

In Confidence

Mr Daniel McMorro
Flat 64 Rosing Apartments
45 Homesdale Road
BROMLEY
BR2 9FN



20 May 2015

Dear Mr McMorro

Your complaint to the Health Service Ombudsman

Further to our recent correspondence, I have set out below my response to the points you have made. I sincerely apologise that it has taken me longer than I hoped to send this to you. I am also sorry you remain dissatisfied with the decision we have made and the outcome of our review.

I first of all apologise again for any confusion caused by not providing you with minutes of the telephone conversation we had. I can confirm that I have noted your file to show that you have asked for all future communication with PHSO to be either by letter or email.

I have carefully considered the concerns you have raised about both our original decision not to investigate your complaint, and the outcome of the review we carried out of that decision. I recognise this has been a very stressful situation for you and understand you strongly believe we can look at your complaint.

You have referred to us being able to look at maladministration and also pointed to relevant sections of the Health Service Commissioners Act 1993 that governs the work of our office. Whilst it is true we can look at maladministration, this is only if the matters complained about fall within our jurisdiction to do so. In your case, The Huntercombe Group are an independent provider and therefore we can only look at complaints about services they were commissioned by the NHS to provide to you. As we understand things, the Huntercombe Group were an independent provider commissioned to give you NHS care and treatment. On that basis we could look at a complaint about the treatment they provided to you that was funded by the NHS. I will refer to this later in this letter.



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However, as we have previously explained, when the Huntercombe Group provided information to your employer about your fitness to work, this was not part of the services they were commissioned by the NHS to provide to you. As such, we cannot look at your complaint that Dr Luff broke your medical privacy.

I would like to clarify that we have not reached any view of whether it was right or wrong that information was shared with your employer. We appreciate this is clearly a very important issue for you and I recognise how strongly you feel about this. I would like to reassure you that it is not a case that we do not wish to help you. However, quite simply we cannot by law look at that part of your complaint. Unless you can show us that the Huntercombe Group was commissioned by the NHS to provide you and your employer with information about your fitness to work, then unfortunately there is nothing further we can add on this point.

You have referred to a case summary of a complaint we did look at. This was a complaint about the actions of JobCentre Plus, which is an organisation that falls within the jurisdiction of the Parliamentary Ombudsman. We were therefore able to look at that complaint. The issue we face in your case is that The Huntercombe Group is an independent provider and we could only therefore look at a complaint about services they were commissioned to provide to you by the NHS.

I turn now to your request for information about how you can complain about there being a lack of investigation by the Information Commissioner's Office (ICO). We can consider complaints about ICO but we would expect that you had completed their own complaints procedure first. You can find details of how to do this on ICO's website at:

<https://ico.org.uk/concerns/complaints-and-compliments-about-us/complain-about-us/>

We would also need you to ask an MP to refer that part of your complaint to us, as by law we have to have an MP referral to investigate a complaint about a government organisation.

You can contact your MP, Mr Robert Neill using the following details

Robert Neill MP
House of Commons
London
SW1A 0AA
Tel: 020 7219 8169
Fax: 020 7219 8089
bob.neill.mp@parliament.uk

Finally, I have looked into your concern that we overlooked issues you asked us to consider about the care and treatment you received from The Huntercombe Group. You complain in particular that they put your left foot into a plaster cast to straighten your foot and that the medical form giving them permission to do this is incomplete. You also complain that five of the six care plans have the wrong date.

I have looked over the complaint correspondence you originally sent us last year. The main focus of your correspondence was about the sharing of your information but I can see that you did refer to those care and treatment issues in your initial complaint. I would like therefore to apologise that this was overlooked.

To put this right, I will now arrange for our assessment team to consider those issues about your care and treatment. They will be in touch with you shortly about this. I think it important to be clear, however, that this is only to look at these specific care and treatment issues.

I appreciate our decision regarding the key aspect of your complaint may be disappointing for you but I hope I have been clear about why we cannot look at this. I also hope the information I have provided regarding the ICO and what we will do to consider your care and treatment concerns will be helpful. Please let me know if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jonathan Roper', with a long horizontal flourish extending to the right.

Jonathan Roper
Customer Care Manager

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