

Gillian Mackenzie

Code A

20 April 2010



Dear Ms Mackenzie

Your letter about Dr Jane Barton

Thank you for your letter of 15 April to Harry Cayton (and copy of letter of 15 April to Juliet St. Bernard of the GMC). Mr Cayton will now be out of the country for several weeks and so I am replying on his behalf. I will show him a copy of the correspondence when he returns.

It may help you to know that I was one of the three decision makers on the CHRE case meeting panel that decided not to refer the case of Dr Barton to the High Court. As you will have seen from the note of the meeting, and from our public statement, we did believe that Dr Barton should have been erased from the register. That is, if we had formed the membership of the GMC panel, we would have erased her. However, we do not have the power to substitute our own decision for that of a GMC panel. CHRE has the power only to refer a matter to the High Court, and then only if the panel's decision was "unduly lenient" and "manifestly inappropriate". Because of previous cases decided by the courts, which have set a high threshold, we decided that we would not be able to establish that the case was "unduly lenient" in legal terms. This is why we did not refer the matter to the court.

I have noted the comments you make about a public inquiry and criminal investigations. We will retain a copy of your correspondence in our files.

Yours sincerely

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Timothy Bailey

Scrutiny Manager

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