

# COMPASSION IN CARE

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Open Letter to Robert Francis Q.C.:

## Contempt for Evidence

21<sup>st</sup> April 2017

To Robert Francis Q.C., The Care Quality Commission.

Eighteen years ago today I was one of seven Isard House staff who went to Bromley Council and blew the whistle on horrendous abuse being inflicted on vulnerable people at that care home. Des Kelly was the BUPA director we went to for help. Eighteen years later I am still fighting for those responsible to be held to account. The scandal is **who** I have had to fight.

As a result of a subject access request, I have just received information which includes three emails which are copied in full on page 5-8. **These emails show that a publicly funded official inquiry was misled and a small charity and whistleblowers were briefed against by the very top of the CQC which renders you complicit.**

The emails below relate to **Des Kelly, a CQC and Government advisor and his direct and proven involvement in covering up abuse of vulnerable elderly people and forcing whistleblowers to resign.** At the time you were conducting a Government inquiry into NHS Whistleblowing and calling for evidence from whistle-blowers. We submitted comprehensive evidence to your inquiry which was subsequently missing from your published report.



could have referred you to the relevant evidence at your disposal at the time which included:

### **Bromley Social Services Inquiry Report into BUPA 7 whistle-blowing**

Page 14.6.2 "A climate of complacency and laxness **occurred** in terms of the residents particularly on Unit 3. Inappropriate behaviour towards them **did occur** in the manner suggested by the **witnesses who have come forward** and those subsequently interviewed."

Page 16 6.16 "*The outcome of this inquiry concludes that on Unit 3 for a period between June 1998 and March 1999 a number of incidents **occurred** which were unacceptable in terms of the conduct of staff and management of the welfare of the residents. As such section 9 of the Residential Care Homes regulations 1984 has been **breached** in this respect*" Breaking The Silence Part 2 contains this evidence which was brought to your attention.

**As a QC and as the person** charged to conduct the only inquiry to date **into whistle-blowing** I ask you to tell me which part of the above extracts supports "**BUPA's position is that these concerns were not substantiated by their or others' investigations**".

Andrea Sutcliffe states she is aware of **Des Kelly's stance** and **BUPA's stance** yet at **no** time has she made a single effort to establish **the whistle-blowers stance**. This is the person in charge of care home inspection. Also **Andrea Sutcliffe and David Behan provided you with false information** in answer to your question and clearly they have abused their position in public office by this act whilst your inquiry was underway, and you have condoned it.

However both the Isard House abuse inquiry report and the inquiry team's lead inspectors' witness statements confirm that **Des Kelly was directly implicated in serious misconduct**. These were provided to CQC, CSCI, and The Health Department and I have full documentation to prove this.

Andrea Sutcliffe states that "*Eileen Chubb describes herself as a whistle-blower.*" If Ms Sutcliffe does not accept me as a whistle-blower then explain why?

Andrea Sutcliffe also states the BUPA 7 "*lost*" their tribunal. I would point out the following paragraph from a letter written and signed by the Director of Bromley Social Services (also in the evidence at your disposal).

David Behan suggests that I am against regulation but this is blatantly untrue.

### **Letter to Eileen Chubb From Jeremy Ambache 03/10/2000**

Paragraph 13 "*Mrs Robinson (Head of Bromley Council Legal) has had contact with your solicitors Bolt Burdon who are aware of the authority's position. You will recall that **assurances were given to BUPA by the Tribunal Chairman in July that the inquiry report would not be disclosed during those proceedings.***"

The **vital evidence that upheld our allegations was not allowed to be disclosed** which resulted in BUPA's conduct in publicly calling us liars continually to this day. The inquiry report was only disclosed because the head of the inquiry team, Richard Turner, gave evidence on the stand for three days at our tribunal hearing. **No** whistle-blower Guardian could ever come close to matching Richard Turner's integrity and courage. He put his job on the line for what he knew was right and true. We as whistle-blowers were fortunate to come into contact with such a regulator.

You should be aware that the above are just extracts from a very small part of the comprehensive evidence that upholds our case. I object to the term "allegations" being used because once upheld they became fact.

When the BUPA 7 blew the whistle we believed it would stop the abuse and suffering. Instead it cost us our jobs and our futures but it was not enough because in the years that followed **three further abuse scandals** happened at **this same home**. The worst of the abusers went on to work in at least six other care homes on the **direct orders of Des Kelly and against the recommendations of the inquiry team**.

