

Sunday Times 6<sup>th</sup> March 2016

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# Health reform chief backed contracts with 'gagging clause'

## Martyn Halle

THE senior official tasked with implementing urgent reform of the NHS authorised the use of contracts that were later outlawed amid concern they could dissuade whistleblowers from speaking out.

In his last five years as chief executive of Northumbria Healthcare NHS Foundation Trust (NHFT), Jim Mackey sanctioned dozens of compro-

mise agreements – now known as settlement agreements – which prevented departing employees from disclosing information about the trust.

Figures obtained under the Freedom of Information Act show that 62 of the agreements were signed between 2011 and 2015. The 45 agreements signed between 2011 and 2013 included a clause that prevented staff from disclosing the existence of the agreement.

Mackey has been chosen by Jeremy Hunt, the health secretary, to lead NHS Improvement, a new regulatory body created by the merger of the NHS Trust Development Authority and Monitor, which comes into effect in April.

Three years ago, Hunt was forced to ban “gagging clauses” in compromise agreements. He took the step after Gary Walker, a former chief executive of United Lincoln-

shire Hospitals Trust, broke such a clause to speak about his dismissal in 2010 and concerns over care. At the time, Hunt said: “There has been a culture where people felt if you speak up about problems in the NHS, you didn’t love the NHS. Actually, it’s exactly the opposite.

“We are now saying we won’t approve any [compromise agreements] with a confidentiality clause that prevents people speaking out about

patient safety or patient care.”

NHFT said none of its compromise agreements involved staff members who had raised concerns about safety or care. It said that, like many trusts, it used the agreements when employees decided to accept a voluntary severance package.

Ann Stringer, executive director of human resources at NHFT, said: “Our use of settlement agreements are in line with national best practice,

fully support the openness and transparency agenda and should in no way be confused with the Public Interest Disclosure Act, which allows any employee, whether or not they are party to a settlement agreement, to make a disclosure in the public interest. We ... would categorically refute any suggestion that our staff are not able to raise concerns.”

But Fiona Bell, who received an apology from NHFT for the

poor treatment received by her grandfather, who died in 2009, and who obtained the figures, said: “Gagging staff with compromise agreements is a way of stopping them speaking about patient safety.”

Mackey declined to comment. The Department of Health said: “Under no circumstances should clauses seek to prevent the departing employee from making a disclosure in the public interest.”



Mackey: deals stopped former staff revealing information