

Royal College of Physicians: Medicine 2019

WHISTLEBLOWING

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Baby Peter Case

- 4 consultants appointed 2004 by GOSH to develop Haringey CDC at St Ann's, Tottenham
- 1 March 2006: date of birth of Baby Peter
- 4 consultants including Dr Holt raised concerns in 2006 following cuts, after which 2 left
- March 2007: Dr Holt unwell through stress etc. and put on special leave
- 1 August 2007: Peter seen by locum doctor (who did not have required child protection training) at St Ann's without background notes/history and did not examine him
- 3 August 2007: Baby Peter died from non-accidental injuries
- 2007 onwards: Dr Holt on special leave; ongoing difficulties/negotiations with GOSH, including NHS London investigation, pressure to leave with settlement and NDA
- Summer 2011: Dr Holt finally returned to work.

Baby Peter References

- **Second SCR Exec Summary:** www.haringeylscb.org/sites/haringeylscb/files/executive_summary_peter_final.pdf
- **Clare Dyer, 'Great Ormond Street and Baby P: Was there a Cover Up?', BMJ 6 August 2011**
- **Phil Hammond et al, 'Shoot The Messenger: How NHS Whistleblowers are Silenced and Sacked', Private Eye, at drphilhammond.com/blog/wp-content/uploads/2011/11/shoot_the_messenger_FINAL.pdf**

Francis Review References

- **PF Submission (thematic review of 70 stories):** www.nursingtimes.net/Patients_First_Submission_to_the_Freedom_to_Speak_Up.pdf
- **Sir Robert Francis QC, Freedom to Speak Up Report,** freedomtospeakup.org.uk/the-report

The Public Interest Disclosure Act 1998 (PIDA)

- Added whistleblowing provisions to the Employment Rights Act 1996 (ERA)
- Primarily s.43A to s.43L and s.103A.
- Unfair dismissal: reinstatement/re-engagement/automatic/uncapped compensation/no qualifying period/but employees only/disclosures must be sole or main reason
- Detriment: uncapped compensation/no qualifying period/workers, so wider group/disclosures must be “material influence”

BUT PIDA challenges:

- Confers employment rights but no requirement to address patient safety issue
- Qualifying disclosures (not *any* disclosures)
- Protected disclosures and the “3 tier disclosure regime”: (1) internal, (2) regulatory and (3) wider disclosure
- Complex, expensive, after the event, uncertain: requires updating and reform. See: ‘Protecting Whistleblowers in the UK: A New Blueprint’, Thomson Reuters Foundation and Blueprint for Free Speech (2016).

What next?

- Research/sharing best practice eg among local guardians?
- PIDA reform, but not high on government agenda?
- Publicity and awareness: see Protect (PCaW), Whistleblowers UK and others
- Alternative processes, to address the distinctive complexities of whistleblowing cases?