

Your reference: JZC/HJA/00492-14742/2145525v1  
In reply please quote MK/2000/2047

Please address your reply to Conduct Case Presentation Section, FPD

Fax: Code A

7 January, 2003

Ms Judith Chrytie  
Messrs Field Fisher Waterhouse  
35 Vine Street  
London EC3N 2AA

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Judith

**Dr Jane Barton**

At Ian Barker's request I have written to him to confirm that the provisional date for the Professional Conduct Committee, namely 7 April 2003, will not now be used, owing to the ongoing police inquiries. He has stood down counsel accordingly.

I have still not received the attendance notes of the meetings on 3 October or 20 November 2002. I also await confirmation of the time of our meeting scheduled for 22 January; may I suggest 14:00? I am happy to attend your offices.

Yours sincerely

**Code A**

**Michael Keegan**  
**Conduct Case Presentation Section**

Direct Line: **Code A**

Direct Fax: **Code A**

Email: **Code A**

Your reference: ISPB/TOC/0005940/Legal  
In reply please quote MK/2000/2047

Please address your reply to Conduct Case Presentation Section, FPD

Fax

7 January, 2003

Mr I Barker  
The Medical Defence Union  
MDU Services Limited  
230 Blackfriars Road  
London SE1 8PJ

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Mr Barker

**RE: DR JANE ANN BARTON**

Further to our telephone conversation I write to confirm that the provisional date for the Professional Conduct Committee, namely 7 April 2003, will not now be used. You indicated that you were to stand down counsel on this basis.

We cannot, as you know, proceed to public inquiry while police investigations are ongoing. I am advised that those investigations are not likely to be concluded in the immediate future. It does not appear, therefore, that the PCC will be able to consider this case in the early part of next year, as we had hoped.

I trust that you will continue to liaise with Messrs Field Fisher Waterhouse and us, as appropriate.

Yours sincerely

**Code A**

**Michael Keegan  
Conduct Case Presentation Section**

Direct Line: **Code A**

Direct Fax: **Code A**

Email:

Dr Barton

Page 1 of 1

**Michael Keegan** Code A

**From:** Chrystie, Judith  
**Sent:** 10 Jan 2003 15:38  
**To:** 'Michael Keegan' Code A  
**Subject:** RE: Dr Barton

Dear Michael

Thank you for this and for your letter 7 January which I received this morning and which will have crossed with the letter Hayley (my secretary) was able to 'pp' to you yesterday.

I had a call from Nigel Niven today and have scheduled a brief meeting with him on 21 January 2003. I shall be able to update you the following day.

Thank you for your instructions regarding the documents. I do feel that it would be important for the police to review the explanation provided by Jane Barton at the IOC hearing. I shall, however, await your instructions on this point. It would be helpful to have your instructions prior to the 21 January so that I may had the material to Nigel Niven at our meeting.

Kind regards  
 Judith

PS Hope this gets through!

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

**From:** Michael Keegan Code A  
**Sent:** Friday, January 10, 2003 11:37 AM  
**To:** Code A  
**Subject:** Dr Barton

Dear Judith,

Thank you for your letter of 9 January 2003.

You have my correct email address, so I've no idea why your messages have not been received.

I look forward to meeting with you and John at 14:00 on 22 January 2003 at your offices.

I will write to Mr Carby indicating that we are unable to make to a final decision on Rule 11 inclusion or otherwise of his complaint while Police inquiries are ongoing, and that the Police are aware of the details of the complaint.

I agree that it is in the public interest to disclose to the Police nearly all the material you mention. I remain concerned about the IOC transcript, however, and will revert to you on that specifically as soon as possible.

Finally, I have checked and, according to our records, Dr Barton's qualifications are: BM BCh 1972 Oxfd. Perhaps you could pass this on to the Police.

Kind Regards

Michael Keegan  
 Conduct Case Presentation Section  
 Direct Line: Code A  
 Direct Fax:  
 Email: Code A

13/01/2003

Your reference: FR/PR/31243/1/9516  
In reply please quote MK/2000/2047

Please address your reply to Conduct Case Presentation Section, FPD

Fax

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

15 January 2003

Mr Richard Follis  
Alexander Harris  
Cheriton House  
51 Station Road  
Solihull  
West Midlands  
B19 3RT

Dear Mr Follis

**Gosport War Memorial Hospital**

Thank you for your letter of 15 January 2003.

This is an information case because we were first alerted to these matters by the Hampshire Constabulary in July 2000. This followed allegations made to them by the family of Gladys Richards.

We subsequently received correspondence from Mrs Jackson, Mr Page, Mr Wilson, Mrs Carby, Mr Farthing and Mrs McKenzie between April and June 2002. As advised in our letter dated 21 November 2001, we responded to each setting out our powers and procedures and that we were considering a case against Dr Barton in light of the information received from the Hampshire Constabulary.

As you know, we are still considering whether to include the case of Stanley Carby under No. 11 of the GMC PPC and PCC (Procedure) Rules 1988; I should be grateful if you would let Mrs Carby know that, with Police inquiries ongoing and our investigations thereby stayed, we are unable to reach a decision on that question at the moment.

It may be of interest to note that, in complainant cases, we no longer fund complainants' choice of solicitors. I trust that clarifies the situation and that both you and your clients will continue to assist Messrs Field Fisher Waterhouse in the preparation of this case for hearing.

If you wish to discuss this matter please do not hesitate to contact me on the number below.

Yours sincerely

**Code A**

**Michael Keegan**  
**Conduct Case Presentation Section**

Direct Line: **Code A**

Direct Fax: **Code A**

Email: **Code A**

c.c. Ms J Christie, Field Fisher Waterhouse

15-JAN-2003 11:30 FROM:

TO: Code A

P. 001

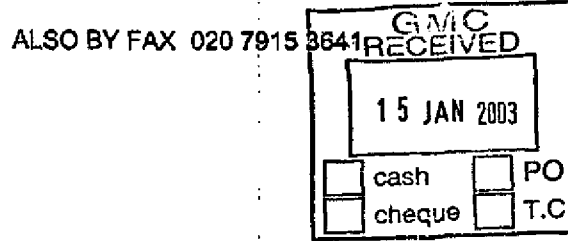


**Alexander Harris**  
solicitors

Mr M Keegan  
Conduct Case Presentation Section  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

Our ref: RF/EP/31243/1/9516  
Your ref: MK2000/2047  
Please ask for: RICHARD FOLLIS  
Direct dial: Code A

15 January 2003



Dear Mr Keegan

**Re: Gosport War Memorial Hospital**

I thank you for your letter of 18<sup>th</sup> December received shortly before the Christmas break.

I have to confess to some puzzlement as to how it is that this case proceeds as an information case, as opposed to a complainant case, given that the impetus has come, so far as I am aware, entirely from the complaining relatives.

Upon what information are the GMC proceeding?

When and why was the matter determined to be an information as opposed to a complainant case and by whom?

There are a series of complainants who by reason of your categorisation are deprived of the right to be represented by their solicitor of choice. Your further observations would be appreciated.

Yours sincerely

**Code A**

**RICHARD FOLLIS  
PARTNER  
ALEXANDER HARRIS**

Code A

Alexander Harris, Chorlton House, 61 Station Road, Solihull, West Midlands B91 3RT Telephone: +44(0)121 711 5111 Facsimile: +44(0)121 711 5100  
DX 720080 Solihull. E-mail: info@alexanderharris.co.uk Web Site: www.alexanderharris.co.uk

Also at: Ashley Hall, Ashley Road, Altrincham, Cheshire, WA14 2JW Telephone: +44(0)161 825 5855 Facsimile: +44(0)161 825 5500 DX 1888 Altrincham 1.  
1 Dyers Buildings, London EC1N 2JT United Kingdom Telephone: +44(0)20 7430 5555 Facsimile: +44(0)20 7430 5500 DX 460 London Chancery Lane.

Partners: David N Harris LL.B., Ann Alexander LL.B (Hons) M.B.A. (Managing Partner), Lesley Robertson M.A. (Cantab), Nicola Costa LL.B (Hons) LL.M., Richard Follis LL.B (Hons),  
Jenny Kennedy, Lindsay Wiles B.A. (Hons), Catherine Bartlett LL.B (Hons), Richard Ewy, Christian Beadell LL.B (Hons), Aurlene Griffiths LL.B (Hons)

Consultants: Ruth Houghton LL.B (Hons), Prof. Daniel S. Thomas B.A. (Hons) J.D. (Member of the Florida Bar)

Associates: Yee Fan Sit LL.D (Hons), Douglas J. Sims LL.D (Hons), Stephen Read LL.B (Hons), Tim Annett LL.B (Hons), Kim Bennett D.A. (Hons) LL.M., Jonathan Deths LL.B (Hons),  
Jo Mather LL.B (Hons), Peter Blake LL.B (Hons), Alan Taylor, Robin Murphy B.Sc., B.M., Dip N., Corey R. Burgess, Howard Lamb B.Sc. (Hons). (Not a practising solicitor)

Alexander Harris is a franchised firm and a member of the Community Legal Service  
Regulated by The Law Society

**Michael Keegan** [Code A]

**From:** Chrystie, Judith  
**Sent:** 16 Jan 2003 13:46  
**To:** 'Michael Keegan' [Code A]  
**Subject:** RE: Dr Barton

Dear Michael

Many thanks for your email. Sorry for the delay in responding: I have been over at CHI.

[Code A]

I will update you next week as to the documents and information CHI held and any information DI Niven passes to me on Tuesday. I will also ask him to make a formal request to us for the release of papers suggest that the request is comprehensive to include all the papers we hold - even those that you are content to release now - for the sake of consistency).

See you at 2pm on Wednesday!

Kind regards  
 Judith

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

**From:** Michael Keegan [Code A]  
**Sent:** Wednesday, January 15, 2003 4:39 PM  
**To:** Judith Chrystie (E-mail)  
**Subject:** Dr Barton

Dear Judith,

I have had a chance to speak about disclosure to the Police of the IOC transcript in this case and consequently advise that the Police should make a formal, reasoned request for the same. That request can then be considered at a senior level. This is, as you can imagine, in light of both the sensitivity of this case and the lack of precedent of which we are aware.

I should be grateful if you would communicate this to DI Niven.

Regards

Michael Keegan  
 Conduct Case Presentation Section  
 Direct Line: [Code A]  
 Direct Fax: [Code A]  
 Email: [Code A]

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org) General Medical Council 178 Great Portland Street London W1W 5JE Tel: +44 (0) 20 7580 7642 Fax: +44 (0) 20 7915 3641

*Email to cancel 20.1.03.*



*Agreed TC to rearrange  
 (excl. 27+8 + 31/1/03).*

*20.1.03*

# Meeting Note

<b>Judith Chryste</b>	Call type: <b>Meeting</b>
Att: <b>Hampshire Constabulary</b>	From:
Duration:	Date: <b>21 January 2003</b>

## Dr Barton – Meeting with Hampshire Constabulary (Meeting No.2)

### Attendees

FFW: Judith Chryste – JZC  
 Police: DI Nigel Niven – NN  
 DC Chris Yates – CY

### Meeting

JZC thanking NN and CY for attending FFW's office in order to provide an update as to the progress on the criminal investigation since their meeting in November 2002.

NN advising that he was happy to do so and as he had reassured JZC in November, he would continue to do so. He wished to liaise with all stakeholders involved in the matter.

NN stating that the police investigation had expanded through to 1998-1989. This was the period in which Dr Barton had started undertaking work at the Gosport War Memorial Hospital (GWMH).

### CHI Investigation

JZC advising NN and CY that she and JHO had recently visited the offices of the Commission of Health Improvement (CHI) in order to examine the documents and statements that had been taken by CHI during their investigation last year.



JZC advising that there was only one statement in which concern was raised regarding the prescribing habits of Dr Barton. This was a nurse who had initiated a grievance. JZC apologising for the fact that she did not have the documentation with her at the meeting but indicating that she would send her file note of analysis to Hampshire Constabulary.

JZC advising that there were a number of individuals that she wished to interview and she appreciated that she could not do this until the conclusion of the policy enquiry. Advising that she would, however, JZC indicating that she wished to obtain copies of the statements and documents relating to those interviews. JZC explaining that CHI did not want to pass on the statements without informing the witnesses that copies of the statements had been passed to the GMC. JZC commenting that CHI had, upon taking the statements, indicated that it might be necessary to pass those through to the GMC or the police and, consequently, CHI had already identified the possibility with each witness. JZC advising, however, that Julie Miller (of CHI), did wish to advise each individual that this had happened and JZC querying whether this would affect the police investigation.

NN stating that he was entirely "neutral" as to whether the witnesses were notified that their statements had been passed to the GMC. He felt that this was an entirely reasonable request particularly as JZC was confirming that she had no intention to approach the witnesses directly or take live evidence from any individual. JZC confirming that this was the position and advising that she would copy NN into any correspondence.

#### IOC Decision – Dr Barton's interpretation

JZC advising that she had seen a letter from Dr Barton to the Personnel Director of the Portsmouth Healthcare Trust. This letter contained comments regarding the IOC decision not to suspend or place conditions upon Dr Barton's registration prior to the PCC hearing. JZC advising that Dr Barton suggested that the IOC decision meant that the GMC's view was that there was no case to answer and, moreover, that the GMC did not consider that she has done anything wrong.

JZC stating that this was not the decision of the IOC hearing and she wished to obtain GMC instructions to write through to Dr Barton advising her that she could not continue to make such statements as this was not the position; the IOC had determined it was not in her interests nor the public interest to make an interim order but that the PCC would decide whether there was any criticism of her practice.

JZC querying whether, if the GMC provided her instructions to contact Dr Barton, this would have any impact upon the police enquiry. NN confirming that Hampshire Constabulary had made no efforts to conceal the fact that there was an investigation. The investigation of Dr Barton had been widely flagged up in the press. It was clear that the police were seeking to establish whether a crime had been committed and, if so, by whom. NN indicating that, from his perspective, he felt that it was only right and proper to notify her that it was inappropriate to make statements interpreting the IOC decision in this way.

NN commenting that it may be appropriate for the GMC to be able to write to Dr Barton and indicate that a police investigation was continuing and, therefore, the disciplinary action would not be

advanced until the conclusion of the criminal enquiry. JZC and NN discussion the fact that this would show that the GMC were not delaying matters unnecessarily and avoid potential arguments of abuse of process. In summary, it was clear that the GMC were holding disciplinary proceedings in abeyance whilst the police were undertaking their own enquiries.

#### Disclosure

JZC advising that there were a number of documents that she wished to pass through to the police. These documents related to the papers that had been considered by the PPC and the IOC. Advising that the GMC had the ability under Section 35A of the Medical Act 1983 (as amended) to pass on documentation to other parties in the public interest JZC indicating that the GMC were happy that it would be in the public interest to pass the documentation through to the police but were concerned that passing on documents such as the transcript of a private IOC hearing should be a document that was formally requested by Hampshire Constabulary.

JZC and NN discussing the fact that Hampshire Constabulary would be happy to make a formal request. NN asking JZC to ask him formally for those documents.

#### Police Investigation

NN advising that the police were investigating approximately 62 deaths. In each of these deaths it would be necessary for experts to analyse and review the medical notes. NN advising that in respect of the deaths, the families were involved and had expressed concern about the care their relatives had received.

NN stating that he was establishing a panel of experts to meet in the next few weeks. The panel of experts would be headed up by Professor Robert Forest. In addition, he would be joined by an expert in palliative care, geriatric care, general practice and epidemiology.

JZC was asked to check with the GMC as to whether Dr Barton had completed a palliative care course. JZC queried whether the GMC would have access to this information but indicating that she would ask the question. JZC advising that such courses may not be registerable matters.

NN stating that each of the experts would have access to the patient records. It may be that these were placed on CD to allow each expert to work remotely. He was, however, hopeful that a meeting could be arranged to allow all experts to discuss the case. He anticipated that the experts report may be completed in three/six months.

NN stating that the issue of causation was an issue which would be considered specifically by the experts. In addition, the experts would be asked to look at a mechanism for analysing the deaths on a medical and a scientific basis. NN stating that he wished to consider the statistical and mathematical basis for the significant number of deaths and for the experts to identify those deaths which cause concern from those that did not raise any issues for investigation.

NN indicating that there was a question as to whether it would be necessary to exhume any of the bodies. His current view was that exhumation was unlikely benefit the investigation but he wished his team of experts to confirm this point.

JZC querying whether the experts would be considering the appropriateness of the treatment. Stating that if there was no criminal basis for an investigation then, clearly, the GMC would be looking for the adequacy of the treatment regime. NN confirming that if he received evidence regarding any medical practitioner he would be obliged to disclose the material.

JZC advising that any expert report passed to the GMC prior to the conclusion of the criminal enquiries would lead to disclosure issues. JZC discussing the need to disclose evidence upon which the GMC wished to rely and, say, an IOC hearing. NN appreciated the disclosure issues and advising that he had to consider the key points of risk to patients when acting in the public interest. NN advising that he was aware of these issues and to the need to secure patient safety.

The police would then have to interview appropriate witnesses. He did, however, anticipate that, using 'due diligence', he did not anticipate the investigation taking 2-3 years as JZC had feared. NN advising that he hoped to have a clear idea about where the police investigation would be going by the end of 2003. He hoped to have completed his investigation and sought legal advice on the points. He was anxious to move as quickly as possible.

#### Family Solicitors

NN advising that he continued to have a good relationship with Ann Alexander of Alexander Harris who was acting for many of the families of the deceased relatives. He hoped that he would continue with such a relationship, it appeared that Ann Alexander shared the same view regarding rebuffed approached in any dealings with the media. Ann Alexander had indicated that she would not approach the media.

NN stating that he had a meeting with a family group on 5 February 2003. Alexander Harris and the other patient groups would be attending this matter which was designed as an open forum.

NN querying whether JZC would be happy for NN to mention that Hampshire Constabulary were liaising with the GMC on a regular basis and keeping them fully informed of the circumstances surrounding the investigation.

