

5 September 2022

Dear Mr Barclay,

Case of Care Quality Commission whistleblower Mr Shyam Kumar, senior surgeon

I write to seek your help in protecting Mr Kumar and his family from any further detriment and harm by the CQC, and to ensure that CQC addresses his whistleblowing disclosures about poor CQC culture, suppression and unsafe inspection process.

An Employment Tribunal has comprehensively found in favour of Mr Kumar and determined that he suffered serious reputational loss because the CQC sacked him as a seconded CQC Specialist Advisor after he whistleblew about CQC inspection failures and about very serious patient safety problems at his own NHS trust:

[Mr Shyam Kumar, Surgeon and vindicated NHS whistleblower's case: CQC sacked a whistleblower for disclosures about its poor regulatory performance, and dug for dirt on the whistleblower](#)

The Employment Tribunal has set out how Mr Kumar was affected by the CQC's assault on his previously "untarnished" reputation:

"152. The claimant does not pursue damages for any pecuniary losses in this claim. And limited his claim to an award for injury to feelings and a declaration only.

153. The claimant describes in his witness statement, and was not challenged on, how the detriments above affected him.

a. He describes that he was "shocked" when he received the email from Ms Mallaburn placing him on hold in light of allegations made about hm following the Focus Group Meeting. And was further shocked when he understood that Mr Zeiderman had made the decision to disengage him before Ms Mallaburn's communications with him.

b. He was "confused and concerned" about the allegations made against him that led to disengagement and being placed on hold.

c. The claimant was "extremely concerned" when he considered that his protected disclosures were the reason behind his disengagement.

d. The claimant became concerned about what he describes as "snide remarks and falsehoods" said about him by officials of the Respondent in emails.

e. That he considered that he was being subject to some form of "character assassination" behind his back

154. Under cross-examination the claimant explained that the damage to his reputation was his loss. This was a clear concern to the claimant. This is against the backdrop of the claimant having an untarnished reputation with either his employing Trust or the respondent at the time the decision to disengage him was made."

Mr Kumar has been fully vindicated by several investigations, internal and external, which have confirmed the serious patient harm about which he whistleblew, and the fact that he endured serious whistleblower reprisal for standing up for patients and the public interest.

The CQC not only failed to protect Mr Kumar as a whistleblower, but it sacked him, sought to vilify him and it tarnished his reputation with a number of false allegations. It seized on counter allegations from an individual who contributed to the whistleblower reprisal, as means of dismissing Mr Kumar. CQC even suggested that Mr Kumar was not genuinely whistleblowing but on a vendetta that was most likely driven by financial interest and the manipulation of waiting lists for personal gain. This was a

false narrative and it was ultimately rejected by the Employment Tribunal, who ruled that his disclosures were genuine.

Mr Kumar has suffered greatly for the last four years after whistleblowing about CQC's inspection failures. During this time, when he has had a lonely battle to defend his reputation, his wife Sangeetha (another senior doctor) became gravely ill during the first COVID wave. She spent over three months in ITU, so severe was her COVID disease. The family have been through a terrible ordeal.

Please see this BBC clip which revealed how Mr Kumar was called at least three times to ITU to say goodbye to his wife:

<https://twitter.com/BBCNewsnight/status/1356601743212216320>

The CQC has claimed to the BBC that it accepts the Employment Tribunal's findings. CQC implausibly claims that it has learned from this matter. This is only nine months after CQC branded his claim of whistleblower reprisal as "fanciful", a sentiment repeated in June this year at the last hearing of Mr Kumar's case.

The CQC implies that it will not appeal against the ET judgment, but I would be most grateful if you could ensure beyond doubt that this is the case, and that no more public money will be wasted.

Instead, the CQC should apologise to Mr Kumar and his family. And the CQC should put its own house in order, to address the very dysfunctional culture which has already swallowed up four years of Mr Kumar's life and harmed his family. There should be robust proof that Mr Kumar's concerns have been genuinely addressed, as opposed to the superficial claims that the CQC has so far made to the DHSC.

It is incredibly dangerous that a quality regulator would act in such a way.

Yours sincerely,

Dr Minh Alexander