

Skye Sue - Legal Services Manager

From: Skye Sue - Legal Services Manager
Sent: 13 August 2008 16:31
To: Radway Patricia - Head of Governance
Subject: RE: GWMH Inquests

Patricia

I don't know if you and Peter have discussed this email from Jacquie, but it would appear that Stuart Knowles would be very good on this case. However, I think it will be difficult to discuss who should legally represent us if the legal reps are present ie Kieran from Beachcrofts. It may be that when we get to that stage, a phone call between you and Richard Samuels would be the way forward and possibly a meeting of interested parties (ie those who will be paying for the legal costs) so that a decision can be made.

Sue Skye
 Legal Services Manager
 Portsmouth Hospitals NHS Trust

Code A

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

From: Jacqueline Haines [Code A]
Sent: 13 August 2008 16:10
To: Skye Sue - Legal Services Manager
Subject: FW: GWMH - first meeting of wider group chaired by Richard Samuel 70708

From: Jacqueline Haines
Sent: 10 July 2008 10:59
To: 'Skye Sue - Legal Services Manager'
Cc: 'Radway Patricia - Head of Governance'; 'Peter.Mellor([Code A])'
Subject: RE: GWMH - first meeting of wider group chaired by Richard Samuel 70708

Dear Sue

Thank you for keeping me informed. I am delighted that the meeting on Monday appears to have been so successful.

I note the suggestion that there should be one set of legal advisers and that would seem to make sense in terms of avoiding duplication of effort and of course keeping costs down. I also note the suggestion that costs should be divided equally between PHT and Hants PCT.

For reasons other than financial PHT may decide that this is an approach that you would wish to agree to. If however you take the view that the costs should be met by the organisation with legal responsibility for this significant piece of work I would strongly suggest that steps should be taken as a matter of urgency to establish which organisation has inherited the legal liability. I believe the important documents to locate are the Transfer of Property Orders. The chain of responsibility will of course need to be traced back as far as the dissolution of Portsmouth Healthcare NHS Trust. The difficulty is of course that PHT would not be party to most of these transfers and you are therefore reliant on others to produce them. I am unsure of how the

Transfer of MOPS to PHT took place but presumably this knowledge must be held within PHT, the responsibility then needs to be traced back through the various organisations responsible for the different parts of the service back to 1998. We can of course advise you further once those documents have been located. As there is no reason why PHT should have these earlier documents I do not think there should be any concern about seeking the assistance of the SHA or DH.

The best outcome for PHT would be for Hants PCT or others to be found to be legally responsible for costs of the inquest. Then all that would be required would be some legal and pastoral support for those PHT staff involved. However if a decision is made by PHT and Hants PCT to jointly instruct lawyers Mills and Reeve would obviously be delighted to act. The preparations for the inquest would obviously amount to a significant and very interesting piece of legal work for us and to ensure that we provided you with the appropriate level of support we would propose that the Mills and Reeve team would comprise of Stuart Knowles, a former health partner who will be rejoining Mills and Reeve as a Consultant, myself and a para legal. Stuart would obviously need to spend some of his time in Hampshire and work closely in conjunction with me. This approach has worked well in the past on both the Charlotte Wyatt case and Dr Datta, a difficult employment case, both of which were co ordinated from Birmingham with me providing support from Portsmouth. Mills and Reeve would be prepared to waive the travel time costs involved for this piece of work.

I am not sure what you know about Stuart but he would be an ideal person to be involved in the case as since leaving Mills and Reeve he has pursued a media career , has worked as an inhouse Lawyer in an NHS Trust and has just become an assistant coroner - all ideal attributes for this case as I am sure you agree!

Do let me know how the Trust decides to proceed.

I look forward to hearing from you.

