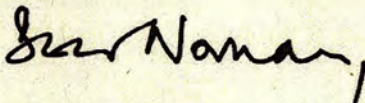


From the Chief Executive



Norman Lamb MP
Guyton House
5 Vicarage Street
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31 March 2010



Dr Jane Barton and Gosport War Memorial Hospital

You wrote to me about the case of Dr Jane Barton on 26 February. Since then we have conducted a detailed review of the GMC Fitness to Practise Panel's finding of impairment and imposition of conditions on Dr Barton's clinical practice.

I am writing to inform you we have concluded that although we consider striking off from the register would have been the appropriate sanction we cannot appeal this case.

In deciding to appeal a case CHRE must meet two tests and previous court cases have set the bar high. We must decide that a panel has been 'unduly lenient'. The Courts have defined this as meaning a decision that is manifestly inappropriate and which no reasonable panel could have reached. The second test is that it is desirable for us to appeal for the protection of the public.

Further, the Courts have ruled that deference is due to the panel as it has heard and been able to test the evidence. This deference is particularly strong in cases of clinical competence such as Dr Barton's.

The GMC panel found that, although Dr Barton made many errors in the past, she could practise safely within the restrictions that they placed on her work.

It is the opinion of CHRE that erasure should have been the result of this case. Erasure would have ensured that patients were fully protected. Erasure would have maintained confidence in the medical profession and ensured that the public retained trust in the system of regulation. The GMC panel's decision, in our view, was lenient but not so unreasonable that it could be appealed.

We note that Dr Barton has retired from clinical practice although she remains on the GMC register and that, if she were to work, the restrictions set by the panel would remain in force.

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The full note of CHRE's case meeting can be found on our website www.chre.org.uk.

You also wrote to me on 29 January about the NMC's delays in starting action against nurses about whom complaints had been made. I enclose a copy of the reply to my letter to the NMC (I sent you a copy of my letter on 16 February). You will see that the NMC has now started action but I consider the delay was inappropriate and raises questions which we will wish to consider further about the inter-relatedness of cases being heard by different regulators. We will be seeking a meeting with the NMC and the GMC about lessons to be learned from the way the issues arising from the deaths at Gosport War Memorial Hospital have been handled.

I am pleased to note that the NMC has recently changed its policy and is being more active in identifying areas of failing practice and in starting fitness to practise proceedings itself rather than waiting to receive a formal complaint.

I have to conclude that the patients and families who experienced poor and sometimes dangerous care at Gosport War Memorial Hospital have not been well served by regulation.

Yours sincerely,

Code A

Harry Cayton