

Close Paul

From: Grocott, David [Code A]
Sent: 18 August 2010 17:03
To: Close Paul
Subject: Gosport War Memorial Hospital Deaths vs CPS.doc
Attachments: Gosport War Memorial Hospital Deaths vs CPS.doc

Mr Close,

Thanks for the documents. In respect of media here, we have the central families on radio and television stating an intent to seek judicial review of your decision and the normal press coverage. In respect of the blog I have copied the relevant page here into word. It was interesting to hear some of the interviews on the radio. It is clear that some of the comments emanate from this correspondent. It may assist you in advance of their possible visits to have some idea of the questions.

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Gosport War Memorial Hospital Deaths vs CPS & GMC

It has come to my notice that the Crown Prosecution Service (CPS) is about to make another decision on the case against Dr Jane Barton. I am sure that the relatives who have kept this case alive do not expect anything different and that the decision will be 'No case to answer.'

If you have followed my writings on 'nhsexposed' you will know that I have spoken out about Mrs Devine who lost her life while sitting happily in bed waiting for the arrival of her daughter. My reason for taking up this case was that I saw it as one of the most serious and the most blatant use of opiates on an opiate naive patient to cause death. Proven by a jury at an inquest may I add.

What the CPS has to base their new decision on is not just on the cause of death but the time of death. I heard that regarding Mrs Devine the bookmakers have 'Renal Failure' odds on favourite. We all have to die and some will live for years with renal failure prior to death and it is not up to a doctor to choose the day or the method of death. Mrs Devine received 4 four times overdoses of lethal drugs in less than 2 hours, fell comatose and died. I say in less than 2 hours because the 25mcg Fentanyl Patch had peaked and was not removed when Dr Barton administered the 50mg of Chlorpromazine, 40mg of Diamorphine and 40mg of Midazolam. Fentanyl Patches have to be removed 12 hours before the administration of alternative drugs.

The time has come to once again highlight who you are all up against in your fight against evil, the CPS and the GMC. They have done nothing in the past decade to condemn Dr Jane Barton's sinister work, so I do not think it is time to for change even though a jury found her guilty of causing deaths.

Central Prosecution Service

The principles we follow

The Code for Crown Prosecutors sets out the basic principles to be followed by Crown Prosecutors when they make case decisions. The decision on whether or not to charge a case against a suspect is based on two tests outlined in the Code.

The evidential test

This is the first stage in the decision to prosecute. Crown Prosecutors must be satisfied that there is enough evidence to provide a "realistic prospect of conviction" against each defendant on each charge.

- *Except the case of Dr Jane Barton.*

They must consider whether the evidence can be used and is reliable. They must also consider what the defence case may be and how that is likely to affect the prosecution case. A "realistic prospect of conviction" is an objective test.

- *Except in the case of Dr Jane Barton even though a Jury at the Coroner's Inquest found her guilty of causing the death of three patients.*

It means that a jury or a bench of magistrates, properly directed in accordance with the law, will be more likely than not to convict the defendant of the charge alleged.

- *Except in the case of Dr Jane Barton even though a Jury at the Coroner's Inquest found her guilty of causing the death of three patients.*

(This is a separate test from the one that criminal courts themselves must apply. A jury or magistrates' court should only convict if it is sure of a defendant's guilt.) If the case does not pass the evidential test, it must not go ahead, no matter how important or serious it may be.

- *Not even if a jury in the case of Dr Jane Barton had found her guilty of causing the death of three patients, which in the normal eyes of the law is regarded as deadly*

serious. Is causing death not classed either as manslaughter or murder? How foolish of me, it depends who caused the death.

The public interest test

If the case does pass the evidential test, Crown Prosecutors must then decide whether a prosecution is needed in the public interest. They must balance factors for and against prosecution carefully and fairly. Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

- *As per the case against Dr Jane Barton whereby the factors against were carefully balanced and the course of action, being complete freedom, was chosen to be the best. Sorry but did I miss 'factors for' and 'fairly' out of this?*

A prosecution will usually take place however, unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. The CPS will only start or continue a prosecution if a case has passed both tests.

- *For example. It may well have been worth the public's interest to prosecute Dr Jane Barton but because the Gosport War Memorial Hospital is no longer a danger to the public, due to the public's continuing complaints, Dr Jane Barton is also no longer a danger. We fully understand that a few elderly patients lost their lives at the hands of this doctor but most of them had had a good innings as JB might say. Just a shame they lived in Gosport.*

The CPS also provides liaison with other agencies and Government Departments to work together to achieve improvements in the criminal justice system and to meet new domestic, European and global challenges of crime.

