

Suzanne Dodds

From: Emma Kelly-Dempster
Sent: 23 June 2010 17:59
To: 'Keysell, David'
Subject: RE: Freedom of Information request - Re: Deaths at Gosport War Memorial Hospital

Dear David,

Thank you for your email.

We are happy to share our response with you. Please find it below.

Do let me know if you need anything else.

Yours sincerely

Emma Kelly-Dempster

'Thank you for your email of 06 April 2010 where you requested all the documentation used in our consideration of the GMC's final fitness to practise committee's decision on the Dr Jane Barton case.

We are committed to the principles of transparency and public accountability. We are fully supportive of the right of the individual to ask for information and consider that it is a fundamental duty of an organisation to consider and comply, where possible, with such requests. We make details of the requests we receive and the information we disclose available on our website to allow wide access to the information.

We confirm that we hold the information you are seeking. However, this information is exempt under section 22 and 31 of the Freedom of Information Act and is therefore being withheld. Section 22 of the Freedom of Information Act sets out an exemption to the disclosure of information intended for future publication. Section 31 of the Freedom of Information Act sets out an exemption to the disclosure of information where it could impact on law enforcement.

In considering your information request, we have had discussions with Hampshire Constabulary. They have asked CHRE not to disclose any information on the Dr Barton case pending completion of a review of the case against her by the Crown Prosecution Service. Hampshire Constabulary has confirmed that if all examining bodies, which include the CPS, Coroner and other regulatory bodies, decide that no criminal culpability is determined, it will begin a process of disclosing information relating to the Gosport War Memorial Hospital investigation within the legislative framework of the Freedom of Information Act.

As indicated above, Hampshire Police have asked that no information is disclosed in relation to Dr Barton whilst the case is reviewed. Given the on-going consideration into whether there has been improper conduct and/or a contravention in the law, the information requested is also exempt under section 31 (1) (a), (b), (c) of the Freedom of Information Act in that disclosure would be likely to prejudice the prosecuting authorities in the exercise of their functions.

We are a publicly accountable organisation and want to be as open and transparent as we can regarding the information we took into account in our consideration of the Dr Barton case. However, as all legal and other processes are not yet complete, we consider that any premature

disclosure under the Freedom of Information Act would be likely to compromise the outcome of the on-going investigations. In addition, a schedule for publication has already been set out by Hampshire Police and we are also actively considering publishing all the information that we took into account in our consideration of the Dr Barton case. Consequently, we are not disclosing the information at this time.

I note that if we are to disclose all the information that we took into account in our consideration of the Dr Barton case, we will do this, within the confines of relevant legislation such as the Data Protection Act and the Freedom of Information Act. Any publication of the information would take place after all criminal investigation, review and any proceedings have been completed.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: **Code A** or Harry Cayton, Chief Executive, CHRE, Kierran Cross, 11 Strand, London, WC2N 5HR.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Emma Kelly-Dempster

Good Practice Officer

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From: Keysell, David [mailto:**Code A**]
Sent: 23 June 2010 15:41
To: Emma Kelly-Dempster
Subject: Freedom of Information request - Re: Deaths at Gosport War Memorial Hospital

Hi Emma

I am currently dealing with an FOI request from a Nina Lakhani regarding the deaths at Gosport War Memorial Hospital. Having collated the information that the MoJ holds, I have been in touch with the Hampshire Constabulary regarding the Police report that is included in the information.

They have informed me that the report is being withheld under section 22 as the report is ongoing. They have also informed me that your department has issued a response with regards to the same information. Would it be possible to send me a copy of your response so that we can be consistent with the responses.

Any queries etc, please contact me.

Many thanks

David Keysell

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