#### Conclusion

All parties confirming that the meeting had been useful as an updating exercise and reiterating their intention to continue to have regular meetings throughout the duration of the criminal enquiries.



Mtg with Judith Armitage : 21/1/03

CHT Report :-

Appendix C & D - Summary statements see -

→ See = useful to Butler issue.

14 id who must be interviewed by us, as they were there.

CHT will let indivs know that GMC wants their witness statements ... 10/12 witnesses that TC wants statement from. ← Dr Niven = happy with this.

Letter from Butler → Trust Personnel Director re: no loc order, suggests that GMC agrees with her (but she has done nothing wrong).

I agree that TC writes to Dr B that this is not correct & that delay in PCC arises for Police request that we stay proceedings until Police inv's complete.

[ Kelly Ryligh = Julie Miller's (who's gone) assistant ] @CHT

Police looking at 62 dentists + have assembled panel of experts under Robert Forrest + 4 others (will ask us (via TC) to comment) ... will compare medical records [some missing].

(3-6 months)

they will produce a report with aim to est.  
any causation +, if est'd, link statistically the no.  
of deaths, etc. so as to id which deaths = significant.  
→ will also look at appropriateness of prescribing regime.  
NM aware of his obligations to disclose fresh evidence to  
us for 100 + our responsibility to then disclose to Dr B.



Following which interviews will start.

NM hopeful that investigation (incl. legal advice) will  
be complete this year.

to get statements of relevant CH statements  
& to write to police formally asking them to request  
100. transcript & rest of papers in writing.

62 - time in which families have expressed concern.

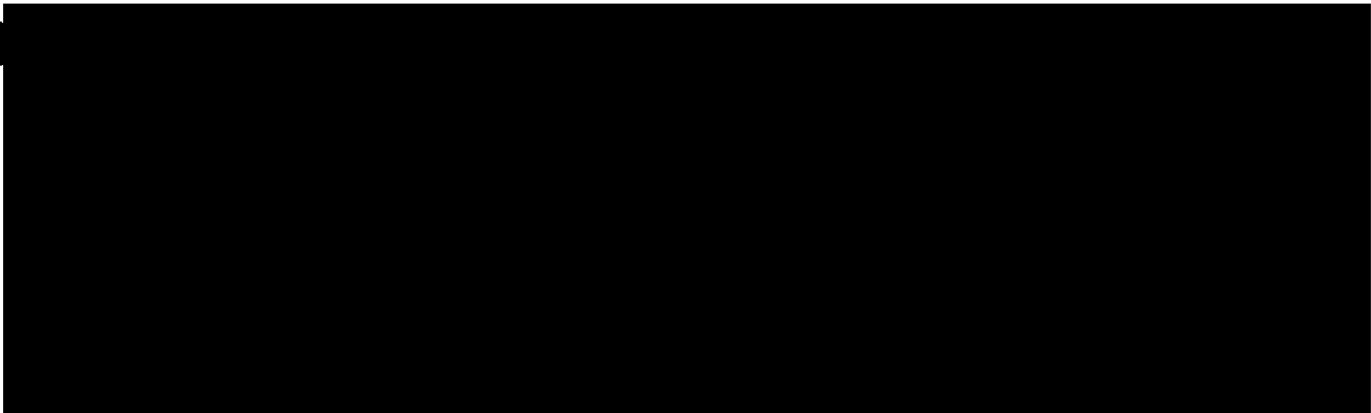
# Meeting Note

Judith Chrystie	Call type: Meeting
Att: Michael Keegan	From: GMC
Duration:	Date: 5 February 2003

Dr Barton









Dr Jane Barton

Page 1 of 2

**Michael Keegan** Code A

**From:** Chrystie, Judith  
**Sent:** 15 Apr 2003 11:51  
**To:** 'Michael Keegan' Code A  
**Subject:** RE: Dr Jane Barton

Hi Michael

I have been out of the office on other work matters until today so apologies for the delay in responding.

I have not had any further substantive meetings with the police. They are in the process of arranging a weekend with their experts on 26 April 2003 regarding the experts' view and I will try to get an update for the new case worker after that date. The police say that this meeting will give them a good indication about timescales.

In this regard, however, I understand that the police hope to be in a position to determine whether and how to proceed towards the end of the year.

I am conscious that there are a number of other non-urgent matters I hoped to attend to on the file, notwithstanding, the fact that the matter cannot proceed overtly. Owing to the pressures of other work and fact that these are low priority, I am afraid that I have yet to finalise them. I shall endeavour to do so after Easter.

I shall, in two separate emails, send you the meeting note from my meeting with the police in January and you in February which I don't think you have for your file. I shall send them separately owing to the difficulties we have experienced previously - please let me know if they do not arrive.

I shall be out of the office from later today until 1 May on annual leave.

Good luck in the new post! Please can you let me know who has the onerous task of taking over the matter from you!

Kind regards  
Judith

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

**From:** Michael Keegan Code A  
**Sent:** Friday, April 11, 2003 12:55 PM  
**To:** Judith Chrystie (E-mail)  
**Subject:** Dr Jane Barton

Dear Judith

I will be leaving the Conduct Case Presentation Section on 23 April 2003.

As part of my effort to pass files over to colleagues in a reasonably tidy format I was going to write to the relatives of patients whose cases we are investigation, or to Messrs Alexander Harris on their behalf.

I should be grateful to know, therefore, whether you have had any contact with the Police further to our last meeting on 21 January. Is there any timesclae for the likely completion of Police inquiries that I could include in my letters to relatives and note to the colleague who inherits this case?

Thanks for your help in this case. I'm staying with the GMC and so you'll probably see me again sooner or later.

Kind Regards

17/04/2003

Dr Jane Barton

Page 2 of 2

Michael Keegan  
Conduct Case Presentation Section  
Direct Line: **Code A**  
Direct Fax: **Code A**  
Email: **Code A**

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17/04/2003

**Linda Quinn** Code A

**From:** Offord, John Code A  
**Sent:** 12 May 2003 09:31  
**To:** GMC - Linda Quinn Code A  
**Subject:** RE: Dr J A Barton

Dear Linda  
The police are continuing their investigation into this matter, I will of course keep you fully updated regarding their investigation. The FFW solicitor in the case is Judith Chrystie.  
regards  
John

-----Original Message-----  
**From:** Linda Quinn Code A  
**Sent:** Friday, May 02, 2003 2:19 PM  
**To:** Code A John Offord  
**Subject:** Dr J A Barton

hello

Just to let you know that I have inherited this case now that Michael Keegan has joined the Committee Development Team.

I have had a look at the latest correspondence and the PPC papers, and had a word with Michael. I understand that nothing is happening on the GMC case because we await the outcome of police investigations.

Please keep me updated!

Linda

\*\*\*\*\*  
This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify  
Code A

Field Fisher Waterhouse 35 Vine Street London EC3N 2AA  
Tel: +44(0)207 861 4000  
Fax: +44(0)207 488 0084  
CDE: 823

Regulated by the Law Society in the conduct of investment business

\*\*\*\*\*

10/09 '03 18:22 FAX

FIELD FISHER WAT

001

FIELD FISHER WATERHOUSE



fax

To: <b>Linda Quinn</b>	Fax: <input type="checkbox"/> Code A
At: <b>General Medical Council</b>	Pages including this one: <b>5</b>
From: <b>Judith Chrystie</b>	Date: <b>10 September 2003</b>
Copy:	Fax:
Our ref: <b>JZC/00492-14742/2486013 v1</b>	Your ref: <b>Barton</b>

The information contained in this fax is confidential and may be legally privileged. It is intended only for the addressee. Rights to confidentiality and privilege are not waived. If you are not the intended recipient, please advise the sender immediately; any disclosure, copying or distribution is prohibited and may be unlawful.

Dear Linda

Dr J Barton

Following our telephone conversation today, please find attached:

1. My letter to Michael Keegan dated 9 January 2003;
2. Email from Michael to me dated 15 July 2003.

Field Fisher Waterhouse 35 Vine Street London EC3N 2AA

Tel +44 (0)20 7861 4000 Fax +44 (0)20 7488 0084 e-mail [info@ffwlaw.com](mailto:info@ffwlaw.com) [london@thealliancelaw.com](mailto:london@thealliancelaw.com)[www.ffwlaw.com](http://www.ffwlaw.com) [www.thealliancelaw.com](http://www.thealliancelaw.com) CDE 823

London Berlin Dublin Düsseldorf Edinburgh Essen Frankfurt Glasgow Hamburg Munich Paris

Regulated by the Law Society. A list of the names of the partners of FFW and their professional qualifications is open to inspection at the above office.  
The partners are either solicitors or registered foreign lawyers.  
The European Legal Alliance is an alliance of independent law firms

I am waiting for a written request from, or on behalf of, Hampshire Constabulary for a copy of the IOC transcript dated 19 September 2002 to be released to them for use in the criminal enquiries.

Whilst we are waiting, please could you arrange for a new transcript to be obtained. As I explained during our telephone discussion today, page 12 in the document sent to us relates to an entirely different matter!

Kind regards

**Code A**

**Judith Chrystie**  
Assistant Solicitor  
Direct Line: **Code A**

Email: **Code A**

10/09 '03 19:22 FAX

FIELD FISHER WAT

003

Dr Barton

Page 1 of 1

**Chrystie, Judith**

**From:** Chrystie, Judith  
**Sent:** 16 January 2003 13:46  
**To:** Michael Keegan Code A  
**Subject:** RE: Dr Barton

Dear Michael

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See you at 2pm on Wednesday!

Kind regards  
Judith

## -----Original Message-----

**From:** Michael Keegan Code A  
**Sent:** Wednesday, January 15, 2003 4:39 PM  
**To:** Judith Chrystie (E-mail)  
**Subject:** Dr Barton

Dear Judith,

I have had a chance to speak about disclosure to the Police of the IOC transcript in this case and consequently advise that the Police should make a formal, reasoned request for the same. That request can then be considered at a senior level. This is, as you can imagine, in light of both the sensitivity of this case and the lack of precedent of which we are aware.

I should be grateful if you would communicate this to DI Niven.

Regards

Michael Keegan  
Conduct Case Presentation Section  
Direct Line: Code A  
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Email: Code A

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10/09 '03 19:23 FAX

FIELD FISHER WAT

004

## FIELD FISHER WATERHOUSE



Our ref: JZC/HJA/00492-14742/2180712 v1  
Your ref: MK/2000/2047

Mr M Keegan  
Conduct Case Presentation Section  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

9 January 2003

Dear Michael

**Dr. Jane Barton**

I refer to the above matter.

Since my letter through to you dated 17 December 2002 I have attempted to forward the missing enclosures through e-mail. Each time I have done so a few days later I receive an indication that the documents have not been received with you! My last effort was on 24 December 2003 and I returned to the office yesterday – my first day back in the office since the Christmas break – to find another rejection advice.

I have checked the e-mail carefully and am using the following address: Code A I wonder if the documentation I am supplying occupies too much 'space' to be allowed through the GMC's firewalls. As technology has failed me, I enclose hard copy versions and apologise for the earlier omission.

As I indicated, a copy has been forwarded through to Detective Inspector Nigel Niven. Nigel has indicated that they wish to clarify certain aspects of the note. I await his amendments for inclusion in the note and for discussion with you.

As you are aware, John and I are scheduled to attend at the offices of CHI next week and we shall update you at our meeting on 22 January 2003. Would a time of 2.00pm be suitable for you? Unless I hear from you to the contrary, I look forward to meeting with you again then at our offices.

Field Fisher Waterhouse  
Tel: +44 (0)20 7556 1000 Fax: +44 (0)20 7556 1001 e-mail: [help@ffw.co.uk](mailto:help@ffw.co.uk) [www.ffw.co.uk](http://www.ffw.co.uk) [www.legalalliance.co.uk](http://www.legalalliance.co.uk)

London: 10th Floor, 100 Broad Street, London EC2R 2EJ. New York: 100 Park Avenue, New York, NY 10022

In your letter dated 18 December 2002 you request my thoughts on the inclusion of Mr Carby's complaint under a Rule 11(2) referral. I thought that I had addressed this issue with you at our pre-meeting on 20 November 2002 at which I indicated that the other matters received by the GMC did appear appropriate to be considered under Rule 11(2).

I do not, however, consider that it would be appropriate for us to undertake any investigation at the moment as this may prejudice the enquiries being undertaken by Hampshire Constabulary. To determine definitively whether the complaint should go through to the PCC (if, indeed, we end up following a charge of serious professional misconduct as opposed to a criminal conviction), further enquiries will need to be undertaken and expert evidence obtained to determine the exact validity of the complaint.

One of the issues mentioned at our meeting in November was whether the police should receive all documentation the GMC hold in relation to this matter. My initial advice to you was that it would be appropriate for the material, in particular the documents considered by the PPC, the letters received on behalf of Dr. Barton, the transcript of the IOC hearing and the additional papers received regarding the incident in 1991 to be disclosed. I confirm this advice. Within the Medical Act 1983 (as amended) the GMC made disclose "to any person any information relating to a practitioner's professional conduct, professional performance or fitness to practise which they consider it to be in the public interest to disclose" (Section 35B).

Are you content that it is in the public interest to disclose the material I have identified above? Should you confirm that the GMC consider it to be in the public interest, I shall pass the relevant documentation through to Detective Inspector Niven.

I hope that you had a restful Christmas and New Year break and that the move into your new home went smoothly.

See you next week!

Kind regards,

Yours sincerely

**Code A**  
Judith Chrystie

PP

**Code A**



**Linda Quinn** **Code A**

**From:** Linda Quinn **Code A**  
**Sent:** 19 Sep 2003 11:55  
**To:** Peter Steel **Code A**  
**Subject:** Dr Barton

Peter

I expect you are aware of this case. Very briefly, there is a police investigation into her prescribing of opiate/sedative drugs to elderly patients in hospital. A number of allegations were referred to PCC by PPC on 29/30 August 2002, but GMC investigation is on hold because of police inquiries.

The case was originally Michael Keegan's, and in January 2003 there was some email discussion about disclosure of documents to the police. Some were disclosed, but they wanted a copy of the IOC transcript from September 2002 (no order was made). Michael asked that the Police make a formal, reasoned request for this document, and the request would then be considered at a senior level in the GMC.

It seems that nothing further happened at the time. I have now been asked by FFW to let the police have the transcript. I said I would need the request in writing, and FFW told the police this. The police have now asked FFW to ask the GMC to confirm that it would not tell Dr Barton of their request.

I discussed this with Matthew, who is dealing with the police. He said that because Dr Barton was at the IOC hearing, it is OK to disclose the transcript to the police because she knows what happened at the hearing. But this didn't fit with the police request as far as I could see - the police were asking that the doctor not be told that we were disclosing the document. Matthew said there was no inequality to Dr B in terms of the GMC's function as a regulator in disclosing the transcript.

The reason for the police request not to tell Dr B is that the investigations are at a very sensitive stage.

I assured him that neither I nor the GMC wished to obstruct the police in their investigation, and said I would get back to him.

Could you possibly advise me. I assume that we would disclose at the police's request, but is it OK not to tell Dr Barton that we are disclosing the transcript?

Linda

Peter Steel advised me that we are able to agree the police request not to tell Dr Barton if we do release the IOC t/s to them. However, we do require their request, with reasons, in writing. I emailed Matthew Lohn on 22.9.03 to inform him of this.

**Code A**

2.10.03

Memorandum

To Paul Philip  
From Linda Quinn  
Date 30 September 2003  
Copy Jackie Smith

Dr J A Barton (2000/2047)

1. I have today met with two officers from Hampshire Constabulary who sought the meeting in order to update the GMC on the progress of their investigations.
2. I attach my note of the meeting at flag A, and for background, I attach a copy of a memo dated 13 September 2002 at flag B.
3. Consideration needs to be given to whether the information supplied by the police this morning (plus the written summary they could provide if asked) is sufficient fresh information for the matter to be referred to IOC.
4. I note from the casefile that when we initially received the 1991 information in September 2002, it was not considered sufficient to go back to IOC with (Peter Swain's email of 24 September 2002 - flag C).
5. However, the police have now had 62 cases involving Dr Barton analysed by a team of experts, and the finding in some 15 or 16 cases are "negligence, cause of death unclear".
6. As can be seen from paragraph 5 of my note, the results are to be quality checked.
7. If the case is to be reconsidered by IOC in the light of new information, it will be necessary to decide whether this should be done after the quality check on the first set of experts' findings, or whether it should be done after the second set of experts report to the police (possibly January 2004).
8. Dr Barton's case has been considered by IOC three times so far, and in each case no order was made.
9. The police are updating Alexander Harris (for the families) this afternoon, and the strategic health authority on Friday 3 October 2003. These updates may generate inquiries to the GMC.

**Code A**

**File note****2000/2047 - Dr J A Barton****Meeting with police on 30 September 2003**

Present: Detective Chief Superintendent Steve Watts  
 Detective Constable Nigel Niven  
 Linda Quinn

1. I was contacted by DCS Steve Watts of Hampshire Constabulary on Monday afternoon, 29 September 2003. He said that he and a colleague wished to meet with me to give me some information about Dr Barton. We agreed to meet Tuesday morning, 30 September 2003.
2. The meeting commenced with DCS Watts outlining the background to the police investigation of the case and saying that, following the disclosure by Hampshire and Isle of Wight HA of the 1991 file of correspondence in September 2002, the police decided to investigate all the deaths on patients under Dr Barton's care at Gosport War Memorial Hospital.
3. A team of five medical experts was appointed – experts in the fields of toxicology, geriatric medicine, palliative care, general practice and nursing. The experts have now reported on the basis of whether the treatment provided to each of the 62 patients was optimal, sub-optimal, or negligent; and whether the reason for death/harm was natural causes, unclear, or unexplained by natural cause/disease.
4. The medical experts' findings are:
 

Optimal	25%	(approximately)
Sub-optimal but causation unclear	50%	"
Negligent, cause of death unclear (DCS Watts said these give grave cause for concern)	25%	"
5. Matthew Lohn has been appointed by the police to run a quality control check on these findings. I understand that they will not become final conclusions until that check is complete.
6. The police will then appoint further experts to examine in detail the 25% of cases (some 15 or 16) which fall into the category of "negligent, cause of death unclear".

