

Care Standards

The Tribunal Procedure Rules (First-tier Tribunal) (Health, Education and Social Care) Rules 2008

Heard on 16 & 17 May 2018 at the Royal Courts of Justice, The Strand, London
Panel Deliberation Hearing: 11 June 2018

BEFORE

Mr Laurence Bennett (Tribunal Judge)
Margaret Diamond (Specialist Member)
Michele Tynan (Specialist Member)

BETWEEN:

Mr Siyoum Beyene

Appellant

v

Care Quality Commission

Respondent

[2017] 3187.EA

DECISION

Appeal

1. Mr Beyene appeals under Section 32 of the Health & Social Care Act 2008 (the Act) against a decision dated 16 October 2017 of the Care Quality Commission (CQC) to refuse his application to register as Manager of accommodation for persons who require nursing or personal care.

Hearing

2. The hearing was held in London on 15, 16 May 2018. Evidence was given without oath. The bundle prepared by the parties includes witness statements and statements of truth.
3. Mr Beyene was present throughout the hearing and was represented by Ms Emma Beresford, a Lay Representative.
4. The CQC was represented by Mr Cyril Adjei, a Barrister. A member of CQC Legal Department, his instructing Solicitors was present.
5. Mr Beyene did not call witnesses at the hearing.

6. Mr Darren Lelliott, CQC Registration Inspector and Mr Daniel Morris, CQC Registration Inspector gave oral evidence on behalf of the CQC.

Preliminary

7. Mr Beyene's appeal is dated 16 November 2017.
8. CQC's reply to the appeal is dated 18 December 2017.
9. On 21 December 2017 and on subsequent occasions, directions were made for the hearing of the appeal.
10. In compliance with directions, the parties submitted an agreed bundle of documents. Additional documents were provided prior to and at the hearing and in accordance with directions, post hearing. These took into account discrepancies and missing documents within the paginated bundle.
11. Additional witness statements were admitted at the hearing.
12. At the hearing the Tribunal accepted late evidence comprising a CQC inspection report in respect of Eliza House dated 30 October 2017. The Tribunal found it relevant to the issues under consideration. Both parties subsequently made representations and submissions relating to its contents.
13. In accordance with directions, at the conclusion of the hearing, both parties provided written closing submissions.
14. Page references in this decision relate to the paginated hearing bundle.

The Law

15. Section 15 of the Health and Social Care Act 2008 (the Act) gives the Respondent the discretionary power to grant or refuse the registration of a person as a manager in respect of a regulated activity. Section 15(2) contains the requirements for which the Commission is to be satisfied.
16. The requirements for the purposes of Section 15(2) of the 2008 Act are "the requirements of regulations under Section 20, and the requirements of any other enactment which appears to the Commission to be relevant" The requirements include requirements in Regulations. These are found in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the Regulations).
17. Regulation 7 states:
 - (1) A person (M) shall not manage the carrying on of a regulated activity as a registered manager unless M is fit to do so
 - (2) M is not fit to be a registered manager in respect of a regulated activity unless M is:
 - (a) of good character
 - (b) has the necessary qualifications, competence, skills and experience to manage the carrying on of the regulated activity

- (c) is able by reason of M's health, after reasonable adjustments are made, of doing so and
- (d) able to supply to the Commission, or arrange for the availability of, the information specified in Schedule 3.

All of the criteria for the registration as a manager within Regulation 7(2) are required to be met in order to comply with the Regulations.

- 18. Section 32 of the Act states that the Tribunal may either confirm a decision of the Respondent or direct that it is not to have effect. The Tribunal is empowered to direct any discretionary condition it finds appropriate.
- 19. The Tribunal is required to consider the appeal on the evidence available at the time of the hearing.
- 20. It is for the Appellant to satisfy the Tribunal that he is a fit person to be registered as a Manager.

Background

- 21. On 15 March 2017 Mr Beyene applied to the CQC for registration as Manager of accommodation for persons who require nursing or personal care at Eliza House, 467 Baker Street, Enfield, London EN1 3QX.
- 22. Mr Beyene attended a Fit Person interview on 20 April 2017.
- 23. On 11 July 2017, CQC issued a Notice of Proposal to refuse Mr Beyene's application. This was subsequently adopted within a Notice of Decision dated 16 October 2017.
- 24. The Notice of Proposal set out concerns and following Mr Beyene's appeal, it is submitted that the refusal is supported by further "matters that occurred and evidence."
- 25. The parties agreed a Scott Schedule identifying the CQC's concerns and Appellant's responses forming the appeal issues. The Schedule is annexed to this decision.

