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Deputy Coroner  
HM Coroner for Hampshire  
Goldings  
London Road  
Basingstoke  
Hampshire  
RG21 4AN

6 October 2008

Fax no: **Code A**  
Sent by Fax only

Dear Sir

### **Gosport War Memorial Inquests**

Further to our recent telephone conversation we would be grateful if you would note that this firm has been instructed by Portsmouth Hospitals NHS Trust and by Hampshire PCT to represent the interests of the NHS at the forthcoming Inquests. We understand that you have been appointed as the Deputy Coroner in the relevant jurisdiction to hear this matter.

May we apologise for the delay in the NHS being represented in this procedure, and we understand there was a Pre-Inquest Hearing on Thursday 14 August 2008. We would be grateful if you would liaise with us in the future and please note this matter is being dealt with in this office by [REDACTED]

There are a number of issues which we would like to address with you as quickly as possible and we wonder if we could trouble you for an early response.

### **Interested Parties**

Perhaps you would confirm that you are content for Hampshire PCT and Portsmouth Hospitals NHS Trust to be interested parties in this matter. We would also be grateful if you would let us have the details of the other interested parties so that we are aware of who is likely to be present at the Inquest.

### **Representation**

We wonder if you would be in a position to let us have details of the solicitors or others who may be representing the interested parties. Are we correct in thinking that one firm has been instructed to represent all ten families in this matter? We also understand that there are lawyers instructed on behalf of the Medical Defence Union and the General Medical Council. We wonder if anybody else is an interested party and may be represented before your good self?

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## Scope of the Enquiry

Would you confirm whether or not it is your intention to call a jury in this matter? We appreciate that there is likely to be significant public interest in this Inquest.

Following on from our telephone conversation, we would be grateful if you would confirm that you do not regard Article 2 of the Human Rights Act to be engaged in this matter. We appreciate this matter may have been mooted at the Pre-Inquest Hearing and we understand from our conversation that no significant arguments were made before you on that occasion.

We are of the view that Article 2 is not engaged and would respectfully refer you to (at the very least) the judgment of Lord Brown in the case of Commissioner of Police for the Metropolis v Christine Hurst [2007] ILR 29. It would be our position that an Article 2 investigation is not appropriate in a case such as this, where it would seem that there was no primary duty on the State under this Article at the time of the deaths. It is our understanding that all the deaths occurred prior to October 2000.

We are mindful that those representing other interested parties may take the view that the HRA should be engaged. Whilst we would understand that point of view, we do not believe it to be correct and if you share our view then we would respectfully ask that you make that known to all the interested parties as quickly as possible, so that they are not under any misunderstanding as to the position.

## The Pre-Inquest Hearing

We wonder whether or not you made any orders at the Pre-Inquest Hearing. Perhaps you would be kind enough to let us have a note of the orders which you made. We note that it is not your intention to hold another Pre-Inquest Hearing though, we have to say, this matter is potentially difficult and certainly may benefit for some clear directions and timetabling prior to the date of the Hearing. We will consider that in due course and contact you further if we believe that any further Hearing might be of benefit.

## Listed Inquests

We are grateful to you for outlining the details of the patients which are due to be the subject of the Hearing. Perhaps you could formally let us have a list of the individuals involved. Can you confirm that in fact the Inquest has been formally opened and adjourned on each and every individual.

It is our understanding that you may have been asked to consider the position in respect of additional families. Are you intending to add other individuals to this enquiry? It is our understanding that these Inquests were ordered by the Secretary of State within the Ministry of Justice. Is that correct? Has he directed which people he believes should be the subject of the Inquest? Are you in a position to vary that list?

## Documents

We refer to the email that was sent to you on Friday afternoon and we would be grateful if you could confirm the position with regard to disclosure of the documents as quickly as possible. We would like to be in a position to advise the NHS on the future conduct of this matter as quickly as possible and any assistance that you can provide in this respect would be gratefully received.

## **Format of the Hearing**

### Witnesses

We wonder whether or not you have prepared a list of witnesses yet? Have you summonsed the witnesses? Do you have statements from the witnesses? We suspect that some of the individuals will be employees or former employees of the NHS and perhaps you would confirm their current status. In the normal course of events, we would anticipate identifying those individuals employed or formerly employed by the NHS and taking proofs of evidence, and offering them support. Your advice as to the current position in this respect would be gratefully received.

### Post Mortem examination Reports

We wonder whether or not a post mortem examination reports are available.

### Medical Records

We are a little concerned to identify the medical records and wonder whether or not these are in the documents to be disclosed? Are you in possession of original medical records and, if not, do you know whether the police have them or whether they should be with the NHS?

### Experts

Do you intend to call experts? And, if so, have they been instructed? We would be grateful if you could let us have details and whether or not their reports (if any) can be made available to us by return.

### Format of the Hearing/Inquests

We understand that the date of the Hearing has been set for 9 March 2009 and listed for 6 weeks. Perhaps you would confirm. We take the view that 6 weeks is an extraordinarily long period of time, even for an inquest which may be complicated by the length of time it has taken to set down and what will no doubt be difficult issues for the jury to consider. Perhaps you would share with us your thinking as to why this matter may take so long? How many witnesses do you anticipate calling? How do you anticipate the hearings being organised? We assume that you will open an inquest into each individual patient but that they will all be heard together rather than each witness giving evidence on a case-by-case basis. Are we correct? Your advice in this respect will be gratefully received.

### Rule 37

Is it your intention to admit evidence under Rule 37. If so, do you have a view as to which evidence may be so submitted?

### The police

We understand that this matter was the subject of a police inquiry and we wonder whether or not you have a contact at the police/CPS with whom we could liaise? We do not know, nor does our client have any information, as to the details or outcome of the police inquiry. We assume there have no criminal proceedings. Clearly this will be of interest and assistance to us in our preparations for the forthcoming inquest. Are the police/CPS still involved?



Let me apologise for the number of issues and questions in this correspondence but I am extremely anxious to review the whole matter and to advise the NHS as to the best way forward.

I appreciate that this has been caused, in some part, by the absence of the NHS being represented at the previous hearing. As a matter of interest, could you please confirm whether or not the NHS were formally notified of the hearing and invited to attend? I do not believe that contact was made directly with the relevant management at Portsmouth Hospitals NHS Trust.

If you feel there is anything which the NHS or this firm can help you with, then you should not hesitate to contact our [REDACTED] and he will do his very best to assist. This matter is being actively reviewed by our NHS client at the moment and we will contact you if anything is discovered which we feel our clients should disclose to you.

We look forward to hearing from you as soon as possible.

Yours faithfully  
**Mills & Reeve LLP**