7. The police will not interview Dr Barton until the second team of experts have reported, and they expect this to be January 2004 at the earliest.
8. The police have informed Dr Barton's solicitor (Ian Barker of MDU) that they are concerned about a significant number of cases, but have not conveyed actual numbers.
9. They also keep the families informed, through Alexander Harris, and on Friday, 3 October 2003 they are meeting with someone from the strategic health authority to update them on the investigation.
10. The police asked LQ the case would be reconsidered by the IOC on the basis of the information they were supplying. They fully understood that any papers which were to be seen by IOC would also be disclosed to Dr Barton and her solicitor. They emphasised that they were not able to provide full details of their investigations because this could jeopardise their further investigations and their eventual interview of Dr Barton. However, DCS Watts said they would be able to provide a brief written summary of the current position if we so required. We would have to request it in writing, explaining the reasons for it and why it was in the public interest for the police to supply it, and what action we envisaged taking.

Linda Quinn  
30 September 2003

**File note****2000/2047 - Dr J A Barton****Meeting with police on 30 September 2003**

Present: Detective Chief Superintendent Steve Watts  
 Detective Constable Nigel Niven  
 Linda Quinn

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Linda Quinn  
30 September 2003

**Linda Quinn** Code A

---

**From:** Linda Quinn Code A  
**Sent:** 02 Oct 2003 08:45  
**To:** Code A  
**Subject:** Dr J Barton

Dear Mr Watts

I am about to write a formal letter to Hampshire Constabulary concerning this case. I will fax it to the number on your card unless you contact me in the meantime.

Could you please confirm who accompanied you on Tuesday 30 September 2003. The email I sent to him was returned as undeliverable.

Yours sincerely

Linda Quinn

Conduct Case Presentation Section  
Fitness to Practise Directorate

Direct Line: Code A

Fax: Code A

E-mail address: Code A

In reply please quote **FPD/LQ/2000/2047**

Please address your reply to  
**Conduct Case Presentation Section, FPD**  
Fax

2 October 2003

Detective Chief Superintendent Steve Watts  
Police Headquarters  
Hampshire Constabulary  
West Hill  
Winchester  
Hampshire  
SO22 5DB

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Mr Watts

**Dr J A Barton**

I refer to our meeting on 30 September 2003 when you informed me of the stage reached in the Hampshire Constabulary's investigations in this case. I have now had an opportunity to discuss that information within the GMC.

In order for Dr Barton's case to be referred to the Interim Orders Committee (IOC), prima facie evidence is required which is cogent and credible and raises a question as to whether Dr Barton should have a restriction placed on her registration. This information would then be considered by a medical member of the GMC (the screener) with regard to a referral to the IOC. For example, if there is evidence that Dr Barton has been prescribing in an inappropriate and irresponsible manner, and the screener refers this to the IOC, it would be open to the IOC to place a condition on her registration restricting her prescribing. The Committee also has the power to suspend a doctor's registration.

The IOC may make an order when it determines that it is necessary for the protection of members of the public or is otherwise in the public interest or the interests of the doctor. As well as protection of the public, the public interest includes preserving public confidence in the medical profession and maintaining good standards of conduct and performance.

From the information that you provided on 30 September 2003, we consider that it is likely to be in the public interest that the matter is screened. However, we cannot give a final decision without further information.



Therefore could you please supply us with a detailed written summary of the evidence you have in this case to date, including any report prepared by the team of experts. The decision on referral of the information to IOC rests with the screener. If the information supplied is very brief, while it is likely that it would be passed to the screener, there is a possibility that the screener would not refer it to the IOC.

As we discussed on 30 September 2003, if Dr Barton's case is referred to the IOC, the documentation you provide will be disclosed to her and her legal representatives.

Could you please confirm whether the 62 individual cases scrutinised by your team of experts include the five which are already known to the GMC, as follows:

- Gladys Richards;
- Arthur Cunningham;
- Alice Wilkie;
- Robert Wilson;
- Eva Page.

We are grateful to you for keeping us informed of the progress of your investigation, and would ask that you continue to do so.

Please let me know if you require any further information from me before responding to this letter.

Yours sincerely

**Code A**

**Linda Quinn**  
**Conduct Case Presentation Section**  
**Fitness to Practise Directorate**

Direct Line:

Fax:

E-mail address:

**Fax**

To DCS Steve Watts, Hampshire Constabulary

Fax number 01962 871130

From Linda Quinn

Direct Dial

**Code A**

Direct fax

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

No. of pages 3  
(inclusive)

Time 11:55

Date 2 October 2003

Dear Mr Watts

Dr J Barton

Please see attached letter.

Yours sincerely

**Code A**

Linda Quinn

**Conduct Case Presentation Section  
Fitness to Practise Directorate**

Direct Line: **Code A**

Fax: **Code A**

E-mail address: **Code A**

TRANSMISSION VERIFICATION REPORT

TIME : 02/10/2003 11:57  
NAME : GMC  
FAX : Code A  
TEL :

DATE, TIME	02/10 11:56
FAX NO./NAME	901962871130
DURATION	00:00:47
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

**Fax**

To DCS Steve Watts, Hampshire Constabulary

Fax number 01962 871130

From Linda Quinn

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Direct Dial

**Code A**

Direct Fax

No. of pages 3  
(inclusive)

Time 11:55

Date 2 October 2003

Dear Mr Watts

Dr J Barton

Please see attached letter.

Yours sincerely

**Code A**

Linda Quinn

**GMC Legal****Memorandum**

**To** Linda Quinn  
**From** Toni Smerdon  
Code A  
**Date** 9 October, 2003  
**cc:** Jackie Smith  
Paul Philip

**Dr J A Barton (2000/2047)**

1. Further to your memorandum dated 30 September 2003 to Paul Philip, I have now reviewed the case of Dr Barton in relation to a further referral to the IOC on the basis of the meeting held with the police on 30 September 2003.
2. By way of background, on 27 July 2000 Hampshire Constabulary notified the GMC that an allegation had been made by members of the family of Gladys Richards to the effect that she had been unlawfully killed as a result of treatment received at the *Gosport War Memorial Hospital during or about the period 17-21 August 1998*. The police confirmed that the doctor who appeared to be responsible for the care of Mrs Richards at the time was Dr Jane Barton, a GP practising in Gosport. Dr Barton was also engaged by the Portsmouth Healthcare NHS Trust as a visiting clinical assistant at the Memorial Hospital. The police subsequently confirmed in September 2000 that the investigation was ongoing and a file was to be submitted to the Crown Prosecution Service (CPS).
3. Following receipt of statements and medical notes in June 2001 in relation to Gladys Richards, the case was referred to the IOC for consideration. The IOC made no order.
4. In February 2002, the CPS decided not to proceed with criminal proceedings. The Crown's papers were then disclosed to the GMC. The case was referred again to the IOC. The hearing took place on 21 March 2002. Again, no order was made.
5. When the police provided their papers in February 2002, it had included a report from Dr Mundy, a consultant physician and geriatrician on the management of 4 patients who had also died at the Gosport War Memorial Hospital. Those patients were Arthur Cunningham, Alice Wilkie, Robert Wilson and Eva Page. When the IOC considered Dr Barton's case on the second occasion in relation to allegations of inappropriate/irresponsible prescribing, no order was made.
6. The case was considered by the PPC on 29 August 2002. They referred the case to the PCC for public inquiry. At about the same time, the GMC was made aware that concerns had been raised on behalf of family members in relation to the view taken by the police was that there was no case to be raised against Dr Barton. In view of the concerns raised, the police decided to send the case papers to CPS.

7. In the circumstances, a referral to the IOC was made by the President and the case considered on 19 September 2002. The Committee were aware that there was no new evidence and no fresh allegations being made and that the only change of circumstances since the previous hearing in March 2002 was that the police had sent the papers to the CPS.
8. The IOC considered that no order should be made as there was no new material in the case since the previous hearing.
9. The Hampshire and Isle of Wight NHS Health Authority sent to the Council on 19 September 2002 a file of correspondence relating to concerns which had been raised by nursing staff in the use of diamorphine on patients in 1991.
10. The information was considered by Matthew Lohn at FFW as to whether this merited a further referral to the IOC.
11. Matthew Lohn provided his written advice on 9 October 2002. He said "*having reviewed the documentation, my advice would be that there is nothing within the papers which would justify a referral of this matter back to the IOC once more.*"

*Although there is new material contained within these papers, there is nothing in them which would merit a referral of the entire case back to the IOC. These papers relate to general concerns expressed in 1991 about prescribing practices at the Gosport War Memorial Hospital. There are no new criticisms over and above those already contained within the initial IOC papers; in fact the papers note that all staff at the hospital had "great respect for Dr Barton and did not question her professional judgment".*

*Although it would be open to show this new material to the Screeners and seek their direction, my firm view would be that the Screeners would be misdirecting themselves if, having seen the new papers, they were to refer the matter for further consideration by the IOC."*

12. The police reopened their investigation and in the circumstances the GMC's own investigation was placed on hold.
13. The police decided to investigate all deaths of patients under Dr Barton's care at the Gosport War Memorial Hospital. A team of 5 medical experts was appointed – experts in the fields of toxicology, geriatric medicine, palliative care, general practice and nursing. The experts have reported on the basis of whether the treatment provided to each of the 62 patients was optimal, sub-optimal or negligent; and whether the reason for the death/harm was natural causes, unclear or unexplained by natural cause/disease.
14. At a meeting with the police on 30 September 2003, they confirmed that the medical experts findings were that 25% (approximately) were optimal; 50% (approximately) was sub-optimal by causation unclear and 25% (approximately) were negligent, cause of death unclear.
15. The police are to run a quality control check on the findings and then appoint further experts to examine in detail the 15 or 16 cases which fall into the category of

"negligent, cause of death unclear". The police have also confirmed they will not interview Dr Barton until that second team of experts has reported and that is anticipated to be January 2004 at the earliest.

16. At the meeting, the police asked whether the case could be reconsidered by the IOC on the basis of the information they had supplied. As they were aware that any papers seen by the IOC would also be disclosed to Dr Barton and her solicitors they were unable to provide full details of their investigations as it could jeopardise any further investigation and their eventual interview with Dr Barton.
17. All that the police would be able to provide is a brief written summary of the current position but that such a summary would need to be requested in writing, explaining the reasons for it and why it was in the public interest for the police to supply it and also what action the GMC envisaged taking.
18. The IOC has already considered Dr Barton's case on 3 previous occasions. The only new information which the Council now has is what the police notified to Linda Quinn at their meeting on 30 September 2003. We have no new "evidence" which could at this time justify a referral to the IOC. The IOC may only make an order in accordance with Section 41A of the Medical Act 1983 (as amended) to protect patients, public interest or a doctor's own interest. To make an order the Committee must have before it cogent and credible prima facie evidence. To support a referral back to the IOC the police will need to provide us not only with a summary of their investigation to date, but also some of the evidence upon which they intend to rely.
19. The police may be in difficulty in disclosing information upon which an IOC could properly make an order in view of the stage at which their investigation has reached and their inability to interview Dr Barton until January 2004.
20. A letter has been sent to the police specifically relating to the information that the GMC does require to support a further referral at this time to the IOC.
21. It is appropriate at this time for the matter to be considered again by a Screener who should note that all the information on file has previously been seen by an IOC on at least two occasions, save the new information from the police which is not supported by evidence, and then decide, taking into account the IOC criteria, whether a further referral should be made at this stage.
22. It would of course be open to the Screener to reconsider the matter again once any evidence has been produced by the police following the GMC's letter of 2 October. If that information is insufficient, then the matter should again be reviewed once the police have conducted their interview with Dr Barton and a decision taken whether or not charges will be preferred. Even if charges are not to be preferred the evidence which the police have obtained may support further allegations of inappropriate or irresponsible prescribing which could be considered by the PPC and added to the charges already before the PCC.
23. It is important this case is kept under close review and would suggest that regular updates are sought from the police and that depending on the information received as to whether or not the position with regards to a referral to the IOC has changed.

**Code A**

**GMC Legal****Memorandum**

**To** Linda Quinn

**From** Toni Smerdon  
Code A

**Date** 9 October, 2003

**cc:** Jackie Smith  
Paul Philip

**Dr J A Barton (2000/2047)**

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This memo may contain legal advice and may be subject to legal professional privilege.  
Do not disclose externally before consulting the In-House Legal Team.

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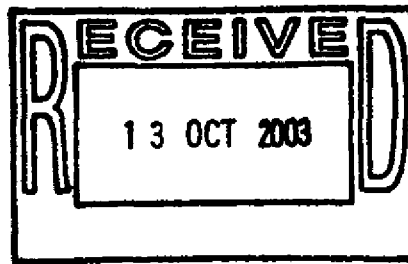
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20. A letter has been sent to the police specifically relating to the information that the GMC does require to support a further referral at this time to the IOC.
21. It is appropriate at this time for the matter to be considered again by a Screener who should note that all the information on file has previously been seen by an IOC on at least two occasions, save the new information from the police which is not supported by evidence, and then decide, taking into account the IOC criteria, whether a further referral should be made at this stage.
22. It would of course be open to the Screener to reconsider the matter again once any evidence has been produced by the police following the GMC's letter of 2 October. If that information is insufficient, then the matter should again be reviewed once the police have conducted their interview with Dr Barton and a decision taken whether or not charges will be preferred. Even if charges are not to be preferred the evidence which the police have obtained may support further allegations of inappropriate or irresponsible prescribing which could be considered by the PPC and added to the charges already before the PCC.
23. It is important this case is kept under close review and would suggest that regular updates are sought from the police and that depending on the information received as to whether or not the position with regards to a referral to the IOC has changed.

**Code A**



Hampshire Constabulary  
Police Headquarters  
West Hill  
WINCHESTER  
Hampshire  
SO22 5DB

**Tel:** 01962 871404

**Fax:** 01962 871130

**Telex:** 47361 HANPOL

**S Watts MSc DPM MIMgt**  
Detective Chief Superintendent  
Head of CID

email:

Code A

Your ref:

Our ref: SW/chm

6<sup>th</sup> October 2003

Ms L Quinn  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

Dear Ms Quinn

**Re: Gosport War Memorial Hospital - Operation Rochester**

Thank you for your letter dated 2 October 2003, following our meeting on 30 September 2003 regarding the above matter.

I note your comments, in particular the processes by which the GMC may consider the matter of registration.

The summary which we provided you in respect of our investigation, indicated that a team of clinical experts had examined hospital records in respect of 62 patients at Gosport War Memorial Hospital, under the care of Dr Barton. In a significant number of those cases, the experts take the view that there was negligent care and that the causation of death is unclear. As my colleague DI Niven and I explained, much further work needs to be done to validate and develop these very provisional findings. We took the view, however that the GMC and the relevant Strategic Health Authority should be appraised of this information.

As we explained to you, our primary concern always is the safety of the public. That said, we are also expected to investigate serious allegation such those involved here in a professional and ethical manner. We therefore have to strike a balance between conducting our investigation in the appropriate fashion whilst realistically assessing the risk to the public. Put simply, our ability to disclose information would need to be based on an assessment of the risk that was presented now by Dr Barton.

Our investigation has only considered cases up to 1998 and all relate to the treatment of patients at the Gosport War Memorial Hospital. All the cases of concern raise issues in respect of the use of opiates. My understanding at the present time is that Dr Barton is not allowed to work at the Gosport War Memorial Hospital, and is not authorized to prescribe opiates.

On the basis of the above, I think more assessment needs to be conducted to quantify and clarify the risk that Dr Barton continuing to practice currently presents to the public safety. I would emphasize that our investigation has only concerned itself with issues within the Gosport War Memorial Hospital and not in any other area of practice by any medical staff. You will be aware that Professor Richard Baker was tasked with conducting some analysis by the Chief Medical Officer. His remit would have been wider than ours and although I do not know the outcome of his research, I would imagine any conclusions he has reached might assist you in your deliberations.

It is probable that we will need to interview Dr Barton at length. The interview process is predicated upon a detailed strategy which will include a careful consideration of the information supplied to Dr Barton prior to interview. I note that your letter indicates that any information supplied to the GMC will in its totality be supplied to Dr Barton. Any uncontrolled disclosure to Dr Barton has the potential to detrimentally impact upon the investigation, and I therefore would be reluctant to disclose further information until the above issue of risk has been given thorough consideration.

If I were reassured that material would not be passed to Dr Barton or her representatives, I would be willing to consider, at a future time, providing a more detailed disclosure of information to the GMC. We would be more than happy to discuss with the GMC 'Screener' how we may best achieve the maximum disclosure without a detrimental impact upon the investigation.

Finally, in answer to your question, I can confirm that the patients that you name in the second page of your letter of 30 September were included in those reviewed by the team of clinical experts.

I look forward to hearing from you so that we may progress this matter together.

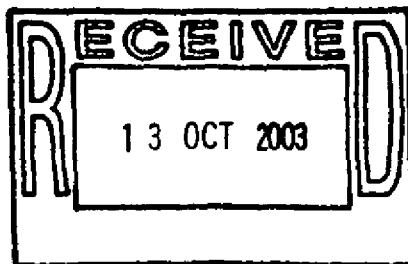
Yours sincerely

**Code A**

Code A

Steve Watts

Detective Chief Superintendent  
Head of CID



Hampshire Constabulary  
Police Headquarters  
West Hill  
WINCHESTER  
Hampshire  
SO22 5DB

S Watts MSc DPM MIMgt  
Detective Chief Superintendent  
Head of CID

Tel: 01962 871404  
Fax: 01962 871130  
Telex: 47361 HANPOL

email:

Your ref:

Our ref: SW/chm

6<sup>th</sup> October 2003

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178 Great Portland Street  
London W1W 5JE

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I look forward to hearing from you so that we may progress this matter together.

