

## **Written evidence from Graham James Clitheroe (PHS11)**

### **Public Administration and Constitutional Affairs Committee Parliamentary and Health Service Ombudsman Scrutiny 2021-22**

I contacted the PHSO after my complaint to Royal Blackburn Hospital was rejected. I shared with the PHSO the same information as submitted to the Hospital along with a detailed explanation covering the reasons why I believed the hospital complaint should not have been refused.

The basis of my complaint was the suspicious death of my Mother (79) in connection with a decision the hospital took to administer respiratory suppressing drugs. This occurred without consultation or consent upon arrival at hospital amid circumstances in which family was not permitted to the bed side. Despite my complaint conforming to the rules laid down by the hospital - or which ever governing body would oversee such rules - the PHSO refused to uphold the complaint.

The PHSO behaved in a misleading way. Clear information was provided to the PHSO but from the replies I received from them I formed the impression that somewhere a decision had been taken to intentionally misconstrue meanings and effectively overlook factual events. It was as though the PHSO were unable to recognise or process straight forward points concerning dates and grammar. The information I sent the PHSO was sound and true and should therefore not have been rejected or handled in a manner many would regard as underhanded.

Concerning the second point of this enquiries request (Staff management and training) the following questions would seem to require attention.

In light of my original complaint to the Hospital, and subsequent interaction with the PHSO, could the following questions please receive the adequate consideration they deserve.

Q: Is there any advice within the training or instructions given to PHSO staff with regards liability in relation to the 2006 Fraud Act?

Q: What training or information has been given to PHSO staff with regards to the existence and meaning of the 2006 Fraud Act?

It would seem as though the PHSO staff - amongst others - have contravened this Fraud Act

legislation. The original complaint to the hospital, and detailed information provided for the PHSO, was inline with all requested requirements. For your convenience a summary of the parliamentary Fraud Act is outlined below.

Extract taken from Wikipedia:

The Act gives a statutory definition of the criminal offence of fraud, defining it in three classes - fraud by false representation, fraud by failing to disclose information, and fraud by abuse of position. It provides that a person found guilty of fraud was liable to a fine or imprisonment for up to twelve months on summary conviction (six months in Northern Ireland), or a fine or imprisonment for up to ten years on conviction on indictment. This Act largely replaces the laws relating to obtaining property by deception, obtaining a pecuniary advantage and other offences that were created under the Theft Act 1978. These offences attracted much criticism for their complexity and difficulty in proving at court.[citation needed] Much of the Theft Act 1978 has been repealed, but the offence of making off without payment, defined under section 3 has not been affected.

"Fraud by false representation" is defined by Section 2 of the Act as a case where a person makes "any representation as to fact or law ... express or implied" which they know to be untrue or misleading.

"Fraud by failing to disclose information" is defined by Section 3 of the Act as a case where a person fails to disclose any information to a third party when they are under a legal duty to disclose such information.

"Fraud by abuse of position" is defined by Section 4 of the Act as a case where a person occupies a position where they are expected to safeguard the financial interests of another person, and abuses that position; this includes cases where the abuse consisted of an omission rather than an overt act.

In all three classes of fraud, it requires that for an offence to have occurred, the person must have acted dishonestly, and that they had to have acted with the intent of making a gain for themselves or anyone else, or inflicting a loss (or a risk of loss) on another.

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