

Client: Hampshire Primary Care Trust - 4007152-0002
 Matter: Gosport Inquests (Joint Instruction)
 Date of Attendance: 19 January 2009
 Fee Earner: [REDACTED]

Discussion with Peter Mellor following Pre-Inquest Hearing.

Generally speaking Peter felt that "his gut feeling" is much will depend on the individuals that appear before the Coroner. Whilst in some respects the performance of the Coroner was disappointing (in that he was unable to remember some of the experts' reports that he had read), in other respects he was clearly not going to put up with people who are aggressive or rude but may well offer assistance and cooperation to those that approach the inquest properly. I pointed out generally speaking I felt the hearing was a bit of a "curate's egg". On the one hand the Coroner had given some directions and indications at my request but on the other hand it appeared to me that he had not thought through the consequences of some of the positions that he was taking. I indicated that generally speaking if the families were well represented then they may certainly have issues with the approach the Coroner is taking. If they are not well represented then he might "get away with it".

The following points were discussed:-

- From a practical point of view I was concerned that the Coroner was indicating this was not an Article 2 hearing but that he was going to allow wider questions, presumably by the family. The problem the Coroner will have is that there is no-one there to answer them. That will probably cause the families frustrations. I pointed out that I had offered the Coroner a way out of this problem by suggesting that he call or present evidence under Rule 43, but that he had declined to take that route. Though I accept that matters are ten years ago, it was my view that the Coroner should still address those issues in case there is evidence to suggest that similar fatalities may occur in the future. Of course we would want to put in LH's table to demonstrate the service which we are now providing.
- I said that I would review the position with [REDACTED] but my immediate reaction was that the PHT could not produce much more evidence than it had already done. If the families are frustrated then problems will arise, firstly from a PR/media perspective and secondly for support for the members of staff. In some respects it may be that the PHT should from hereon in (save for the conference and liaising with Counsel) concentrate on PR issues and getting the media response right and in supporting staff. PM agreed that that may well be the best way forward.
- PM indicated that Trimedia were employed by the PCT and they were meeting their account in full. I suggested that if the PCT were prepared to meet that account then so be it.
- I indicated that I would review the evidence with [REDACTED] in conference and discuss with him and advise further on the evidential points.
- We agreed that the primary purpose of the PHT now is to show that the service is managed separately and is absolutely fit for purpose. We were mindful of one of the relations at the PIH who had suggested that [REDACTED] function was to get "PHT off the

hook". It was agreed that efforts should be concentrated as far as PHT is concerned in dealing with those issues.

- It was noted that RCN hadn't attended and that Counsel for Dr Barton had no meaningful contribution to make. Some solicitors attended for two of the families and again they made no meaningful contribution. It was noted that it fell to me to get the Coroner to give an indication of timetabling to the staff and that he would write to them.
- We discussed the issue with regard to conflict with the nursing staff. I indicated the PCT were still concerned that the nursing staff would raise issues with regard to the management behaviour in the 1990s. It was understood clearly the nursing staff may want to do that in order to protect themselves from the allegations in the press (and elsewhere) that they "had done nothing about it". It was agreed that the position in the 1990s and 1998 was probably indefensible but that the PHT wanted to look forward and to protect the service now. We were not entirely sure what evidence would be forthcoming to deal with that issue if the nursing staff brought it up. If they brought it up it would simply be accepted.
- I asked PM where they were with their governance documents. He said that the table from Leslie Humphries had been signed off by himself and by Graham Zaki and that Ursula and the Board were happy with that. Effectively it's been signed off by the Trust and Inga Helsden at the SHA had indicated that it was a very impressive document. We were not anticipating problems with the SHA. I said that I was pleased that LH had put in such an effort and that the PHT's position appeared to be secure as far as that was concerned. I said I was unsure where the PCT were with their documentation and PM thought that it was almost complete. I said that it was my view that we would probably want to put that before the Coroner and suggest it goes into the bundle in order to put it into the public domain, even if he's not going to consider Rule 43 matters. The logistics and tactics in doing this could be something we could discuss with Counsel.
- I indicated to Peter that we were pricing up a transcription service. I said that in difficult inquests it will be something to consider, though it was an expensive proposition and we were not certain whether it would actually add value to PHT.
- We had a discussion as to the work going forward and I said that [REDACTED] and I would review and advise on legal matters to be undertaken between now and the hearing and deal with the aspect of cost as far as he was concerned. PM indicated that as far as he was concerned he understood the business imperative as far as M&R were concerned and he would not expect us to simply do it "for the sake of it". He indicated that as far as he and Ursula were concerned it was simply a budgetary question and nothing more. I indicated that there were a lot of functions that the PCT could undertake going forward and if they wanted to do additional work in producing evidence (which the Coroner appears to indicate that he is not interested in) that that is a matter for them.
- I apologised for the position that he found himself in and PM indicated that he had had no indication from the PCT of any problems and he felt that RS simply hadn't been strong enough to get hold of this matter. If RS had indicated that there were others in his view who were better placed to handle this matter then he should have said that in October.

- I did point out that nothing had happened until October and PM speculated as to whether or not the PCT had "switched off" Beachcrofts. It was clear that no preparatory work had been undertaken until our instructions.
- Going forward, I said that I would get a note of the hearing to him and then take a view on the costs going forward. In the interim it may be worth having a discussion with Counsel prior to the conference on Monday.


Time taken: 45 minutes
Attendance note: 3 units