Yours sincerely

Code A  
**Code A**  
Code A Steve Watts  
 Detective Chief Superintendent  
 Head of CID

Case 469 2000/2047 (Manchester)  
Received 5.11.03. returned 6.11.03  
Dr Barton vs Hampshire Constabulary

Dear Linda,

Thank you for referring this case which has already been referred to the PCC but postponed whilst the Police continue their enquiries. This doctor has already been referred to the IOC in June 2001 in respect of one case, In Feb 2002 when the CPS decided to take no action but papers were disclosed to the GMC about 4 patients who had died in Gosport War Memorial Hospital and in September 2002 by the president after PPC had referred to PCC but not IOC and on each occasion no order was made.

Taking into account Matthew Lohn's opinion at para 11 of Toni Smerdon's memorandum, her opinion and the lack of new evidence as the police do not want to disclose anything which may prejudice their case I do not think we should send this case to IOC again.

The doctor is not a danger to the public as she has never had any complaints about her GP work and she has voluntarily agreed to restrict her prescribing of certain drugs. She has resigned from her post at Gosport War Memorial Hospital. If and when the police charge Dr Barton it would be reasonable to send to IOC but in the absence of new evidence I think the same advice would come from the legal assessor as before

I agree that the office should keep the matter under review and refer back if new evidence is disclosed by the police or Dr Barton is formally charged WDS 6.11.03.

**Code A**

no SDF 4 enclosed ✓ if you  
want me to sign send on its  
own

(Fax rec'd 7.11.03.  
Copied to Jackie Smith  
+ Toni Smerdon for info.  
L2  
7.11.03)

**Memorandum**

**To** FTP Screener

**From** Linda Quinn  
Conduct Case  
Presentation Section  
Code A

**Date** 27 October 2003

**Copy** Jackie Smith

**Dr J A Barton (2000/2047)**

1. I write to give you an update on this case and to seek your view as to whether the matter should be submitted to IOC.
2. I attach a copy of the IOC item prepared for 19 September 2002, when the IOC determined not to make an order restricting Dr Barton's practice (flag 4).
3. I have recently met with the police who wished to provide the GMC with an update as to their investigations. My note of that meeting is at flag 1.
4. I also attach, at flag 2, a memorandum from Toni Smerdon, In-House Legal Team:
  - a. Paragraphs 2 to 11 give background to the current position, including the outcome of three referrals of the matter to IOC between June 2001 and September 2002;
  - b. Paragraphs 12 to 17 cover the same information as the meeting note;
  - c. Paragraphs 18 to 22 deal with issues surrounding a possible IOC referral at this stage.
5. The Police have responded to my letter requesting more information/evidence and I attach their reply at flag 3. As you will see, the Police do not feel able to supply us with fuller information at present.
6. Therefore I would refer you specifically to paragraphs 21 and 18 of Toni Smerdon's memo.
7. I would be grateful if you would consider whether Dr Barton should be referred to IOC at the present time. An alternative is for the office to keep the matter under close review, continuing to liaise with the Police, and to contact the Screener again if the situation changes.

**Code A**

**Memorandum**

**To** FTP Screener  
**From** Linda Quinn  
Conduct Case  
Presentation Section  
Code A  
**Date** 27 October 2003  
**Copy** Jackie Smith

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**Code A**



**GMC Legal**

**TELEPHONE NOTE (LF5)**

1.	<b>DATE:</b>	3 December 2003
2.	<b>TIME:</b>	12:30
3.	<b>FROM:</b>	DS Owen KENNY, Case Officer, Hampshire Constabulary <input type="text" value="Code A"/> (mobile: <input type="text" value="Code A"/> (owen.kenny <input type="text" value="Code A"/>
4.	<b>TO:</b>	Linda Quinn
5.	<b>RE:</b>	Dr J A Barton
6.	<b>MESSAGE:</b>	<p>DS Kenny telephoned me in response to the message I had left earlier with D C S Watts' secretary.</p> <p>I asked if Hampshire Constabulary had a copy of the report by Professor Richard Baker. DS Kenny said they did, but that it was highly confidential and a numbered copy had been issued to them. He also told me that a copy had been issued to the Strategic Health Authority. He did not think the GMC had a copy. On the front cover was noted "Final Version, October 2003". DS Kenny said he could not copy his report to us. I assured him that I fully realised this, and said I would approach the DoH about it.</p> <p>As he is Case Officer, we exchanged contact details.</p>
7.	<b>TIME ENGAGED ON CALL:</b>	5 mins

4.12.03

Linda Quinn Code A

From: Simon Haywood Code A  
Sent: 04 Dec 2003 14:50  
To: Linda Quinn Code A  
Subject: Dr Jane Barton

Linda,

I thought you should know that I have had a discussion with Blake Dobson about this case today, who has been asked to brief Paul Philip, in particular about what has been done to see whether this doctor is a risk to patients, and whether or not the doctor should be suspended.

I had a quick look through the papers and confirmed with Blake the steps that had been taken, including the recent referral to Prof. Savage, with regard to IOC. He asked whether there had been any attempt to liaise with the Dr's employers to see whether they needed to consider suspending the doctor. I said I could not see any evidence of this, although it seemed there was a voluntary agreement that Dr Barton would not prescribe certain drugs.

Blake and Paul are concerned that the Police and the DoH seem very concerned about this doctor, but neither has apparently been able to provide us with any further evidence to allow us to act.

● If you are able to add anything to this, particularly about what contact we might have had with the doctor's employers, please could you give Blake a quick call?

I explained that you would be unlikely to get out of PPC before 5.00 at the earliest.

Thanks

Simon

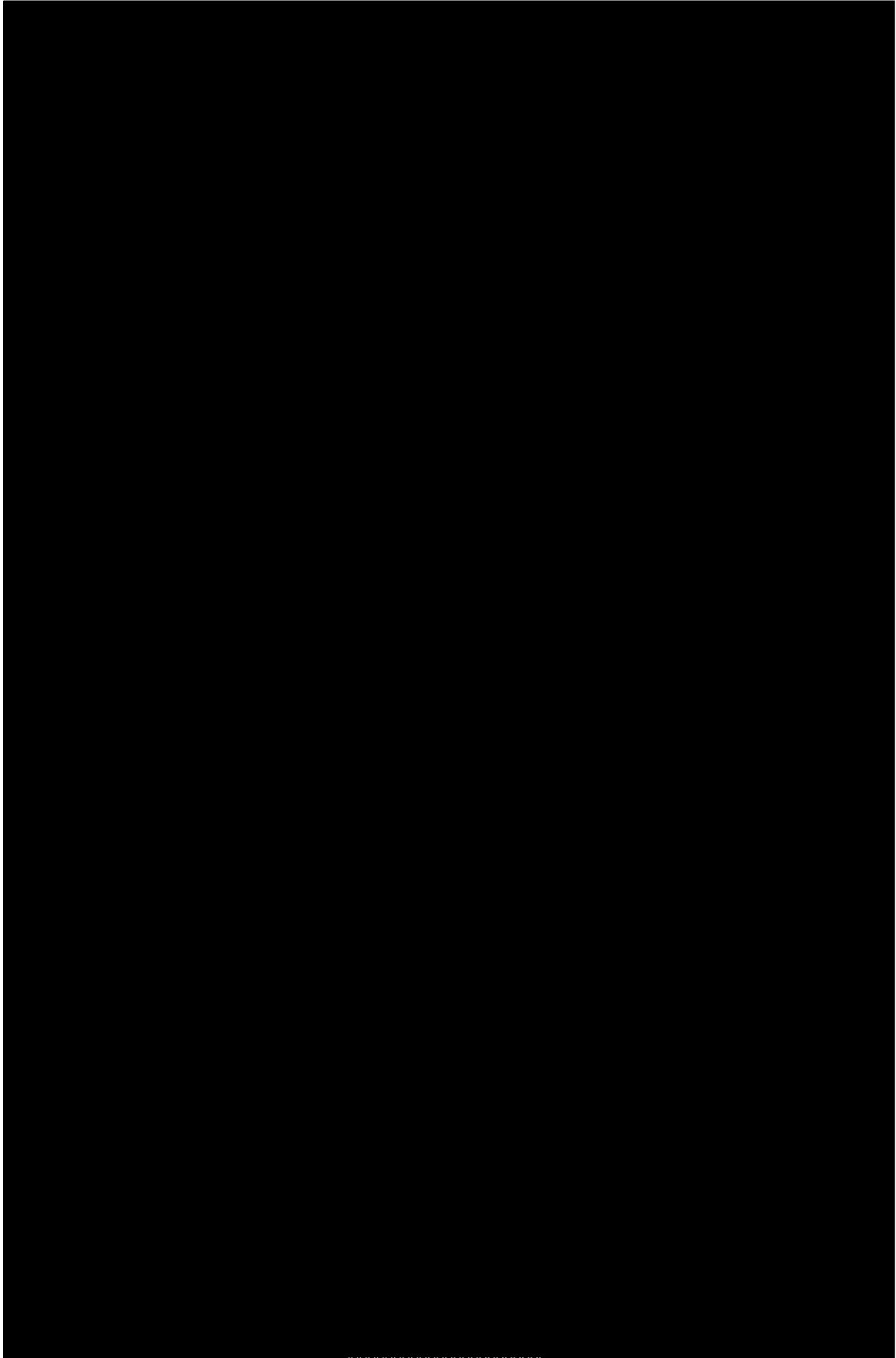
Spoke to Blake at 5pm.  
Confirmed that post PPC letter went to Hampshire + Isle of Wight Practitioner + Patient Services Agency on 19 Sept 02. Said that we had no recent contact with them. Said would discuss Blake's suggestion re asking employer if they had considered suspending Dr Barton with Toni Smerdon.

Subsequently discussed with Toni. She confirmed that GMC has no remit to be suggesting suspension to an employer.

Code A

**GMC Legal****TELEPHONE NOTE (LF5)**

1.	DATE:	3 December 2003
2.	TIME:	14:20
3.	FROM:	Linda Quinn
4.	TO:	Mike Evans of DoH Investigation and Inquiries Unit
5.	RE:	Dr J A Barton
6.	MESSAGE:	



Signed: Linda Quinn

**Code A**

4-12-03

Our Ref: TS/Advice/Barton

5 December 2003

The Clerk to Mr R Englehart QC  
Blackstone Chambers  
Blackstone House  
Temple  
London  
EC4Y 9BW

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Sir



Yours faithfully

**Code A**

Toni Smerdon  
Principal Legal Advisor

**Code A**

In the matter of Dr J Barton

---

**INSTRUCTIONS TO COUNSEL TO ADVISE**

---

To: Robert Englehart QC  
Blackstone Chambers  
Blackstone House  
Temple  
London EC4Y 9BW

From: Fitness to Practise  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

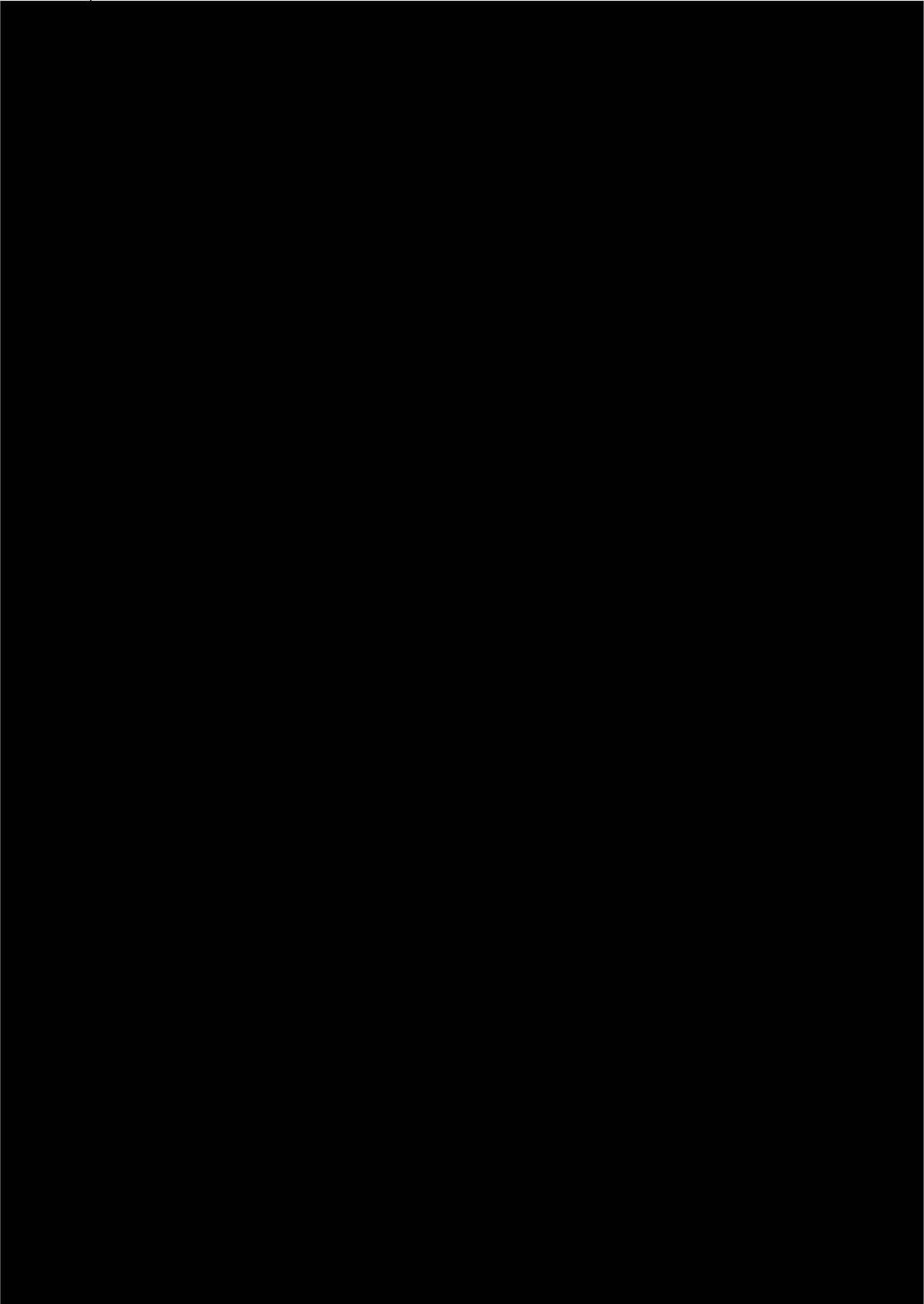
Tel: **Code A**  
Fax: **Code A**  
Email: **Code A**

