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H
O/D**RED TOP CORRESPONDENCE****STANDARDS AND FITNESS TO PRACTISE DIRECTORATE**

Assignee: Paul Philip → Peter Swain → PP → PS.

Section: Do

Date: 21-04-10

DO Reference:	200-379	
DO SR:	SR1-323562346	
OCCE Reference:	456954	
Complaint Reference(s):	(2000/2047/02)	
Correspondent's Name:	Mrs Gillian Mackenzie	UID:
Doctor(s) concerned:	Dr Jane Barton	UID: 158.7920.
Subject:	Outcome of Dr Barton hearing; request for response from Niall Dickson	

Action Required: TBC

Deadline:

30-04-10 Acknowledge Reply direct Draft reply for: AD / HoS DCE / Director – Paul Philip Chief Executive – Niall Dickson Chair – Peter Rubin Provide Case Summary**Notes:**

2000/2047/02 - open - CPT; 10 Thier st Bernard

23/04^{cc/PP}: PS to reply; PP to approve reply first

30/04 - PS 's draft passed to PP

18/05 - PP: Ok to go in PS's name (+ if Mrs M writes back, PP will deal with)

18/05 PS - Reply sent PS.

Code A

From: Code A
Sent: 21 April 2010 13:34
To: Paul Philip Code A
Cc: Christine Couchman Code A
Subject: 00456954 Mackenzie
Attachments: 00456954.pdf

Paul

Mr Mackenzie has sent Niall a copy of his letter to Code A regarding Dr Barton. For FtP to reply.

Thanks

Code A

PA to Professor Peter Rubin
Chair
General Medical Council

Code A

21/04/2010

COPY
Mr. N. Dickson

RECEIVED 20 APR 2010

Code A
General Medical Council
3 Hardman Street
Manchester M3 3AW

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15 April 2010

Dear Code A

Thank you for your letter of 1 April under reference VB/2000/2047/02 together with a copy of the Council for Healthcare Regulatory Excellence (CHRE) statement in respect of Dr. Barton's case.

I note the Chief Executive, Mr. Dickson's response to the decision - I do not know who is responsible for the GMC public relations but in view of the Panel's extraordinary decision, a personal letter from Mr. Dickson to each of the families involved would have been more appropriate. I can only assume that Mr. Dickson is unaware of the incompetence of some of his staff in not informing the Panel or perhaps Field Fisher Waterhouse of action taken in the past. I hope you were also informed as the second Case worker involved the case since 1999. Paul Hylton was the first but was taken off the case. The shambles of switching Solicitors to Eversheds and back again I understand was your decision - and of course I am aware that at least one other case was put forward to the GMC (Mike Wilson)

I think it is particularly relevant that the Panel should have been made aware of the fact that sanctions were imposed on Dr. Barton when dealing with my case during the 2000-2002 period and these were only lifted when the CPS decided there was insufficient evidence for my case in 2001 and the Hampshire Constabulary refused to investigate other cases. Dr. Barton accompanied by Dr. Lord visited the GMC for an interview and was told the sanctions would be lifted. In response Dr. Barton suggested that the sanctions could carry on, on a voluntary basis "earning herself brownie points" - indeed she did. With the voluntary sanctions in place she had a clean bill of health for the last ten years. In addition she had resigned from the Gosport War Memorial Hospital. This resignation had nothing to do with pressure of work but due to a difficult interview with the police when she realised the complaints brought to the attention of the Health Authority were not going to go away. In addition she resigned from the Rowan House Hospice. I dread to think how many cancer patients were also "hurried on their way". In view of the fact that she was involved in Rowan House she would have been well aware of the analgesic ladder and guidelines in palliative and terminal care drugs. She should have been aware also of the work of Dame Cecily Saunders and her guidelines adopted throughout the world. Cecily would be turning in her grave. Who was responsible for Barton's appointment there and who supervised her? Anyone dealing with death and bereavement in the field of counselling has to have a trained "supervisor" If trained counsellors are deemed to be at risk of developing stress or psychological problems why is it assumed that Doctors are immune which is not in the best interests of the patients and can lead to a lack of empathy with the family members. The personality problems presented at the GMC hearing appear to have been glossed over by the Panel - never was a description more true than that the Panel was made up of "lay" members - I would put it more strongly.

I would further emphasise that Dr. Barton was well aware that Mrs. Lack and myself had made complaints from the beginning but carried on and further deaths occurred. This was further complicated by the Hampshire Police incompetence from the beginning. No doubt you are aware that two formal complaints against officers were upheld in my case by the PCA and the IPCC.

