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West Hampshire
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13 April 2018

Dear Mr Mike Fulford,

Re: Complaint 4588 – Rachael Austen-Jones

We are very disappointed in your response dated 12 April 2018. As a result, we are considering reporting West Hampshire CCG and North East Hampshire and Farnham CCG (as commissioners) for **ORGANISATIONAL ABUSE**.

We have again spoken with the Parliamentary and Health Service Ombudsman as you consider the complaint process is closed. The PHSO is not convinced that this is the case. We have been asked to submit paperwork for her to review in order to enable a decision to be made as to whether more work needs to be done within the Local Resolution Process.

We have received the information requested from our Subject Access Request. This includes the Complaints File and the Clinical File. These fail to support your response. They also provide us with evidence that **PAULINE DORN HAS LIED** which is an offence under the Care Act 2014 (see post script for details).

“We have reviewed these [our previous responses] against your previous correspondence and the outcome of the complaint meeting and are of the opinion that we have responded appropriately to your complaints.” That is an erroneous assumption. We have a recording of the meeting of 15 February 2018 demonstrating that there were many other points that have not been addressed. In addition, providing an answer doesn’t necessarily mean it is a complete answer. Failure to answer the questions in full lacks transparency and is misleading. We note that you chose not to ask us why we felt there was missing information, which would have been appropriate according to your complaints policy.

“...have concluded that the principle of the National Framework for NHS Continuing Healthcare have been adhered to.” That is a shocking statement, which also fails to reference your Joint Operational Policy. There would not have been a second review if the principles had been applied in the first review. If Jo Craven had given the outcome as prescribed by the National Framework, there would not have been any of this debacle. It is interesting to note that Pauline Dorn, in an email on 13 February 2018, stated, ***“My feeling is that we should pursue MDT but this will undoubtedly leave us open to further complaints and an appeal if the outcome is not eligible.”*** This is an admission that process is not being followed – you would not be open to complaints if you are following guidelines.

“...there are no indications of any breach of the Data Protection Act 1998.” The Meriel Chamberlain review had no consent. As such, you will find no evidence of it. We have been informed that she made no record of her review which means there is no evidence or rationale. This makes it invalid. We disagree with your conclusions so we are reporting this, and the other breaches, to the Information Commissioner’s Office.

“All complaints follow a robust investigation in line with the NHS Complaints (England) Regulations 2009.” We have seen no evidence of this. Our letter to Heather Hauschild, of 15 February 2018, stated that the complaints process was not followed. Nobody has asked us why. The outcome of the second complaint was made by Pauline Dorn and Ciara Rogers before our February Local Resolution Meeting. This is a clear breach of our **RIGHTS under the NHS Constitution** – “You have the right to discuss the manner in which the complaint is to be handled.”

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“Mrs Thomas’ email of 8 February 2018 confirmed the agreed plan for the meeting with you.” No it did not. As far as we were aware, the planned Local Resolution Meeting was to discuss the additional points from our first complaint and to discuss and agree a plan of action, in accordance with your complaints policy for the second complaint. It was a completely separate complaint regarding a different review. You will find no evidence of an action plan that is in line with your complaints policy.

“...the case coordinator advised that a new Continuing Healthcare multi-disciplinary meeting and completion of the decision support tool should progress.” You still ignore that this was in contravention of the National Framework, as recognised by Pauline Dorn in the meeting of 15 February 2018.

Your response lacks credibility as you have failed to enquire why we are still seeking clarifications. You have accepted the views of colleagues without checking with us. As a result, we continue to ask for a response to our questions submitted on 27 March 2018.

It is a requirement under PHSO guidance to that you must be:

- Providing honest, **evidence-based** explanations and giving **reasons** for decisions.
- Keeping **full** and **accurate** records.
- Create and maintain reliable and usable records as evidence of their activities. **These records should include the evidence considered and the reasons for decisions.**

In the WHCGG policy it states:

- 3.10.2 The response will also:
 - Offer an explanation of **how** the complaint has been investigated... and show that each element has been **fully and fairly investigated**.
 - 3.10.8 **All statements, letters, phone calls and actions taken in an investigation must be documented and kept in the complaint file in chronological order.**

The complaint file has no evidence of rationales for decisions and a hopelessly limited investigation process. This is reflected in the responses we have received.

We will be submitting a new complaint to West Hampshire CCG. This complaint will be based upon the complaints process. This does not fall under the definition of habitual or unreasonable as care “must be taken not to discard new issues which are significantly different from the original complaint” (WHCCG Complaints Policy).

We are in the process of reporting the CCG to the Parliamentary and Health Service Ombudsman and the Information Commissioner’s Office. An unsatisfactory response from you to this letter will lead to us reporting West Hampshire CCG and North East Hampshire and Farnham CCG for **ORGANISATIONAL ABUSE**. We will also seriously consider contacting national media outlets. We are continuing to keep other interested organisations and individuals updated with this process.

We are reporting Roy Dube, Meriel Chamberlain and Pauline Dorn to the Nursing and Midwifery Council. We will report others as required.

We invite you, or another board member, to meet with us. This will provide you with the opportunity to gain a deeper and more balanced insight into the issues in our case that the Complaints Team and Continuing Healthcare Team have failed to do.