Ref: TS/Advice/Barton

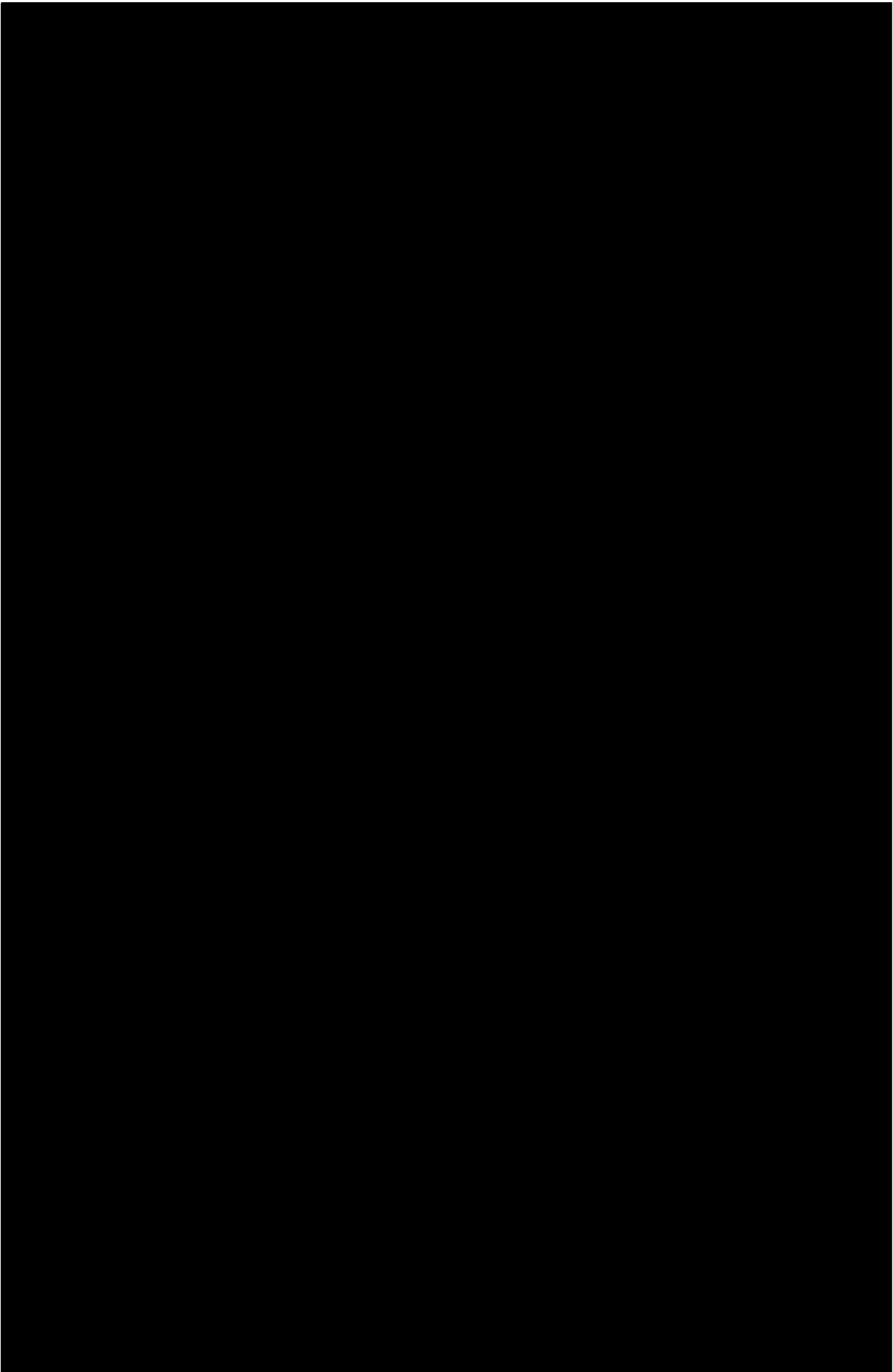
Enclosures

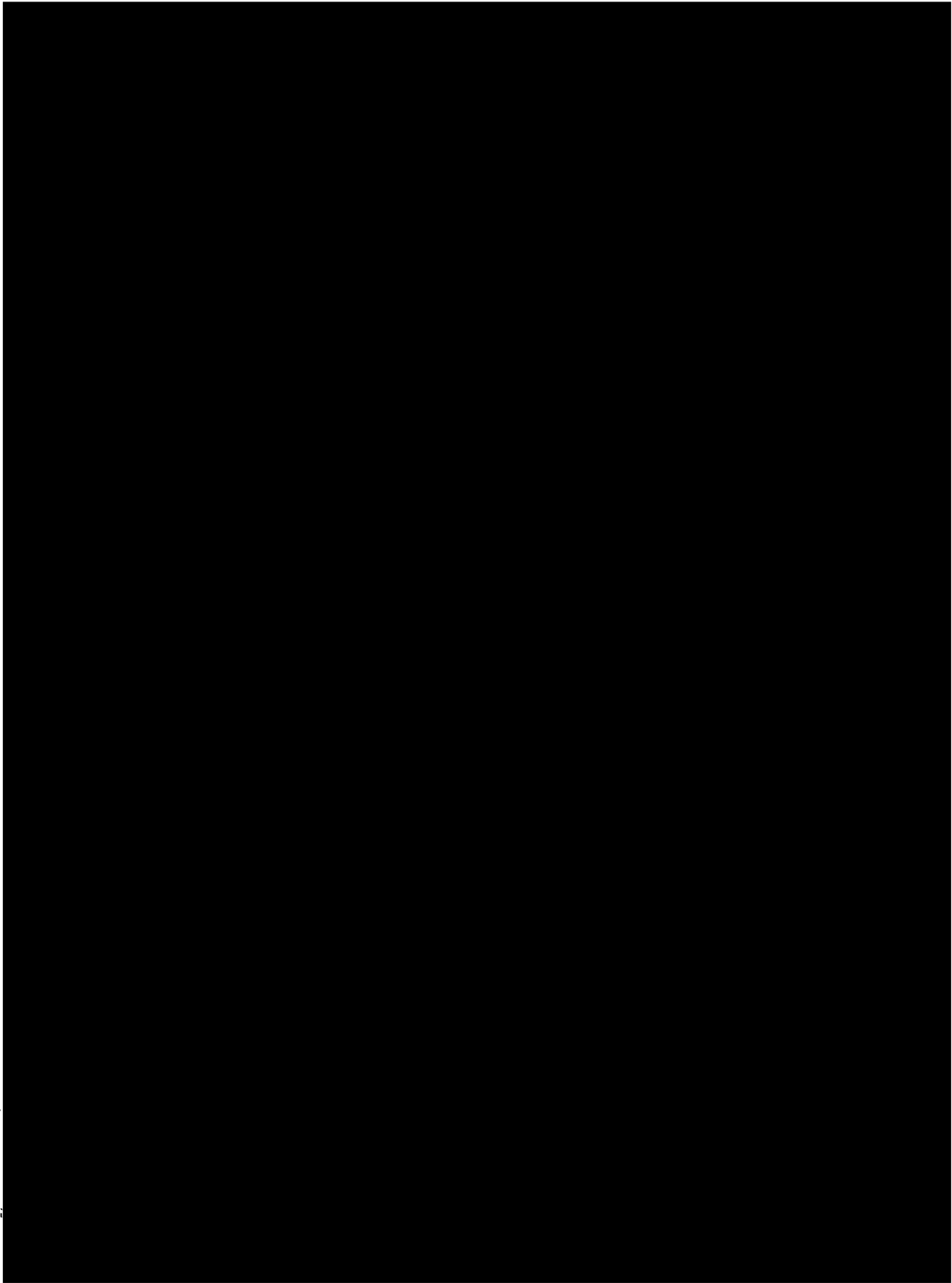


Instructions









Signed... **Code A** ..... Dated... 5/12/03 .....

**GMC Legal****TELEPHONE NOTE**

1.	<b>DATE:</b>	5 December 2003
2.	<b>TIME:</b>	
3.	<b>FROM:</b>	Toni Smerdon
4.	<b>TO:</b>	Martin Smith, Blackstone Chambers
5.	<b>RE:</b>	Barton
6.	<b>MESSAGES:</b>	
		TS telephoning MS to ask whether Robert Englehart would be available to provide a separate advice on another case of similar urgency. RE will be available to deal with the papers and the file should be sent directly to him.
7.	<b>TIME ENGAGED ON CALL:</b>	6 minutes

Linda Quinn Code A

---

From: Toni Smerdon Code A  
Sent: 10 Dec 2003 17:42  
To: Linda Quinn Code A  
Subject: FW: Dr. Barton



Barton.gmc.doc

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

From: Robert Englehart Code A  
Sent: 10 Dec 2003 17:43  
To: Code A  
Cc:  
Subject: Dr. Barton

Herewith, as promised, Advice on Dr. Barton.

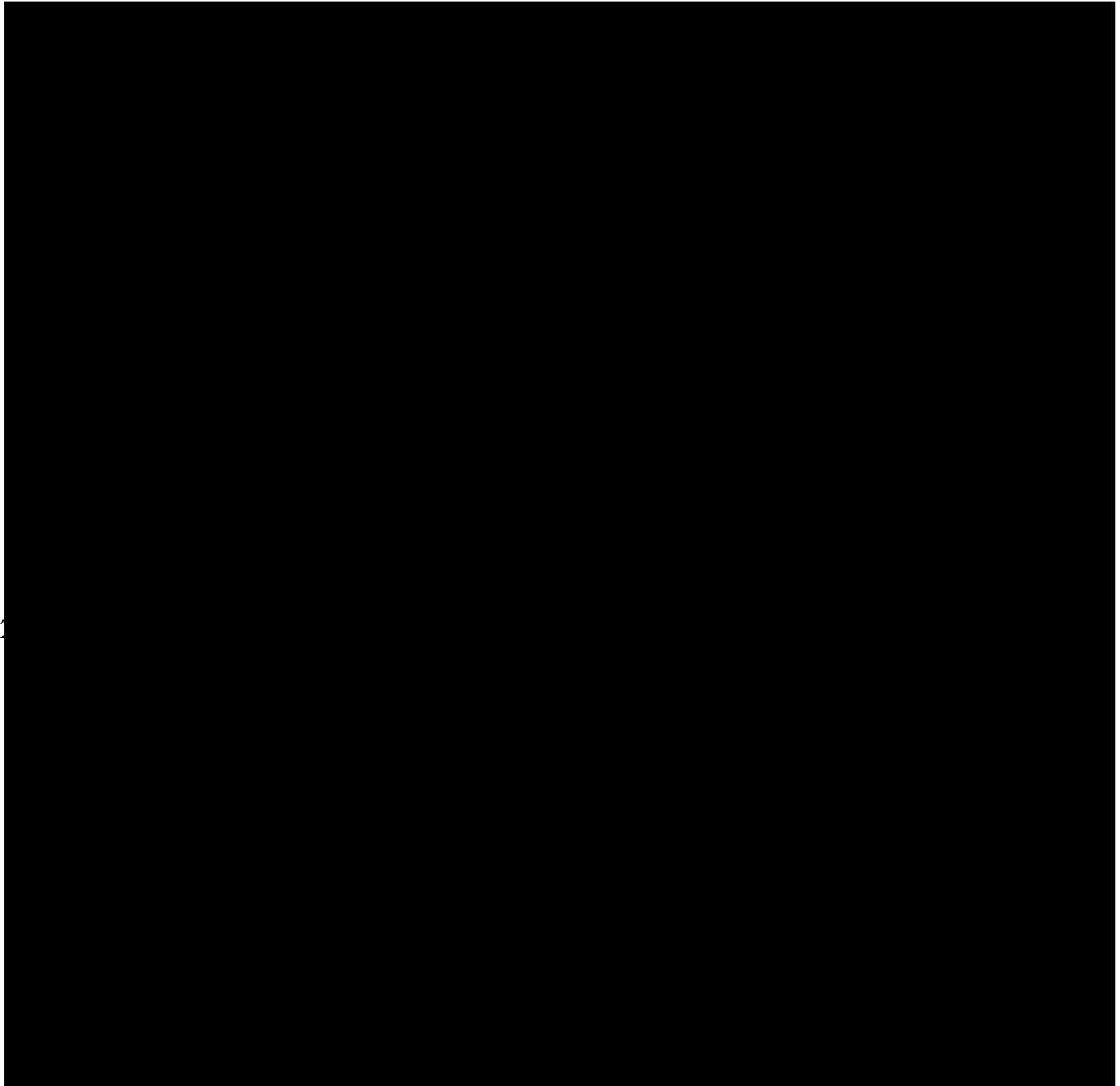
Regards.