This is the mountain of denial and injustice whistle-blowers still have to fight. **This is the harm that continues when people like Des Kelly thrive, harboured by people like you.**

Andrea Sutcliffe and David Behan chose to look the other way on the evidence against Des Kelly. They even chose to publicly pay tribute to "Dear Des" in <https://youtu.be/hrrLIB-B638>

Andrea Sutcliffe refers to the fact that I "*most recently raised (my) concerns*" which clearly shows she was well aware of previous concerns being raised about Des Kelly.

My advice is **know well what it is you defend** because I promise you that you will have to defend it in the face of insurmountable evidence and public outrage.

You may well have a shred of integrity and some sense of justice and if so the least you can do is acknowledge the truth. If you have half the courage of a whistle-blower you will do so publicly.

You, Andrea Sutcliffe and David Behan should resign immediately for this conduct.

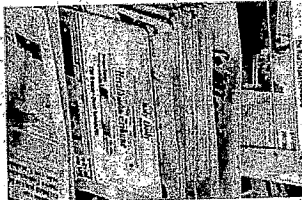
A handwritten signature in black ink, appearing to be 'Eileen Chubb', written in a cursive style.

Eileen Chubb

David

I have received some correspondence addressed to my review from an organisation called Compassion in Care. I was directed to their website on which I found the following

### Mon 13/10/2014 - CQC Keeping MUM



Last week the CQC announced their new guidelines for inspecting care homes. We cannot believe that yet again Des Kelly has played a key role in producing these guidelines. I have always kept my case as a whistle-blower very separate from the work of the charity. However there comes a time when I cannot ignore the fact that a man who placed a known abuser in care homes and covered up abuse is the CQC's choice of advisor especially when they are aware of these facts.

I know absolutely nothing about this allegation but thought I should draw your attention to it in case you were unaware of it. I think I have to ask what CQC's position is on this allegation.

The website can be found at <http://www.compassionincare.com>

Kind regards

Robert

Sir Robert Francis QC  
Barrister

SERJEANTS'  
INN CHAMBERS

Kind regards

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 SERJEANTS'  
INN CHAMBERS

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Wynn, Russell

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**From:** Behan, David  
**Sent:** 14 November 2014 20:24  
**To:** Sutcliffe, Andrea  
**Subject:** FW: Compassion in care

Sent with Good ([www.good.com](http://www.good.com))

-----Original Message-----

**From:** Behan, David  
**Sent:** Friday, November 14, 2014 08:22 PM GMT Standard Time  
**To:** 'Sir Robert Francis QC'; Prior, David  
**Subject:** RE: Compassion in care

Robert,

Thanks for sharing!

Compassion in Care is a pressure group run by a whistleblower Eileen Chubb who has been a stern critic of regulation generally and CQC particularly. I have not seen these two connected in this way and I am not aware of the allegation / background. I think Andrea may have picked something up on this. I will speak with her and come back to you  
David

Sent with Good ([www.good.com](http://www.good.com))

-----Original Message-----

**From:** Sir Robert Francis QC [[SRFrancisQC@serjcantsinn.com](mailto:SRFrancisQC@serjcantsinn.com)]  
**Sent:** Friday, November 14, 2014 07:26 PM GMT Standard Time  
**To:** Prior, David; Behan, David  
**Subject:** Compassion in care

**From:** Sutcliffe, Andrea  
**Sent:** Sunday, November 16, 2014 07:21 PM GMT Standard Time  
**To:** Behan, David  
**Subject:** RE: Compassion in care

Dear David

Yes, I mentioned this when we launched the handbooks as that is when Eileen Chubb most recently raised her concerns as we had used a quote from Des in our press release. [REDACTED] as I had noted comments being made by [REDACTED] and Compassion in Care. My understanding of the situation is as follows:

Eileen Chubb describes herself as a whistle blower following a dispute with her employer BUPA many years ago. I am not absolutely clear about the specifics but Eileen highlighted serious concerns about the care of people in the care home run by BUPA and the response of the local and senior management. The position from BUPA was that these concerns were not substantiated by their own or others investigations. There was also an employment tribunal which I believe Eileen and 6 other members of staff lost. Eileen's position has been that the legal process was not designed to help people in her situation and she stands by her claims of poor care both in the book she wrote (2008 I think) and in her campaigns.

[REDACTED]

[REDACTED] he was aware of the Eileen's claims [REDACTED]

[REDACTED]

[REDACTED]

Hope this helps

Andrea

Andrea Sutcliffe