

**From:** Ellson, Sarah [Code A]  
**Sent:** 06 September 2007 10:39  
**To:** [Code A]  
**Cc:** Tomlinson, Tamsin  
**Subject:** RE: Dr Barton

Not to worry I think leaving it to Adjudication was the right approach but we do now have a realistic and workable timetable.

Tamsin is now going to book Counsel for a con which will need to be after he has had some reading time! I am guessing October (subject to his diary) - I am away 6-28 October but I do not want this to delay matters and Tamsin, you and Tom will undoubtedly be able to progress matters while I am away. I will be involved in drafting the instructions before I go.

**Sarah Ellson | Partner**

for Field Fisher Waterhouse LLP

dd: [Code A] | m: [Code A]

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**From:** [Code A]  
**Sent:** Thursday, September 06, 2007 10:25 AM  
**To:** Ellson, Sarah  
**Subject:** RE: Dr Barton

Hi Sarah,

Sorry I've only just seen this email but it has now been overtaken by events.

Do you have a date in mind for a meeting with Counsel?

[Code A]

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**From:** Ellson, Sarah [Code A]  
**Sent:** 05 Sep 2007 19:38  
**To:** [Code A]  
**Cc:** Tomlinson, Tamsin  
**Subject:** Re: Dr Barton

[Code A]

I will obviously follow your clear instructions on this but just want to clarify I think the defence will be asking for 9 (not 6) months. Given the size of the case and the amount of time we will have had (if you include the Eversheds time) I have some sympathy with this and I do think having a realistic timetable with certainty would be helpful. However perhaps we should see how adjudication deal with tomorrow - I am quite happy with the approach the MDU must explain why 3 months is not enough (in fact it will be 4.5 if we get that May slot).

Happy to speak before or after protocol call if you would like.

Sarah Ellson | Partner

for Field Fisher Waterhouse LLP

dd: [Code A] I m: [Code A]

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

From: [Code A]

To: Ellson, Sarah [Code A]

CC: Tomlinson, Tamsin [Code A]

Sent: Wed Sep 05 13:05:04 2007

Subject: RE: Dr Barton

Hello,

I have now discussed with Peter and he is of the view that the defence should only be given three months to prepare their case.

He is of the view that if the defence require 6 months it will be for Adjudication to determine whether or not they can have it.

[Code A]

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From: [Code A]

Sent: 05 Sep 2007 10:07

To: 'Ellson, Sarah'

Cc: Tomlinson, Tamsin

Subject: RE: Dr Barton

Hello,

I will need to consult Peter and he is out of the office until this afternoon.

I have just checked with Adjudication and the first available date for a 8 week hearing in London is from 19 May 2007.

[Code A]

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From: Ellson, Sarah [Code A]  
Sent: 04 Sep 2007 17:51  
To: [Code A]  
Cc: Tomlinson, Tamsin  
Subject: Dr Barton

Just had a long and helpful call with Ian Barker at MDU in anticipation of protocol call.

I have brought him round from initial view that it might not be worth having call at this stage because it is too early to know the scope of the case. We both agree having a date to work to and being able to book Counsel will be helpful. They will be using Alan Jenkins and Tim Langdale QC.

The difficulty is that I have sketched out a timetable

- copy and disclose materials in possible cases asap (when we are preparing instructions to Counsel)

- confirmation of cases to be issued shortly after our con (Oct/Nov) + poss nature of charges
- draft charges and any outstanding evidence by end of 2007

on this basis - which is still quite tight for us given that we will need to book a block of time with Counsel so he can review and advise - Ian Barker says he would not be ready for a June hearing - he is saying more like September (he is equating the preparation time to a murder case and says 6 months would not be sufficient - I am not sure I agree the analogy and know the Criminal system obviously also tries to get cases on asap)

I need to know whether GMC are concerned to get this on as soon as possible or whether you would prefer to go for the September date for which we will get defence "buy in" and an agreed timetable. If we press for earlier we may face an application any time between now and May saying they are not and cannot be ready - if successful the case would leave a major gap in the GMC calendar and by then would cause re-listing problems. I am inclined to go for co-operation and certainty but know that the case ought to be heard as soon as possible. Service standards are in this case of no relevance but of course the principle is cases ought to be listed sooner rather than later. In the scheme of things a further 3 months would not be significant.

