

**Code A****LSPG SOL C4**

From: **Code A** LSPG SOL C4  
 Sent: 18 January 2007 15:21  
 To: Phillips Colin DOH GSI  
 Subject: Gosport War Memorial case

Colin

Thank you for sending me the background materials and very comprehensive instructions on the above.

I will address the various points in the order in which you raise them:

1. The Police - I agree that what the police do with the materials they have is up to them apart from Prof Baker's report. However, you might wish to consider whether there is anything on which you might wish them to hold fire pending the GMC investigation or publication of Prof Baker's report (if this happens) and/or the SHA's review/investigation, for e.g. something sensitive. You are better placed to know whether there might be anything of this nature. I just wanted to flag up the point.
2. The Healthcare Commission - I agree that at this stage it is appropriate to establish what their position is for the sake of completeness of your reply to the CMO. The HCC of course have an MoU with the GMC so no doubt their next steps will be based on that.
3. The SHA - I agree that you need to establish what the SHA is proposing to do next. I was wondering whether an internal management review would still be appropriate as the next step. For example what purpose would it serve, what issues would it cover? Should the SHA be considering a proper investigation instead (which might also cover the same ground as a review), possibly an Article 2 compliant one?
4. The GMC - As a preliminary point I was wondering what relevance Prof B's report would have to the GMC's investigation. The GMC's interest is from the point of view of regulating doctors whereas Prof B's report was about trends and patterns at the hospital, based on statistical evidence. In any event, I note that the GMC already has the report in confidence but with regard to a formal release, if this is necessary, I think you would first need to address the points below in relation to publication of the report, which are based on SOLC2's past advice.
5. Publication of the report -
  - i) On timing, I agree that publication should be withheld until the GMC has investigated.
  - ii) As to the report itself, I note that SOLC2 (Gillian Aitkens) previously advised that publication of the report was partial - it primarily went to Dr Barton's practice rather than to the systems in place in the hospital. In not covering the issues which a typical NHS review would cover, the findings are focussed on one doctor rather than the wider picture which is potentially unfair to Dr Barton and not particularly helpful to the NHS in the sense of encouraging lessons to be learnt. Gillian went on to say that if publication was desired we should discuss what it is DH wants to achieve and then see how we can achieve that. We would need to have compelling reasons as to the benefits to the NHS and public confidence to publish a document of this sort.
  - iii) Secondly Gillian advised that we need to ensure that Dr Barton gets a chance to comment on the report before its formal release/publication.
  - iv) I presume that Gillian's other point about substituting the word "practice" for "policy" in the report has been addressed?
  - v) The peer review point Gillian flagged up was to ensure that the types of evidence Prof Baker had considered did not omit any relevant indicators. Gillian said that the CMO would be in the best position to make this judgment so this is also something to consider but a relatively minor point I think.
  - vi) Incidentally, I don't think I have received a copy of Prof Baker's report. I assume from Gillian's advice that she has had sight of the report. If so, I think I too should have a copy for the sake of completeness.
6. NMC - I agree that it is best to just get a state of play statement from them for now and not to offer sight of the report, at least until the above points have been considered.
7. The families - I agree that it would be good to find out via the SHA what if any further steps they are taking but again, I do not think you should be writing to them about the report, at least until you have considered the above points.

**Code A**