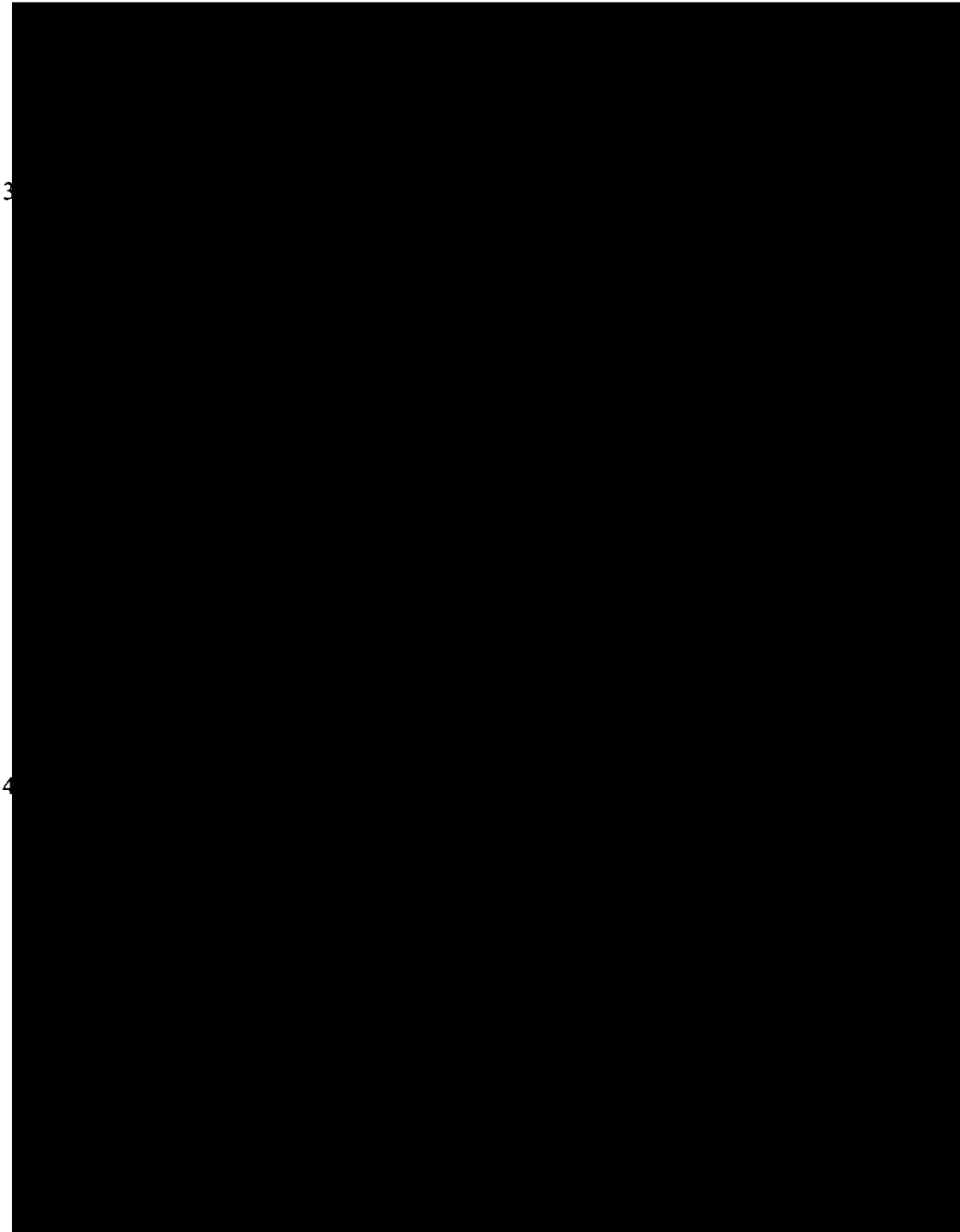
Robert Englehart QC  
10/12/03

<<Barton.gmc.doc>>

IN THE MATTER OF DR. J BARTON

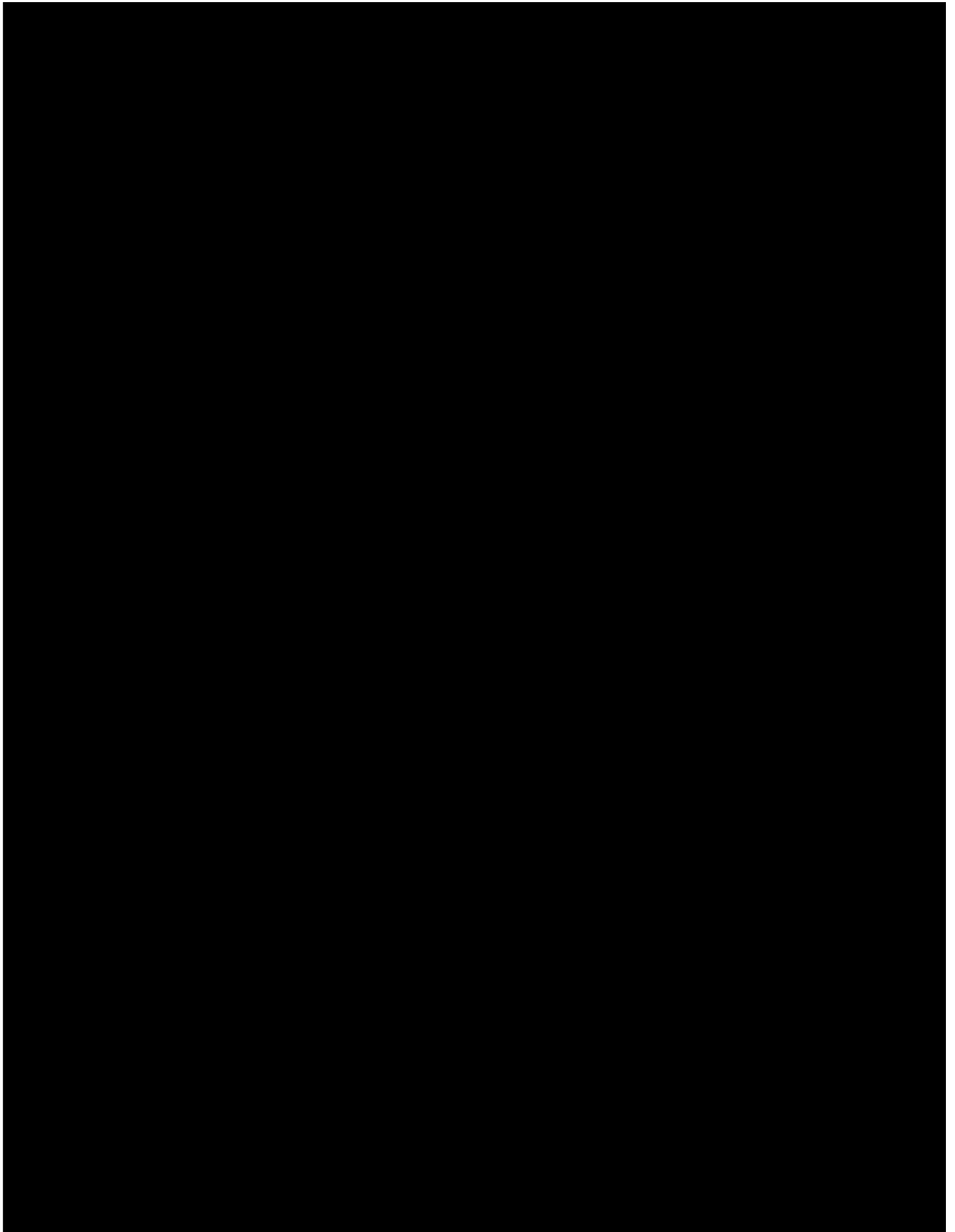
**ADVICE**



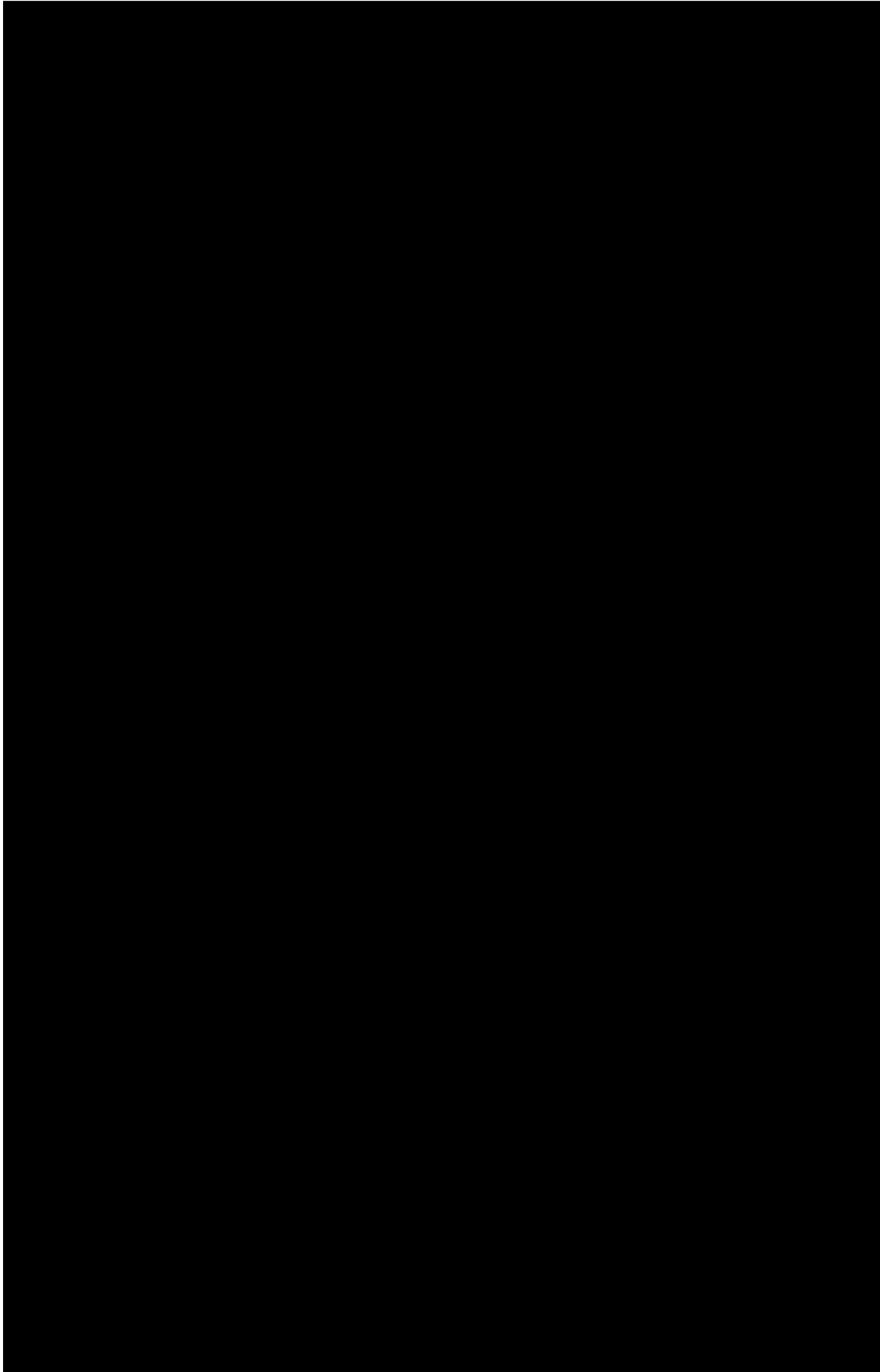


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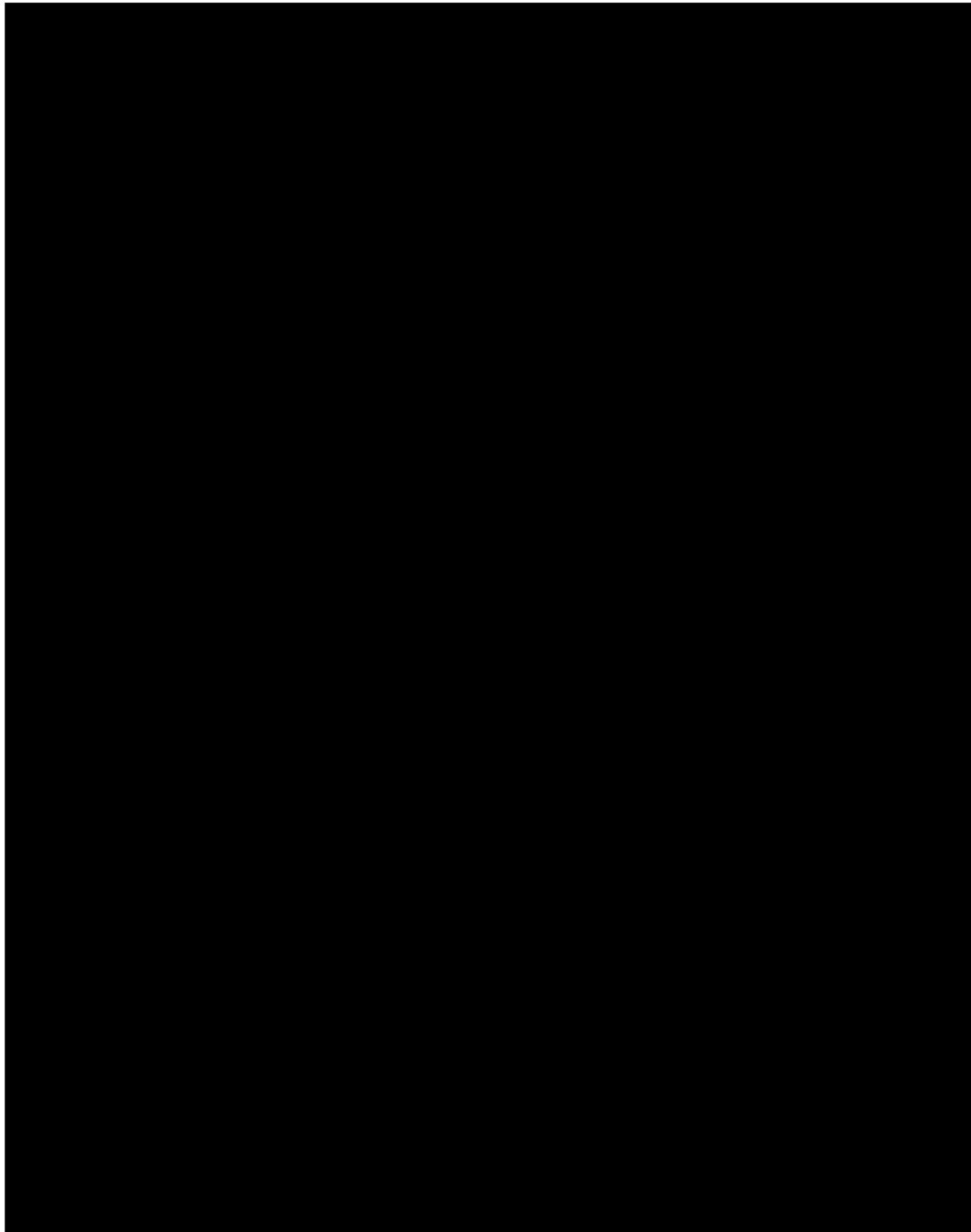


8.



9.





10 December 2003

ROBERT ENGLEHART QC

Blackstone Chambers

IN THE MATTER OF DR. J BARTON

**ADVICE**

Fitness to Practise  
General Medical Council  
178 Great Portland Street  
LONDON W1W 5JE

Ref: TS/Advice/Barton

In reply please quote **FPD/LQ/2000/2047**

**Please address your reply to  
Conduct Case Presentation Section, FPD  
Fax**

7 January 2004

Detective Chief Superintendent Steve Watts  
Police Headquarters  
Hampshire Constabulary  
West Hill  
Winchester  
Hampshire  
SO22 5DB

## GENERAL MEDICAL COUNCIL

*Protecting patients,  
guiding doctors*

Dear Mr Watts

**Dr J A Barton**

It is some time since we discussed the case of Dr Barton, and I am now writing to let you know the current position although in essence from our point of view it has not changed since October 2003.

Following receipt of your letter of 6 October 2003 I discussed the case with our Principal Legal Adviser and then submitted the information you gave me to the Medical Screener. The Screener determined that the case should not be referred back to the Interim Orders Committee (IOC) at the present time as there was no new evidence to put to the Committee.

As we discussed, any papers which are submitted to the IOC in respect of a doctor must be made available to that doctor. Therefore I am not able to reassure you that any material you might provide to the GMC in respect of Dr Barton would not be disclosed to her.

In your letter of 6 October 2003 you referred me to Professor Baker's report but this has not been made available to the GMC.

I am aware that your second team of experts was expected to report in January 2004 and I would be grateful to receive further information from you as and when you are in a position to disclose it.

Yours sincerely

**Code A**

**Linda Quinn  
Conduct Case Presentation Section  
Fitness to Practise Directorate**

Direct Line:

Fax:

E-mail address:

RECEIVED  
12 JAN 2004

Code A

Don Aston,

Code A

Ms Linda Quinn,  
General Medical Council,  
178, Great Portland Street  
W1N 6JE

10th January 2004

Dear Ms Quinn,

1587920 Dr Jane Ann Barton

Please excuse this note but you may remember kindly agreeing to speak to me regarding Dr Barton last Friday morning. My interest in her case arises because once again it concerns the levels of opioid ( and sedative ) use considered appropriate to relieve physical pain and mental distress in the later - and perhaps terminal - stages of life.

The attached sheet attempts to show the major disparities in the published sources of guidance available to doctors prescribing opioids in palliative care. The BMA for instance still simultaneously publishes two such incompatible sources - the six-monthly British National Formulary and the BMJs hospice-influenced ABC of palliative care. These of course would have been available to Dr Barton and her colleagues at the time they were prescribing for Gosport patients unlike the various 'expert' witness opinions which have apparently since been obtained. The CHI investigation unfortunately refers only to the BNF and to the apparently far more restrictive local 'Wessex Guidelines' ( para 7.9 ). The BNF incidentally does justify anticipatory prescribing: 'Analgesics are more effective in preventing pain than in the relief of established pain' quite apart from the more general point that Dr Barton was a full-time GP only able to make brief and perhaps infrequent visits. This of course was a situation similar to that in nursing homes where up to a quarter of all deaths of elderly people now take place and from a much wider range of illnesses/conditions than for example in a hospice with continuous medical cover.

On the basis of such information as has been made public needless to say I feel tremendous sympathy for Dr Barton. It is appreciated that you would no doubt find acknowledging or answering this letter extremely difficult but it is hoped that you at least have some sympathy with the points made in it.

*even if you wanted to that is!!*

With very best wishes

Code A

SOURCES OF GUIDANCE AVAILABLE TO DOCTORS ON THE USE OF OPIOIDS IN TERMINAL CARE

Incompatibilities between sources relate to:

Indicative dose ranges ( please see below )  
 Proportion of patients said to be likely to require high doses ( please see below )  
 Acceptable rate of dose increase when required  
 Treatment of opioid toxicity

Ambiguities relate to:

Assumed administration route ie oral or parenteral.  
 ( in some sources ) Particular opioid to which the indicative dose range relates

ooOoo

Source

Indicative Dose Range ( Assumed to be Oral Morphine Equivalent per 24 hours )

British National Formulary no 32  
 ( to March 97 )

30 to 900mg

British National Formulary no 33  
 ( from March 97 )

30 to 3,000mg

MIMS

No upper limit " Contrary to popular misconception, there is no maximum dose for morphine in [ severe pain ] "

Typical Hospice ( eg Palliative Care Handbook Open University K260 )

15 to 15,000mg ( assumed smooth progression over dose range )

British Medical Journal Sept 97  
 ( ABC of palliative care )

30 to 15,000mg ( " very few need high doses - most require less than 200mg a day " )

Palliative Care Formulary 1  
 Twycross etc

One-third of patients need in excess of 200mg and up to 1,200mg

Oxford Textbook of Palliative Medicine

15 to 15,000mg ( " whilst most patients require 200mg/day or less some need much higher doses " )

Oxford Textbook of Oncology Vol 2

30 - 40% of patients will require more than 200mg

( continues )

Cancer Pain Management –  
McGuire etc &  
Textbook of Pain 3<sup>rd</sup> Ed  
Wall & Melzack

400 – 600mg average  
Requirement – 10%  
Require more than 2, 000mg  
Intramuscularly citing Coyle et al  
( 1990 ) Journal of Pain Management

Hospice Palliative Consultants on Opioid Overdoses

“ Even with accidental overdose 5 – 10 times the routine dose, the patient is only likely to become drowsy for a few hours and then recover spontaneously. “ Dr Kilian Dunphy “ There is abundant evidence of people having been given inadvertently 20, 30 and even on one occasion 100 times what had been prescribed. Whilst it can be a tragic error, the patient may wake up 4 hours later to say it is the best sleep he has had for some time ..... there is no danger in these drugs. “ Dr Derek Doyle

*Don Aston*

**Code A**



## HAMPSHIRE CONSTABULARY

Paul R. Kernaghan QPM LL.B MA DPM MIPD  
Chief Constable

Western Area Headquarters  
12-18 Hulse Road  
Southampton  
Hampshire  
SO15 2JX

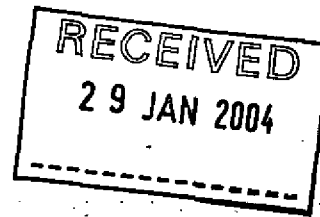
Our Ref.

Tel. 0845 0454545  
Fax. 023 80599838

Your Ref. FDP/LQ/2000/2047

28<sup>th</sup> January 2004.

Ms Quinn  
Conduct Case Presentation Section  
FPD  
General Medical Council  
178 Great Portland Street  
London, W1W 5JE



Dear Ms Quinn

### **Re Gosport War Memorial Hospital – Operation Rochester**

Thank you for your letter of the 7<sup>th</sup> January 2004, addressed to Mr Watts, the content of which I have noted. At the present time Mr Watts is on leave and I have been asked to reply to you on his behalf.

Within your letter you point out that, in essence, the position of the GMC has not changed since October 2003. Likewise, out of necessity, our position also remains fundamentally the same for the reason given in our letter of the 6<sup>th</sup> October 2003.

In respect of Professor Baker's report, you are correct to point out that reference was made to this document in the same letter. However, I am sure you will understand that distribution of this report is a matter entirely for the office of the Chief Medical Officer.

Having undertaken a process of quality assurance, we are about to commence the process of informing the relatives associated with Operation Rochester with the outcome of the initial analysis of our clinical team. This will be completed by mid February.

In your last paragraph you make reference to our second team of experts and an expectation of a report being ready in January 2004. It is unclear to me why you should think this to be the case. I have read the minutes taken in respect of our meeting held 30<sup>th</sup> September 2003 and our subsequent correspondence and can find no reference to such a report being

- 2 -

expected by January. It was never our position that we would have such an analysis completed by that time. That said, it is our intention to conduct such an analysis by a second team in respect of certain cases. We will, of course, continue to update you, to the extent we can, as to the progress of our investigation. Indeed, it might be useful to consider meeting in the near future should you think that it would be of some use.

If I can be of further assistance, please do not hesitate to contact me.

Yours sincerely Code A

**Code A**

**Nigel Niven**  
**Deputy SIO**



5-2-04  
Dr Barton

Alan Pickering  
Grosport PCT?

Bed Fund

GP beds, they can admit to.

Voluntarily agreed not to admit,  
and not dealing with patients  
at the hospital.

PCT pay GPs to look  
after their patients in  
hosp. bed.

**Code A**

~~Writing to me to confirm  
what he told me.~~

In reply please quote **FPD/LQ/2000/2047**

**Please address your reply to  
Conduct Case Presentation Section, FPD  
Fax  Code A**

6 February 2004

Mr Nigel Niven  
Deputy SIO  
Western Area Headquarters  
12-18 Hulse Road  
Southampton  
Hampshire  
SO15 2JX

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Mr Niven

**Dr J Barton**

Thank you for your letter of 28 January 2004.

I note your comments regarding the second team of experts, and that it was never your intention for their analysis to have been undertaken by January 2004. You also refer to the minutes of our meeting in September 2003. While you and I both took a note, these notes were never agreed between us as formal minutes and we have not seen each other's notes. It is clear from what you say that I have misunderstood what Mr Watts was expecting to be complete by January 2004. It was my understanding, from what Mr Watts said, that the quality assurance check was to be undertaken in October, and that then a second team would be instructed in respect of certain cases, reporting not before January 2004, at which point the police might wish to interview Dr Barton. I now understand the penultimate paragraph of your letter of 28 January 2004 to be the correct and current position.

Please let me know at any time if you think that a meeting would be of assistance to either of our organisations. For our part, at present, apart from the update you have just supplied, we have no further information beyond that included in my letter of 7 January 2004 and our inquiries are on hold pending conclusion of the police investigations.

Yours sincerely

**Code A**

**Linda Quinn  
Conduct Case Presentation Section  
Fitness to Practise Directorate  
Direct Line:  Code A  
E-mail address:  Code A**

Linda Quinn Code A

---

From: Linda Quinn Code A  
Sent: 10 Feb 2004 14:52  
To: Toni Smerdon Code A  
Subject: Dr Barton

I handed to you yesterday a recent letter from the police. Today I have had a telephone call from them and attach my note of that call.



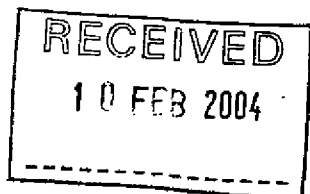
phone  
:-hampshire constab

Linda

**GMC Legal****TELEPHONE NOTE (LF5)**

1.	<b>DATE:</b>	10 February 2004
2.	<b>TIME:</b>	12:00
3.	<b>FROM:</b>	D I Nigel Niven, Hampshire Constabulary
4.	<b>TO:</b>	Linda Quinn
5.	<b>RE:</b>	Dr J Barton
6.	<b>MESSAGE:</b>	<p>DI Niven rang to inform me that, following the categorisation of the deaths (see file note of 30.9.03) and the completion of the quality assurance check by Matthew Lohn, he would be contacting the families this week to inform them as to which category was applicable to their deceased relative. Some people had requested letters, others had requested personal visits. DI Niven will send letters on Wednesday, 11 February 2004, and be making the personal visits on the Thursday. He has notified us as a courtesy, in case any of the families involve the press.</p> <p>DI Niven said that it is effectively the end of the process for some of the families, but he will be explaining that they may be asked for medical records etc by the GMC or the Nursing regulatory body in the future, and he said he would seek permission now, while informing people of decisions, to be able to pass on such documents in the future.</p> <p>We agreed that it might be useful for us to meet in March.</p>
7.	<b>TIME ENGAGED ON CALL:</b>	5 mins

Fareham and Gosport **NHS**  
Primary Care Trust



Unit 180, Fareham Reach  
166 Fareham Road  
Gosport  
PO13 0FH

Tel: 01329 233447  
Fax: 01329 234984

Ms Linda Quinn  
Senior Case Worker  
General Medical Council  
Fitness To Practice Directorate  
178 Great Portland Street  
LONDON  
W1W 5JE

9 February 2004

Dear Ms Quinn

Further to my telephone conversation with you today, I can confirm that the practice in which Dr Jane Barton (a local GP in the Gosport area) is based is part of a 'bed fund'. This fund is designed to enable local GP practices to admit their patients for appropriate care, supervised by the GP, paid for by the PCT as a service.

