

Code A

25 October 2002

Strictly Confidential

Mrs M Scott
Chairman
East Hants PCT
Third Floor
Raebarn House
Hulbert Road
Waterlooville
Hants
PO7 7GP

Dear Margaret

Temporary Redeployment

I thought it timely and appropriate to formally respond to your letters of 24th September and 2nd October 2002 and to our various discussions over the last few weeks relating to my temporary redeployment.

Could I initially thank you personally for all you have and I am sure will continue to do to deal professionally yet empathetically with an extraordinarily complex and sensitive set of issues. I appreciate the great effort you and other have made to help me through a difficult and painful process. In particular it has been heartening to receive the supportive comments from the Board and numerous work colleagues. I am really sorry the Gosport issue and my associated absence from the PCT has had such a dramatic and diversionary impact on the PCT at a key time in the organisations evolution. However, I know that everyone is pulling together and doing their bit to minimise this.

As you know the Strategic Health Authority has funded me to take legal advice on my position. This has predominantly concentrated upon my employment position resulting from the temporary redeployment decision. It has, also albeit superficially, included consideration of the wider investigations involving the Police and other Agencies.

The employment advice I have received suggests there are legal remedies I could pursue in relation to the redeployment decision should I so choose. In particular, while I was (and remain) willing to accept what is essentially a suspension while a prompt internal management investigation is conducted, I am unhappy to accept

such a suspension continuing for so long as it might take for Professor Baker and/or the police to complete their enquiries, or for any later enquiry (public or otherwise). Whilst I accept that it is reasonable for me to be seen to be disassociated from any internal inquiry into my role and responsibilities relating to prescribing practices at Gosport War Memorial Hospital in 1991, once such an enquiry has been completed (and I see no reason why it should not be completed promptly), assuming no grounds have been found for taking disciplinary action against me, I believe there is no reason to prevent me from resuming my duties as Chief Executive of the PCT. I have recognised the seriousness of the issues raised and publicly acknowledged the reasoning behind the temporary redeployment and stated the confidence that this would be conducted in an open thorough and timely manner.

However, I am concerned that my suspension could continue until the conclusion of all and any investigations that may take place into events at Gosport WMH, whether by the PCT, the Department of Health, the Police or other third parties.

I should point out that there is no contractual right to suspend me in my contract of employment and I am advised that such a right would not be implied. A suspension on these terms is therefore a repudiatory breach of contract, entitling me to either resign and claim a constructive and unfair dismissal or seek injunctive relief to compel the PCT to perform its obligations under my contract of employment. . Additionally, I would have a damages claim consequent upon the breach of contract should the suspension cause me loss or damage [for example depressive illness or stigma damage to my career]

Provided I am given written assurances as set out below, I am prepared to allow my 'temporary redeployment' to continue for so long as it takes to conclude a prompt internal management investigation.

1. To receive the management investigation written terms of reference by 8th November 2002.
2. For the management investigation to have been concluded by 31st December 2002 and any decisions regarding reinstatement or disciplinary action to be taken by 10th January 2003.
3. That I continue to receive full pay and benefits in the meantime including all my work related travel and other out of pocket expenses[e.g. telephone calls] at the usual rates ..
4. For my legal costs [past and future] in relation to advising in connection with my suspension to be met in full on an indemnity basis until the earlier of my reinstatement as Chief Executive of the PCT ,the commencement of any Court or Tribunal proceedings against the PCT by me ,the termination of my employment or the commencement of disciplinary charges against me by the PCT, subject to the right of the PCT to have the reasonableness of any costs determined by the Law Society by the Remuneration Certificate procedure.
5. That I continue to receive agendas and minutes of key PCT meetings e.g. public and private Board, Board sub committees, PEC, senior management team and LIFT Project Board and Groups. Obviously excluding any papers relating to the investigations at Gosport Hospital.

6. That I receive on a weekly basis key national documents including the NHS Chief Executive's Bulletins [and relevant attachments] plus any national policy documents Journals and publications.
7. That I am kept up to date with the operational issues facing the PCT by having a weekly briefing with Paula Turvey the acting Chief Executive with an ability to influence decision making without undermining the authority of the acting Chief Executive.
8. That I have a weekly meeting with yourself at which the broader political and strategic issues facing the PCT are discussed and I have an ability to influence decisions.
9. That I have a weekly meeting with John Hughes PEC Chair to share information keep up to speed with the clinical issues facing the PCT and hear /influence the clinical views of PEC members.
10. That I have regular programmed meetings with Gareth Cruddace SHA Chief Executive to review my personal situation in the light of the events as they unfold.
11. That I continue to have short-term employment and professional development opportunities that provide valuable experience at Chief Executive level including Conferences and events targeted at NHS Chief Executives.
12. That I continue to have the right to decline any allocated work that in my view would be unhelpful to my career development.

I have a strong wish to return to my role as PCT Chief Executive as soon as possible. As we have discussed there are a number of factors which will influence my ability to do this .In particular my ability to return and be effective quickly will be facilitated by regular contact with the PCT in the coming months. I want to make it very clear that I do not want to influence in any way the investigation at Gosport or undermine the acting arrangements but do feel it is appropriate for me to be kept up to date with issues facing the PCT at this crucial time and have an ability to influence decision making. This will require some level of contact with PCT staff and I am concerned that the current arrangements for PCT contact ,as I understand them, could give the impression that I have been excluded, have something to hide or want to unduly influence the investigation, all of which are untrue. However these impressions could prejudice my current position and the prospects of returning in the future and I would like to discuss them with you again, so we can find a solution acceptable to us both.

As you know I am very willing to appropriately participate in any management review or other investigations associated with Gosport .In the meantime in the expectation that the written assurances referred to above are forthcoming, I am exploring appropriate short term alternative redeployment options that I hope will provide me with opportunities to gain fresh experiences and insights and that will be useful for my return. Nothing has been concluded yet, and I suspect cannot be until the legal position has been resolved, but I would be interested in working at DHSC level in the development directorate as a short-term option.

I hope this letter clearly demonstrates my desire to return to the PCT and the issues that I believe need to be resolved .The last month has been very frustrating and stressful not only for myself but for my family and others involved and I just want it to

come to an end as soon as possible so that I can return to work. The longer I am away from my job the more damage I fear will be done to my career and future employment prospects and the more difficult it will become for me to return. Hence it is important that my position is clarified as soon as possible.

I am sorry if the above sounds a little like a shopping list of requirements, particularly as a number of the issues are already informally agreed. You will, I know appreciate that they are driven by my wish to stay in touch and be able to return to my normal duties as soon as possible.

I look forward to hearing from you in the near future.

Thank you for your continuing support.

Yours Sincerely

Tony Horne

cc. G Cruddace