

*Debbie***Williams, Elaine**

From: Code A
Sent: 25 February 2009 16:01
To: Code A Williams, Elaine; 'Kiran Bhogal'
Subject: RE: FOI-393 Freedom of Information Act Request from BBC TV in Southampton
Attachments: 090225 PIT draft v1 FOI-393.doc

Dear All

Please find proposed draft response below and required Public Interest Test attached. I would welcome your consideration of and input to both.

We have a final response date of **4 March 2009** (I am not at work on Tuesday 3 March) and I do need to obtain CEO signature on the PIT before we respond so would very much appreciate comments by return.

Request for an internal management report from 1991 examining drug prescribing practices at the hospital.

Hampshire PCT considers that, as this document forms part of the papers for the forthcoming *Inquests* ^T relating to Gosport War Memorial Hospital, its disclosure in the public domain at this stage would be likely to prejudice the administration of justice. Having considered the Public Interest Test the PCT is placing an exemption under Section 31(c) of the Freedom of Information Act 2000 where the administration of justice includes inquisitorial processes (such as inquiries and Coroner's courts).

Request for any subsequent management minutes discussing the report and any action programme.

Hampshire PCT considers that this information was recorded as part of internal investigation and release at this stage would prejudice a fair hearing and, having considered the Public Interest Test is placing an exemption under Section 30(2)(a)(i) of the Freedom of Information Act 2000.

Many thanks in anticipation.

Kind regards

Code A

From: Code A
Sent: 19 February 2009 14:29
To: Code A
Cc: Williams, Elaine; Kiran Bhogal
Subject: RE: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

My thoughts are that it would be better to withhold them, so we should start the PIT.

Thanks for your advice Code A

Code A

Project Officer (GWMH)
Hampshire Primary Care Trust

From: Code A
Sent: 19 February 2009 14:17
To: Williams, Elaine;

Code A

Elaine

25/02/2009

Broughall, Debbie

From: Code A
Sent: 19 February 2009 14:17
To: Williams, Elaine; Code A
Subject: FW: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear All

Just following up on this enquiry to enquire on further thoughts re my email below. I did discuss with Code A following: we thought that perhaps the initial meeting notes from July 1991 should be withheld under Section 31, however the ensuing discussions would be considered to be part of an investigation by the PCT and therefore exempt under Section 30 (1) (a).

As below these are both qualified exemptions and will require a Public Interest Test to support them; bearing in mind the final response date of 4 March it would be helpful to gain views on our response so that we can start considering the PITs as appropriate.

Thanks.

Kind regards

Debbie

Debbie Broughall
 Freedom of Information Officer
 Hampshire PCT
 Direct Dial Tel: Code A
 Area Office Reception Tel: Code A
 Area Office Fax: Code A

Email: Code A

Hampshire PCT Freedom of Information Email: foi@hampshirepct.nhs.uk

From: Code A
Sent: 10 February 2009 15:02
To: Williams, Elaine; Code A
Cc: Tiller, Sara
Subject: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear All

Code A has kindly allowed me to review the files relevant to this request. As Code A has pointed out there is no specific "internal management report", however I do think the document referred to is the record of the meeting held in July 1991 which is a formal record of the night nurses concerns. The other documents would be the records and actions that followed on from this meeting.

Having discussed with Code A we feel the release of this information at this time would not be helpful to the forthcoming inquest and am therefore considering relevant exemptions (Kiran – I would particularly welcome your views):

Section 30 of the FOIA "**Investigations and proceedings conducted by public authorities**" - this is relevant only to investigations by the public authority and I do think not appropriate in this circumstance as its not us conducting this investigation; advice from the Ministry of Justice relating to Section 31 "Law enforcement" (which is the other exemption I am considering) suggests that if the information was collected initially for an internal investigation then the exemption should sit with Section 30, however I don't view this as information collected specifically for an investigation (its notes of a meeting). The Act asks that we should consider this exemption before looking at Section 31; I can't see that it is applicable in this circumstance

19/02/2009

however happy to be corrected. <http://www.justice.gov.uk/docs/foi-exemption-s30.pdf>

Section 31 "Law enforcement" - (1) (c) "the administration of justice" includes inquisitorial processes (such as inquiries and coroners' courts). The duty to confirm or deny the existence of the information requested is not relevant; however this is not an absolute exemption so we will need to apply the Public Interest Test to demonstrate why disclosure is likely to prejudice the inquest proceedings and a fair conclusion. The link to the Ministry of Justice guidance on Section 31 is: <http://www.justice.gov.uk/docs/foi-exemption-s31.pdf>

Section 32 "Court Records" - the information only qualifies here if it is held solely because it is held in one of the court documents, therefore not appropriate.

If you are in agreement with my initial thinking (exemption under Section 31) I will make a start on the Public Interest Test (PIT) which I would usually ask Gareth to sign off before I send the response to the applicant – this would not be released with our decision but I would use the reasoning in the response – however will probably need input from you to identify the likely prejudice.

Many thanks for input.

Kind regards

Debbie

Debbie Broughall.
Freedom of Information Officer
Hampshire PCT
Aldershot Centre for Health
Area Office
Hospital Hill
Aldershot
Hampshire GU11 1AY

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Area Office Fax:
Direct Dial Tel:
Email:

Hampshire PCT Freedom of Information Email: foi@hampshirepct.nhs.uk

-----Original Message-----

From: Williams, Elaine
Sent: 05 February 2009 09:26
To: Broughall, Debbie;
Cc: Tiller, Sara;
Subject: Re: Freedom of Information Act Request from BBC TV in Southampton

Ok. please include kiran in the discussions.