Evidence at the hearing

- 26. The bundle includes witness statements with exhibits of Mr Beyene and witness statements with exhibits of Mr Darren Lelliott, Ms Susan Mitchell, Registration Manager CQC and Mr Daniel Morris with exhibits.
- 27. At the hearing, Mr Beyene gave oral evidence as Appellant and Mr Lelliott and Mr Morris gave oral evidence on behalf of the Respondent CQC.
- 28. Mr Beyene's application for registration was made under Section 40 of the Health & Social Care Act 2014. He completed an application form V13 in respect of Eliza House operated by Registered Provider Peaceform Ltd. Relevant content and omissions within the form are set out below.

29. Mr Lelliott explained the CQC assessment process once an application has been received and the triage and searches he undertook. He conducted a Fit Person interview with Mr Beyene on 20 April 2017. Mr Morris was also present.
30. Mr Lelliott's evidence gives details of the interview. Evidence he gave regarding the identified appeal issues is noted below.
31. Similarly, Mr Morris gave evidence about the Fit Person interview and commented on the information available to CQC both in general when an application is received and specifically in respect of Mr Beyene's application. Information relating to previous registrations and activity was not available to either him or Mr Lelliott as CQC IT systems were not set up to provide this.
32. Following the Fit Person interview and identification of discrepancies in the application form, particularly in respect of previous investigations, dismissals from employers Baytree Community Care and Priory Group; issues regarding references and declarations on the form were the subject of email correspondence after the interview (B75, B83).
33. Mrs Mitchell addressed the role of CQC within her witness statement (C21). She detailed assessment methodology and her review of Mr Beyene's history. She noted from Mr Beyene's documentation and the interview record that his CV and application form did not correspond. Based on her review, she was not satisfied that Mr Beyene had displayed the necessary character, honesty and trustworthiness to carry out the regulated activity and a Notice of Proposal to Refuse the application was issued. Following Mr Beyene's representations heard by the Head of Inspection, the Notice of Decision was issued.
34. The Notice of Proposal to refuse an application is dated 11 July 2017 (B1). It sets out "Evidence of non-compliance" and the conclusion "The Commission expects applicants to be honest and looks very carefully at character. The application and interview process gives applicants the opportunity to tell be open and disclose all relevant information especially those linked to any previous dismissal or investigations. You clearly stated that you understood the need for honesty and transparency but when completing the application form the information you provided to the Commission was inaccurate and did not represent or detail the seriousness of your conduct in former positions of trust. You did not declare that you had been dismissed from a registered manager's role for financial abuse, deception and dishonesty. You did not declare that you were subject to investigations by a previous employer. You misrepresented a part time agreement to act as a consultant with Dillon Care Limited to avoid putting either The Priory Group Limited or Baytree Community Care (London) Limited as references to Peaceform Limited and on your application to the Commission." The Notice states that the Commission had reason to question Mr Beyene's honesty and that he has not displayed the required levels of integrity and good character for the position of trust.
35. Mr Beyene's representations following the Notice of Proposal (D17) were prepared on his behalf. These focus on the relationship between Mr Beyene and a former employer Baytree Community Care (London) Ltd and his relationship with its Principal, Mr Chhagan Mistry. Comments are made on the issues raised within the Notice of Proposal and reference to the underlying relationship between Mr Mistry and Mr Beyene, Mr Beyene is described as a 'whistleblower.' Comment is also

made about the reason Mr Beyene completed the application form and his own CV as presented and the weight put on information from Mr Mistry.

