

Data Protection Officer

Subject: s40A: Dr Bawa-Garba

Dear Anthony

Please find attached a submission that I have prepared following receipt of advice and possible Grounds of Appeal from Ivan Hare (also attached). The recommendation, on balance and on assessment of the evidence, is that there is a good chance (above 50%) of success on appeal.

As you are likely aware, this was a conviction case (for gross negligence manslaughter, for which the doctor received a 24 month custodial sentence, suspended for 24 months). The facts underpinning the conviction related to the doctor's emergency treatment of Patient A, a six year old, who presented with sepsis. The doctor did not pursue the investigation and treatment of Patient A's condition with the urgency, priority and attention it demanded. The MPT noted that the jury was satisfied that the doctor's negligence significantly contributed to Patient A's death or its timing.

In the light of the seriousness of the conviction and its underpinning facts, and with the over-arching statutory patient safety and public interest principles in mind, there was a clear mishandling on the part of the MPT in its assessment of remediation and mitigation in this case, for the reasons set out in the submission and in Counsel's advice. One particularly powerful component to the submission, in the grave circumstances of this case, is the failure to have regard to the reputation of the profession, and that matters of personal mitigation are less relevant in professional conduct settings in relation to the public interest (*Bolton v Law Society* [1993] EWCA Civ 32).

As the hearing concluded on 13 July 2017 we would need to issue any appeal, if we were so instructed, on or before 11 July 2017. Whilst this would appear to give us more time than usual to consider our position on appeal, I note that Patient A's family have been making enquiries as to our position, and that the case has attracted some media interest, which you may feel warrants an expedited approach.

We look forward to receiving instructions once you have had an opportunity to discuss with Charlie.

Kind regards

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