

14 December 2020

## OPEN LETTER

Dear Liz

Thank you for your email of 14 December 2020, in response to my letter of 26 November 2020.

The irony of the content of the email has not been missed.

In stating that Mike Fulford did not work with Kiran Bhogal in relation to the Gosport War Memorial Hospital, by omission you are indicating that Stuart Ward did work with her. On 30 November 2020, I published a clarification to my letter to ensure understanding. The amendment states, as was originally intended, that Mike Fulford, Stuart Ward and Kiran Bhogal were joint recipients of emails relating to the Gosport War Memorial Hospital scandal. The information you have provided today is enlightening.

Your previous email to me indicated factual inaccuracies. As you have mentioned only one, then all the other facts are deemed to be true. These include:

- Maggie Maclsaac accepts that failings took place in our case over the last three years.
- Maggie Maclsaac accepts that my wife is clearly eligible for NHS Continuing Healthcare and will most likely be eligible for the rest of her life, unless there is an unlikely miracle cure.
- WHCCG continues to defend its unlawful actions.
- Maggie Maclsaac agreed that it was right and proper that I should have the opportunity to challenge the assertions of West Hampshire CCG prior to any draft report being written. Now you are stating that this is not possible.
- Kiran Bhogal is the only solicitor working as an associate for Niche Consulting, according to their website.
- Kiran Bhogal is a partner and head of the health team in London for Hill Dickinson LLP.
- Kiran Bhogal was a partner at Beachcrofts LLP and Weightmans LLP.
- Hill Dickinson LLP, Beachcrofts LLP and Weightmans LLP are among the thirteen law firms appointed, by NHS Resolution, to the panel for the provision of health-related services (worth an estimated £523m over four years).
- Maggie Maclsaac has repeatedly rejected the idea of a resolution process in the form of a debate to be done in one day.
- I had accepted an alternative approach for an 'independent' review.
- Maggie Maclsaac knows that the response is forcing us to take legal action.
- I have repeatedly offered access to the recordings I have of the review meetings but these have never been accepted by Maggie Maclsaac or any other employee within her CCGs.

The seriousness with which the CCG takes compliance with data protection, regarding the recordings I have, would be reassuring if it were not for the fact there have been so many data protection breaches in my case. However, your response shows that you now accept that I did have a legal right to make the recordings, as consent is just one of six valid legal reasons for processing data.

This is the first time that the CCG has turned down the offer of having access to the recordings on the basis you now claim. As you now accept we had a legal right to take them, if you do not want the full recording, I am more than happy to provide you with transcripts of the relevant sections, redacting any personal information relating to staff members that may or may not be present. This is fully compliant with GDPR.

I note that you have said that the CCG feels that it has nothing else to add to this matter and will not respond further. Considering the other points I raised in my letter of 23 November 2020, I am unsurprised by your statement and I still await answers to many of the questions within my original complaints. Despite this, I continue to respond to every issue that you raise with me. Comments from my letter that have not been addressed:

- WHCCG does not agree with Maggie MacIsaac regarding failings in my wife's case.
- Failure to recognise that the process agreed on 2 July has been reneged upon.
- Failure to state how the process that was offer at the end was fair, equitable, transparent and lawful.
- How is it impossible to have an investigation process that enables West Hampshire CCG to hear my challenges and respond to them, and also provides me with the same opportunity in respect of their assertions?
- Choice of Niche Consulting as an 'independent' reviewer of the case when the only legal associate, according to the Niche website, is Kiran Bhogal.
- Not providing a single day to resolve this case once and for all, instead preferring long and costly processes.

Considering the refusal to answer many of our questions over time, I will be interested to see whether open, honest, transparent and evidenced responses will be provided this time.

This letter will be distributed widely in the evening of 15 December 2020 unless I receive a response that I deem appropriate.

Your sincerely

Phil Austen-Jones