Yours sincerely,

Phil Austen-Jones
Rachael Austen-Jones
Dr S Austen-Jones

cc: Heather Hauschild, NEHF CCG, Leo Docherty MP

Post Script

Now that we have a copy of the complaint file, we have identified a further breach of Data Protection. Our second complaint (7 February 2018) was regarding the **PROCESS** of the January Review. Despite this, it was agreed by Pauline Dorn, Ciara Rogers and Libby Thomas for Pauline Dorn to review the **CLINICAL** decision prior to the February Local Resolution Meeting. We were not made aware this would happen and consequently **did not consent** to it.

The outcome of a complaint regarding **PROCESS** has been determined on the basis of a **CLINICAL** decision, prior to any discussion with the complainant or investigation. The 'investigation' into the second complaint carried out by Pauline Dorn, which followed the Local Resolution Meeting, was therefore **blatantly biased**. This is summed up by Libby Thomas' comment in the Local Review Meeting, *"It is under investigation... but we can gather from today what our recommendation will be."* (The investigation into the process had not started. Pauline Dorn didn't even know which Senior Manager (Band 8) had carried out the un-evidenced and unconsented review.)

Pauline Dorn then lied in the Local Resolution Meeting, telling us that our case has to go to MDT due to the review documentation – *"I can't question the review paperwork... The outcome from the review documentation that has been produced indicates that there may be a change in eligibility and therefore an MDT is required."* However, her email to Libby Thomas and Ciara Rogers, on 13 February 2018 (prior to the meeting on 15 February 2018), clearly demonstrates that she had reviewed the evidence and was considering changing the decision. There was a **private agreement about the outcome between Pauline Dorn and Ciara Rogers** and it was this outcome that could not be changed. Due to her lie, we were unable to challenge this.

We stated, *"There was no concept of what we say, you were coming to this meeting, it's going to MDT whether you like it or not. Even though process has not been followed, you came to this meeting with it's going to MDT."*

Pauline Dorn replied, *"Unfortunately the outcome has to remain."*

Pauline Dorn carried out an unconsented review, in agreement with Ciara Rogers and Libby Thomas, that determined the outcome of a complaint before it had been investigated.

These matters will be addressed in our letter of complaint regarding the complaint process.

We note that Nikky Hickman, in an email on 29 January 2018, asserted that we *"do not understand the process of the review, or that actually it is perfectly acceptable for the case coordinator to request a review if they feel it is needed"*. **This is blatantly wrong, absurd and insulting.** Mr P Austen-Jones and Dr S Austen-Jones have many years of experience working in state education and the NHS, dealing with national guidelines and evidencing opinions.

- Mr P Austen-Jones – Acting Executive Headteacher, former Specialist Leader of Education, former Educational Consultant, and Ofsted trained.
- Dr S Austen-Jones – Retired Dental Surgeon, retired Forensic Odontologist (including services for Hampshire and Surrey Police), past Chair of British Dental Association of West Surrey, member of Panel of Referees for appeals against decisions of the Dental Practice Board, and on the Law Society list of Expert Witnesses.

With our wealth of experience dealing with evidence within national guidelines, we are able to understand the processes involved in NHS Continuing Healthcare and can evidence every statement that we have made. This cannot be said of West Hampshire CCG.

Finally, following the receipt of our Subject Access Request, we have uncovered a **staggering statement** by Pauline Dorn. In an email she sent on 13 February 2018 to Ciara Rogers and Libby Thomas, she said, *"The challenge we face is that her [Rachael Austen-Jones] needs have potentially not changed – it is our view of levels of need in domains and meeting eligibility criteria that has changed over the years."*

Firstly, even if there has been a change, an MDT should only be administered if the change **may** lead to a change in eligibility. At the end of the January 2018 Review, the case coordinator (Jo Craven) even stated that Rachael Austen-Jones is *"CHC eligible"*.

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Secondly, the April 2017 Review has to be considered as accurate and this assessed Rachael Austen-Jones as having a Primary Health Need. There is no evidence that Rachael Austen-Jones' medical condition has improved since then (in fact it has deteriorated).

Thirdly, and most important of all, the levels within domains are statutory. There have been minor clarifications in the domain descriptors (none of which impact the levelling of Rachael Austen-Jones' scores) but changing the view of meeting eligibility is contrary to case law. There is no discretion, otherwise it would be contrary to the Care Act 2014 as the national approach to assessment would not be consistent. It is deeply troubling that the new Head of Continuing Healthcare at West Hampshire CCG holds this illegitimate view and is using it as a reason to challenge the rights of vulnerable people.

*"The National Framework was first introduced on 1 October 2007. It was reviewed in October 2009 and has now been revised again to reflect the changes within the NHS from April 2013. It was re-published in November 2012. **The revisions have not changed the way in which eligibility decisions are made, nor have they changed the level of nursing/healthcare needs that entitles an individual to NHS continuing healthcare.**"*

(Department of Health: NHS Continuing Healthcare Public Information Leaflet)

(Available on the West Hampshire CCG website)

Post Post Script

We were informed, by Nicky Webster, that Frimley Park Hospital refused consent to share information as part of our Subject Access Request. We contacted the hospital to ask why they denied consent and we submitted an SAR to them. They have replied that there has been no contact from West Hampshire CCG.

We have attached a copy of the sequence of emails.

We have been **lied to again**.

This is a breach of section 7 of the Data Protection Act 1998.