36. The Notice of Decision confirming adoption of Notice of Proposal is dated 16 October 2017 (B91). It refers to the evidence within the Notice of Proposal and the representations made on Mr Beyene's behalf. It includes (B92) "You did not declare that you were subject to investigations by a previous employer. You misrepresented a part time agreement to act as a consultant with Dillon Care Limited to avoid putting either The Priory Group Limited or Baytree Community Care (London) Limited as references to Peaceform Limited and on your application form to the commission. You did not correct this at interview. The representations submitted on your behalf by Ralli Solicitors acknowledge this failure to disclose as a regretful error. The Commission considers the role of a registered manager as being a position of trust and therefore requiring the upmost levels of integrity and good character. The evidence shows that you have not displayed these traits, as your conduct when in a position of trust has been subject to investigations which you withheld from your CQC application and interview."
37. Mr Beyene's appeal reasons within the appeal form (A4) refer to his excellent reputation over 14 years, his regard for his work and his dispute with Mr Mistry, the owner of Baytree Community Care Ltd. He provides explanation and comment in respect of the points within the Notice of Proposal.
38. The Applicant's initial response to the appeal highlights the grounds relied upon.
39. Mr Beyene's representations are repeated within his appeal statement (D1). Further details are given in his supplementary statements and oral evidence in which he responded to the questions. He is currently working in what he described as a less responsible position within the care sphere. He commented on issues arising during the hearing including his application to the Priory Group, references, information that he assumed was known to CQC at the time and his lack of knowledge about CBS reports.
40. Following acceptance into evidence of the CQC Inspection report on Eliza House, Mr Beyene commented on the 3 elements of the report highlighted by CQC which were put forward as evidence contradicting his assertion of his positive impact as Manager of the Home.

Submissions

41. Both parties made oral and written closing submissions.
42. Mr Adjei's closing submissions on behalf of CQC were given in the order of the Scott Schedule. He drew attention to the evidence put forward which is referred to in our conclusions.
43. Mr Adjei drew attention to the legislative provisions and emphasised that it is for Mr Beyene to demonstrate that he is of the character appropriate for registration.
44. Mrs Beresford pointed out failures in communication by CQC in relation to Baytree. She submitted that Mrs Mitchell, the CQC's final decision maker when taking the final decision was unduly influenced by the allegations relating to Baytree and that

Mr Beyene had not had an opportunity to defend himself against those allegations. She submitted CQC had taken into account questionable evidence from providers, whose focus is based on profit. She highlighted evidence of Mr Beyene's good character and pointed to a reference within the papers (D45). She considers his misfortune has arisen because he took on circumstances he found inappropriate at Baytree and took action to raise these issues.

45. Mrs Beresford made oral and written submissions in respect of the Eliza House inspection report and the Scott Schedule points. Her submissions are taken into account in the Tribunal's conclusions below.
46. Further evidence and submissions are set out in the Tribunal's conclusions below.

Tribunal's Findings

47. We consider it appropriate to comment upon Mrs Beresford's role in the proceedings. She disclosed longstanding personal friendship and contact with Mr Beyene. Her confidence and belief in him was clear in her submissions. We appreciate that as a Lay Representative she does not have a depth of experience or procedural knowledge. We note she was thorough in her preparation and consideration. She was clearly in command of the details of the appeal and was able to competently represent Mr Beyene in respect of the original and developing issues.
48. As noted above the parties submitted an agreed schedule of issues for the Tribunal. The Tribunal having heard the evidence, accepts that the schedule includes the relevant issues in the appeal upon which a decision should be made. Accordingly, our findings and conclusions follow the format and numbering of the schedule and note evidence relevant in respect of each issue.

Tribunal's evaluation of the witnesses

49. The Tribunal found Mr Lelliott and Mr Morris' oral evidence and responses to questions both direct and consistent with their written statements. When asked for information about practice and procedure, their answers were open and included identification of system shortfalls and areas requiring improvement. Overall, we found their evidence credible, presenting the facts without a weighting to achieve a particular result.
50. Mr Beyene responded to questions put to him in a measured way and gave explanations and reasons in respect of each of the points arising in the appeal. In doing so, the Tribunal was able to gain insight into his logic and form conclusions upon the appeal issues.

Schedule 1

51. The relevant question on the application form is reproduced at B35. Q1.15 contains 2 tick boxes relating to "other investigations or bars on activity by the Disclosure and Barring Service" (DBS). The question asks whether the Applicant has been subject to any safeguarding investigations, criminal investigations or any investigation by a previous employer. Mr Beyene completed the No box. Evidence submitted on behalf of CQC shows that he had been subject to a disciplinary investigation by Baytree Community Care (London) Ltd. Mr Beyene said he has not

hidden that investigation and wrote to CQC during March 2016 explaining what had happened. His actions at that time included responding to a Notice of Proposal to cancel registration which he said was successful. He explained he made a mistake when completing the box and emailed CQC when he realised this. Mr Beyene said at the hearing that he expected CQC would have been aware of the position because of his previous contact and that information to be available to the Registration Officer on this occasion. Mr Lelliott accepted that the Baytree dismissal was noted on Mr Beyene's application form (B27) and was not hidden but he was not aware of previous contact with CQC. He commented that "Systems need to be better."

