS will reconcile the pledges in the NHS People Plan with the continued employment of very senior NHS managers who have been found to have harmed whistleblowers.”

Yours sincerely,

Dr Minh Alexander

Cc Matt Hancock Health Secretary

Chris Wormald Permanent Secretary Department of Health and Social

Care

Dido Harding Chair of NHS England/ Improvement

Tom Kark QC