I am far from confident that the sanctions imposed safeguard the safety of the public. Should Dr. Barton apply to practise again may I be confident that the families involved would be advised although any employer taking such a risk should not be involved in recruitment? May I also add quite vehemently that the 12 families were the least of my concerns, what about the other 80 families who approached the police - they certainly did not have their cases investigated thoroughly.

I can only hope that eventually cases will be heard in the criminal Court followed by the Public Inquiry when the part played by the GMC and other "safe practice" organisations will be fully examined. Confidence in the medical profession or the GMC has not been enhanced by these cases or the Panel's decision.

I am sending a copy of this letter to Mr. Dickson - the buck stops at his desk. I hope he will have the good manners to respond, for this matter has not ended for the GMC, members of his staff or himself.

Yours sincerely,

Code A

G.M.Mackenzie

CC . Mr. N.Dickson ✓
Field Fisher Waterhouse

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Code A

15 April 2010

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Yours sincerely,

Code A

G.M.Mackenzie

CC . Mr. N.Dickson
Field Fisher Waterhouse

Code A

From: Peter Swain Code A
Sent: 30 April 2010 12:35
To: Paul Philip Code A
Cc: Code A
Subject: FW: Red Top 2010-379: Gillian Mackenzie
Attachments: 00456954.pdf; Mackenzie draft 300410.doc

Paul

I attach a draft response to this red top.

It is very unlikely Mrs Mackenzie will regard a reply from me as adequate – she refers more than once in this letter to her expectation of a personal letter from Niall Dickson. There isn't a reply we can send that will appease her, but there is a question about the level of seniority of the author of a reply that gives the best chance of closing down the correspondence. It may be a reply from you as Deputy Chief Executive might help in that respect. However I am of course happy to sign the letter if you think fit.

Peter

From: Code A
Sent: 26 April 2010 12:06
To: Peter Swain; Code A
Cc: Code A
Subject: Red Top 2010-379: Gillian Mackenzie

Hi Peter

Red Top 2010-379 / DO SR1-323562346; deadline 30/04/10

Please see the attached letter from Mrs Gillian Mackenzie to Code A and copied to Niall Dickson regarding the outcome of Dr Barton's hearing.

Paul has asked that you respond, but he would like to see the letter before it is sent out. Please copy me in when you forward the draft to Paul and I will ensure it's put before him.

Thanks,

Code A

From: Code A
Sent: 21 April 2010 13:34
To: Paul Philip Code A
Cc: Christine Couchman; Code A
Subject: 00456954 Mackenzie

Paul

Mr Mackenzie has sent Niall a copy of his letter to Code A regarding Dr Barton. For FtP to reply.

Thanks

Code A

30/04/2010

Chair
General Medical Council

Code A

18 May 2010

Mrs G M Mackenzie

Code A

Dear Mrs Mackenzie

Thank you for your letter of 15 April 2010 to **Code A** of my team, copied to Mr Dickson. I have been asked to respond.

I acknowledge at the outset your fundamental disagreement with the decision of the Fitness to Practise Panel to impose conditions on Dr Barton's registration.

Although the GMC currently has responsibility for the administration of Fitness to Practise Panels, the Panels themselves are independent of the GMC. We expressed our own reservations at the time the decision was announced. Under the current legislation, the power to challenge the decisions of Panels for undue leniency rests with the Council for Healthcare Regulatory Excellence (CHRE). As you know CHRE decided not to appeal against the decision of the Panel.

The Government has decided that the administration of fitness to practise panels should be made entirely independent of the GMC, to be taken over by the Office of the Healthcare Professions Adjudicator (OHPA). The current timetable is for OHPA to assume this responsibility from April 2011.

One immediate change arising from OHPA's creation will be that the GMC will then have a specific power allowing us to challenge decisions we consider unduly lenient.

We cannot comment on the quality of the police investigation. For our part, we reviewed the evidence the police had collected and identified the most serious of the various cases. We prepared and presented the evidence in support of those cases with an outcome that the majority of the alleged facts were found proved and Dr Barton was judged to be guilty of serious professional misconduct. Whether one agrees with the Panel's decision on sanction, to our knowledge there is no evidence not presented to the Panel that might have significantly altered the weight of the case against the doctor.

As I say, I fully acknowledge your strength of feeling about the outcome of the hearing. We will of course assist any subsequent independent inquiry that may be called into this case. Given the decision of CHRE not to pursue an appeal, I regret we have no power to take the matter further at this stage.

Yours sincerely

Peter Swain
Head of Case Presentation
Standards and Fitness to Practise Directorate

Code A