52. We note from the chain of events following the Fitness to Practice interview that Mr Beyene's email correcting the position followed the discrepancy having been pointed out by Mr Lelliott, it was not spontaneous. His realisation was in fact a reaction to a direct query. Mr Beyene gave some detail of his dismissal from Baytree and legal advice he took at the time. The documents submitted show what amounts to abandonment of his appeal against dismissal and action against the employer. Mr Beyene expressed his lack of confidence in advice and representation arranged for him which led him to abandon action.
53. We consider this an important issue. Mr Beyene, as an experienced Manager will have known the significance of the disclosure request. He plainly had difficulties at Baytree, which he explained followed a deterioration of his relationship with Mr Mistry and what he describes as his whistleblowing in respect of reduction of service. We do not accept his explanation for abandoning proceedings, as providing a justification of that position. To the contrary, taking into account the seriousness of the allegations made, we find it noteworthy he did not pursue action despite the opportunity and representation arranged for him.
54. Against that background, on balance we find Mr Beyene sought to avoid the disclosure of the position in his application form and did not answer the question accurately. The correct information only emerged after it was queried by Mr Lelliott.
55. We are reinforced in this view by Mr Beyene's alternative rationalisation that he would have expected CQC to be aware following an earlier relevant Notice of Proposal and as he was not aware of a decision, it must have been positively determined. We doubt this is the case otherwise he would have not denied the position in the form; we conclude that the entry on the form was intentional.

Schedule 2

56. There is no dispute of fact, Mr Beyene did not notify a subsequent employer, Priory Group Ltd that he had been dismissed from Baytree.
57. Mr Beyene accepted he did not give details of the Baytree employment as his application was made through an agency, who forwarded his CV. He understood he did not have to volunteer information unless asked in accordance with informal legal advice. His lack of disclosure on the application form and CV took into account his positive perception from the fact that registration had not been cancelled as a result of Baytree events; he had not heard further after his objection to the Notice of Proposal and did not consider this matter was an issue. It was submitted that rather than "lie" the application was "incomplete" in anticipation that

the Priory Group would pursue any gaps. It was submitted, however, “In this case Siyoum does however take responsibility and realises that wrongly advised he made an error of judgment that he deeply regrets and learns from.”

58. We find Mr Beyene’s explanation unconvincing. He has admitted he was selective in his disclosure and would provide information only if requested. He was selective in the information given to a prospective employer, notwithstanding what he must have known from his knowledge and experience of requirements that trust and confidence in the system relies upon disclosure. We find this a culpable attempt to avoid what might have been a relevant but damaging disclosure. We do not view his supposition that this might have emerged in interview as a plausible excuse. We find Mr Beyene avoided a difficult position by a conscious decision not to disclose.

Schedule 3

59. It was not disputed that Mr Beyene’s CV does not give his reasons for leaving previous employment. He explained that his CV has developed over the last 20 years and is based on drafting advice. He did not consider it necessary to include this information.
60. Mr Adjei’s submissions emphasise that the need for a full account of employment history including reasons for leaving is “notorious,” that it is widely known and expected.
61. Mrs Beresford pointed out that Mr Beyene’s CV has been used consistently over the years, no change had been suggested. His CV was a normal practice and “not an attempt to be dishonest.”
62. Mr Beyene’s CV is to be found at C65, C68. It lists his employment history but does not state the reasons for leaving any of the posts. We have mentioned above our view that Mr Beyene is well versed in the requirements of the care profession particularly in respect of registration and inspection processes. Whilst we note he has used the format of a CV for many years, we find this an example of selective information and continued avoidance of inconvenient facts. Noting that long usage, we accept, however, that this by itself could not be determinative of the overall question of character and fitness and have placed appropriate weight in our overall conclusion.

Schedule 4

63. Mr Beyene provided an application for employment form for Home Manager at Eliza House (D25-D30). The form states in respect of employer Baytree Lodge that his reason for leaving was “dismissal” with further information “I was dismissed from Baytree Lodge following dispute with the Director – details can be discussed during interview.”
64. CQC has not found documentary evidence to confirm the form was sent. Further, Mr Beyene did not make reference to its existence at the Fit Person interview. He gave information at that interview (B5) (C8)(C25) that he had not notified Peaceform and that he should have ensured this was discussed. It is submitted this lack of transparency was a further illustration that Mr Beyene chooses only to respond to questions and not volunteer relevant information that might cause difficulty.

