

From: Minh Alexander <REDACTED>
Subject: FOI request CQC's remit under Regulation 5 and the execution of its remit
Date: 26 April 2022 at 18:11:36 BST
To: Private Office Correspondence Unit <REDACTED ">
Cc: "Sean O'Kelley" <REDACTED>
Reply-To: Minh Alexander <REDACTED>

BY EMAIL

Dr Rosie Benneyworth
CQC Chief Inspector of Primary Medical Services and Integrated Care

26 April 2022

Dear Dr Benneyworth,

Thank you for your attached letter of today's date regarding my concerns and questions about how CQC accepted as independent an FPPR report from UHB on its Chief Executive Dr David Rosser, that in fact was co-authored by a trust employee.

1) CQC's contention that it does not make a judgment of providers' FPPR process

In your letter today you advise me that *"It is not for CQC to determine the process on how the trust carries out its review of the FPPR."*

May ask at what point since November 2014, when CQC first published its guidance on FPPR and made it clear that providers must have "robust processes" for assuring directors' fitness,

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-5-fit-proper-persons-directors#guidance>

has CQC apparently altered its approach to one of making no judgments about providers' FPPR process?

You appear now to confine CQC's role in FPPR to the limited territory of considering whether *"the provider has made reasonable enquiries and come to a reasonable conclusion"*.

This late position at which CQC has arrived in fact seems inconsistent with its position earlier in this very case, when I believe CQC was party to one set of lawyers being removed from the trust's process because they were not sufficiently independent.

The CQC also originally, and unfortunately, informed me that the report co-authored by a UHB employee was "independent". This implies that the CQC made a judgment about the process, saw it as its role to make such a judgment and that it was aware there should in principle be independent review.

Notwithstanding, so that I can be absolutely clear, should I now understand that CQC's published guidance that providers should have "robust process" in complying with FPPR is effectively void, because CQC no longer takes providers' FPPR process into account and does not consider that it has a remit for doing so?

2) I would be grateful for data from CQC as follows, please treat this as an FOI request

a) Since CQC Regulation 5 Fit and Proper Persons came into force, please disclose all the CQC senior managers who have chaired CQC's FPPR panel, and the dates of their tenures

b) Please give details of independent legal advice received by the CQC since it introduced this element into its regulation of Fit and Proper Persons, and please disclose the details of any law firms supplying services in this regard

c) How many FPPR referrals has CQC received in total on NHS trust directors since Regulation 5 commenced?

c) Can the CQC tell me how many of the FPPR referrals have resulted in any CQC finding of non-compliance with Regulation 5?

If so, and if the CQC is able to easily run a report on its data, please disclose details of the number of occasions on which CQC has found non-compliance, and any summary details available on what the areas of non-compliance were found.

d) Is the CQC in a position to easily run a search on data and tell me how many FPPR review reports it has received from NHS trusts following referrals? If so, please disclose how many such reports have been received.

e) Is the CQC in a position to easily run a search on data and tell me how many of the NHS trusts' FPPR review reports that it has received have been authored by NHS trust staff or managers, either in full or in partnership with an external party? If so, please disclose how many of the FPPR review reports received from trusts were authored by external parties, and how many were authored by trust staff or managers, whether partly or fully.

Many thanks

Yours sincerely,

Minh

Dr Minh Alexander

Cc Dr Sean O'Kelly CQC Chief Inspector of Hospitals

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

From: Private Office Correspondence Unit <REDACTED >

To: minh alexander <REDACTED >

Sent: Tue, 26 Apr 2022 15:04

Subject: Letter from the CQC - POCU 1516 0181 Dr Minh Alexander - FPPR referral - University Hospital Birmingham

Dear Dr Alexander,

Please find attached a letter from Dr Rosie Benneyworth, Chief Inspector of Primary Medical Services and Integrated Care and interim Chair of the FPPR Panel at the Care Quality Commission.

Thank you for writing to us.

Kind regards

Matt

Matt Docherty
Correspondence Secretary
Governance & Private Office
Care Quality Commission

Email: REDACTED

From: minh alexander <REDACTED>

Sent: 13 April 2022 15:50

To: Acheson, Nigel <REDACTED>

Cc: Private Office Correspondence Unit <REDACTED>

Subject: Letter from the CQC

Dear Nigel,

Thanks very much for your attached reply.

I am a bit confused.

1) You say that the FPPR review report by Berit Reglar and James Gutteridge was independent.

However, I see from Ms Reglar's LinkedIn details that she has been an employee of University Hospitals NHS Foundation Trust since 2009, and remains so.

Was the CQC aware of this, and how can her report be independent in the light of this?

Did the CQC FPPR panel receive a copy of Berit Reglar's report before it made its decision not to take further action regarding David Rosser's position as CEO, and did the CQC FPPR panel realise who she was at that point?

Surely it is an abuse of process for the trust board to ask a subordinate to effectively review a much more senior trust officer's fitness?

If anything, it seems to me that this only raises further questions about the fitness of UHB's entire board and the fitness of Jacqui Smith former UHB chair who now chairs two other NHS trusts.

2) I believe that Bevan Brittan has done substantial work for UHB.

Is it appropriate for UHB to instruct a regular supplier to review its FPPR arrangements?

What is the CQC's view on UHB's pre-existing business relationship with Bevan Brittan as regards the objectivity of any FPPR review report by Bevan Brittan?

Many thanks

Minh

Dr Minh Alexander

From: Private Office Correspondence Unit <REDACTED>

Subject: Letter from the CQC

Date: 13 April 2022 at 15:04:28 BST

To: minh alexander <REDACTED>

Dear Dr Alexander,

Please find attached a letter from Nigel Acheson, Deputy Chief Inspector at the Care Quality Commission.

Thank you for writing to us.

Kind regards

Matt

Matt Docherty
Correspondence Secretary
Governance & Private Office
Care Quality Commission

Email: REDACTED

The Care Quality Commission is the independent regulator of all health and adult social care in England. www.cqc.org.uk. For general enquiries, call the National Customer Service Centre (NCSC) on 03000 616161 or email enquiries@cqc.org.uk.

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