

## Minutes of telephone meeting 15.05-15.35 Wednesday 18 May 2022 on implementation of the Kark review on Fit and Proper Persons in the NHS

Minutes prepared by Minh Alexander & agreed by Carolyn May and Celia Weldon after amendments as below.

Present

Carolyn May Director of Talent, **People Directorate**, NHSE/I  
Celia Weldon NHSE/I Implementation lead for Kark review  
Minh Alexander NHS whistleblower and participant in the 2018 Kark review

CW & CM explained that they took on this project in December 2021, and were awaiting DHSC Ministerial commitment for this workstream to go ahead

It was clarified that there has to date been no Ministerial commitment **although we anticipate this may come shortly**. Work undertaken previously by NHSE/I was done on assumption that Ministerial commitment would follow

MA asked for clarification of who DHSC contact was for the project.

CM advised that liaison with DHSC took place at a higher level of NHSE/I and it was not clear who the DHSC contact is currently

The NHSE/I senior lead for the Kark workstream is Jacqueline Davies, Director of Leadership, Lifelong Learning & Talent

CW advised that the next stage, pending Ministerial commitment, is to produce a “straw man” draft framework and ~~put that out for consultation~~ **use this as a basis for discussion** and testing **with a broad range of stakeholders and interested parties**

CW confirmed that work previously done by the NHSE/I Kark reference group would inform further work, and that she had the records of that group’s work.

MA asked how whistleblowers would be consulted & raised concerns that there has been very inadequate access to the process to date, with steering group meeting minutes not published. As far as is known, a single whistleblower who was employed by the NHS and working as a Freedom To Speak Up Guardian, had been on the closed Kark reference group. The majority of whistleblowers would not see that as a representative arrangement and would likely criticise it.

**CW** thought there may have been an external whistleblower and raised the possibility of representation by the National Guardian and Andrea Sutcliffe, who had been on the same steering group.

MA advised that neither of the National Guardian nor Andrea Sutcliffe, a regulator, would have credibility with the majority of whistleblowers as any kind of whistleblower advocate.

MA suggested that at the very least, those whistleblowers who had contributed to the Kark review should be invited to contribute, but that ideally, NHSE/I’s draft framework for implementing Kark should be openly published for all to feedback on. It had been four years since the review and there will now be whistleblowers who have a legitimate interest in the Kark implementation but did not

have an opportunity to contribute to the original process.

CM advised that it was unlikely that this would be possible because NHSE/I publication of documents was a substantial process which required complicated authorisation.

CM asked if there were alternatives to open publication of the draft Kark framework, such as consultation with smaller groups of whistleblowers.

MA indicated that she could not recommend anything but transparent publication and open consultation, as experience had showed that splitting off small whistleblower groups facilitated capture and undermined authentic challenge. Targeted, captured individuals would not offer robust challenge and there would typically be rewards or perceived rewards for this, such as jobs, contracts and paid opportunities not subject to open competition.

MA also clarified that if any draft framework is shared with her, she would openly publish it.

MA emphasised that not addressing the recycling of unfit managers, including by NHSE/I itself which continues to employ them, is very wasteful as they keep failing and the cover ups that surround them are a waste to time and money, and end in inevitable damage to reputation when the truth eventually emerges anyway.

MA asked for copies of the Kark reference group minutes, to understand what work had previously been done. MA was previously only given copies of minutes from one meeting only.

CM agreed to pass on the request but indicated that she & CW would not be the decision makers.

Timescales: CM indicated that it is hoped, pending Ministerial agreement to move forward with the project, that a Kark register would be established in about a year.

There is a team in place and this would be a priority programme.

MA asked if the register would be retroactive, and include material pre-dating its establishment. CM will seek a decision about this from a more senior level in NHSE/I.

END