

The National Guardian and Prescribed Person Status

A former whistle-blower takes us through the labryth

1) Under the current whistleblowing law, PIDA, people who make the right sort of disclosures in the right sort of way (including to the right sort of people) are supposed to be protected from reprisal, and they can make an ET claim against their employer if they suffer reprisal....eg their disclosures have “protected” status.

2) Prescribed Persons are amongst the “right” people to whom legally protected disclosures can be made under PIDA. Prescribed Persons are regulators and similar bodies.

3) CQC is a Prescribed Person under PIDA.

4) A weakness of PIDA is that it does not really particularise what a Prescribed Person is supposed to do when it receives disclosures.

However, there is a generally accepted principle that Prescribed Persons should in some way address what it is that whistle-blowers are concerned about.

5) CQC claims that it has no remit to investigate whistle-blowers’ concerns – and it is very unclear what CQC means by this - but CQC usually agrees at the very least to look at

related broader issues in the course of inspections.

6) The recently departed interim deputy National Guardian claimed wrongly to me that the National Guardian is not a Prescribed Person, even though the office is part of CQC.

Eileen Sills backed him up and she also tried to deny that her office was part of CQC. It was the blind leading the blind to be honest.

7) CQC has since been forced to admit that the NG’s office is “constitutionally part of CQC” and thus has Prescribed Person functions.

8) The stumbling block now for CQC is that DH, Francis and CQC have engineered the NG’s office so that it does not look at whistle-blowers’ concerns.

For example, CQC’s NG position specification 13 September 2015 stated: “[NG] will not consider the content of concerns”

CQC et al are hoist by their own petard because this job description is incompatible with what is expected of a Prescribed Person.

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