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20<sup>TH</sup> January 2005

Dr Simon TANNER  
Director of Public Health  
Hampshire and I.O.W  
Strategic Health Authority  
Oakley Road  
SOUTHAMPTON  
SO16 4GX.

Dear Doctor TANNER

**Re Gosport War Memorial Hospital Investigation. CONFIDENTIAL.**

Thank you for your letter of the 4<sup>th</sup> November 2004 following our meeting of 22<sup>nd</sup> October 2004, requesting that the NHS receive full information about the progress of individual cases.

During our meeting you further requested that if possible it would be useful to receive information supporting the assessment made by the multi-disciplinary team of medical experts in respect of individual 'categorisation' of patients.

Please find attached a schedule relating to 90 patients indicating the categories applied to each particular case and its current status within the context of the investigation. May I stress that this information has not to date been released into the public domain.

I can perhaps summarise the case more helpfully as follows:-

It is difficult to see what conditions restricting dissemination of material would be efficacious bearing in mind that internal fire wall would be viewed with some suspicion. If this is the case then the public interest lies in non-disclosure at least at present.

May I turn to time scales.

Whilst I am reluctant to predict the final disposal date of the police investigation, it is likely that interviews under caution with Dr BARTON and other Healthcare Professionals if appropriate will be completed this year, and case files submitted to the Crown Prosecution Service. A series of continuing monthly interviews will be conducted until June 2005, when the position will be reviewed with the defence solicitor(s).

Evidential medical experts continue to be commissioned and have been encouraged to complete their work by June 2005. The 2 principal experts have a massive undertaking in this respect dealing the most complex of medical issues. Their evidential assessment of the care afforded to the category 3 cases is critical to the outcome of this case, and they must be afforded the time to provide the best possible evidence.

Finally may I turn to the issue of external communication, we continue to work together particularly in terms of media management and this joint approach has proven to be successful in terms of meeting our combined and individual requirements.

Yours Sincerely

David WILLIAMS  
Detective Superintendent  
Senior Investigating Officer.

Disposal of cases to date.

Ten 'Category 3b' cases remain in the process of criminal investigation. (Where negligence of care is assessed as sufficient to warrant full investigation) It is hoped that the bulk of the work in respect of these cases will be complete by June 2005 although realistically a final decision in respect of these cases from the Crown Prosecution Service may not be forthcoming until the end of the year.

There are Four 'Category 3a' cases (Negligent care but death through natural causes) therefore investigation in respect of these is likely to be limited to identifying similar fact evidence.

Fourteen Category 1 cases (cases assessed as optimal care and death being through natural causes) were disposed of in February 2004. No further police/regulatory body action is being taken in respect of these cases.

Twenty Category 2 cases were disposed of in September 2004 (Sub optimal care not extending to negligence warranting further criminal investigation) These cases have been referred to General Medical Council and Nursing and Midwifery Council.

A further Twenty eight Category 2 cases were released from criminal investigation and referred to the GMC and NMC in December 2004.

There remain Eight Category 2 cases subject to further investigation, it is my assessment that these are likely to remain category 2's and as such will be released to the GMC and NMC in the near future.

There are three Miscellaneous cases awaiting clarification of category but likely to fall under either category 1 or 2 those being the cases of COUSINS, TOWN and TAYLOR.

Finally there remain three cases requiring additional analysis by the multi-disciplinary medical team, this work is ongoing.

Of a total of 90 cases therefore, 62 have been released from police investigation, and 28 remain under investigation although effectively only 10 of those cases are likely to form the principal evidence should a prosecution follow.

I now turn to the request for disclosure of multi-disciplinary assessment evidence in respect of these cases. Advice has been received from counsel in respect of this request which I summarise as follows:-

Following the initial multidisciplinary assessment and further evidential assessment there appears to be 'gross negligence' in some of the category 3 cases.

This is an ongoing investigation into potentially very serious matters and there continues a possibility that criminal charges will be brought against individual healthcare professionals and at possibly at managerial/corporate level.

Dr BARTONS practice is voluntarily restricted by agreement with a governing body.

The Commission for Health Improvement have subsequently given a clean bill of health both at individual and structural levels.

There is no known continuing risk to the public at Gosport War Memorial Hospital.

Category 2 cases have been disclosed the GMC and NMC alerting those governing bodies to the nature of problems, under criteria without compromising the core of the investigation, confidentiality has thereby been preserved as has preventing contamination of evidence and possible prejudice to defendant. This decision was balanced against the need to protect the general public from malpractice.

Due to the similarity of issues between category 2 and 3 cases there remains the possibility that the facts of cases within group 2 might be relevant and admissible evidence on charges relating to group 3 cases as evidence of system under the similar fact doctrine.

This might be likely material evidence in relation to corporate responsibility.

Material has to date been disclosed to professional bodies under fairly stringent conditions.

In respect of the request for disclosure by the Strategic Health Authority, if there is an ongoing investigation into Corporate Manslaughter, it may be prejudicial at this stage to disclose material because the SHA and its employees in managerial positions might be suspects, alternatively they may be material witnesses.

Access by suspects/witnesses to the expert evidence (Clinical team notes) may taint or allow for the manipulation/concealment of evidence. There is therefore the potential risk of prejudice /contamination on these grounds.

It is impossible to determine the level of prejudice/contamination sufficient to outweigh the public interest until the investigation is complete.