

16 Aug 2010



Hampshire Constabulary
Chief Constable Alex Marshall

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August 16, 2010

Dear Mr Page,

Operation Rochester - Investigation into deaths at Gosport War Memorial Hospital

In September 2009 Chief Constable Alex Marshall wrote to you regarding the above case, informing you of his decision to refer the transcripts of both H.M Coroners inquests and the General Medical Council Fitness to Practice Hearings to the Crown Prosecution Service. The purpose of this course of action was to invite the Crown Prosecution Service to consider any new information that may have arisen from either the inquests or the regulatory hearings that could have a bearing on potential criminal proceedings.

This review has now concluded and I wanted to write to you personally to inform you of their decision.

In reaching their decision it may be beneficial to explain the role played by each type of hearing and its subsequent impact on a criminal investigation. Firstly, the focus of an inquest is to establish by what means and in what circumstances the deceased came by their death and not to identify whether any person is guilty of a serious criminal offence.

In this case, for example, the purpose of the inquest was not to determine whether or not Dr Barton's conduct was negligent, or grossly negligent.

In reaching a verdict the Coroner may not frame it in such a way as to appear to determine that a person is guilty of a criminal offence. In respect of criminal proceedings, the inquest verdict cannot be adduced in evidence as a matter lending support to the prosecution case.

Secondly, the General Medical Council is the professional body which regulates the practise of medicine in the United Kingdom. Proceedings against Dr Barton for professional misconduct were held before a Fitness to Practise Panel between 8 June and 20 August 2009.

The Panel is an independent tribunal, the functions of which include the hearing and determination of charges of professional misconduct brought against medical practitioners. The central criminal issue of causation, sufficient to prove a case of homicide through either negligence or gross negligence was outside the scope of this hearing.

At the outset of the GMC hearing, Dr Barton admitted a number of charges. The hearing then proceeded in respect of the contested charges. During the hearing, the Panel heard evidence

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from a number of witnesses, most of who had previously made statements to the police during the course of Operation Rochester and given evidence at the inquest.

On 29 January 2010, the Panel determined that Dr Barton had been guilty of multiple instances of serious professional misconduct. The finding was based on the facts determined by the Panel during the proceedings. By way of sanction, the Panel ordered that Dr Barton's registration be subject to a number of restrictive conditions for a period of three years.

A number of matters of general significance to the issues in Dr Barton's case were dealt with by the Panel, not least, that it had heard and accepted evidence from many sources, including an expert (Professor Ford) that elderly patients with a range of coexisting medical conditions, such as those routinely found in Dryad Ward at the time in question, had a natural propensity toward sudden deterioration and even death, no matter how well cared for.

Secondly, the Panel identified that there was a difference of medical opinion as to the appropriate use of opiates in the control of distress, restlessness and agitation in the cases of patients of advanced age with a range of coexisting medical conditions.

The Crown Prosecution Service considered all of the matters which arose from the evidence presented during both the inquest and GMC proceedings and have reached the following conclusions.

In the case of each deceased patient, the essential balance of the expert evidence remains the same. Where the opinions of the experts have been revised or amplified, the effect has been to underline the difficulty in this case of proving negligence, causation and gross negligence to the criminal standard.

This being the case, there remains in relation to Dr Barton no realistic prospect of conviction for the offence of gross negligence manslaughter.

I understand that this may not be the outcome you were hoping for but I would like to reassure you that every investigative opportunity has been fully explored.

This decision by the Crown Prosecution Service brings to an end the eleven year investigation by Hampshire Constabulary into allegations of criminal intent connected to the deaths of patients at Gosport War Memorial Hospital.

Yours sincerely

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David Pryde
Assistant Chief Constable