

Skye Sue - Legal Services Manager

⊕ 4/7. Asked R & P
what they want to do
about this

From: Jacqueline Haines [Code A]
Sent: 03 July 2008 14:23
To: Skye Sue - Legal Services Manager; Radway Patricia - Head of Governance; Mellor Peter - Company Secretary
Subject: Gosport War Memorial Hospital Inquest

Dear All

Following the helpful meeting on Wednesday at which Lesley Humphrey set out the background to the forthcoming inquest into the deaths of 10 patients at Gosport War memorial (GWMH) in 1996- 1998 I have been giving some thought to the legal position with regard to which organisation has the legal responsibility to represent those involved and the Corporate entity of GWMH at the inquest.

Background

The history is complex but in summary I believe it to be as follows.

In 1996/1998 Portsmouth Healthcare Trust had responsibility for Gosport War Memorial Hospital and the Division of Medicine for Older People. I believe that the patients at GWMH were the clinical responsibility of the Consultants who were part of the Division of Medicine for Older people but that the nurses and beds were managed by Fareham and Gosport Community Services, another division within the Healthcare Trust.

In 2002 the Healthcare Trust was dissolved and replaced by the East Hants PCT and Fareham and Gosport PCT. At that time EastHants assumed responsibility for the medical staff as part of the Division of Medicine for Older People and Fareham and Gosport assumed responsibility for the beds and nurses. When the 2 PCT's were dissolved in October 2006 and Hampshire PCT was established, that organisation became responsible for GWMH but PHT took over responsibility for Elderly services which had been renamed the Department of Medicine for Elderly People but not for the Hospital building.

Legal Responsibility

It had been assumed 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. I do not believe the situation is that clear cut and with that in mind I would recommend that some time and ,if necessary, some money in terms of legal costs be invested to investigate where that liability does in fact lie. Having discussed the background of the case with Tim Winn, Head of Corporate and Public Law in our Birmingham Office he has explained that it is usual for liabilities to be transferred by means of a transfer of property order. Whilst the establishment and dissolution orders for NHS bodies are readily available , transfer of property orders are not public documents and should be retained by those bodies involved in the transfer. 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 you approach the SHA in the first instance and explain the circumstances and ask if they are able to confirm what liabilities have indeed been transferred to PHT. Failing that he has suggested making an approach to the Department of Health.

Meeting on Monday

There is a meeting scheduled to take place on Monday that has been called by the Richard Smauel, Director of Corporate Affairs at Hampshire PCT to be attended by representatives from the PCT together with representatives from PHT (including Sue and Patricia) as well as representatives from Portsmouth City PCT. It may be that Hants PCT have assumed that the primary responsibility will be theirs (indeed they may know it is) but I would suggest that it would be inappropriate to make the assumption that the liability rests with PHT - obviously if you are able to elicit a swift response from the SHA that would be helpful. In any event it seems to me that as Hants PCT still runs GWMH and that Elaine Williams (who will also be at the meeting) was Legal Services Manager for Hants Healthcare Trust and is now working for Hants PCT, as the person with the greatest knowledge of the case it would make sense for her to coordinate investigations. This would leave

PHT to take a back seat and provide support to those staff who remain employees of the Trust which I believe now only number a handful with the remainder now retired, working for other organisations or, sadly, deceased.

I hope this is helpful but if I can be of any further help please don't hesitate to let me know.

Best regards

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