Approximately, 18 months ago Dr Barton agreed voluntarily not to admit patients to the hospital nor supervise any patients in the hospital.

This is the current position and it has not changed over time.

As Dr Barton is a GP her relationship with the PCT is one of providing a service for which payment is made, consequently she is not an employee and the issue of suspension in any form does not apply in this case.

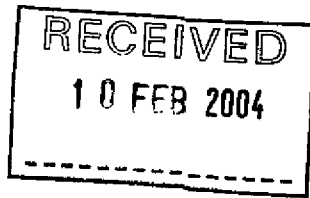
I trust this clarifies matters. Please contact myself or Ms Fiona Cameron, Director of Nursing and Clinical Governance should you require any further information.

Yours sincerely

**Code A**

Alan Pickering  
Deputy Chief Executive

Fareham and Gosport **NHS**  
Primary Care Trust



Unit 180, Fareham Reach  
166 Fareham Road  
Gosport  
PO13 0FH

Tel: 01329 233447  
Fax: 01329 234984

Ms Linda Quinn  
Senior Case Worker  
General Medical Council  
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178 Great Portland Street  
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W1W 5JE

9 February 2004

Dear Ms Quinn

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This is the current position and it has not changed over time.

As Dr Barton is a GP her relationship with the PCT is one of providing a service for which payment is made, consequently she is not an employee and the issue of suspension in any form does not apply in this case.

I trust this clarifies matters. Please contact myself or Ms Fiona Cameron, Director of Nursing and Clinical Governance should you require any further information.

Yours sincerely

A dashed rectangular box containing the text "Code A" in a large, bold, sans-serif font.

Alan Pickering  
Deputy Chief Executive

RE: Dr Jane Barton

Page 1 of 3

**Linda Quinn** Code A

---

**From:** Lohn, Matthew Code A  
**Sent:** 11 Feb 2004 19:23  
**To:** GMC - Linda Quinn Code A  
**Subject:** RE: Dr Jane Barton

Hopefully about 10.30

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

**From:** GMC - Linda Quinn Code A  
**Sent:** Wednesday, February 11, 2004 4:25 PM  
**To:** Lohn, Matthew; GMC - Linda Quinn Code A  
**Cc:** Chrystie, Judith  
**Subject:** RE: Dr Jane Barton

Yes, I am around in the morning. What time were you thinking of?

Linda

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

**From:** Lohn, Matthew Code A  
**Sent:** 11 Feb 2004 16:27  
**To:** GMC - Linda Quinn Code A  
**Cc:** Chrystie, Judith  
**Subject:** Dr Jane Barton

Are you around tomorrow morning for 5 mins to discuss this case?

I am over at the GMC and could pop round

Regards

Matthew

Matthew Lohn  
Field Fisher Waterhouse

**Code A**

[www.ffw.com](http://www.ffw.com)

12/02/2004

Linda Quinn Code A

From: Chrystie, Judith Code A
Sent: 11 Feb 2004 19:11
To: GMC - Linda Quinn Code A
Subject: Out of Office AutoReply: Dr Jane Barton

I am out of the office until 13 February 2004

Should you require any urgent assistance, please contact my secretary Code A on Code A

\*\*\*\*\*

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\*\*\*\*\*



**Linda Quinn** Code A

---

**From:** Linda Quinn Code A  
**Sent:** 22 Sep 2003 16:47  
**To:** Matthew Lohn Code A  
**Subject:** Dr Barton

Matthew, Alex

Regarding the police request that we do not tell Dr Barton if we give the police the IOC transcript, we are able to agree that. However, in order to release the transcript we do need the request, with reasons, in writing - direct from the police.

Linda

Linda Quinn Code A

From: Jackie Smith Code A  
 Sent: 12 Feb 2004 07:48  
 To: Linda Quinn Code A  
 Subject: FW: Dr Barton and a report from Prof Baker

Linda

Please see below.

Jackie

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

From: Paul Philip Code A  
 Sent: 11 Feb 2004 21:02  
 To: Neil Marshall Code A; Sheila Bennett Code A;  
 Jackie Smith Code A; Toni Smerdon Code A; Christine  
 Couchman Code A; Blake Dobson Code A  
 Subject: Dr Barton and a report from Prof Baker

Dear all,

I met the CMO this morning to discuss the case of Dr Barton. He agreed to share with me the report prepared by Prof Baker on this matter. He is doing so in complete confidence and without any consent for us to use it or in anyway disclose this to the doctor. This means that we cannot use it to trigger a further referral to the IOC, which I understand would not be merited on its content in any event.

Should this arrive whilst I am on leave please keep hold of it and do not in any circumstances put this into our process.

Neil could you let Peter L know this and Jackie Linda Quinn. Likewise Blake with his CWMs. We must ensure this is not disclosed outside the GMC.

Paul

-----  
 Sent from my BlackBerry Wireless Handheld

**Fax**

To Matthew Lohn

Fax number 020 7861 4356

From Linda Quinn

Direct Dial

Direct fax

**Code A**

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

No. of pages 5  
(inclusive)

Time 14:30

Date 12 February 2004

Dear Matthew

**Dr J A Barton**

Further to our conversation, I attach a copy of my letter of 2 October 2003 to the police, and you will see that in the first paragraph on the second page I did ask for a detailed written summary of their evidence. In the reply from DCS Watts dated 6 October 2003 (also attached), he says "If I were reassured that material would not be passed to Dr Barton or her representatives, I would be willing to consider, at a future time, providing a more detailed disclosure of information to the GMC." He goes on to suggest discussing matters with the screener to achieve maximum disclosure. You are of course aware that we could not give the required reassurance to the police, and I believe that they understood this. The correspondence was submitted to the screener for her view.

Until September 2003, contact with the police in this case appears to have mainly been through FFW. I would suggest that it would be useful to ask Judith Chrystie if she has any records of having asked directly, on behalf of the GMC, for information from the police.

Yours sincerely

**Code A**

**Linda Quinn**

**Conduct Case Presentation Section**

**Fitness to Practise Directorate**

**Code A**

In reply please quote **FPD/LQ/2000/2047**

**Please address your reply to  
Conduct Case Presentation Section, FPD**  
Fax

2 October 2003

Detective Chief Superintendent Steve Watts  
Police Headquarters  
Hampshire Constabulary  
West Hill  
Winchester  
Hampshire  
SO22 5DB

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Mr Watts

**Dr J A Barton**

I refer to our meeting on 30 September 2003 when you informed me of the stage reached in the Hampshire Constabulary's investigations in this case. I have now had an opportunity to discuss that information within the GMC.

In order for Dr Barton's case to be referred to the Interim Orders Committee (IOC), prima facie evidence is required which is cogent and credible and raises a question as to whether Dr Barton should have a restriction placed on her registration. This information would then be considered by a medical member of the GMC (the screener) with regard to a referral to the IOC. For example, if there is evidence that Dr Barton has been prescribing in an inappropriate and irresponsible manner, and the screener refers this to the IOC, it would be open to the IOC to place a condition on her registration restricting her prescribing. The Committee also has the power to suspend a doctor's registration.

The IOC may make an order when it determines that it is necessary for the protection of members of the public or is otherwise in the public interest or the interests of the doctor. As well as protection of the public, the public interest includes preserving public confidence in the medical profession and maintaining good standards of conduct and performance.

From the information that you provided on 30 September 2003, we consider that it is likely to be in the public interest that the matter is screened. However, we cannot give a final decision without further information.

Therefore could you please supply us with a detailed written summary of the evidence you have in this case to date, including any report prepared by the team of experts. The decision on referral of the information to IOC rests with the screener. If the information supplied is very brief, while it is likely that it would be passed to the screener, there is a possibility that the screener would not refer it to the IOC.

As we discussed on 30 September 2003, if **Code A** case is referred to the IOC, the documentation you provide will be disclosed to her and her legal representatives.

Could you please confirm whether the 62 individual cases scrutinised by your team of experts include the five which are already known to the GMC, as follows:

- **Code A**  
-  
-  
-  
-

We are grateful to you for keeping us informed of the progress of your investigation, and would ask that you continue to do so.

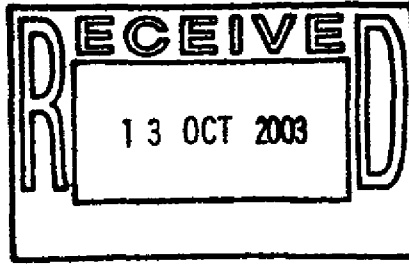
Please let me know if you require any further information from me before responding to this letter.

Yours sincerely

**Code A**

Linda Quinn  
Conduct Case Presentation Section  
Fitness to Practise Directorate

**Code A**



Hampshire Constabulary  
Police Headquarters  
West Hill  
WINCHESTER  
Hampshire  
SO22 5DB

S Watts MSc DPM MIMgt  
Detective Chief Superintendent  
Head of CID

Tel: 01962 871404  
Fax: 01962 871130  
Telex: 47361 HANPOL

email: Code A

Your ref:

Our ref: SW/chm

6<sup>th</sup> October 2003

Ms L Quinn  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

Dear Ms Quinn

**Re: Gosport War Memorial Hospital - Operation Rochester**

Thank you for your letter dated 2 October 2003, following our meeting on 30 September 2003 regarding the above matter.

I note your comments, in particular the processes by which the GMC may consider the matter of registration.

The summary which we provided you in respect of our investigation, indicated that a team of clinical experts had examined hospital records in respect of 62 patients at Gosport War Memorial Hospital, under the care of Dr Barton. In a significant number of those cases, the experts take the view that there was negligent care and that the causation of death is unclear. As my colleague DI Niven and I explained, much further work needs to be done to validate and develop these very provisional findings. We took the view, however that the GMC and the relevant Strategic Health Authority should be appraised of this information.

As we explained to you, our primary concern always is the safety of the public. That said, we are also expected to investigate serious allegation such those involved here in a professional and ethical manner. We therefore have to strike a balance between conducting our investigation in the appropriate fashion whilst realistically assessing the risk to the public. Put simply, our ability to disclose information would need to be based on an assessment of the risk that was presented now by Dr Barton.

Our investigation has only considered cases up to 1998 and all relate to the treatment of patients at the Gosport War Memorial Hospital. All the cases of concern raise issues in respect of the use of opiates. My understanding at the present time is that Dr Barton is not allowed to work at the Gosport War Memorial Hospital, and is not authorized to prescribe opiates.

On the basis of the above, I think more assessment needs to be conducted to quantify and clarify the risk that Dr Barton continuing to practice currently presents to the public safety. I would emphasize that our investigation has only concerned itself with issues within the Gosport War Memorial Hospital and not in any other area of practice by any medical staff. You will be aware that Professor Richard Baker was tasked with conducting some analysis by the Chief Medical Officer. His remit would have been wider than ours and although I do not know the outcome of his research, I would imagine any conclusions he has reached might assist you in your deliberations.

It is probable that we will need to interview Dr Barton at length. The interview process is predicated upon a detailed strategy which will include a careful consideration of the information supplied to Dr Barton prior to interview. I note that your letter indicates that any information supplied to the GMC will in its totality be supplied to Dr Barton. Any uncontrolled disclosure to Dr Barton has the potential to detrimentally impact upon the investigation, and I therefore would be reluctant to disclose further information until the above issue of risk has been given thorough consideration.

If I were reassured that material would not be passed to Dr Barton or her representatives, I would be willing to consider, at a future time, providing a more detailed disclosure of information to the GMC. We would be more than happy to discuss with the GMC 'Screener' how we may best achieve the maximum disclosure without a detrimental impact upon the investigation.

Finally, in answer to your question, I can confirm that the patients that you name in the second page of your letter of 30 September were included in those reviewed by the team of clinical experts.

I look forward to hearing from you so that we may progress this matter together.

Yours sincerely

**Code A**

Code A

Steve Watts

Detective Chief Superintendent  
Head of CID

Linda Quinn Code A

---

**From:** Linda Quinn Code A  
**Sent:** 15 Mar 2004 15:16  
**To:** Paul Philip Code A; Jackie Smith Code A  
**Subject:** Dr Barton

Paul, Jackie

I have checked the Barton files to ascertain what we know about Dr Barton having made a voluntary undertaking not to prescribe opiates and benzodiazepines. From our information, it does **not** appear that she is subject to any undertaking at present, although she has been in the past, as follows:

We have a copy of a letter from Dr Old, Acting Chief Exec of the Health Authority, to Dr Barton, dated 13 February 2002, in which it is noted that Dr Old and Dr Barton had agreed on 12 February 2002 that she "would voluntarily stop prescribing opiates and benzodiazepines with immediate effect" and that "We were unable to put a timescale on these restrictions but agreed to review the situation monthly." On 21 March 2002 Dr Barton confirmed to IOC under oath that she was "not prescribing any opiates or benzodiazepines at the moment".

At IOC in September 2002 Dr Barton's counsel informed the Committee that Dr Barton "continues to work full time as a GP subject to other matters. She does not routinely prescribe benzodiazepines or opiates." Counsel then referred to the condition Dr Barton had previously agreed with the Health Authority and said that the HA had lifted the condition. He then noted that that was the only change in Dr Barton's circumstances since March 2002.

We have had not information on this prescribing point since the last IOC meeting in September 2002.

However I have recently clarified with Fareham and Gosport PCT Dr Barton's relationship with the Gosport War memorial Hospital. They have confirmed that Dr Barton was never an employee of the hospital, but that her GP practice is part of a bed fund (enabling local GP practices to admit their patients for appropriate care, supervised by the GP and paid for by the PCT. Approximately 19 months ago Dr Barton agreed voluntarily not to admit patients to the hospital nor supervise any patients n the hospital, and this is the current position.

I will confirm to the police that Dr Barton has not made any voluntary undertaking to the GMC.

Linda



Isle of Wight, Portsmouth and **NHS**  
South East Hampshire  
Health Authority

Finchdean House  
Milton Road  
Portsmouth PO3 6DP

Tel: 023 9283 8340  
Fax: 023 9273 3292

Direct Line  
Direct Fax **Code A**

Our Ref: PO/JD/021302jb.doc

13 February 2002

Private & Confidential  
Dr Jane Barton

**Code A**

Dear Dr Barton

Following our meeting last night I wish to set out the basis of our agreement. I have shared this letter with Dr Ian Reid since it relates, in part, to the Gosport War Memorial Hospital.

- We agreed that you would cease to provide medical care both in and out of hours for adult patients at Gosport War Memorial Hospital.
- We agreed that you would voluntarily stop prescribing opiates and benzodiazepines with immediate effect.
- We were unable to put a timescale on these restrictions but agreed to review the situation monthly.

In view of the anticipated press interest, the Health Authority and Portsmouth HealthCare NHS Trust have prepared a draft statement which we have attached for your perusal.

Many thanks for your co-operation.

Yours sincerely

**Code A**

Dr Peter Old  
Acting Chief Executive

Email Address: **Code A**

Attachment



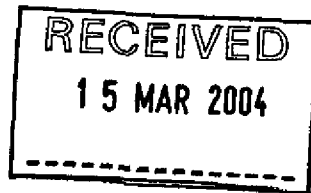
# HAMPSHIRE CONSTABULARY

Paul R. Kernaghan QPM LL.B MA DPM MIPD  
Chief Constable

Operation Rochester  
Fareham Police Station  
Quay Street  
Fareham  
Hampshire, PO16 0NA

Our Ref. Op Rochester

Your Ref.



Tel. 0845 0454545  
Fax. 023 80599838

11<sup>th</sup> March 2004

Ms L Quinn  
General Medical Council  
178 Great Portland Street  
London  
W1W 5JE

Dear Ms Quinn,

**Re: Operation Rochester – Relocation.**

I am writing to inform you of our relocation. From Monday the 15<sup>th</sup> of March 2004, the Operation Rochester team will be working from the incident rooms at Fareham Police Station. This relocation has provided the investigation team with additional office space to support the ongoing enquiry.

I have provided below our contact numbers.

Our direct dial number is .

Our fax number is .

The direct dial number will be connected to the answer phone when the office is unmanned.

*If I can assist you in any way, please do not hesitate to contact me.*

**Code A**

Nigel Niven  
Deputy Senior Investigating Officer

Linda Quinn Code A

---

**From:** Timms, Mary Code A  
**Sent:** 15 Mar 2004 16:55  
**To:** GMC - Linda Quinn Code A  
**Cc:** Lohn, Matthew  
**Subject:** RE: Dr Barton

Linda

I think Matthew is having a word with Jackie about this. My understanding is that because we act for the police we have a conflict of interest and it would not be appropriate for us to draft the letter. I did mention a possible conflict to Paul and I think Matthew touched on it with him but perhaps they had not fully talked it through.

Perhaps you could check with Jackie whether Matthew has managed to speak to her yet

kind regards

mary

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

**From:** GMC - Linda Quinn Code A  
**Sent:** Monday, March 15, 2004 4:08 PM  
**To:** Timms, Mary  
**Cc:** GMC - Jackie Smith Code A  
**Subject:** Dr Barton

Mary

Paul was wondering if you have been able to draft the letter to the police yet?