Elaine
Kind regards, Elaine
Elaine Williams
Legal Services Manager

----- Original Message -----

From:
To: Williams, Elaine;
Cc: Tiller, Sara
Sent: Thu Feb 05 09:15:22 2009
Subject: FW: Freedom of Information Act Request from BBC TV in Southampton

Elaine / Mary

As discussed last week - I'll log and acknowledge the request and we can continue the discussion around how to take this forward.

Kind regards

19/02/2009

Debbie

Debbie Broughall
Freedom of Information Officer
Hampshire PCT

Direct Dial Tel: [Code A]
Area Office Reception Tel: [Code A]
Area Office Fax: [Code A]

Email: [Code A]

Hampshire PCT Freedom of Information Email: [Code A]

From: Greg Clark-SO [mailto:[Code A]]
Sent: 04 February 2009 18:30
To: FOI (HPCT)
Subject: Freedom of Information Act Request from BBC TV in Southampton

Dear Sir or Madam

I am writing to make a Freedom of Information Act (FOIA) request relating to previous investigations of events at the Gosport War Memorial Hospital.

I am specifically seeking a copy of an internal management report from 1991 examining drug prescribing practices at the hospital. The existence of this document was first publicly made known in 2002 when it was apparently handed to Hampshire police as part of their investigation into a number of deaths at the hospital. At that time (approximately September 2002), the then chief executive of Fareham & Gosport Primary Care Trust, Ian Piper and Tony Horner, then chief executive of East Hampshire Primary Care Trust temporarily stepped down from their positions. I've included that detail in the hope it helps you identify the specific document because I do not know what it was officially called or who commissioned it.

For similar purposes of clarity, the report I am seeking is NOT the Commission for Health Improvement report from July 2002.

I would like a copy of the 1991 report together with any subsequent management minutes discussing the report and any action programme. I would anticipate that these documents would include references to named individuals. If that is likely to cause Data Protection Act problems, I would ask you to redact the names rather than withhold the entire document. I would argue that with the inquests opening shortly into the deaths of ten patients at the hospital which is likely to examine drug prescribing practices on the wards, the balance of the public interest test in favour of releasing this information - even with redactions - outweighs any qualified exemptions you may be considering.

I do not know whether the 1991 report is included in the disclosure bundle for the forthcoming inquests. If it is, I would ask you to provide the report as it is already, or soon will be, in the public domain. That would remove any justification not to release the document. If the report is not in the disclosure bundle, I would urge you to still make a decision in principle about releasing the information. While I have been advised that it is not possible to prejudice inquest proceedings, your organisation may take a different view so the debate would then become about the timing of an FOI publication, perhaps to coincide with the conclusion of the inquests.

My preferred format to receive this information is by email sent to [Code A]
<mailto:[Code A]>

If you need any further information from me in order to deal with my request, please use the email above or call me on 023 8037 4540. I would be grateful if you could confirm that you have received this request.

Thank you very much in advance.

Greg Clark

19/02/2009

Greg Clark, Assistant News Editor
"South Today" BBC1 Weekdays 6.30pm
Broadcasting House, Havelock Road
Southampton, Hampshire SO14 7PU

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Please note that the BBC monitors e-mails sent or received.

Further communication will signify your consent to this.

Broughall, Debbie

From: Broughall, Debbie
Sent: 10 February 2009 15:02
To: Williams, Elaine; **Code A** **Code A**
Cc: Tiller, Sara
Subject: FOI-393 Freedom of Information Act Request from BBC TV in Southampton

Dear All

Mary has kindly allowed me to review the files relevant to this request. As Mary has pointed out there is no specific "internal management report", however I do think the document referred to is the record of the meeting held in July 1991 which is a formal record of the night nurses concerns. The other documents would be the records and actions that followed on from this meeting.

Having discussed with Mary we feel the release of this information at this time would not be helpful to the forthcoming inquest and am therefore considering relevant exemptions (Kiran – I would particularly welcome your views):

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Many thanks for input.

Kind regards

Debbie

Debbie Broughall.
 Freedom of Information Officer
 Hampshire PCT
 Aldershot Centre for Health
 Area Office
 Hospital Hill
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 Hampshire GU11 1AY

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 Area Office Fax: **Code A**
 Direct Dial Tel: **Code A**
 Email: **Code A**

19/02/2009

Hampshire PCT Freedom of Information Email: foi@hampshirepct.nhs.uk

-----Original Message-----

From: Williams, Elaine
 Sent: 05 February 2009 09:26
 To: Broughall, Debbie; Deeks, Mary
 Cc: Tiller, Sara; [redacted] Code A
 Subject: Re: Freedom of Information Act Request from BBC TV in Southampton

Ok. please include kiran in the discussions.
 Elaine
 Kind regards, Elaine
 Elaine Williams
 Legal Services Manager

----- Original Message -----

From: Broughall, Debbie
 To: Williams, Elaine; Deeks, Mary
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Elaine / Mary

As discussed last week - I'll log and acknowledge the request and we can continue the discussion around how to take this forward.

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Debbie

Debbie Broughall
 Freedom of Information Officer
 Hampshire PCT
 Direct Dial Tel: [redacted] Code A
 Area Office Reception Tel: [redacted] Code A
 Area Office Fax: 01252 335101

Email: [redacted] Code A

Hampshire PCT Freedom of Information Email: [redacted] Code A

From: Greg Clark-SO [redacted] Code A
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Thank you very much in advance.

Greg Clark

Greg Clark, Assistant News Editor
 "South Today" BBC1 Weekdays 6.30pm
 Broadcasting House, Havelock Road
 Southampton, Hampshire SO14 7PU
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<http://www.bbc.co.uk>

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