

TOZERS

· SOLICITORS ·

(d) in the event of a refusal to allow cross-examination in any such case and the parents applying to the High Court to seek judicial review of that decision, the Tribunal would not seek to advance the argument that such application was barred because of the failure to judicially review the cross-examination criteria stipulated by the Tribunal

In essence therefore it was agreed that the parents were reserving their position as to whether they would challenge the cross-examination criteria but in the event that they decided to "suck it and see" they would not be debarred from challenging individual applications of the criteria.

Having regard to the appalling scandal at Bristol and the way in which parents were prevented from having any involvement or influence in the scope and conduct of the GMC proceedings, we cannot exaggerate the importance of this issue to the parents and hopefully you can provide us with written clarification before the preliminary hearing before Professor Kennedy tomorrow.

You will recall we expressed the view at Friday's meeting that it is of fundamental importance that the legal team representing the families should have knowledge of all information passing between the Tribunal and the parents. In the event that an issue of confidentiality is raised by a parent who is also a member of the British Heart Children Action Group it was agreed that the Tribunal would inform the legal team that there had been such a communication. We have reconsidered this point following the meeting and remain of the view that it is absolutely vital to the smooth running and expeditious determination of the issues during the Inquiry that an undertaking to this effect should be given to the legal team by the tribunal. We also await a draft protocol for such arrangements.

We will also need an accurate early indication from you as to the funding arrangements in terms of hourly rates for Counsel and solicitors, including ourselves as lead solicitors and as co-solicitors with Toller Beattie who require similar information. We ask this in view of the substantial amount of work to be done within a short time scale and the resource implications.

Following the indications Mr Maskrey gave at the meeting on Friday, we will be submitting detailed proposals for accommodation and facilities that will be necessary for the Executive Committee and members of the Bristol Heart Children Action Group as soon as possible after tomorrow's hearing. It is understood the Chairman will not require these details tomorrow.

Please also let me know the position regarding the work my firm is undertaking in relation to logging and indexing the GMC transcripts. Our Researcher & Data Analyst, Joachim Stanley, is progressing this work and we are keen to know that you wish us to proceed. The GMC solicitors Field Fisher Waterhouse confirm that the transcripts are not available on CD-Rom and for technical reasons, if these are transferred to disc, the pagination does not match that of the written transcriptions and there seems no way round this problem. Given the number of indirect references to particular documents throughout the GMC proceedings and further textual ambiguities, it is in any event unlikely that a CD-Rom programme would be able to provide a comprehensive index by means of a search facility. In the circumstances the work Joachim Stanley is carrying out appears to be essential as well as unavoidable and we are anxious to progress this and to receive confirmation from you that the specimen index is as you and your experts would wish it to be. I am passing a copy of this fax to Una O'Brien to whom Joachim Stanley has written suggesting an early meeting with his technical/administrative counterparts