Best regards

Jacquie

Jacqueline Haines
Senior Solicitor
for Mills & Reeve LLP

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<http://www.mills-reeve.com>

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From: Skye Sue - Legal Services Manager Code A
Sent: 08 July 2008 07:15
To: Jacqueline Haines
Subject: FW: GWMH - first meeting of wider group chaired by Richard Samuel 70708

13/08/2008

For info

Sue Skye
 Legal Services Manager
 Portsmouth Hospitals NHS Trust

Code A

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

From: Radway Patricia - Head of Governance

Sent: 07 July 2008 17:05

To: Ward Ursula - Chief Executive

Cc: Mellor Peter - Company Secretary; Humphrey Lesley - Divisional General Manager; Zaki Graeme - Medical Director; Barton Julia - Acting Head of Nursing; Skye Sue - Legal Services Manager; King Sheena - Head of Risk Management, Complaints & Legal Services

Subject: RE: GWMH - first meeting of wider group chaired by Richard Samuel 70708

Dear Ursula

Just to give you a quick review of today's meeting (for which minutes will be provided by Elaine Williams).

1. The only information about the inquest so far received is that it will be undertaken by Mr Bradley, Asst Coroner, as indicated by Mr Horsley and as was recorded in the press briefing.
2. It was opened on 10 people at the request of the Minister of Justice – Richard Samuel thinks it would be useful to try to get some understanding of why this approach is being taken although the general view is that the relatives have been very active lobbying MPs.
3. We await details of the pre-inquest hearing and think it unlikely that will take place until September. This would suggest the inquest wont take place until early 2009.
4. To note the GMC are reviewing 8 cases in connection with its forthcoming hearing, which will be delayed pending the outcome of the inquest.
5. The NMC have also put on the hold the investigations into some of the nurses who were referred (initially to UKCC) as a result of investigations. However the NMC deemed they were fit to practice. (Three of the nurses are employed in MOPS).
6. The inquest may extend to an Article 2 (under the Right to Life) which will take it from the standard inquest, which is inquisitorial, non-adversarial and seeks to learn how and why death occurred. Article 2 widens the scope giving the Coroner the power to undertake a wider enquiry which will then review systems in place and QA processes around prescribing.
7. The pre-inquest hearing will provide an opportunity to make a case against an Article 2 inquest – this is likely to be based on the previous investigations and particularly the report produced by CHI. The coroner will invite interested parties to the pre inquest hearing - this will be organisations and individual family members. This meeting will enable the Coroner to agree who will be interested parties.
8. The Coroner also needs to decide whether or not to direct a jury inquest.
9. Staff called to the inquest will be subject to questioning by the relatives' representatives or indeed, the relatives themselves if they are not represented. The relatives may be represented en masse, or not. This will have implications for the involvement of all.
10. To note, the inquest will be based on existing law at the time of the incidents however organisations involved will need the representation of senior Barristers.
11. This will be the first time that staff names will be disclosed as the coronial system is in the public domain. Staff support identified to be a priority and the group will produce of a list of likely staff, where they are now located in order to ensure they are kept fully in the loop about what is happening and how it is being managed and how they will be supported.

13/08/2008

Discussion then looked at organizational issues and it was proposed that all stakeholder organizations should be represented in an 'inquest steering group' which will take responsibility for managing all aspects of the activity required to support the process. The solicitor present thought this a good approach and would mean that only one legal firm will represent the health services. The key aims of the steering group would be to:

- **Support Staff**
- **Preserve the reputation of all organizations involved**
- **Maintain public confidence in the services.**

This group would need the endorsement of each organization and would operate within an agreed framework.

Richard believes it would reduce risk exposure and costs and would assure a managed process. He noted the need to appoint a project manager for a specific term to support the work that will be required of all organizations.

