Ms Rai Waddingham
By email: rai.waddingham@gmail.com

5 July 2019

Ref no. COMP2019363

Dear Ms Waddingham

Response to your open letter

Thank you for your open letter to us in which you raise concerns in relation to the case of Mr Boyd.

I’ve looked into the issues you’ve raised under our corporate complaints process. This included identifying the issues raised in your letter and liaising with colleagues across the organisation. I’ve spoken to our Investigation, Adjudication, Case Preparation and Presentation (CPP) and Employer Link Service (ELS) teams regarding the investigation of the issues raised.

Our decision

I understand you have concerns regarding the outcome of Mr Boyd’s hearing, and the current restrictions which we have in place on his practice. While we cannot reconsider the sanction imposed by the panel, I’d like to reassure you that the decision was reviewed internally and we continue to seek assurances around Mr Boyd’s performance under his conditions of practice order. The panel imposed this order for 12 months. It will be subject to further review and can be extended at a future hearing if the panel deem this necessary. Furthermore, if we receive any new information that needs to be reviewed, we’ll put this before a panel at the first available opportunity for them to consider whether the current order is proportionate.

If you remain dissatisfied with our decision in the case, you are able to raise concerns with the Professional Standards Authority (PSA). The PSA has the authority to appeal our decisions in the High Court if they are concerned that the decision doesn’t adequately protect the public. As mentioned, we’ve completed an internal review of the
decision, and the PSA has also confirmed that they won’t be appealing the decision. We’ll continue to liaise with Mr Boyd’s employer about the order that is in force.

**Concerns about a witness in the case**

We also note your concerns about a witness who was to give evidence at the hearing but was unable to participate due to her ill-health. We contacted this witness during the course of our investigation. She subsequently provided us with a statement in relation to the allegations of inappropriate restraint and level of force used (charges 3 and 4). At the first hearing which took place between 5-9 November 2018, the panel acknowledged that she provided ‘decisive evidence in relation to charges 3 and 4’ and granted an application to postpone the hearing to allow her to participate at a future hearing.

The panel indicated that they would not allow her evidence to be admitted as hearsay because it was accepted that at the time of the alleged incidents, the witness was acutely unwell. The panel wasn’t assured that her statement detailing those incidents (which took place at a time when she was in hospital due to her mental health condition) was reliable.

When the panel resumed on 25 February – 1 March 2019, it became clear that the witness was still unable to give evidence. Given the seriousness of the illness, the panel took the decision to refuse an application for a further adjournment. They acknowledged that this ‘would be an injustice to Mr Boyd and potentially detrimental to Patient A.’ The application to read her evidence was then refused for the same reasons provided by the panel at the previous hearing.

We were aware of the witness’s health condition. I’d like to reassure you that we kept in regular contact with her care provider and mother to ensure that the appropriate level of support was put in place to allow her to engage with us and participate in a hearing. We also offered the option of further support from our Witness Liaison Team to assist her with any of her needs during the proceedings. Following the initial adjournment, we took steps to enable her future participation via video link. We took that action to make sure her mother and care provider could be involved during the course of giving evidence. However, the witness became unwell a few days prior to giving evidence.

The panel took all factors into consideration and made the decision that we couldn’t present her evidence. We did everything we could to ensure that the witness was supported as much as possible. It’s clear that there were other factors, combined with the ongoing proceedings that were causing the witness’ health to deteriorate. It was believed to be in her best interests that the panel did not pursue things further.

We’re committed to putting people at the centre of everything we do. If you would like further information on the ways we provide support to our witnesses, patients and family members please visit: [www.nmc.org.uk/concerns-nurses-midwives/support-for-patients-families-and-public/here-to-support-you/](http://www.nmc.org.uk/concerns-nurses-midwives/support-for-patients-families-and-public/here-to-support-you/)

**Panel composition**

Fitness to Practise panels are independent of us. The panel member recruitment process is open and competitive. Successful candidates must possess integrity and
professionalism in dealing with pressured, sensitive situations and differing points of view. Before candidates are put forward for appointment, they are scrutinised by the Appointments Board (AB). The AB is a committee of the Council made up of Partner Members. One of their duties is to review recruitment and selection arrangements. The AB also make recommendations to the Council regarding the appointment of panel members.

In Mr Boyd’s case, following an internal review of the decision, we’ve identified feedback for the panel to improve the quality of their future determinations.

Wider concerns

I acknowledge your concerns about the Queen Elizabeth Hospital. I’ve checked our internal records for the Trust and can’t see that we’ve been asked to make any referrals to other organisations. However, we’ll share your open letter with the Care Quality Commission (CQC). I’d also invite you to raise any further concerns directly with the CQC.

I note your comments about how we’re addressing concerns about mental health services. Our role is to make sure that nurses, midwives and nursing associates have the skills they need to care for people safely. This is part of our role as a professional regulator. We don’t regulate hospitals or healthcare settings. Although this sits outside of our remit, our Employer Link Service (ELS) does work closely with employers. If you would like to learn more about our ELS, please read here: [www.nmc.org.uk/concerns-nurses-midwives/dealing-concerns/services-employers/](http://www.nmc.org.uk/concerns-nurses-midwives/dealing-concerns/services-employers/)

Thank you again for getting in touch. Please contact our Complaints team at [complaints@nmc-uk.org](mailto:complaints@nmc-uk.org) if you need any further clarification.

Yours sincerely

pp. Ben Wesson
Head of Customer Enquiries and Complaints