We will also be seeking a London listing but I did explain that there is limited space in London and other major cases might need to be listed in London. I think we will be asking for an 8 week listing which is only a guesstimate but Ian agreed with my back of the envelope calculations.

Can you let me have the GMC view/instructions so that I can prepare for Thursday's call - thanks

Sarah Ellson | Partner

for Field Fisher Waterhouse LLP

dd: [Code A] I m: [Code A]

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**From:** [Code A]  
**Sent:** 09 August 2007 15:05  
**To:** Rebecca Faulkner [Code A]  
**Subject:** RE: GMC : Dr Barton, Case Management Procedure (Old Rules)

Rebecca,

I have consulted FFW and we hope to make disclosure by the end of August and we should also be in a position to let the MDU know which cases we are proceeding with by then. It thus would be prudent to have the telecon sometime in September depending upon all parties availability.

[Code A]

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**From:** Rebecca Faulkner [Code A]  
**Sent:** 08 Aug 2007 10:14  
**To:** [Code A]  
**Subject:** FW: GMC : Dr Barton, Case Management Procedure (Old Rules)

Hi [Code A]

Can you help me out on the below ? Not sure how to respond on the disclosure issues she raises - is this necessary before the telecon ?

Thanks,  
Rebecca

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**From:** Mason, Sara [Code A]  
**Sent:** 07 August 2007 18:49  
**To:** Rebecca Faulkner [Code A]  
**Cc:** Eke, Debbie  
**Subject:** RE: GMC : Dr Barton, Case Management Procedure (Old Rules)

Dear Rebecca

Thank you for your email. Ian has not have received the emails below; the email address used is incorrect. He would have responded to you if he had. Although this is an old rules case, I confirm that we would wish Dr Barton represented at any case management meeting arranged. I understand however that Ian still does not even know with which cases the GMC plan to proceed to a hearing, and is also still waiting for further disclosure, in particular of expert evidence, from the GMC Solicitors. It would be helpful to have this information and documentation before any meeting is arranged, as without it neither Ian or I are likely to be able to make any meaningful contribution. As far as arranging the meeting is concerned, it would make more sense for it to be held after Ian's return (not least because I am myself away for two weeks on annual leave the week after next). If you email me some dates this week, I will check his diary and ensure that it is fixed on a date that he can do so there is no further delay.

I look forward to hearing from you.

Regards,

Sara Mason  
Solic

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

**From:** Rebecca Faulkner [Code A]  
**Sent:** 07 August 2007 14:02  
**To:** Rebecca Faulkner [Code A]; Mason, Sara  
**Cc:** [Code A]  
**Subject:** RE: GMC : Dr Barton, Case Management Procedure (Old Rules)

Dear Sarah,

I understand that Mr Barker is now on leave until 28 August. Are you able to offer some assistance on the below correspondence ?

Kind regards,

Rebecca

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**From:** Rebecca Faulkner [Code A]  
**Sent:** 24 July 2007 13:43  
**To:** Rebecca Faulkner [Code A]  
**Cc:** Tamsin Tomlinson [Code A]  
**Subject:** RE: GMC : Dr Barton, Case Management Procedure (Old Rules)

Good afternoon,

As I do not yet appear to have received a response to my below email, I would therefore, like to offer you an additional 7 days to consider this matter further. I would be grateful to receive your confirmation by **2 August 2007** if you wish to participate in the two-stage pre-adjudication case management procedure. If you are no longer representing Dr Barton, I would be very grateful if you could let me know.

I look forward to hearing from you. In the meantime, if you would like any further information, or if you would like to discuss any practical arrangements, please do not hesitate to contact me.

