

INFECTED BLOOD INQUIRY

DETERMINATION OF APPLICATION MADE UNDER SECTION 21(4) OF THE INQUIRIES ACT 2005

The General Medical Council (“GMC”)

The Background

On 14 May 2019 a notice under section 21 of the Inquiries Act 2005 (“the Notice”) was served on the GMC. The Notice required the GMC to produce documents identified in an annexe to the Notice, as being relevant to the Inquiry’s Terms of Reference, by 5pm on 31 May 2019.

Section 21 allows for applications to be made to be relieved in whole or part of the obligations imposed by a section 21 notice. It provides as follows:

*“(4)A claim by a person that—
(a)he is unable to comply with a notice under this section, or
(b)it is not reasonable in all the circumstances to require him to comply with such a notice,
is to be determined by the chairman of the inquiry, who may revoke or vary the notice on that ground.*

“(5)In deciding whether to revoke or vary a notice on the ground mentioned in subsection (4)(b), the chairman must consider the public interest in the information in question being obtained by the inquiry, having regard to the likely importance of the information.”

The Notice stipulated that any such application would have to be made by 24 May 2019. It required the disclosure of documents in unredacted form.

The Current Application

On 23 May 2019 Ben Hartley, Principal Legal Adviser to the GMC, sent a letter to the Inquiry noting that the GMC proposed to make some redactions to the material they were due to disclose.

These redactions are in relation to a complaint file dating back to 2003. During the initial investigation recorded in the file the GMC, in error, contacted two doctors who had the same name as the clinicians who were subject to the complaint, but were not those clinicians.

Accordingly the GMC seeks to make redactions to the names and registration numbers of these two incorrectly identified clinicians.

This amounts to an application under section 21(4), on the basis that it would be unreasonable to require the GMC to disclose the names of two clinicians whose identities are irrelevant to the Terms of Reference of the Inquiry.

Discussion and Conclusions

The GMC has stated that they have no difficulty in any other respect in complying with the section 21 notice by the deadline. It has reiterated its commitment to providing assistance

and cooperating with the Inquiry. For that I am grateful.

The Inquiry has in place statements of approach and a General Restriction Order to address the very matters raised by the GMC regarding redaction. In the usual course of the Inquiry, the GMC would provide the documents unredacted and then could apply for a Restriction Order over the information they sought to redact.

The GMC has stated, correctly, that the information to be redacted is not relevant to the Inquiry's Terms of Reference. It thus need not be provided at all, so as to come within the scope of the statements of approach and General Restriction Order. However the document containing the information contains other information which is indeed relevant, so the document as a whole must be provided. Further, the GMC has provided a detailed schedule ("the schedule") annexed to their Application with the proposed redactions. The schedule details the document number, page number, and the description of the redaction being applied for.

Given the clear identification of the material to be redacted, that it is obviously fair and just to redact material identifying clinicians whose names are irrelevant to the Inquiry, and that what gave rise to their being named in error in the first place was an initial mistake by the GMC which it has frankly confessed having made, I grant this Application.

The GMC must comply with the Notice, by the date specified within it, but may make the redactions as per the schedule.

Sir Brian Langstaff

Chair Infected Blood Inquiry

30 May 2019