Agreed actions:

1. Draft terms of reference for the group (PR and Elaine Williams)
2. Circulate with rationale to stakeholder CEOs for endorsement
3. Sara Spiller, SHA is forming a media group: stakeholder organisations, inc PCTs, PHT, HPT, GMC, NMC
 - a. They will develop an information repository
 - b. They will develop story board started by Pat F and Lesley Humphreys, Elaine Williams will also be involved.
 - c. Map location of staff involved across organizations and develop comms plan for them.
 - d. Clinical sub group formed to address action plan from CHI investigation 2002 to ensure all actions are complete or have ongoing actions planned (PR, Lesley H, + others to be nominated). To liaise with Fiona Smart about original action plan.
4. I raised the issue of costs and it was suggested that these were shared between the two major players (HPCT and PHT) and to the question can the SHA help, Richard replied this was unlikely. (I wonder whether they might contribute to the project manager post.)
5. I raised the issue of the transfer of liability noting we were reviewing our records but that the transfer went first to PCPCT. Their reps will try to locate a copy. The Hampshire PCT solicitor couldn't locate the Transfer Order relating to liability. So all have agreed to pursue.
6. Id risk issues.
7. Communicate with police and coroners' office about how to contact staff (preferably via employing organizations).

Ursula – I will feed back details to Jackie Haines but would be grateful if you could advise your view on a jointly managed approach – shared costs as well as shared work makes sense as no one organization can do it without the others and the group didn't believe there were areas of disagreement about how to management this process, or areas of conflict of interest between the organizations.

Regards
Patricia

From: Ward Ursula - Chief Executive
Sent: 04 July 2008 16:05
To: Radway Patricia - Head of Governance
Subject: RE: GWMH

great thanks for this Patricia
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From: Radway Patricia - Head of Governance
Sent: 04 July 2008 15:56

To: Ward Ursula - Chief Executive
Cc: Mellor Peter - Company Secretary
Subject: GWMH

Dear Ursula

Just to confirm we had an initial meeting to review the history and current context relating to the forthcoming inquests over deaths at GWMH.

In attendance were:

Ann Dowd
 Lesley Humphreys
 Jacquie Haines
 Sue Skye
 Kim Bezzant
 Myself

We had a review of original issues and timelines and the somewhat complex management arrangements for consultants and the separate arrangements for nurses.

We discussed the needs of staff employed by PHT who will be involved. Ann recalled that there was a lot of hostility by relatives at the time and staff are very anxious about a recurrence of this. PHT staff who were involved are mostly medical staff.

We agreed:

- To formulate a handling strategy/plan for the inquests – this will be developed in consultation with staff involved
- To develop a briefing for staff involved about the inquest process and clarify points of contact about process and to advise that we will hold a meeting with them once we are clear about the process. The briefing will provide detail of support and contact details of key staff (eg Sue Skye)
- To invite staff to an informal discussion to provide reassurance about:
 - Legal support
 - Media management
 - Access to mentoring and other support mechanisms, if required.
 - Inquest management
 - The support they can expect of the organisation and what will be asked of staff via the coronial process.
- The meeting will clarify how we will manage the interface between the Coroner's office and staff involved. This meeting is unlikely to take place until we have had the pre-inquest meeting with the Coroner (not now expected to happen until September).
- To engage with both the Police and the Coroner's office about how we wish to be the point of contact for our staff who will be involved in the inquest.
- To develop a storyboard to inform media handling.
- To review the action plan developing following the Healthcare Commission investigation and update or identify overdue actions.

Sue Skye and I are attending a meeting on Monday called by Richard Samuel and we will feed back from that.

With regard to liability, Jacquie Haines has made the following observation following our meeting:

We are assuming that as PHT had taken over responsibility for Elderly services that its liabilities had also transferred.

Investigation and attendance at this inquest is likely to be considerable and to run into 10's of thousands of pounds, therefore Jacquie thinks that we should investigate where that liability

should lie. It is usual for liabilities to be transferred by means of a transfer of property order.

The difficulty we have here is that there is a complicated chain of transfer. It may be that PHT have one such order for the transfer of Elderly services but we need to understand the whole chain of transfers. Tim has suggested that we approach the SHA in the first instance to confirm what liabilities have indeed been transferred to PHT. I am copying Peter to ask if he has any knowledge of the Transfer of Property Orders relating to the transfer of MOPs to PHT.

Hope this is sufficient, meeting notes were taken and will be available shortly. My only other thought is around the reputational impact of the inquest – the fact that it is one of the largest to be held has already attracted national media so we can expect further such interest when the inquest gets underway.

Regards

Patricia

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