Kind regards,  
Rebecca

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**From:** Rebecca Faulkner [Code A]  
**Sent:** 09 July 2007 15:13  
**To:** [Code A]  
**Cc:** Tamsin Tomlinson [Code A]  
**Subject:** GMC : Dr Barton, Case Management Procedure (Old Rules)

Dear All,



We have been requested to contact you, inviting you to participate in Case Management Procedure for the hearing of Dr J A Barton.

This has been referred under Old Rules ( as opposed to New Rules listing procedure that we have followed since 2004) and I would be grateful if you could indicate if you wish to take part .

The protocol requires two telephone conferences between the following parties :

GMC Adjudication Sections's listings officer (Chair)  
The doctors representative  
The GMC Solicitor  
The GMC Caseworker

The first telephone conference called, called a Stage 3, is fixed to set a timetable for the case, including a provisional listing date, time estimate and location. The second telephone conference - called a Stage 5, is to confirm the listing date and time estimate and to resolve any outstanding procedural or legal issues.

For your reference I attach proformas of the Stage 3 and Stage 5 and also the BT Meet Me guide for assistance in dialling in to a telecon.

I would be very grateful if you could indicate to me, no later than 23 July 2007, if you wish to take part in the protocol.

If you need any further information please do not hesitate to contact me.

Yours sincerely,

Rebecca

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**Rebecca Faulkner**  
**Adjudication Co-ordinator**  
General Medical Council  
Manchester DDI :

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**From:** Ellson, Sarah [Code A]  
**Sent:** 13 August 2007 09:38  
**To:** [Code A]  
**Subject:** RE: Barton

I am down on 5 September but training NMC panellists 9-5 - I would prefer not to stay overnight but could come down night before and have a meeting late on 4 September or very early on 6 September.

I am in Birmingham/Rugby/Coventry 17/18/27 September which makes travelling to London less easy those weeks but I could come especially

I have an HFEA appeal in London either 2 or 3 October but the date has yet to be confirmed - then I need to be in the Manchester office before I go away.

Perhaps we are back to waiting for them to suggest a date.

**Sarah Ellson | Partner**

for Field Fisher Waterhouse LLP

dd: [Code A] | m: [Code A]

---

**From:** [Code A]  
**Sent:** Monday, August 13, 2007 8:45 AM  
**To:** Ellson, Sarah  
**Subject:** RE: Barton

Hello Sarah,

I'm on leave from 7 to 14 September. Are there any other dates when your in London in September?

[Code A]

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**From:** Ellson, Sarah [Code A]  
**Sent:** 13 Aug 2007 08:35  
**To:** [Code A]  
**Cc:** Tomlinson, Tamsin  
**Subject:** Barton

[Code A]

I know that you are waiting to hear from NMC about a meeting to discuss this case but I think we need to press the NMC so that we can start contacting witnesses in the knowledge of where any overlap may be.

I have some time in London in the afternoon of either Monday 10 September or Tuesday 11 September if that is any good for you/them.

My diary for September is filling up and I am away from 6-28 October.

**Sarah Ellson | Partner**  
for Field Fisher Waterhouse LLP

dd: [Code A] | m: [Code A]

