

Tanner Simon

From: Hayden Smith Jane [redacted] Code A
Sent: 24 September 2002 09:18
To: [redacted] Code A
Subject: FW: GWM

Importance: High
Sensitivity: Confidential

Simon -this didn't reach you the first time, so I'm sending it to you again.

JHS

> -----Original Message-----

> From: Hayden Smith Jane
> Sent: Tuesday, September 24, 2002 9:14 AM
> To: [redacted] Code A
> Cc:
> Subject: GWM
> Importance: High
> Sensitivity: Confidential

> Dear Gareth

> I'm writing as requested by Simon following my telephone conversation with
> him yesterday.

> I understand that there is some concern on the part of both Trusts that
> any investigation is concluded as quickly as possible so that the position
> of the two individuals who have been re-deployed can be resolved without
> unnecessary delay.

> It is right for them to have those concerns, as employers, because they
> have an obligation to treat their employees fairly - and the longer the
> "redeployment" continues, without an investigation being concluded, the
> more at risk they are of claims from their employees that they have
> breached their contractual obligations to those employees.

> As indicated to Simon by telephone yesterday, the difficulty in
> progressing any "internal" investigation (by which I mean an investigation
> to establish whether either of these two individuals, or any other
> employee, has done or failed to do anything which should be the subject of
> a disciplinary hearing), lies in the fact that there may need to be a
> police investigation as to whether any criminal act has occurred.

> Usually, where there needs to be a police investigation, then to avoid any
> interference with possible criminal proceedings, the police would be
> allowed a free hand to investigate and no "internal" investigation would
> begin until the police had confirmed that their investigation was
> complete.

> I am not entirely clear what stage the police are at, in relation to
> events at GWM. I do take the view that:
> - there is nothing in the dossier of papers which came to light last week
> which sheds any additional light on the original death(s) they
> investigated in 1998;
> - as a result of those papers, there may be an issue about whether
> individuals who were interviewed by the police in the earlier police
> investigations were as honest as they could have been - but that will
> depend on who was interviewed before. If, for the sake of argument, TH
> had been interviewed by the police as part of the 1998 investigation, had
> been asked by them if he had any knowledge of concerns about prescribing
> practices at GWM and had said no, then these papers suggest that in doing
> so he would have misled the police - which might in itself be a criminal
> offence, if he did so knowingly;

- > - as a result of those papers, it seems to me that the police might want
- > to investigate earlier deaths at GWM in addition to those which they have
- > already investigated, to see if any other charges of unlawful killing
- > might be brought - but I imagine they will have the same difficulty in
- > relation to any earlier deaths that they have had in relation to the
- > deaths in 1998 (in terms of establishing the necessary grounds for a
- > prosecution); and
- > - as a result of those papers, the police may well want to investigate
- > what level of knowledge there was amongst senior managers of the concerns
- > expressed by nursing staff in 1992 and beyond, and what they did about it,
- > possibly with a view to a prosecution for corporate manslaughter - if it
- > could be established that there was general awareness of an unsafe system
- > at GWM, which controlling managers knew about but allowed to continue, and
- > which resulted in premature deaths of patients.
- >
- > I think it is essential that you establish with the police as soon as
- > possible if they intend to pursue any additional investigation as a result
- > of the papers now available, and if so what the scope of that
- > investigation will be - it is only then that you can determine (in
- > discussion with the police) whether any "internal" investigation can run,
- > either parallel to or after the police investigation.
- >
- > (I should say that no details of what the police may or may not want to
- > investigate should be discussed with individuals at either of the Trusts
- > who may be subject to such investigation)
- >
- > I have referred throughout this to an "internal" investigation - it is
- > correct that the result of that investigation would be used for the
- > purposes of any disciplinary proceedings within the Trust - but obviously
- > it is important that any such investigation must be seen to be independent
- > - and as such should be undertaken by someone external to the Trust.
- > Please bear in mind however, that if such an investigation revealed that
- > there were grounds for disciplinary action against any individual
- > employees of the Trust, then in my view the results of that investigation
- > should not be made public until any such proceedings had taken place (to
- > ensure that the individuals rights to a fair process were preserved).
- >
- > Sorry for the length of this email - which is longer than Simon asked for
- > - but I thought it would be helpful to set out the position in detail. If
- > you have any queries or want to discuss it with me then do please give me
- > a ring.
- >
- > Regards,
- >
- > JHS
- > Jane Hayden-Smith
- > Beachcroft Wansbroughs
- > direct line Code A
- > email Code A
- >

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