

Notes on **Compliance and abuse in care homes** written in 2013, two years after the Winterbourne View scandal in England. I wrote an earlier article, which was widely published on the internet, called "In Defiance of Compliance".

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In further defiance of compliance...

Have the real lessons of Winterbourne View been learned? Will they ever be learned?

"Compliance carries with it a sense of futility for the individual and is associated with the idea that nothing matters and that life is not worth living."

Donald Winnicott, *Playing & Reality*.

Compliance, bullying and abuse, and the projection of guilt (scapegoating and blame) are linked psychological processes. We saw them working at Winterbourne View and they are still at work in institutions up and down the country. These processes are intrinsic to the English system of regulation and governance of social care. The public are asked to believe that we can eliminate abuse by demanding tighter compliance of all care providers and punishing the persistently non-compliant. While the exposure and punishment of non-compliant providers assuage guilt, at the same time they perpetuate abuse.

Compliance

At Winterbourne View the regime of governance - from the regulator (CQC) to the managing owners (Castlebeck) - was one of compliance. Previous inspections found the place to be compliant with CQC's standards. The inspectors and their reports were compliant with CQC's internal standards of operation. The reports were subjected to a rigorous test of compliance or "*quality assurance*" before being published.

The management of Winterbourne View, the staffing, the training, and the practice were compliant with the demands of the owners.

The staff were compliant with the internal management and most of the residents had learned to be compliant with the staff.

And, while that was the case - top to bottom compliance - Winterbourne View would have continued, as many other broadly similar compliant establishments continue, without the disruption of non-compliance.

However, there were some persistently non-compliant residents.

Professionally this sort of non-compliance is referred to as '*having (or displaying) challenging behaviour*' or, even more professionally, '*exhibiting behaviour that challenges services*'. To call people, especially "vulnerable" people, '*non-compliant*' is uncomfortable, but, let's face it, that's exactly what they were. Of course, their non-compliance or, more

politely, their challenging behaviour was the very reason for their being at Winterbourne View and was the justification for commissioners spending up to £3,500 a week keeping them there, ostensibly for short-term assessment and treatment but, in reality, for long-term compliance management.

Castlebeck had recruited staff to work with these non-compliant people. They had selected them and trained them in techniques of *'restraint'* so that when the residents' behaviour was too challenging - or they had been provoked into resistance - their compliance could be enforced. Such regimes survive because most of the staff and most of the residents comply.

At Winterbourne View there were some residents and some staff who continued to resist. We saw in the BBC Panorama film, residents struggling to maintain their personhood, fighting back, protesting their sense of self: *"I am a human being ... I will not be compelled to comply ... I will not be treated like an object."* Although there were staff who had protested and had resisted compliance, the only staff we saw on the film were those who were compliant with the prevailing abusive regime, either by their passive acceptance or by their active participation, or, indeed, by leading it.

Eleven of these regime-compliant staff were subsequently convicted and punished. Those who had resisted, had been ignored, and were identified as troublemakers. Terry Bryan, working there as an agency charge nurse, had already been through the whole gamut of reporting the abusive regime to the management and had been ignored before he then contacted CQC, the compliance regulator, and was again ignored.

Terry Bryan was, thankfully, non-compliant. If he had not contacted Panorama, Winterbourne View and Castlebeck would, in all probability, still be in compliant operation.

Government, CQC and the whole care sector have been very active ever since in self-flagellation, in hunting down non-compliance using updated compliance benchmarks, and attempting to dissociate themselves from Winterbourne View.

What has not been learned is that compliance itself, the central measure and ethos of CQC, itself can lead to abuse.

Bullying and abuse

You could say that what Terry Bryan did for Winterbourne View was what Kay Sheldon did for CQC. As a member of the CQC board, Ms Sheldon was being victimised, bullied, sidelined, and silenced but she refused to comply, and she blew the whistle to the Inquiry Chaired by Robert Francis QC into the Mid Staffordshire Hospital scandal. She exposed the bullying and cover-up culture at CQC. She led a revolt against a bullying regime and, as the new chief executive, David Behan has attempted to improve the culture. However, it takes a long time to reverse years of bullying in an organisation especially if most of the perpetrators and victims (often the same people), in other words those who were compliant, are still in post.

The propensity to bully is built in to command and control organisations. Schools, the police and armed forces, prisons, care homes are thought of as likely breeding grounds for bullying and abuse, but such tyrannies are rife in many workplaces such as newspapers, offices, Number 10, Whitehall and in city and county halls, and in the compliance regime of the national care regulator.

Targets are set; delivery is demanded, and failure is punished. And, somehow, intent only on its own survival, the whole operation of this large bureaucracy has lost its way. The purpose of checking that care is good enough comes a distant runner-up to foot-stamping threats, "*Compliance or else*". And it is passed down the line... to the inspectors, to the providers, to the managers, to the staff, and, yes, to the residents of care homes, the very people the whole shebang has been set up to protect.

The lessons of Winterbourne View...to be learned!

The residents of care homes are likely to be non-compliant people. Therefore, imposing any regime of compliance is punitive and institutionalising, and could manifest itself in bullying and the suppression of residents' sense of self.

Compliance with externally imposed benchmarks can co-exist with abuse and neglect. Care, not compliance, is the one and only task of a care home, and therefore, only by checking care itself can effectiveness and quality be judged.

Care takes place between people; it is a complex, two-way relationship. It has to be seen, heard and felt to be believed and properly understood.

Care takes place in a multi-layered system of human relationships in which hidden and underlying psychological and social drivers are the most powerful influence on the quality of care.

Evidence of care – good or bad - is not to be found in records or statements of intent or, indeed, in '*Statements of Purpose*'; it is found in the lived experience of people living in the care setting.

In my view, the whole system, including the regulation and inspection of care, must be coherent with the primacy of care relationships and must be designed to enable, support, and enhance caring relationships.

Similarly, in my view a caring organisation must recognise, understand, and work with the deepest hidden feelings of both care givers and the people receiving that care, and with its own institutional defences against anxiety.

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