Garden Flat

17 York Road

Lytham St Annes

FY8 1HP

Criminal Cases Review Commission

5 St Philips Place

Birmingham

B3 2PW

Your ref: 00090/2018

13 March 2019

Dear Sirs

I refer to your letter dated 8 May 2019, giving your reasons not to refer my conviction for appeal.

In submitting my application in January 2018, there was an expectation that the Commission would provide a comprehensive review of this matter and give due consideration to the evidence and the arguments heard by the court. This was a novel and complicated prosecution, not least because of the contentious issues of legislative interpretation and the conflicting narrative in HHJ Beech’s written verdict.

I was unable to obtain a transcript of the appeal hearings, which is the reason I asked the Commission if they could secure a copy when making my application. I was assured that request would be complied with. I was given an estimated review date of May 2018, but that timeframe lapsed until February this year.

It was therefore extremely disappointing to discover that no transcripts were obtained and no review of the hearing evidence undertaken. I presumed in making this application, I made it abundantly clear that there were material errors in the appeal judgment. As a layman, I wasn’t aware that I had to spell out the obvious in my submission. The contradictions in the judgement and what was heard in evidence, particularly the permissible use of titles whilst unregistered, would have been evident had the transcripts been examined.

That the Commission regard this as “unreasonable use of resources”, I find astonishing.

Equally astonishing is the argument you deploy to justify the regulator’s omission of an explanation to the impact of the intent to deceive element, by association with the term ‘fraudulently’ in the Protection of Title document issued by the HCPC. This doesn’t provide any explanation whatsoever concerning the lawful and permissible unregistered use of title – such as the guidelines issued by the NMC – and to suggest otherwise is not credible.

I also have to express some surprise and regret at the dismissive and condescending tenor of the Commissioner’s comments. I would not have countered an application had I thought for one second that I was guilty of this offence or if there was any evidence that suggested an intent to deceive or dishonesty on my part.

I am truly sorry that I have been unable to convince you that this conviction is unsound – and that the regulator had an ulterior motive for this prosecution. However, I am bound to point out that task would have been much simpler had you considered the evidence I specifically asked you to obtain.

I would be grateful if you could return all paperwork to the above address. I should also advise that I intend to obtain transcripts of the appeal hearings for my own record and account of this case, which will be published in the next few months. I assume the correspondence with you is not covered by legal privilege or any confidentiality clause, but I would be grateful nonetheless for your consent to use in full or quote from any missive.

Yours sincerely

Mark Russell