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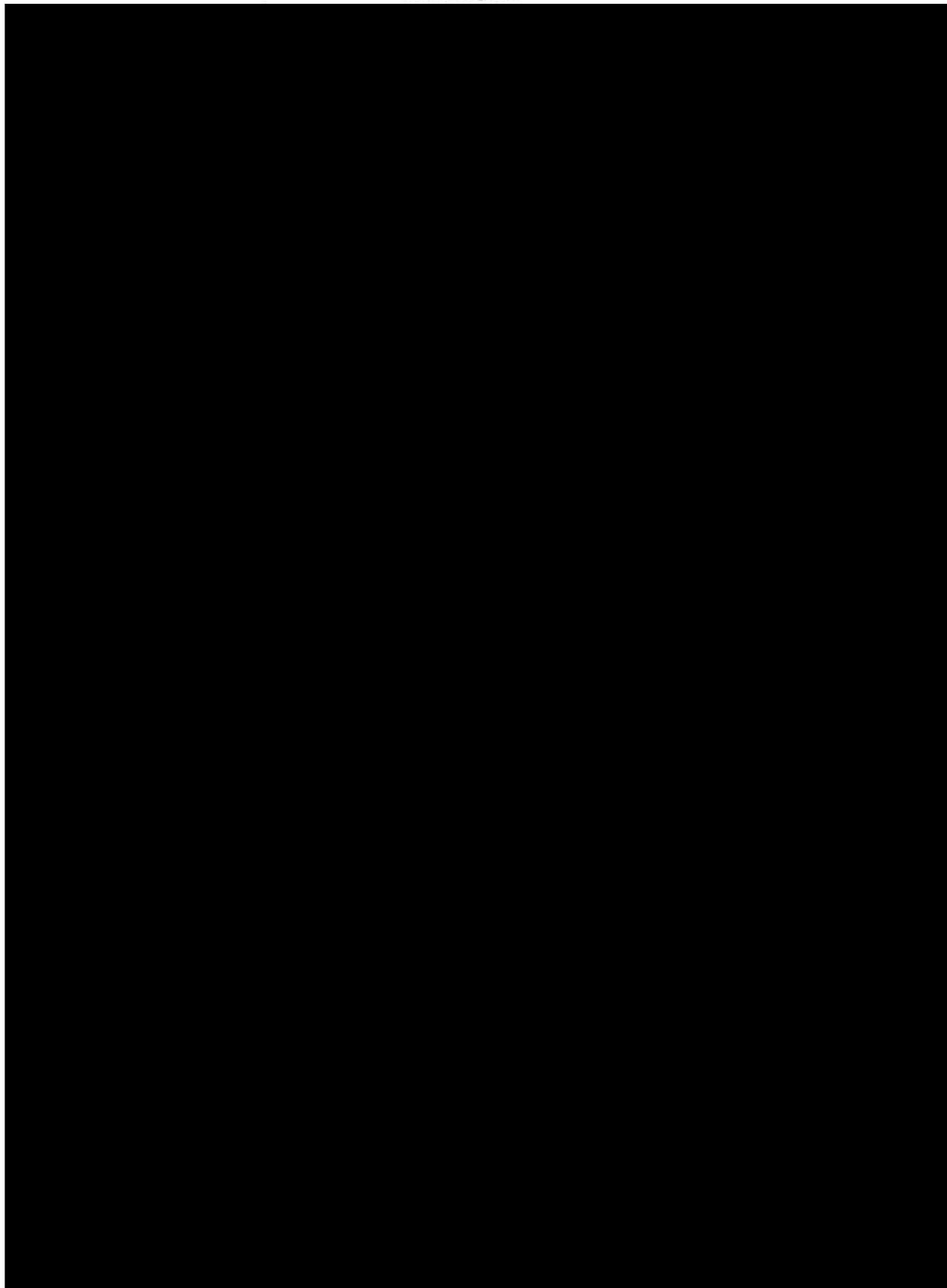
**From:** [Code A]  
**Sent:** 21 September 2007 09:58  
**To:** Michael Cotton [Code A]  
**Subject:** Dr Jane Barton

Michael,

Peter Swain asked me to advise you that the FTPP had been provisionally listed for 8 September 2008 and the hearing is expected to last for 40 days.

[Code A]

Case Report







**From:** Hall, Tamsin [Code A]  
**Sent:** 12 October 2007 16:32  
**To:** [Code A]  
**Subject:** Barton - Expert  
**Attachments:** 6143936\_1.DOC

Hi [Code A]

Professor Black, consultant geriatrician, has provisionally agreed to act as an expert in the Barton case. He wrote reports on 11 of the 13 cases so should not have to do too much work. I enclose his CV for your information.

