



You are here: [Cases](#) [Viewing Case: 006562-290110](#) [View Case Attachments](#)

Registrant: BARTON, Jane

Email received: 26/03/2010 16:46:13
Sent From: Code A
Subject: 100326 Notes and files regarding 1st case meeting

From: Ludlam, Joanna [mailto:Code A]
 Sent: 26 March 2010 14:52
 To: Harry Cayton; Tim Bailey; Michael Andrews; Briony Mills
 Cc: Peter Mant
 Subject: FW: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Dear all,

I attach Robert's advice note.

Tom Cassels will attend Monday's meeting.

Kind regards.

Jo

From: Robert Jay [mailto:Code A]
 Sent: 26 March 2010 12:58
 To: Ludlam, Joanna
 Subject: RE: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Dear Jo

I am now attaching a copy of my Note of Advice.

Kindly let me know if I can assist further.

Kind regards,

Robert

From: Ludlam, Joanna [mailto:Code A]
 Sent: 25 March 2010 12:18
 To: Robert Jay
 Cc: Peter Mant
 Subject: FW: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Robert

Some more points which CHRE have asked me to pass on.

I await your call. In the meantime, CHRE wonder whether you might be available to do a short call later today or tomorrow so they can hear your advice and raise any questions before you send your

short summary. After 5pm today or tomorrow after 10.45 would be best for the client.

Kind regards,

Joanna

From: Tim Bailey [mailto:] Code A
Sent: 25 March 2010 10:03
To: Ludlam, Joanna
Cc: Michael Andrews; Harry Cayton; Briony Mills
Subject: FW: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Joanna

There were a couple of points I wished to make in response to your note. I spoke with Mike and though he is not sure that he entirely agrees with all that I am saying, he thought it would be useful to forward it to you, to have your view and see whether it should have a part in the note of the meeting.

1. Would it be worth addressing the, in my view, false argument that 8 years of practise without complaint shows that Dr Barton is safe. The argument I put forward at the meeting, though I cannot be sure that everyone agreed, was that once she has been found guilty of serious professional misconduct, the onus is on her to present positive evidence that she is now safe and that conditions (or even no conditions) are a safe response to her misconduct. This is very different from showing that no one had actively made a complaint.

2. On a separate point, the question of the leniency of the conditions was that, I think, the members thought that the conditions were on balance likely to protect patients, but because of their inadequacy still left areas of risk. On this analysis the conditions were lenient as a patient protection measure, in that they do not err on the side of safety (especially in view of the lack of insight). As a result they contribute to the failure to maintain public confidence because (a) they are lenient after the finding of serious misconduct and (b) are inadequate to act as a deterrent and mark of disapproval: for this the indicative sanctions guidance points to suspension or erasure.

Timothy Bailey
Scrutiny Manager

Council for Healthcare Regulatory Excellence

11 Strand

London WC2N 5HR

www.chre.org.uk

Switchboard: 020 7389 8030

Direct Line: Code A

Fax: 020 7389 8040

From: Ludlam, Joanna [mailto:] Code A
Sent: 24 March 2010 22:27
To: Michael Andrews; Harry Cayton; Tim Bailey
Cc: Briony Mills
Subject: Re: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Mike

I will pass this on to Robert to factor into his advice.

Jo

From: Michael Andrews
 To: Ludlam, Joanna; Harry Cayton ; Tim Bailey
 Cc: Briony Mills
 Sent: Wed Mar 24 22:05:42 2010
 Subject: RE: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Jo

I have only read through this fairly quickly but whilst I think it is a good note of the discussion I am not sure that it brings out the argument that the inadequacy of the conditions, (ie their lack of robustness and failure to cover all of the areas in relation to which the panel found spm) was a crucial factor in making the decision one that does not maintain public confidence. As a result of this we felt that the decision might be unduly lenient (subject to Robert Jay's view).

Mike

From: Ludlam, Joanna [mailto:] Code A
 Sent: 24 March 2010 20:34
 To: Harry Cayton; Michael Andrews; Tim Bailey
 Cc: Briony Mills
 Subject: LEGALLY PRIVILEGED AND STRICTLY CONFIDENTIAL

Dear Harry, Mike and Tim

I attach the draft note of yesterday's meeting, with which Peter agrees.

You will see that the note does not follow the precise order in which you debated the issues, as I have tried to link your comments to the various questions you needed to address. In some cases, you may not have expressly articulated those questions yourselves, but you clearly articulated the answers, and I hope I have remained true to the debate you had about each issue.

You will see that there are one or two areas where there is arguable inconsistency between your comments and your conclusions. This may be because Peter and I have misunderstood you, so correct me if that is the case. If not, there will be an opportunity to iron these issues out when the meeting reconvenes.

Please do let me have any changes you would like to make.

In the meantime, I have spoken to Robert's clerk and he believes this will require 3-4 hours of Robert's time at his usual CHRE rate of £250 per hour. Please can you confirm that what you would like from Robert is not a lengthy note of advice, but rather a short note stating that he has read Peter's advice and the draft meeting note and considered the issue of referral, and setting out his views on prospects of success and recommendations? If that is sufficient, it is likely that we will have his views before the end of this week.

I look forward to hearing from you.

Kind regards.

Jo

Joanna Ludlam
 Partner
 Dispute Resolution Department
 Baker & McKenzie LLP
 100 New Bridge Street
 London EC4V 6JA
 Direct: Code A
 Tel: +44 207 919 1000
 Fax: +44 207 919 1999

This e-mail and files transmitted with it are confidential. If you are not the intended recipient, any reading, printing, storage, disclosure, copying or any other action taken in respect of this e-mail is prohibited and may be unlawful. If you are not the intended recipient, please notify the sender immediately by using the reply function and then permanently delete what you have received.

The opinions & information contained within this e-mail, which do not relate to the business, shall be understood as neither given nor endorsed by the senders company - CHRE. All reasonable precautions have been taken to ensure that this e-mail is virus free. As we accept no responsibility for loss or damage arising from the use of this e-mail or attachments, we recommend that you subject these to your own virus checking procedures prior to use.

Incoming and outgoing e-mail messages are routinely monitored for compliance with the CHRE policy on the use of electronic communications.

View Attachments

- [BartonNoteMarch10v1.doc](#)