



Health Committee

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From Rt Hon Stephen Dorrell MP, Chair

Rt Hon Jeremy Hunt MP
Secretary of State for Health
Richmond House
79 Whitehall
London SW1A 2NS

14th February 2013

Dear Jeremy

You will be well aware that there has been substantial media interest today in the comments made by Gary Walker about the circumstances surrounding his departure from the role of Chief Executive of the United Lincolnshire Hospitals Trust.

There is one aspect of this story which I believe requires early clarification.

I understand that Mr Walker and the Lincoln Trust signed a Compromise Agreement in April 2011 which contained a "gagging clause".

The Committee received the following evidence on 7th December 2011 from Gavin Lerner, on behalf of the Department of Health, in respect of "gagging clauses" in compromise agreements with regulated professional staff:

"Most of us absolutely agree that such clauses are inconsistent with the Public Interest Disclosure Act and are not acceptable.....There is a consensus here that we need to encourage people to speak out. With anything that hits against that, and in particular that crosses the Act, we need to make sure that the Service understands its responsibilities".

These clauses are also the subject of detailed criticism in the Francis Report (specially at paras 22.53 to 22.62). He states, for example, at para 22.59 that:

"Non-disparagement clauses are not compatible with the requirement that public service organizations in the healthcare sector should be open and transparent".



I understand, however, that despite the assurances received by the Committee in December 2011, and the comments made by Robert Francis last week Mr Walker received a letter earlier this week from lawyers acting for the Lincoln Trust reminding him of the restraints on him under the terms of the "gagging clause" in his compromise agreement.

The Committee is normally reluctant to be drawn into disputes between individual NHS employers and their employees. This argument is, however, different. We have been told that these clauses are (a) probably unenforceable under the Public Interest Disclosure Act (b) "not acceptable" in the NHS (DH) and (c) "against the public interest" (Francis).

I am sure you will understand therefore, particularly in the light of the Government's endorsement of the core recommendations of the Francis Report about the important need for a fundamental change of culture within the NHS, that we were concerned and disappointed to hear that Mr Walker had received a lawyers' letter which he has interpreted as reinforcing the constraints upon him under the terms of the "gagging clause" in his compromise agreement.

The Committee intends to write to Mr Walker to invite him to set out in detail the nature of the concerns which lay behind the breakdown of his relationship with the Lincolnshire Trust. Before doing so, however, I would be grateful if you would confirm that neither the Trust nor any other NHS body will seek to enforce any clause in Mr Walker's compromise agreement which would impinge on his capacity to respond fully to the Committee's request.

I am copying this letter to members of the Committee, Mr Walker and to the press.

A handwritten signature in blue ink, appearing to read 'Stephen'.

A second handwritten signature in blue ink, appearing to read 'Stephen'.

Rt Hon Stephen Dorrell MP
Chair of the Committee