

RDS - for info  
 Haven aware.  
 Room 508 booked  
 30 mins.  
 P.C.

**WEDNESDAY 18 DECEMBER 2002**

Telephone from DI Nigel Niven re Operation Rochester.

He and DS Watts want a short discussion/advice regarding general issues which have arisen.  
 Meeting arranged for 11.00am on Friday 20 December.

He mentioned that the police have been contacted by local hospital manager and CHI who are proposing their own further investigations. Police proceeding with their own enquiries as agreed during our last meeting. They are putting together their expert team. Concerns arisen over potential conflicts of interests in the respective enquiries/investigations and potential impact on any corporate liability. He also mentioned he thought that CHI enquiries being directed by Chief Medical Officer. Hospital personnel involved appear to be anticipating potential culpability and possibility of being subject of police enquiry. Police want to discuss general issues and in particular those arising from points of reference in the other investigations. It has seemingly also been suggested to the police that hospital and CHI personnel want some sort of meeting.

Advised unlikely to be any simple/dogmatic advice but I and RDS would happily meet with the police to consider their concerns. I thought it appropriate that the police concentrated on their primary objective of establishing potential case against Dr B. If no culpability by her then hard to see how any corporate liability would arise. In any event corporate liability in this case would logically only arise by way of corporate omission (as opposed to commission) through, for example, failing to provide a proper and safe system of work, by closing their eyes to the obvious when they knew, or ought to have known, that all was not right. It may be they were on notice about real problems as a result of the 'secret' report prepared in 1990.

The legal position in the issues arising is somewhat nebulous and probably unique.

I suggested in passing that the police should concentrate on their primary investigation and not be deflected by side issues arising from the NHS Trust and the CHI. As both were seemingly intent on pursuing their own investigations and not holding back at all until the police investigation had been completed the police should simply press on regardless and not be deflected.

Any police interviews of corporate personnel are unlikely to be relevant until the primary liability issues have been resolved. If those personnel have previously been interviewed in the other 'civil' investigations then there is little which the police can do. No doubt warnings against self incrimination would have been given to them and all will no doubt be legally represented.

My initial view was emphatically that CPS should not have any discussions or meetings or give any advice to the local NHS Trust or CHI or Chief Medical Officer etc - any such action would be fraught with potential conflicts and difficulties and probably ultra vires CPS powers. I could see no possible advantage from such meetings but numerous potential problems. Appropriate legal advice etc could be given to those concerned by T Sols (to CMO) DOH solicitors and own legal advisers. //