The principles we follow and our commitment to high standards of service are further outlined in the following:

Our decisions will be independent of bias or discrimination but we will always consider the interests of others. We will act with integrity and objectivity and will exercise sound judgement with confidence.

- *Well maybe not completely independent, the government picks up the tab.*
- *Likewise one may need to lean towards who eventually fills the purse.*
- *They do not really understand the word 'Integrity' so this may not be so.*
- *Objectively? Yes they do understand this as in the case of Dr Jane Barton their objectives were quite well known to the public, being as she is still free to work anywhere in the UK outside of the NHS and continue to administer all controlled drugs other than Diamorphine.*

In our dealings with each other and the public we will be open and honest. We will show sensitivity and understanding to victims and witnesses and treat all defendants fairly.

- *A good example of this is with the case against Dr Jane Barton. They refused to prosecute, how much more honest is that?*

We are accountable to Parliament and to the public; we will work together with our colleagues to maintain public trust and to provide an efficient criminal justice system. In explaining our decisions we will be courteous and helpful.

In order to achieve these high standards, we will report on our performance and respond to criticism positively.

The Code for Crown Prosecutors is available on this website in the Victims and Witnesses section.

Aims and objectives

Our vision is to be a prosecuting authority of stature, providing the best possible service to society. We want to continue to be a professional organisation which values all its people, performs to a high standard, inspires public confidence, and works in partnership with all elements of the criminal justice system.

The Crown Prosecution Service plays a major part in assisting in the delivery of the Government's objectives for the criminal justice system:

To reduce crime and the fear of crime.

- *Except the fear of the relatives who lost their loved ones at the hands of Dr Jane Barton that no one has been brought to account for.*

To ensure the effective delivery of justice.

- *Except against Dr Jane Barton*

To provide value for money.

In working towards these objectives, we share a number of public service agreement targets with our criminal justice system partners, including:

To improve the delivery of justice by increasing the number of crimes for which an offender is brought to justice to 1.25 million by 2007-08;

Reassure the public, reducing the fear of crime and anti-social behaviour; and building confidence in the CJS without compromising fairness.

The aim of The Crown Prosecution Service directly supports the overall aims of the criminal justice system of reducing crime and the fear of crime and their social and economic costs; and to dispense justice fairly and efficiently and to promote confidence in the rule of law. It is to:

- *Yes, they are only talking of future crimes but the old saying 'water under the bridge' is quite relevant if Dr Jane Barton comes to mind.*

Deliver a high quality prosecution service that **brings offenders to justice**, helps reduce both crime and the fear of crime and thereby **promote public confidence** in the rule of law through the consistent, fair and independent review of cases and through their fair, thorough and firm presentation at court.

The objective supporting this aim is to ensure the effective delivery of justice.

General Medical Council

Independence and accountability

Patients' interests are best served by independent, accountable regulation. The GMC must be **independent of government** as the dominant provider of healthcare in the UK; independent of domination by any single group; and be publicly accountable for the discharge of its functions.

Independent, accountable regulation must:

Put patient safety first

- *Provided they were not admitted to the Gosport War Memorial Hospital prior to 2000.*

Support good medical practice

- *Unless Dr Jane Barton was in administrative control.*

Promote fairness and equality and value diversity

- *Except for the aged if admitted to the Gosport War Memorial Hospital prior to 2000.*

Respect the principles of good regulation: proportionality, accountability, consistency, transparency and targeting

- *Especially the consistency of the passing at the Gosport War Memorial Hospital prior to 2000 and the transparency of not notifying the public that Dr Jane Barton's brother Professor Christopher Bulstrode was a member of the GMC.*

The role of the GMC

The safe care of patients by doctors is at the heart of everything the GMC does. This is underlined by its four main functions:

- *With one exception, Dr Jane Barton and the Gosport War Memorial Hospital.*

To set general standards of good practice for doctors which reflect the expectations of the public and the profession (these are set out in the publication *Good Medical Practice*, supported by guidance on work in clinical teams (*Maintaining Good Medical Practice*) and more detailed guidance on specific areas¹).

