

Code A**Draft response**Our ref: **Code A**

Dear Ms Mackenzie

Thank you for your email of 21 August 2012 in which you requested copies of statements made by Nurse Brewer and Linda Baldochino in addition to any other statements held by the GMC which relate to the treatment of your mother.

In addition to those statements from nursing staff which have previously been disclosed to your solicitor, Mr White, of Blake Laphorn solicitors I am now able to disclose the following:

- Witness statement of Dr Richard Reid dated 7 June 2000
- Record of police interview with Dr Jane Barton dated 25 July 2000 (11:10 – 11:36)
- Record of police interview with Dr Jane Barton dated 25 July 2000 (11:59 – 12:05)
- Police statement of Dr Jane Barton in respect of Gladys Richards
- Record of police interview with Dr Althea Lord dated 27 September 2000

Although you originally requested this information under the Freedom of Information Act 2000 (FOIA) in line with our previous disclosures to you and your solicitors, and after liaising with Hampshire police, we are disclosing these statements voluntarily. This is because exemptions which apply to the release of personal data under the FOIA would prevent us disclosing this material to you under that Act. I have attached a formal refusal notice (Annex A) as required under the FOIA to the bottom of this email for completeness.

I have located further statements including one from Mrs Jenny Brewer dated 3 September 1998 related to your mother. However, unlike the enclosed statements, these were provided in relation to an internal investigation of your mother's death by Portsmouth Health Care NHS Trust. I have contacted Hampshire NHS Trust to seek their views on disclosure of these statements to you but they have objected. On the basis that we are providing a voluntarily disclosure of information to you I am therefore unable to disclose them to you. You or your solicitor may however wish to approach the Trust directly if you wish to take this matter further.

I have been unable to locate any statement from Linda Baldochino within the material we hold. I note that references were made to the existence of a statement from her in the report of Professor Livesley which was produced for Hampshire police. You may therefore wish to approach the police directly for a copy of this individual's statement.

We hold no further statements from staff at the Royal Haslar hospital in connection with your mother other than those previously supplied to your solicitor.

I am sorry that I have not been able to provide you with all the information you originally requested but hope the enclosed statements are of some use.

If you have any concerns regarding the handling of your request please contact Julian Graves, Information Access Manager, at the address provided below or email

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Yours sincerely

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General Medical Council
3 Hardman Street
Manchester
M3 3AW

Annex A

In relation to your request for a copy statements held by healthcare professionals in connection with your mother Gladys Richards, I am unable to confirm or deny whether we hold this information. This is due to the fact that the information requested is personal data. Disclosures made under the FOIA are 'public' disclosures of information and therefore we must treat them as if the information was being made publicly available. We are also unable to take account of the identity of the requestor. The specific exemption that applies under the FOIA is:

Section 40(5)(b)(i) of the FOIA. This exemption states that the duty to confirm or deny whether information is held does not arise if the act of confirmation or denial would breach any of the principles of the DPA. We believe that to publicly confirm or deny whether or not the information requested is held would breach the first principle of the DPA, which requires that the processing of personal data is fair and lawful. We consider that the conditions in Schedule 2 of the DPA, relating to the processing of personal data, are not met and therefore the release of the information you have requested under the FOIA would be unlawful.

You have the right of appeal against my refusal to supply the information you requested. If you wish to appeal please set out in writing your grounds, and send to Julian Graves, Information Access Manager, at the address provided below or email

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You also have the right of appeal to the Information Commissioner, the independent regulator of the FOIA. If appropriate, Mr Graves will provide the relevant contact details.