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West Hampshire CCG
Omega House
Eastleigh

27th March 2018

Dear Heather Hauschild, Dr Sarah Schofield, Judy Gillow, Ellen McNicholas and Pauline Dorn

Re: Rachael Austen-Jones – NHS Continuing Healthcare

Following two NHS Continuing Healthcare reviews (November 2017 and January 2018) and a further review by a 'senior member', we are informing you that there have been serious breaches in law, regulations and WHCCG policies.

- **Four breaches of The Data Protection Act 1998**
- **Multiple failures to comply with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009**
- **Failure to comply with the National Framework for NHS Continuing Healthcare**

Despite raising concerns, we have received inadequate and incomplete responses. As a result, the Continuing Healthcare Team are planning to hold an unlawful Multi-Disciplinary Team meeting to review eligibility. Please note that the header on the pages highlight some of the words used by medical experts to describe Rachael Austen-Jones's medical condition.

Through this process, WHCCG have accepted the following failings:

- Failure to follow the National Framework for NHS Continuing Healthcare
- Failure to prepare properly for the November Review
- Failure to comply with the standards of conduct advocated by WHCCG
- Failure to give the correct outcome at the end of a review
- Making erroneous assumptions that impacted on assessments
- Errors on the review report from April 2017
- Failure to comply with The Care Act 2014 in regard to carer's assessments
- Failure to answer all aspects of a complaint
- Trying to plan an MDT while a complaint was in process
- Multiple communication errors
- Failure to read supporting documents from clinical experts
- Failure to refer to previous DST and reviews
- Failure to have a consistent review process
- Failure to provide adequate information prior to review

There are many other failures that have yet to be acknowledged.

The Data Protection breaches are as follows:

1. Consent for November Review was misinformed. We have currently received five different reasons for the review. If the CCG do not know the purpose of the review, then it cannot be determined that the review has a legal basis or complies with policies.
2. Your letters of 21st December 2017 and 21st March 2018 accept that erroneous assumptions were made, relevant clinical evidence was ignored, and the National Framework for NHS Continuing Healthcare was not followed. As a result, the opinions lack credibility. In contravention to the Data Protection Act 1998, the report is still being considered as legitimate.

LIFE THREATENING ● UNPREDICATABLE ● WITHOUT WARNING ● FLUCTUATING ● DANGEROUS

3. Consent for the January Review was misinformed. We were not informed that the recommendation would be made in contravention of the National Framework.
4. No consent was requested or given for a review to be carried out by a senior member staff.

In accordance with the Information Commissioner's Office (ICO), we are providing you with the opportunity to respond to us regarding these breaches. Your response will determine whether we pass the matter to the ICO.

We have sent in two formal complaints regarding the review processes. The complaints have not been carried out in accordance with regulations or your own policy. As a result, we have clarifications and omissions that need answering. We have attached a document with the outstanding questions, with appendices highlighting evidence. As previously indicated, we have recordings of meetings enabling us to verify our statements.

In light of the recent Oxford Crown Court judgement against Southern Health Trust regarding the case of Connor Sparrowhawk, it is very surprising that the Continuing Healthcare team feel confident to over-rule the advice of multiple clinical experts who state that Rachael requires constant monitoring for her life-threatening condition.

If you choose not to answer these questions, we will immediately report the individuals involved in the case to their professional regulatory body. Please be advised that we have access to forensic analysis of computer files (including PDFs) should we believe it necessary.

Please be aware that a redacted version (removing names of individuals) of the accompanying documents to this covering letter, together with other documents and medical evidence in this dispute, will be provided to authorities and individuals who will have an interest in this case on Friday 6th April 2018.

Yours sincerely,

Rachael Austen-Jones
Phil Austen-Jones
Dr Stephen Austen-Jones