65. Mrs Beresford submitted that there was no suggestion Mr Beyene had falsified the application. Such a form would be necessary for any employer and the application contained appropriate disclosure. If the employer had not received the application form, she would have raised questions.
66. We do not consider it likely that a provider would employ a Manager without an application form; this is standard practice. We do not consider Mr Beyene would have believed he need not provide a form. From the evidence available we accept the form was provided and can only speculate why Mrs Patel, Principal of the Provider did not require further details.
67. Having found the form was submitted, we note disclosure on the face of the form which we find sufficient. In summary, we do not consider this allegation which is of some gravity, requiring a high standard of proof has been established.

Schedules 5 + 6

68. The evidence indicates that Mr Beyene has a continuing position with Dillon Care Ltd, this appears to be part-time or zero hours and consists of a form of consultancy. We are satisfied from the evidence he gave that he has a service relationship with that organisation which in day-to-day terms would be classed as an employment relationship. Whether or not on technical analysis an actual employee.
69. It is suggested that Mr Beyene should not have provided Dillon Care Ltd as one of two employer references to Peaceform Ltd or CQC and his last employment should have been given. Mr Beyene points out he was not asked to give 2 references.
70. We find the CQC's understand and approach of what is a complex area of employment and tax law somewhat pedantic. We are satisfied that Dillon Care Ltd was a competent employer as ordinarily understood and that it was open to Mr Beyene not least because of his continuing relationship with Dillon Care Ltd to select them as his referee. We accept he was neither aware of a requirement nor did he deliberately fail to provide 2 employers.

Schedule 7

71. Mr Lelliott required consent to obtain a reference from Mr Mistry of Baytree Community Care (London) Ltd. Mr Beyene did not provide that consent. His emails (B77, 78) set out his reservations and refer to "Conflict with unscrupulous providers like him, why put our fate back into their hands?"
72. CQC considers this illustrates a lack of transparency and contends that the requirement for references is not limited to previous employers who provide favourable references.
73. Mr Beyene stated his views about Mr Mistry during the Fit Person interview and the threats Mr Mistry had made against him which led to his belief that he would not be given a fair and honest reference. He considers Mr Mistry vindictive.
74. The lack of consent is not disputed. We accept that Mr Beyene was aware that ultimately consent was not required and CQC could ask for a reference from Baytree. The issue is whether Mr Beyene's exercise of discretion not to provide consent and invite a poor reference is evidence of poor character, bad faith or lack

of honesty. Noting the background and that Mr Beyene's employment at Baytree was on the record, we understand why he chose not to provide consent voluntarily. We note the evidence of deep animosity between Mr Beyene and Mr Mistry. The information he gave during the Fit Person interview constituted a note of open disclosure. We do not find this inconsistent with integrity and good character.

Schedule 8

75. Mr Beyene did not state in his application for registration that he had been the subject of an investigation by DBS following referral by Baytree Community Care (London) Ltd. This is not disputed. Mr Beyene stated he did not know about a referral nor had he had contact with DBS. Since that time, he has received 4 enhanced disclosure DBS certificates.
76. Mr Mistry informed CQC that he made a referral to DBS and the referral was contested. A report of disciplinary hearings following Mr Bayene's suspension (E17) give details of the employer's investigation but does not record referrals to DBS.
77. We find no other indication that Mr Mistry and/or Baytree went beyond that employer investigation or referred Mr Beyene to the authorities or professional body. This is relevant as referral to DBS generally follows a conviction or a professional body disciplinary process.
78. Noting that neither Mr Mistry forwarded an acknowledgement from DBS nor was there a copy of notification to Mr Beyene available, we find it credible that Mr Beyene did not have knowledge of a referral and in the circumstances cannot be held culpable for failing to make a disclosure on the application form.

Schedule 9

79. It is agreed that Mr Beyene did not disclose to Peaceform that his application to become Registered Manager had been refused.
80. Mr Beyene agrees he did not discuss this as he was waiting for the result of this appeal. This was frustrated as CQC contacted Peaceform before the appeal has been determined and this led to his dismissal.
81. Whilst we understand Mr Beyene's reasoning, we consider it disingenuous for him not to make disclosure of the refusal and process of the appeal. He should be fully aware of the need for a home to have a Registered Manager and be in a position to ensure continuity if the appeal fails. We consider this non-disclosure deliberate and self-serving, illustrative of a lack of appropriate approach to the responsibilities of the position. It is a clear reflection on his fitness.

