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Our ref: ISPB/jh/9900079/Legal

Your ref:

24 January 2008



**THE
MDU**

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Dr Jane Barton
Forton Medical Centre
White's Place
Gosport
Hampshire

Dear Jane

I appreciate that you might have hoped for a degree of progress in relation to the provision of documents by the GMC's Solicitors, and indeed notification now of the various charges you are to face in September.

Unfortunately, materials which had been due by 18 January have not been forthcoming.

To explain, all GMC cases have what is known as a 'Case Management' process. Yours is a little different, being under the old rules, but the effect is the same. Telephone discussions take place through a telephone conference system involving the relevant investigation officer, someone from the Adjudication Section at the GMC, and the respective Solicitors involved.

Accordingly, back in September of last year I had that initial telephone conference with the other participants on your behalf. It was in that way that we arranged on a preliminary basis for the Hearing Date of 8 September this year, and it was agreed that by 18 January the GMC's Solicitors would produce the documents on which they intend to rely as the prosecution case against you, together with the Final Notice of Charge. That Notice of Charge would indicate not only the identity of the patients in relation to whom allegations will be made, but those very allegations themselves.

Unfortunately, the GMC's Solicitors have not been able to comply with this. 18 January came and went, though I did receive a letter from the Solicitors explaining a little of their position. A copy of the letter is enclosed for you to see.

You will see reference in that letter to a further telephone conference. The idea is that once the GMC's Solicitors have complied with their responsibilities and obligations, there is then a review to take stock. We had been due to have that review today. In circumstances, however, in which we would simply not have been able to make progress, there was little point in proceeding, and I have therefore reluctantly agreed to reschedule it. I can tell you now that arrangements have been made for that Conference to take place on 4 March.

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I am concerned that this puts us in a little difficulty, and the idea that we will be able to proceed as we have materials already may not turn out to be correct. I have therefore liaised with Alan and the GMC's Solicitors setting out our position. I want them to be quite clear that we do need further information, whilst understanding that their problems may arise from the volume of material to be considered. We cannot, however, guarantee that we will be ready by 8 September, and if they have difficulties given the amount of material – there is no reason to assume that we will not similarly have difficulties.

Obviously we will have to wait and see what emerges, but I thought you should know where we are as things stand.

You will see reference in my letter to the fact that the GMC are due to be sending us further materials. The position on this is that the Police have sent through to the Solicitors a significant quantity of what is known as 'unused material'. Whilst it might be unused by the prosecution, this does not mean that the material is irrelevant to us. It will be necessary for me to review much, if not all of the documentation, and I have therefore asked the Solicitors to send it through to me. It will take a long time in the copying, and I fear that the materials you have already will be added to considerably. I hope you will not mind, but the sensible thing is that I should copy the materials to you in turn. Whilst you can rely on me to review it, equally it is only appropriate that you have access to the documentation as well.

Finally, can I mention that you will see we have agreed that Professor Black can effectively be the GMC expert here. I am sorry that I have not referred to you on this particular point, but realistically, this was not a situation in which we could have made any sensible objection. Although Professor Black has sat on panels in the past, if the GMC takes the steps it proposes, there can be no realistic prospect of contamination, such that the GMC would not be able to rely upon Professor Black as an expert, and I hope you will not mind that I agreed to that.

The next stage as far as we are concerned is for me to speak with Dr Lord in about a week or so's time, and I will be pleased to let you know what emerges from that.

With my best wishes.

Yours sincerely

Code A

Solicitor

Enc



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Our ref: TET/00492-15579/6636488 v1
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Also sent by e-mail to Code A

RECEIVED

18 January 2008

21 JAN 2008

Dear Sirs

LEGAL DEPARTMENT

General Medical Council - Dr J Barton

We write to update you with regard to the current position regarding our investigation.

We intend to rely upon Professor Black's expert evidence in this case. You already have the reports he has drafted for the Police investigation. We anticipate that he will also prepare reports on Eva Page, Alice Wilkie, Jean Stevens and Edna Purnell. We will disclose these to you as soon as we receive them.

We would like to inform you, at this early juncture, that Professor Black has previously acted as a Panel member on approximately 11 GMC Fitness to Practise Panels. He was appointed to the Fitness to Practise directorate in 2001 and resigned in early 2005. The GMC adjudication section have indicated that they will take steps to ensure that the Panel members empanelled for this case were appointed after May 2005. In the circumstances, we do not consider that this could give rise to any objection but would be grateful if you would confirm this.

For your information, Professor Black will be unavailable to attend the hearing until 23 September 2008 but we anticipate that this will broadly fit with the anticipated running order.

Unfortunately we are not in a position to serve the Draft Notice of Hearing upon you at the present time. We would propose to serve the Draft Notice of Hearing by 3 March 2008, over six months before the hearing is due to begin. In our view this should not affect the hearing date of 8 September 2008 as we have already disclosed to you the bulk of the evidence upon which we will seek to rely. We have sent you the witness statements and medical records in relation to each patient and a copy of all of the expert reports (including those prepared by Dr Black). On or before 3 March we will have sent you Professor Black's reports on Eva Page, Alice Wilkie, Jean Stevens and Edna Purnell. We



are in the process of drafting production statements or supplementary statements for those witnesses whom we will intend to call at the hearing and propose to serve these upon you by 3 March 2008 at the latest.

We may have further supplementary expert reports (by way of clarification) to serve upon you after 3 March 2008. We intend to do this by the beginning of April. We do not anticipate that any evidence served after 3 March will alter the Draft Notice of Hearing substantively.

We presume that the documents which you are already in receipt of will enable you to commence hearing preparation and to instruct an expert.

We also are in possession of a large amount of information, provided by Hampshire Constabulary, that will form the unused material. We would be grateful if you would contact us regarding how the material may best be provided to you.

There is a Stage 2 telephone conference scheduled for 24 January 2008. We propose that this be adjourned until after 3 March 2008. Please confirm if you agree to this and we will contact GMC adjudications and make the necessary arrangements.

We regret that we have been unable to provide you with draft charges today. We will, of course, keep you fully informed of developments. Please do contact us if you wish to discuss any matters raised in this matter further.

Yours faithfully

Field Fisher Waterhouse

Field Fisher Waterhouse LLP