



OP ROCHESTER/HAMPSHIRE CONSTABULARY CONTACT FIELD FISHER WATERHOUSE

11.10.2002. Judith CHRYSTIE FFW solicitor notifies Supt JAMES of her instructions to act on behalf of GMC in respect of investigation into conduct of Dr Jane BARTON.

1.11.2002. Judith CHRISTIE notifies DCI DUNCAN that GMC Professional Conduct Committee hearing scheduled for April 2003.

20.11.2002. Meeting Judith CHRISTIE, John OFFORD (FFW) Michael KEEGAN (GMC Caseworker) DI NIVEN and DS KENNY.

Issues discussed

- Criminal rules of evidence apply to GMC hearing.
- History of Police investigations DCI BURT and Det Supt JAMES.
- Overview of current investigation. Rationale to prove causation developing theme diamorphine/syringe drivers. Investigation to consider the practices of practitioners, including Dr BARTON.
- Noted that Professor BAKER had been asked to perform statistical analysis by CMO.
- Ms CHRISTIE advised that GMC had the power to make an interim order suspending or placing conditions upon a Medical Practitioners Registration notwithstanding that there had been no finding of guilt. In this case the IOC had decided not to place such an interim order (Dr BARTON convincingly argued a lack of resources and supervision and poor working conditions.)
- If information was disclosed by the police investigation, the GMC would be forced to disclose any document they wished to present to the IOC(Interim Order Committee) in reliance of a request for an interim order.
- Formal letters to be written outlining information that would be possible to disclose.
- Alexander HARRIS to be advised that formal lines of communication had been developed but not of content.
- Ms CHRISTIE would contact DI NIVEN monthly so that she may include information in her monthly reports to the GMC.
- Ms CHRISTIE had received a report from the CHI, she wished to analyse the witness statements taken. This did not prejudice police investigation. Agreed that CHIRSTIE and OFFORD will proceed with this aspect of the police enquiry.
- DI NIVEN to provide letter to GMC for use in IOC hearing, which will formally ask GMC to stay their investigations.

2.12.2002. Letter Nigel NIVEN to Judith CHRISTIE. Confirms that CPS meeting took place 28.11.2002. Agreed to expand investigation. SIO WATTS formally requests that IOC hearing of April 2003 is pended.

23.12.2002. Judith CHISTIE confirms that she has received formal instructions from GMC that the GMC proceedings will be stayed pending outcome of police enquiries.

23.12.2002. Judith CHRISTIE confirms that she is to review commission for Health Improvement documents on 14/15th January 2003. Will not take any other action other than assessing which of the CHI witnesses should be seen following police investigations.

30.06.2003. Letter Nigel NIVEN to Mathew LOHN, re assistance to OP ROCHESTER and meeting with Key Clinical Team 6/7th September 2003.

14.08.2003. Mathew LOHN, Letter / Standard terms of Business Document. In essence, Mathew LOHN will carry out all of the work and will have ultimate responsibility. Will advise of progress and likely timeframe for each piece of work, reserve the right to disclose files to regulatory bodies. Hourly rate £255. FFW will only stop acting for the client with good reason and on giving reasonable notice.

04.09.2003 Mathew LOHN, letter, varying Standard terms of business document in respect of hourly rate, £215 per hour, + rates for assistants.

