



Ministerial Submissions

From: Colin Phillips on 27/09/2002 16:50:27

To:
cc:

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Subject: MSS/S: Gosport War Memorial: proposed independent Inquiry - SOU/6/0013



Gosport Ind Inq.doc

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David McNeil PS-PS(L)

From: Adrian Pollitt
Head of Corporate Affairs
DHSC-S
Date: 27 September 2002
cc: as attached

**Investigation into suspicious deaths at Gosport War Memorial Hospital:
Proposed Independent Inquiry**Issue

- 1 This submission seeks PS(L)'s agreement to the announcement by the Hampshire and Isle of Wight Health Authority (HIOW-HA) of an independent inquiry to investigate suspicious deaths at Gosport War Memorial Hospital (GWMH)

Timing

- 2 This is urgent. The HIOW-HA seeks to make an early announcement that, in the light of recent developments, there will be an independent inquiry in order to ensure that public confidence in local health services is restored and maintained.

Background

- 3 Relatives of patients who died in GMWH in 1998/9 have made allegations to the police that care received hastened their death. The initial police investigation gave rise to three expert reports, and the referral of one of the deaths to the Crown Prosecution Service (CPS). The CPS determined that there were insufficient grounds to proceed.
- 4 The police reported the case to CHI and the doctor to the GMC. Relatives referred several nurses to the UKCC (subsequently the Nursing & Midwifery Council (NMC)).
- 5 CHI investigated and reported in July 2002. The main conclusions were that there:
- Was confusion around the objectives of admission to GWMH, as between palliative care or rehabilitation
 - Was inadequate supervision of, and confused contractual arrangements surrounding, GPs working as clinical assistants
 - Were now adequate systems in place sufficient to ensure the delivery of safe care
- 6 The relatives have continued publicly to question the adequacy of the police investigation. There has been much local press coverage. Two weeks ago the police decided to refer 4 further cases to the CPS, together with the expert reports. The relatives were informed of this.

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7 The Doctor at the centre of the allegations, Dr Jane Barton, a local GP who worked at the hospital as a clinical assistant, was referred to the GMC. Its Preliminary Proceedings Committee (PPC) has referred her case to the Professional Conduct Committee. The Interim Orders Committee has decided not to impose constraints upon her practice. The GMC officers have decided not to refer the matter again to the IOC, even after considering the contents of the dossier (see below in para 9). This creates real difficulties for the HA and the action to be taken needs further discussion with the CMO.

Her supervising consultant was also referred to the GMC by a relative, although her case was not referred to the PPC.

8 In the week of the 9 September, the CMO announced that Professor Richard Baker would undertake a clinical audit of deaths at the Hospital.

Recent Developments

9 On 16 September a number of nurses employed by Gosport PCT handed to Managers of the Trust a dossier which appears to indicate that:-

- Nurses raised concerns as long ago as 1991 about high levels of prescribing of diamorphine for patients admitted to Gosport War memorial hospital, often for patients who were not thought to be in pain
- Managers of the hospital appeared not to have taken action in a way, which satisfied those nurses, despite pressure from the RCN. It is however unclear what action, if any, was taken and how or whether matters were resolved.

10 The implications of the concerns expressed by staff about prescribing policies at the Hospital which have not been disclosed to any of the previous investigations (by the police, GMC, NMC or CHI) are that:-

- They open up a period of seven years (1991-1998) which has not been subject to scrutiny by these earlier enquiries. The terms of reference of the CHI investigation were to ... "look at whether *since* 1998, there had been a failure of systems to ensure good quality care" and
- They raise questions about the response of the local health system in 1991, and the failure of individual managers and clinicians to link these issues to the enquiries concerning the quality of care in 1998

11 In these circumstances, it can be argued that the previous inquiries were not in possession of all the information needed to understand the context and to judge the acts or omissions of individuals or organisations.

12 The new information has now been brought to the attention of the police and the relevant regulatory bodies, and they will pursue their own enquiries in the light of it.

13 Of the Managers who might have been expected to investigate the allegations in 1991, one, Tony Horne, is currently Chief Executive of East Hampshire PCT. Another, Ian Piper is now Chief Executive of the PCT which currently manages the Hospital (Fareham and Gosport PCT.) These two individuals have been re-deployed to other duties.

14 The Health Authority remains in very close touch with the police about the handling of these issues.

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- 16 However, the nature, timing, and terms of reference of such an inquiry present very complex issues, legal, ethical and practical. These include questions of confidentiality versus openness; of the chairmanship; of scope; and or co-ordination with the police investigation and Professor Baker's audit.
- 17 These have been discussed by DHSC, Investigations and Inquiries Unit (IIU) and Health Authority officials, who have concluded that legal advice is necessary before proceeding to establish the inquiry and settle its terms of reference and constitution. IIU will consult SOL, among other things on the question of our legal duties under the European Convention of Human Rights; the Health Authority will seek its own legal advice. This will take time.
- 18 However, officials in DHSC and IIU are convinced by the Health Authority's arguments that an early announcement of an inquiry is an essential part of the process of restoring and building confidence, notwithstanding the need to seek advice about the complexities above.

Conclusion

- 19 Accordingly, the Minister's approval is sought to make such an announcement, on the basis that the details of constitution, terms of reference and timing remain to be settled at this stage.