I had approached Dr Wilcock, palliative care expert, but he is not willing to act.

He has quoted a fee of £200 per hour inclusive of expenses. We had budgeted £20,000 for the expert fees for this case. It is hard to estimate exactly what his fees will end up being, dependant on for example how much time we need him to attend of the hearing.

He is able to attend for some of the conference on Friday. Perhaps you could confirm that you are happy for him to attend and then I could negotiate his fees with him if we then decide to continue with his instructions. (It may be that he will agree to an hourly rate with a capped amount).

The conference for Friday is arranged for 10:30. I look forward to seeing you then.

Regards

Tamsin

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**Code A**



**From:** [Code A]  
**Sent:** 16 October 2007 10:47  
**To:** 'Hall, Tamsin'  
**Subject:** RE: Barton - Expert

Tamsin,

Thank for your email,

### Expert

I think it's prudent for Professor Black to attend part of the conference as it may help as determine whether we also require a Palliative Care expert.

### Other doctors

Do you know the Christian names of Dr Lord and Dr Black so that I can check whether there are any GMC proceedings against them?

### Costs

After the conference could you provide us with a revised costs estimate please.

### Conference

Could you let me know what time the conference is likely to finish please.

Thanks [Code A]

---

**From:** Hall, Tamsin [Code A]  
**Sent:** 12 Oct 2007 16:32  
**To:** [Code A]  
**Subject:** Barton - Expert

Hi [Code A]

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being, dependant on for example how much time we need him to attend of the hearing.

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Regards

Tamsin

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**From:** Paul Hylton [Code A]  
**Sent:** 24 October 2007 09:54  
**To:** [Code A]  
**Subject:** Dr Barton

[Code A]

Mr Stevens just called re an update on the case. He has received a letter from FFW to explain that they have taken over the case, but he has not heard anything since. He does phone for updates from time to time, his wife was one of the patients who died, and he is always very pleasant and polite.

If you have anything that you can tell him his number is [Code A]

Paul

**From:** [Code A]  
**Sent:** 26 October 2007 08:21  
**To:** Tamsin Hall ffw (formerly Tomlinson) [Code A]  
**Cc:** [Code A]  
**Subject:** FW: Dr Barton

Hello,

Please note below.

I'm not sure what we are telling patient's families and so we are consistent I would be grateful if you would ring Mr Stevens.

Thanks [Code A]

---

**From:** Paul Hylton [Code A]  
**Sent:** 24 Oct 2007 09:54  
**To:** [Code A]  
**Subject:** Dr Barton

[Code A]

Mr Stevens just called re an update on the case. He has received a letter from FFW to explain that they have taken over the case, but he has not heard anything since. He does phone for updates from time to time, his wife was one of the patients who died, and he is always very pleasant and polite.

If you have anything that you can tell him his number is [Code A]

Paul

**From:** [Code A]  
**Sent:** 26 October 2007 18:50  
**To:** Tamsin Hall ffw (formerly Tomlinson) [Code A]  
**Cc:** [Code A] Peter Swain (020 7189 5150)  
**Subject:** Dr Barton - expert

**Importance:** High

Tamsin,

As you are aware I met Professor Black our expert last week.

Professor Black appeared to be putting forward a number of reasons why he should not be an expert for this case ie.

He would have reservations about being the only expert.

He has previously sat on FTP Panels.

He has not given evidence as an expert before so this would be his first case.

His employer has questioned whether his reputation could be affected by him giving expert evidence.

I expressed my reservations about Professor Black after he left the meeting and I am still concerned that he may not be an effective witness in a case that will attract a lot of publicity and put him under tremendous pressure.

I realise that Professor Black has already provided reports on many of the cases and you were going to look whether it was feasible for us to use Dr Ford as an expert in addition to Professor Black.

As we have a very limited timescale in which to prepare this case, I would be grateful if you and Sarah could review whether it is appropriate to use Professor Black as an expert.

As I will now be on leave until 7 November please include Peter in your reply.

With thanks

[Code A]