- *With one exception, Dr Jane Barton and the Gosport War Memorial Hospital.*

To maintain a register of doctors who are up-to-date and fully competent to practise in their chosen field.

- *With one exception, Dr Jane Barton and the Gosport War Memorial Hospital.*

To supervise the basic training of doctors in our medical schools and to ensure that all stages of medical education produce doctors who are able to carry out the duties and responsibilities required for GMC registration.

- *Except Dr Jane Barton.*

To deal firmly and fairly with doctors whose conduct, performance or health may bring their registration into question.

- *Except Dr Jane Barton.*

The proposals in this document are concerned mainly with the last of these, but should be seen in context of the others. The GMC's core role stems from the principle that registration as a doctor means **adherence to the standards** set by the profession, in partnership with the public. Where **serious concerns are raised** which call into question a doctor's fitness to remain on the medical register, then as guardians of good medical practice the **GMC must take action** to ensure that possible serious **breaches are identified and fair action taken on them.**

- *Except Dr Jane Barton.*

The public interest

The Merrison Committee² said that 'the GMC should be able to take action in relation to the registration of a doctor...in the interest of the public', and that the public interest had 'two closely interwoven strands: the particular need to protect the individual patient, and the collective need to maintain the confidence of the public in their doctors'³. In the context of the PCC case in 1998 concerning children's heart surgery in Bristol the Privy Council confirmed that view, holding that the public interest included, but was not limited to, the protection of individual members of the public. Other factors were the maintenance of public confidence in the profession and declaring and upholding proper standards of conduct.⁴

The proposals in this document are based on the premise that the fundamental purpose of the fitness to practise procedures is to promote and safeguard the public interest, understood in these terms.

- *Except for Dr Jane Barton.*

1 Seeking Patients' Consent: The Ethical Implications; Confidentiality; Serious Communicable Diseases; Management in Health Care: The Role of Doctors.

2 Report of the Committee of Inquiry into the Regulation of the Medical Profession, Chairman: Dr A W Merrison FRS, Cmnd 6018, April 1975.

3 Ibid, paragraph 232. 4 *Roylance v GMC* [Privy Council Appeal No. 49 of 1998]

7Section 2

Acting fairly to protect patients

What kinds of complaints should the GMC consider?

14. Many organisations consider complaints about health care and against doctors. Each year there are over 100,000 complaints made in England alone under the NHS complaints procedure, as well as around 3,000 to the Health Service Commissioners. Where a complainant wants a concern investigated to obtain an explanation, apology (if appropriate) and action taken to stop the problem recurring, the complaints system should be his or her first port of call.

- *Unless it is against Dr Jane Barton. If it is they will endeavour to drag their heels ensuring you never acquire an Honest and Transparent answer, until they feel sure that you have given up all hope and gone away.*

The GMC is no substitute for that process which, at its best, is an important part of NHS quality assurance. During 2000, the GMC received some 4,500 complaints, many of which were much more appropriate for the NHS complaints system, as they raised matters which, although very serious to those involved, were not so grave as to call the doctor's registration into question. Since July 2000, the GMC has contacted complainants speedily in those cases to encourage them to use the appropriate local procedure.

- *Except if it is against Dr Jane Barton no matter how grave and especially if it includes death by Diamorphine via a Syringe Driver or any other controlled drug.*

15. The GMC's core role in fitness to practise is to consider concerns about doctors which are so serious as to raise the question of whether they should continue to practise without restriction or at all.

- *Except For Dr Jane Barton.*

However, this is consistent with a facility to consider allegations which fall just short of the threshold of "serious professional misconduct", as currently defined, and more is said about that in Sections 3 and 4. The GMC should not be seen as another general complaints body or a substitute for the NHS complaints system.

The GMC booklet *A Problem with Your Doctor?*

is being rewritten to make that clear. The GMC will seek to stimulate work with organisations representing complainants and patients to develop more effective mechanisms – for example, through customised guidance available electronically – to direct complainants to the best route for pursuing their complaint.

Except for Dr Jane Barton who never required any stimulation in her work. Her mechanism for reducing the government's old age pension budget and time elderly patients remained in hospital care was nothing less than sheer brilliance, an Oxford grad' for sure.

I hope I have not bored you with this but someone has to try and get across to the public the blatant sinister dealings by both these organisations to ensure Dr Jane Barton does not enter a criminal court. Should this transpire not to be the case TODAY I will raise my hat to the CPS spokesperson.