

Freedom of Information Office
Press and Communications
Seventh Floor, Salton House
St Mary's Hospital
South Wharf Road
London W2 1NY
020 3312 5585
imperial.foi@nhs.net

25 February 2021**Our ref: FOI-008-2021**

Dear Dr Minh Alexander,

Thank you for your Freedom of Information request.

I have carefully reviewed your request and investigated whether there is any information available for disclosure to you. Please find below the Trust's response:

Please may I seek clarity on some points.

1. I asked the trust who it commissioned to undertake the external FPPR review, for a copy of the trust's contract with this party and whether the work had commenced.

In its reply, the trust has only stated:

"Paula Vennells tendered her resignation from Imperial College Healthcare NHS Trust on 30 November 2020. In light of this, and bearing in mind the cost of the investigation and the fact that it is unlikely to report before 31 March, we propose to not go ahead with the review as planned."

This does not clearly answer my questions.

Please can the trust advise if it actually commissioned an external review, who it commissioned and provide a copy of the contract for the external review.

If the trust had not actually commissioned an external review by the time of Paula Vennell's resignation, please confirm this.

The Trust approached a barrister who agreed to take on the work, but we had not agreed the terms of reference or entered into a contract at the time of Paula Vennell's resignation. No work was commenced and we therefore do not hold any further recorded information in response to this.

2. I asked which Imperial College Healthcare NHS Trust directors had input into the drafting of Gerald Acher's pre-prepared statement at the trust AGM on 15 July 2020, which asserted that there were no issues with whether Paula Vennells was a Fit and Proper Person.

The trust has only replied:

"This particular outline response was developed with input from board members, though not the chair".

Please can the trust answer my original question and advise which trust directors had input into the response read out by Gerald Acher at the July AGM.

The Trust does not hold recorded information in response to this request. The statement was drafted by the director of communications based on discussions with board members and previous

responses. As is usual practice, it was shared with all board members in advance, along with other suggested responses to questions likely to arise at the AGM, including questions that may have been asked directly of the chair.

3. As a fresh request:

i. Please can the trust disclose any correspondence between the trust and NHS England/ NHS Improvement about Gerald Acher's pre-prepared response about Paula Vennells at the 15 July AGM.

The Trust's media team shared this response, along with planned responses to other questions most likely to arise at for the AGM, with NHS England/Improvement via email. Please find a copy of this email attached, together with the responses relating to the chair. Please note that we have redacted some information from this email which falls outside the scope of your request, as well as a small amount of personal data that is exempt under section 40(2) of the Freedom of Information Act 2000.

ii. Regarding external legal advice which the trust told Computer Weekly it had procured on its compliance with Regulation 5 Fit and Proper Persons:

"In October last year, Imperial College Healthcare NHS Trust said it was seeking external legal advice in relation to its appointment of Vennells, who resigned as chair amid growing pressure in December.

Following the external advice, the trust told Computer Weekly: "We sought external legal advice to check our processes for reviewing our trust executive and non-executive directors' compliance with the CQC's Fit and Proper Persons Requirement (Regulation 5). The advice confirmed that our processes are robust."

<https://www.computerweekly.com/news/252494402/NHS-trust-says-appointment-processes-robust-despite-criticism-of-role-for-Post-Office-scandal-CEO>

Please advise:

- From whom this external legal advice was commissioned

- When the external legal advice was provided

Please disclose in summary the reasons given in this advice, which supported the reported conclusion that trust "processes are robust".

We sought advice from Capsticks Solicitors LLP in February 2020 upon receipt of a letter from the CQC about the application of Fit and Proper Persons Requirement (FPPR) to the Trust chair.

The advice received confirmed the Trust's view that it has robust FPPR processes in place, specifically in relation to the issues raised by the CQC letter.

On the basis of the information provided by the CQC, the requirement of the FPPR in question was whether or not the Trust chair was of good character. In that regard, none of the specific considerations referred to in part 2 of Schedule 4 of the FPPR applied. Specifically, it was not the case that Ms Vennells:

- **did not have the qualifications, competence, skills and experience that are necessary for the position of chair (the CQC had confirmed at its last inspection of the Trust, that the senior leadership team had the appropriate range of skills, knowledge and experience)**
- **had health concerns**
- **had been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement in the course of carrying on a regulated activity.**

The advice also noted that the regulations state that, in assessing a director's character, the matters to be considered must include those in Schedule 4 part 2 though not exclusively. The Trust was advised to consider other matters in addition to those specified in Schedule 4 part 2 if they indicated that the chair may not be of good character, which we also endeavour to do.

I trust that this deals with your enquiry to your satisfaction, but if you feel that Imperial College Healthcare NHS Trust has misunderstood or not responded appropriately to your request, you have two courses of action:

- You can clarify the terms of your original request to allow this to be looked at again (if you expand your request this will be dealt with as a new request)
- All applicants have the right of appeal. An appeal should be focused on the original request and should identify how the Trust's response failed to answer your information request. Appeals must be made in writing to the FOI Manager at the address above.

After the Trust's internal appeals procedure has been exhausted, a further appeal about the same information request can be directed to the Information Commissioner for adjudication. Appeals to the Information Commissioner should be sent for review to the following address:

The Information Commissioner,
Wycliffe House, Water Lane,
Wilmslow Cheshire
SK9 5AF
Telephone: 01625 545 700
Facsimile: 01625 545510
E-mail: mail@ico.gsi.gov.uk

Please note:

If you are considering re-using the information disclosed to you through this request, for any purpose outside of what could be considered for personal use, you are required under the Re-use of Public Sector Information Regulations 2015 to make an application for re-use to the organisation you have requested the information from. Applications for re-use should be directed to the Trust through the FOI manager.

Please contact me again, quoting your reference number, if you require any further assistance with your current request and I will do my best to provide the relevant help and advice.

Yours sincerely

Barney Langrish
Freedom of Information manager