

Charles Farthing

From: <DHMail@dh.gsi.gov.uk>
To: <Code A>
Sent: 13 August 2009 14:46
Subject: Response to your Query : - Ref:DE00000424717 - FOI - Gosport War Memorial Hospital: Our ref: DE00000424717

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13 August 2009

Dear Mr Stewart-Farthing

I am writing following my email dated 21 July about your request of 24 June asking, under the Freedom of Information Act (FOIA), for copies of all documents, minutes, official communication, emails and letters to and from the Department of Health which refer to the report by Professor Baker into deaths at Gosport War Memorial Hospital dated between 1 June 2003 and 31 December 2003.

Since my letter, we have learned that the coroner for Portsmouth and South East Hampshire intends to hold an inquest into the death of another of the patients who died at Gosport War Memorial Hospital (you probably know that inquests into ten deaths were concluded in April this year). I understand that, as yet, there is no date for the new inquest.

Given these new circumstances, and the continuing GMC hearing involving Dr Barton, I propose to withhold all correspondence relating to Professor Baker's report. The specific exemption which entitles the Department to withhold the information you request is provided for in Section 31(1) and (2) of the Freedom of Information Act, which relates to information whose release could be prejudicial to the administration of justice or to the exercise by any public authority of its functions of ascertaining whether any person has failed to comply with the law or is responsible for any conduct which is improper.

Section 31 is a qualified exemption, and we are required to assess, as objectively as possible, the public interest in the information's release against that in withholding it. While we recognise a legitimate public interest in the availability, as far as possible, of information about this important and sensitive issue, we also take into account the very strong public interest in enabling legal proceedings relating to such events to proceed without potential evidence, which may be material to the outcome of those proceedings, being open for debate in a wider public forum, before the proceedings' conclusion. The public interest in preventing this consequence is self-evident, and we have concluded that it outweighs very substantially the public interest in the information's release.

I am sorry I cannot be more helpful. If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Head of the Freedom of Information Team
Department of Health
Room 317
Richmond House
79 Whitehall
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