

Other Document Form

Number T256

Title EMAIL DSUPT WILLIAMS / Code A RE Code C REPORT
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Code A

From: Williams, David M
Sent: 03 March 2005 09:54
To: Grocott, David
Cc: Niven, Nigel; **Code A**
Subject: RE: **Code C**

David..

As discussed, it is entirely appropriate to raise these issues with Dr BLACK to ensure that he constructs his statement to meet the evidential requirement as highlighted by the CPS and the investigation strategy.

This note helpfully documents the rationale towards further contact with DR BLACK, I will commit it to the policy file.

We are not seeking to influence the evidence that he produces, we simply need to provide focus ensuring that the key evidential elements are addressed.

I agree that the terminology used to date, 'balance of probability and beyond all reasonable doubt' are evidence that DR BLACK may still be confused about his brief, whether the standard of proof is met is a matter ultimately for a court to decide on the basis of all of the evidence.

Please visit DR BLACK to discuss.

I will follow the visit with a letter highlighting the issues raised in this E mail.

Thanks for your continuing work in this challenging area.

DW.

From: Grocott, David
Sent: 02 March 2005 18:07
To: Williams, David M
Subject: **Code C**

Sir,

I have read through this report and I believe that Dr Black either misunderstands his brief or is operating outside of what is required. In the letter to Dr Black dated 14/7/04 he was asked to address the following points in respect of each case.

- a) In all the circumstances did the individuals identified receive the proper standard of care/treatment from the medical/nursing staff?
- b) Identify any action or omission by the medical team, nursing staff or attendant GP's that contributed to the demise of any of the individuals?
- c) Identify any acts or omissions that amount to a breach of duty of care, which is so serious as to amount to gross negligence?
- d) Compile a written report in respect of each individual case to be used as evidence in any criminal case.

Dr Black in his original report on Code C

"Of the list"

Code C

He was subsequently asked to refrain from the use of the term balance of probabilities in this context and apply his mind to the balance of proof being "beyond all reasonable doubt"

In the above amended report he now applies the term in inappropriate contexts. In particular paras 7.2 & 7.3. I believe that it is not for Dr Black to have to prove beyond all reasonable doubt that care is negligent that is for the jury. He could say if he felt it was the case that in his professional opinion based upon his experience that the care was or wasn't negligent.

Code C

In Para 7.3 he *states* "While his care is sub-optimal I cannot prove it beyond reasonable doubt to be negligent or criminally culpable."

Again I believe that he misquotes himself, in one Para he's not sure whether the care is sub optimal, in the next Para it is? yet he cannot prove it beyond all reasonable doubt??

If I'm confused then I'm sure others will be. I believe Dr Black should be referred back to his guidance. Does Dr Barton owe a duty of care to the patient (YES) Has there been a breach, (YES) if so what is it? In his professional opinion is the breach negligent or grossly negligent? He can use all sorts of professional evidence to then support what he says. At present he confuses me as to whether or not the care is sub-optimal.

Reported for info

Dave Grocott