Linda

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify [gmc@gmc-uk.org](mailto:gmc@gmc-uk.org)

General Medical Council  
 178 Great Portland Street London W1W 5JE  
 Tel: +44 (0) 20 7580 7642  
 Fax: +44 (0) 20 7915 3641

\*\*\*\*\*  
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16/03/2004

In reply please quote **FPD/LQ/2000/2047**

Please address your reply to  
**Conduct Case Presentation Section, FPD**

Fax Code A

16 March 2004

Mr Nigel Niven  
Deputy SIO  
Operation Rochester  
Fareham Police Station  
Quay Street  
Fareham  
Hampshire  
PO16 0NA

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear Mr Niven

**Dr J Barton**

You will recall that it was agreed at our meeting on 27 February 2004 that I would check the GMC files to see if there was any mention of a voluntary undertaking by Dr Barton.

There is no record of Dr Barton having made a voluntary undertaking to the GMC. However, it would appear that she did agree with the Isle of Wight, Portsmouth and South East Hampshire Health Authority in February 2002 that she would voluntarily stop prescribing opiates and benzodiazepines. By September 2002, when the Interim Orders Committee last considered Dr Barton's case, her legal team informed the IOC that the Health Authority had lifted the condition.

Yours sincerely

**Code A**

Linda Quinn

**Conduct Case Presentation Section  
Fitness to Practise Directorate**

**Code A**

**Fax**

To Nigel Niven, DSIO

Fax number 02392 892608

From Linda Quinn

Direct Dial

**Code A**

Direct fax

No. of pages 2  
(inclusive)

Time 17:00

Date 16 March 2004

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Please see attached letter.

TRANSMISSION VERIFICATION REPORT

TIME : 16/03/2004 17:03  
NAME : GMC  
FAX : Code A  
TEL :

DATE, TIME	16/03 17:03
FAX NO./NAME	902392892608
DURATION	00:00:38
PAGE(S)	00
RESULT	ERROR
MODE	STANDARD

**Fax**

To Nigel Niven, DSIO  
 Fax number 02392 892608  
 From Linda Quinn  
 Direct Dial Code A  
 Direct fax

**GENERAL  
 MEDICAL  
 COUNCIL**  
*Protecting patients,  
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No. of pages 2      Time 17:00      Date 16 March 2004  
 (inclusive)

Please see attached letter.

Linda Quinn Code A

From: Linda Quinn Code A  
Sent: 16 Apr 2004 16:07  
To: Kate Walmsley Code A  
Cc: Blake Dobson Code A  
Subject: RE: Case needs updating

Kate

2002/0330 - was adjourned by PPC in September 2003, but is due back to PPC on 7 May 04, so have updated to awaiting PPC.

2002/1345 - more difficult, I have updated to criminal investigation underway, but suspect that this is still a screening stage. Other cases against Dr Barton have already been through PPC but are on hold due to police investigation, and this one also had to be put on hold.

Linda

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

From: Kate Walmsley Code A  
Sent: 16 Apr 2004 12:53  
To: Linda Quinn Code A  
Cc: Blake Dobson Code A  
Subject: Case needs updating  
Importance: High

Dear Linda,

These cases are under your name but still in screening can you please update on FPD system today please or give a reason as to why it is still in a screening stage.

Case Number	Registration & Doctor
2002/0330/01	Code A - Tariquezzaman, Md
2002/1345/01	1587920 - Barton, Jane Ann

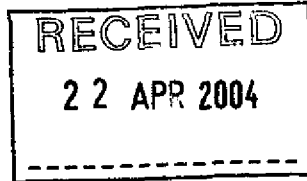
Kind Regards  
Kate



# HAMPSHIRE CONSTABULARY

Paul R. Kernaghan QPM LL.B MA DPM MIPD  
Chief Constable

Police Headquarters  
West Hill  
Romsey Road  
Winchester  
Hampshire  
SO22 5DB



Our Ref. Op Rochester

Tel. 0845 0454545  
Fax. 02392 892608

Your Ref.

21<sup>st</sup> April 2004

Ms L Quinn  
General Medical Council  
178 Great Portland Street  
London  
W1W 5JE

Dear Ms Quinn

Re: Operation Rochester - Investigation into Deaths at Gosport War Memorial Hospital

I write to inform you of a change in the management team on Operation Rochester. From Tuesday 20th April 2004, due to illness, DCI Nigel Niven will be temporarily leaving the enquiry. He will be replaced by DCI David Williams who will assume the role of Deputy Senior Investigating Officer until further notice.

David can be contacted through the incident room at Fareham Police Station on Code A

Yours Sincerely

pp. Code A

SA Watts MSc, DPM, MCIM.  
Detective Chief Superintendent

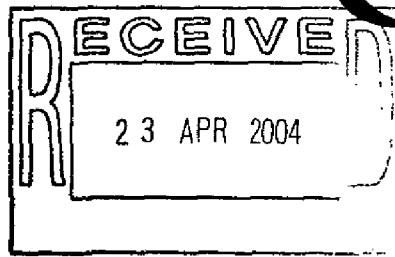


2004-194

From the Chief Medical Officer, Sir Liam Donaldson

Linda Quinn  
Paul PhilipDepartment  
of Health

22 April 2004

Richmond House  
79 Whitehall  
London  
SW1A 2NS

Tel: +44 (0)20 7210 5150-4

Fax: +44 (0)20 7210 5407

Code A

[www.doh.gov.uk/cmo](http://www.doh.gov.uk/cmo)**Personal and confidential**Mr Paul Philip  
Director of Fitness to Practise  
General Medical Council  
178 Great Portland Street  
London W1W 5JE

Dear Paul,

**A Review of Deaths of Patients at Gosport War Memorial Hospital**

Thank you for coming to our meeting on 11 February 2004 to discuss progress at the Gosport War Memorial Hospital and in particular Professor Baker's Report.

As you know, following allegations about the care and treatment of elderly patients at Gosport War Memorial Hospital, both the Police and the Commission for Health Improvement (CHI) have investigated allegations dating back to 1997. These focused on prescribing practices in a small number of wards in the hospital.

While initial investigations by the Police were inconclusive, investigations were reopened last year following further allegations about patient care. That investigation, into 62 deaths, is continuing and is unlikely to conclude before the summer of 2004.

In the meantime, on 5 September 2002, in the light of concerns raised by both the police and CHI, I commissioned Professor Richard Baker (who undertook the audit of Dr Shipman's patients) to carry out a review of patient deaths at Gosport Hospital. I received Professor Baker's final report towards the end 2003.

At our meeting, we discussed the status of that report and that we were constrained from publishing at this time because of the continuing police investigation. However, I do have concerns about some of the issues raised in the report, particularly in relation to Dr Jane Barton, which, following our meeting, I think you need to be aware of.

As you will appreciate, because Dr Barton has not seen the report nor has she had an opportunity to comment on any of its contents, we discussed the possibility of the report being used to provide you with background information about the history of events and allegations at Gosport War Memorial Hospital. I agreed that on that



basis to make a copy of the report available to you in confidence, provided that it is not disseminated or discussed more widely than is necessary. Clearly, in view of the Police investigation you would not be able to use the report for GMC evidential purposes at this time.

If you are content, I should be grateful if you would confirm this and I will send you a copy of the report in confidence.

Kind Regards

**Code A**

**SIR LIAM DONALDSON  
CHIEF MEDICAL OFFICER**

Toni Smerdon Code A

From: Francesca Compton Code A on behalf of Peter Steel Code A  
Sent: 30 Apr 2004 14:47  
To: Paul Philip Code A  
Cc: Toni Smerdon Code A  
Subject: Dr Barton - letter to the police

Dear Paul

I attach the proposed letter to the police in the above case. If you are happy with it, please let Toni know and she will make sure it get sent out.

Regards,  
Peter



0430 - let to dsi  
watts.doc

*Paul*

*Toni is dragging  
your response on  
this. If you agree  
to the letter, she'll send  
it out on Peter's  
behalf.*

Code A

*4/30/04*

*file - Gen Advice  
2004*

Our Ref: PS/PCC/Barton  
Your Ref: Op Rochester

5 May 2004

Detective Chief Superintendent Steve Watts  
Head of CID  
Police Headquarters  
West Hill  
Romsey Road  
Winchester  
Hampshire SO22 5DB

**GENERAL  
MEDICAL  
COUNCIL**

*Protecting patients,  
guiding doctors*

Dear DCS Watts

**Operation Rochester – Investigation into Deaths at Gosport War Memorial Hospital**

I am a Solicitor and Principal Legal Advisor at the General Medical Council. I am writing in relation to the ongoing police investigation into possible criminal charges concerning deaths at Gosport War Memorial Hospital.

As you know from discussions with officers at the GMC, we are also investigating conduct issues concerning Dr Jane Barton arising out of the same facts as those which refer to your investigation.

GMC Involvement

The case against Dr Barton began in July 2000 when your force began an investigation into the circumstances surrounding the death of Gladys Richards, a geriatric patient at Gosport War Memorial Hospital ('the hospital'). The investigation was subsequently extended to four other deaths, Arthur "Brian" Cunningham, Alice Wilkie, Robert Wilson and Eva Page.

In February 2002, the Crown Prosecution Service decided against a criminal prosecution. At this point the relevant papers were disclosed to the GMC to decide on any issues of serious professional misconduct or seriously deficient performance. In August 2002, the case was referred by the GMC's Preliminary Proceedings Committee for hearing before the Professional Conduct Committee ('PCC').

The case has been referred on 3 occasions (June 2001, March 2002 and September 2002) for consideration of whether Dr Barton's registration should be restricted prior to hearing before the PCC.

On 28 May 2002, Mrs Mackenzie (daughter of the late Gladys Richards) wrote to the GMC. She copied the letter to David Blunkett MP, your force, Nigel Waterson MP, Peter Viggers MP, the Police Complaints Authority, the CPS and David Parry of Treasury Counsel. She was concerned about the failures of the police investigation. As a result, your investigation was reopened. In July 2002, the then Commission for Healthcare Improvement published a report entitled "Gosport War Memorial Hospital Investigation into the Portsmouth Healthcare NHS Trust". The report did not name Dr Barton specifically, but referred to the criminal investigations and criticised the systems in place at the time.

On 30 July 2002, Mrs Mackenzie informed the GMC that the police were seeking advice from the CPS about the investigations and as a result were reconsidering the 5 cases.

#### The GMC and the police investigation

On 20 November 2002 Detective Inspector Niven and Detective Sergeant Kenny met Judith Christie of the GMC's solicitors, Field Fisher Waterhouse ('FFW'). Ms Christie was informed that a meeting was arranged between your force and the CPS on 28 November 2002. The result of that meeting was that the investigation should be continued and expanded. By letter dated 2 December 2002, FFW were asked to consider postponing the PCC hearing (which at that point was anticipated to take place in April 2003).

Accordingly the case was removed from the GMC's lists.

On 30 September 2003, you and DI Niven met with Linda Quinn of the GMC to discuss progress in the investigation. You reported that the view of the all the deaths of patients under Dr Barton's care at the hospital had suggested that the treatment of some 15 or 16 fell into the category of "negligence, cause of death unclear". At that point, you anticipated interviewing Dr Barton, once a second team of experts had reviewed these cases, which you believed would be January 2004. You also indicated that you were unable to provide full details of your investigation, as this could jeopardise further investigations and your proposed interview of Dr Barton.

On 2 October 2003, Linda Quinn wrote to you indicating that the GMC was considering referring Dr Barton's case yet again to the Interim Orders Committee and requesting that you supply the GMC with a detailed written summary of the evidence you had obtained, including any report prepared by the team of experts. You replied on 6 October 2003, confirming the content of your discussions with Linda Quinn on 30 September 2003 and stating: "*... our primary concern always is the safety of the public. That said, we are also expected to investigate serious allegations such as those involved here in a professional and ethical manner. We therefore have to strike a balance between conducting our investigation in the appropriate fashion whilst realistically assessing the risk to public. Put simply, our ability to disclose information would need to be based on an assessment of the risk that was presented now by Dr Barton.*"

A Medical Screener of the GMC again considered the case with a view to referring Dr Barton to the Interim Orders Committee in November 2003. However, the Screener felt that as a result of the lack of new evidence, the IOC would come to the same decision as previously.

On 7 January 2004, Linda Quinn wrote to you asking for an update on progress. DI Niven replied on 28 January 2004, indicating that Hampshire Constabulary were unable to provide any further information at that point.

Linda Quinn wrote again on 6 February 2004 saying that the GMC had no further information about the case and that the GMC's inquiries were on hold pending conclusion of the police investigations.

#### Your investigation into Dr Barton

Throughout your investigation you have kindly kept us informed of the actions being taken by you and your colleagues. However, it seems that some two years after the investigation was recommenced, no decision has yet been reached in relation to bringing any charges against Dr Barton.

It would seem that further investigation is still required in relation to a number of matters before you are able to either bring charges or disclose any further information to the GMC.

#### The GMC's position

The General Medical Council, as a public authority, has a duty to bring matters concerning the fitness to practise of registered practitioners to a hearing within a reasonable time. Undue delay can seriously prejudice our function and may result in successful abuse of process applications.

I am very concerned that Dr Barton's GMC case has now been open for almost four years without any substantive progress.

#### Conclusion

The GMC is required to progress complaints against doctors, regardless of the circumstances, as expeditiously as possible. Such information as the GMC has received would suggest grave concerns about Dr Barton's fitness to practise. The current situation, in which the GMC is awaiting developments in the police investigation, without any indication when this may be concluded, is deeply unsatisfactory.

I should be very grateful if you could take the following steps:

- a. indicate when you think it likely your investigations will be concluded and with what result; and
- b. consider again whether there is any further information which you may be able to release that would allow the GMC to progress its own investigation.

In this respect, I would remind you that there is no principle of law which would require any GMC case to await the conclusion of any criminal proceedings against Dr Barton, though the GMC appreciates that in certain circumstances this may be desirable.

The GMC remains concerned that in this very troubling case, it is unable to take the steps that may be required to protect the public, as it is required to do by statute. Whilst we recognise the issues involved from the perspective of the police investigation, our view must be that, should you have information available to you that suggests any risk to public safety is posed by Dr Barton continuing to practise as a doctor, the protection of the public must be both your own and the GMC's primary interest and, as such, it is imperative that this is disclosed to the GMC at the earliest juncture.

I look forward to your early reply.

Yours sincerely

**Code A**

*PS*  
Peter Steel  
Solicitor

Direct Dial

Direct Fax

Email

**Code A**

Code A

Update as at  
7 May 04

**2000/2047**

**Dr Jane Barton**

**Date of PPC referral to PCC: 28 August 2002**

**Considered by IOC on three occasions – June 2001, March 2002 and September 2002 – no order made**

**GMC solicitors: None at present**

The GMC's case against Dr Barton began in July 2000 following referral by the Hampshire Constabulary which had started an investigation into the circumstances surrounding the death of Gladys Richards, a geriatric patient at Gosport War Memorial Hospital. The police investigation was subsequently extended to four other deaths, Arthur "Brian" Cunningham, Alice Wilkie, Robert Wilson and Eva Page.

In February 2002, the Crown Prosecution Service decided against a criminal prosecution. At this point the relevant papers were disclosed to the GMC to decide on any issues of serious professional misconduct or seriously deficient performance. In August 2002, the case was referred by the GMC's Preliminary Proceedings Committee for hearing before the Professional Conduct Committee ('PCC').

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On 30 July 2002, Mrs Mackenzie informed the GMC that the police were seeking advice from the CPS about the investigations and as a result were reconsidering the 5 cases. In November/December 2002, following discussions between the police and the CPS, it was decided that the police investigation should be continued and expanded, and FFW was asked to consider postponing the PCC hearing (which at that point was anticipated to take place in April 2003). Accordingly the case was removed from the GMC's lists.

On 30 September 2003, I met with the police who reported that the review of all the deaths of patients under Dr Barton's care at the hospital had suggested that the treatment of some 15 or 16 fell into the category of "negligence, cause of death unclear". At that point, the police anticipated interviewing Dr Barton, once a second team of experts had reviewed these cases, which they believed would be January 2004. They indicated that they were unable to provide full details of their



investigation, as this could jeopardise further investigations and the proposed interview of Dr Barton.

Until end September 2003, the GMC had been represented by FFW in this matter. However as Matthew Lohn had by that time been appointed by the police to assist in the quality control check on the experts findings, FFW withdrew from the GMC side to avoid and conflict of interest.

On 2 October 2003, I wrote to the police indicating that the GMC was considering referring Dr Barton's case yet again to the Interim Orders Committee and requesting a detailed written summary of the evidence they had obtained, including any report prepared by the team of experts. The police replied on 6 October 2003, confirming the content of their discussions with me on 30 September 2003 and stating: "*... our primary concern always is the safety of the public. That said, we are also expected to investigate serious allegations such as those involved here in a professional and ethical manner. We therefore have to strike a balance between conducting our investigation in the appropriate fashion whilst realistically assessing the risk to public. Put simply, our ability to disclose information would need to be based on an assessment of the risk that was presented now by Dr Barton.*"

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On 27 February 2004 there was a meeting between the GMC (Paul Philip, Jackie Smtih and LQ), Hampshire Constabulary (DCS Watts and DI Niven) and FFW (Matthew Lohn). A summary of the police's position is that they were still investigating, did not know when the investigation would be complete, did not know when they would be ready to interview Dr Barton, and were not willing to give the GMC any of the information they have so far unless we guarantee not to pass it on to the doctor (which they know we cannot guarantee).

At Paul's request, Peter Steel wrote to the Hampshire Constabulary on 5 May 2004 setting out our position and asking when they think their investigations will be concluded, with what result, and to reconsider whether there is any information they can release to us now.

There is a patients' group in connection with Dr Barton's case, and it is represented by Alexander Harris.

Linda Quinn  
7 May 2004