Schedule 10

82. Eliza House was inspected by CQC in June 2017. Its report was published on 30 October 2017. Mr Bayene was Manager from November 2016 until his dismissal in October 2017.
83. The reason for the termination of Mr Beyene's employment is disputed. CQC submit that the evidence shows this was because of poor performance and compromising regulatory compliance. Mr Beyene stated it followed CQC's notification to Peaceform that his registration had been refused.

84. Mr Beyene pointed to evidence within the report which supported his contention that he had begun to improve Eliza House from a poor compliance base. He had not received concerns about his work nor been required to undertake supervision sessions. He pointed to positive comments within the report. It is submitted on his behalf that this issue does not raise questions about Mr Beyene's honesty or good character but raises questions about the providers' own procedures and honesty.
 85. The report and summary of findings shows a number of concerns about breaches of regulations which included inadequate audits and records, unsatisfactory care plans and unsafe management of medicine.
 86. Mr Beyene does not consider Mrs Patel provided all relevant documents and other records might not have been available because Eliza House was undergoing change at the time of the inspection. He commented upon other findings in the report and improvements made under his management.
 87. CQC submits that the report supports the reasons for dismissal given by Peaceform Ltd reflecting on Mr Beyene's capability. Dismissal was not a consequence of refusal of registration and is a relevant matter for the Tribunal's consideration.
 88. Mrs Beresford submitted that the appeal does not relate to Mr Beyene's performance but focuses on his fitness and character.
- Current employment
89. An issue arose over the understanding that Mr Beyene was unable to find employment within the care sector because of the refusal of registration. Mr Beyene gave details of his current employment and explained it was not at his previous status; there was no intention to mislead. His duties mainly involve manual work on an hourly paid basis and he does not supervise other people. Mr Beyene mentioned his personal and family obligations and his need to continue to produce an income.
 90. The CQC contends that this shows that a career in caring can continue despite refusal of registration as a Manager. Mr Adjei submitted that the changing description of employment status by Mr Beyene was an "alteration of evidence" and illustration of lack of honesty.

Conclusions

91. Bearing in mind the written and oral evidence and our findings from that evidence we have considered Mr Beyene's explanations and justification.
92. Mr Beyene was clear in his recall of some matters but vague about others. The evidence shows he chose to disclose minimal information to CQC and employers about particular issues that we consider avoidant and self-serving.
93. Mr Beyene disclosed his rationale. A central reason was his dispute with Mr Mistry which whilst deep felt, has led to a deliberate and culpable failure to provide relevant disclosure.

94. Whilst our findings show in some instances Mr Beyene's failure to disclose related to mistake or lack of knowledge and not intentional omission, we find Mr Beyene's explanation for passivity in respect of other matters explaining that it was for others to make enquiries, is wishful thinking.
95. We observe that Mr Beyene is an intelligent and experienced Manager. His presentation at the hearing shows so. He is familiar with regulatory requirements. We conclude he was aware of the need for disclosure of the omissions found above and do not find his explanations acceptable. We do not consider he is naïve or unsophisticated to the point where this was inadvertent but conclude that in respect of the important matters identified, he deliberately chose not to provide relevant information.
96. We find Mr Beyene in his duty to disclose and this reflects on his character for the purpose of regulation and his lack of honesty and failure to act with integrity in the issues found is below that required to be considered of good character.
97. The Tribunal is aware of the important responsibilities of a Registered Manager as emphasised in CQC submissions. We accept the role is central and there is a need for confidence in that Manager to act with integrity to protect service users and the public. From the failures we have identified we have reservations about Mr Beyene's character, such that confidence cannot be assumed and is misplaced. It cast doubt upon his integrity and his ability to act honestly and appropriately when conflicting personal pressures might arise. We do not consider his trustworthiness can be assumed. Our conclusions show it has been compromised.
98. For the above reasons, we conclude that Mr Beyene is not suitable for registration as a Manager. We have considered the imposition of conditions upon registration but do not consider such could be effective in the circumstances. For the above reasons, we conclude it is proportionate that Mr Beyene's application for registration is refused.

Order

99. The decision of the Care Quality Commission dated 16 October 2017 to refuse Mr Beyene's registration as Registered Manager in respect of the regulated activity is confirmed.
100. Mr Beyene's appeal is dismissed.

Laurence J Bennett
Tribunal Judge
First-tier Tribunal (Health Education and Social Care)

Date Issued: 2 July 2018