16.9.2003. Mathew LOHN E mail to Nigel NIVEN. Mathew undertakes to:-

- Produce a file for each individual including a copy of medical records, copy of each individual expert report, and a copy of summary report (produced during KCT meeting 6/7th Sept).
- Expert analysis. 1's. ML to ensure that the decision taken is capable of justification, and exit strategy for this group at the end of the year.
- 2's. Ensure consistency of decision over the period of analysis to ensure that no case should have otherwise been classified a 3. Explore possibility that sub optimal 2 treatment may in fact be negligent, and worthy of further scrutiny. Prepare exit strategy to explain why sub optimal is not criminal. Consider the case law test for gross negligence. (nb a recent report of the DPP being judicially reviewed for failing to take a case forward on a gross negligence manslaughter).
- 3's. In these cases further work will need to be taken to determine whether there is a demonstrable causative link between the negligence and the ensuing outcome including an analysis of the hastening effect of treatment. Further expert opinion will be needed to understand the degree of negligence and to what extent it could be said to be criminal or otherwise.
- Recommend that LAWSON and NAISMITH from KCT produce summary reports of findings.
- All serious cases to be considered by a fresh team including experts in palliative care, and consultant geriatrician who has had experience in caring for patients in a community nursing home.
- Recommends that work undertaken by investigation team on the pattern of prescribing of opiates at GWMH by the doctors involved in this enquiry.
- Will review relevant statements taken, having regard to Wessex protocol and British National Formulary.

24.9.2004. Meeting with Mathew LOHN Manchester + DI NIVEN and DS KENNY. Mathew LOHN received patient record DVD's and clinical team briefing pack. Consideration to cold calling 16 Family Group members as identified by Professor BAKER.

ML will review cases using medical records clinical team comments and officers reports and will devise questions for Peter LAWSON and Ann NAYSMITH.

ML will review cases which currently fall into categories 1A and 2A as a priority with a view to disengaging cases of no concern asap.

Agreed timescales for work by the review team.

Other issues raised:-

Wessex Protocol.

Patterns of prescribing.

Professor BAKER report.

Causation. Toxicology. Exhumation.

ML suggest obtaining copy of interim audit from GMC.

Nigel Niven to meet with Chief Executives of Primary Healthcare trust and Strategic Health Authority to discuss the current state of the investigation including the IOC in respect of DR BARTON.

7.10.2003. Letter Mathew LOHN to Nigel NIVEN re potential conflict issue, ie FFW acting both for GMC and Hampshire police. FFW content that no conflict arises. To ensure transparent integrity Mathew LOHN has written to GMC informing them that he no longer acts for them in respect of case of Dr BARTON. This is not a corrective measure but one of proceeding with excessive caution.

23.2.2004. Meeting with Mathew LOHN DI NIVEN and DS KENNY. Actions agreed as follows.

1. DS GROCOTT to compile information re legal authorities gross negligence manslaughter/CPIA.
2. Mathew LOHN to arrange meeting with GMC. 1st or 3rd March 2004.
3. Meeting to be arranged with Nursing and midwifery council.
4. ML suggests liaison with Royal Pharmaceutical Society to involve Pharmacist.
5. ML to approach Irene HIGGINSON re her availability to lead new clinical team.
6. Enquiry team will take statements from FGM's in group 3.
7. Mathew LOHN will commence work on group 2's and will meet in a month or so to discuss findings. During assessment he will pass on any 3's identified.
8. In respect of category 1, where FGM's not content ML suggests obtaining their concerns in writing for consideration.
9. FGM's in respect of cases identified by Professor BAKER to be visited in due course, and officers reports to be submitted as previously.

?... Mathew LOHN supplies analysis report in respect of category 1's, and copies forwarded to family group members.

26.5.2004. ML informs SIO Steve WATTS that GMC seeking counsels advice on the issue of disclosure by the police to the GMC during the course of an ongoing police investigation. There are nationally several similar cases present including OP

ROCHESTER. SW agrees that an independent view should be sought, and content that ML can act for GMC.

2.6.2004. SIO WATTS e MAIL TO Mathew LOHN agreeing that disclosure issues to GMC need to be clarified but raising conflict arising by ML directly acting for GMC. SW would wish to give the GMC as much information as possible to ensure that public and patient safety are maximised. He has informed the GMC that he would be willing to give evidence to a committee giving a general indication of the nature of the investigation. He has given a detailed confidential briefing to GMC members. SW cannot give written information to the GMC since it may be detrimental to the conduct of the investigation.

DCI WILLIAMS. D/SIO.
9TH June 2004.



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