

Our ref: COM 2003 002112

14 June 2006

Mr D W Wilson

**Code A**

**ipcc**

independent  
police complaints  
commission

comisiwn cwynion  
annibynnol  
yr heddlu

Eastern Business Park  
Wern Fawr Lane  
St Mellons  
Cardiff CF3 5EA

Tel/Ffôn: 029 2024 5400

Fax/Ffacs: 029 2036 1967

Minicom: 020 7404 0431

Email/E-bost: [enquiries@ipcc.gsi.gov.uk](mailto:enquiries@ipcc.gsi.gov.uk)

Web/Gwefan: [www.ipcc.gov.uk](http://www.ipcc.gov.uk)

Dear Mr Wilson

### **Notes of meeting held 23 February 2006, Alverbank Hotel, Gosport**

Further to my letter of 19 May 2006, I enclose copies of the notes taken during our meeting on 23 February 2006 at the Alverbank Hotel, Gosport. I once again offer my apologies for the delay in providing the notes to you.

We have tried to convert the shorthand notes, taken by my PA, Diane Allen, into typed notes which are a proper reflection of the meeting, which has taken some time. I should point out that the notes enclosed are simply notes and are not to be regarded as a word for word account of what was said at the meeting. Given the difficulties posed by recording every comment made by attendees, manually in shorthand, I cannot guarantee that the notes accurately reflect the exact words used.

As the focus of the meeting was to give you the opportunity to raise matters for consideration in our completion of the case, rather than recording comments made by Liz Semple or myself, it may be that our responses have been summarised to a great extent by the note-taker.

If you have any views or comments on the accuracy of the notes, then please feel free to contact me and I will assist where possible, to reach an agreed set of notes with you.

Yours sincerely

**Code A**

**REBECCA MARSH**  
Commissioner  
Independent Police Complaints Commission

COM 2003 002112

**NOTES OF A PRIVATE AND CONFIDENTIAL MEETING HELD AT ALVERBANK  
COUNTRY HOUSE HOTEL  
ALVERSTOKE, GOSPORT – 12:45 PM – 23 FEBRUARY 2006**

Present:	<b>Mrs Bulbeck</b>	<b>Complainant</b>
	<b>Mr Bulbeck</b>	<b>Complainant's husband</b>
	<b>Mr Wilson</b>	<b>Complainant's cousin and representative</b>
	<b>Rebecca Marsh</b>	<b>Commissioner, IPCC</b>
	<b>Liz Semple</b>	<b>Senior Casework Manager, IPCC</b>
	<b>Diane Allen</b>	<b>PA, IPCC</b>

RM introduced herself as Commissioner with responsibility for Hampshire.

RM explained the purpose of the meeting, to explain the role of the ICC in this case, to inform Mrs. Bulbeck what was happening and where the IPCC were in providing a conclusion, to explain the options for new complaints and to listen to any information, view, representation and comments or concerns.

RM explained that this case as a misconduct review case under the Police Act 1996, originally handled by the PCA. The PCA's responsibility under the Police Act on misconduct review cases was to consider the recommendations on discipline made by the police force, based on an investigation the force had conducted themselves. It is unusual for the PCA to see the investigation detail prior to receiving the full file and the recommendations from the force. This PCA role is now undertaken by the IPCC in relation to Police Act 1996 misconduct review cases. RM explained IPCC current powers.

RM explained that there was no power to become engaged in criminal investigation or prosecution under the Police Act 1996 rules. She also explained that discipline is based on breach of the Code of Conduct, as distinct from issues around competence or mistake.

RM acknowledged that Mrs Bulbeck would be unhappy with the outcome of the complaint and expressed her understanding of this. She also acknowledged that this had been compounded by the IPCC performance on the timeliness of the decision and communication with Mrs Bulbeck.

RM explained that any new complaints would be dealt with separately and offered the opportunity to use IPCC as a route for raising new matters. She distinguished between what would be Police Act 1996 complaints and what would come under the Police Reform Act 2002.

RM then invited response.

Mr Wilson asked if RM was saying that the document put out by Laurence Lustgarten in June was the final decision.

COM 2003 002112

It was explained that was his provisional decision. This goes to the complainant and gives the complainant 28 days to make any comments or representation on the outcome, but unless there is any further evidence offered, that would remain the outcome.

Mr Wilson said: What was the public apology for?

RM said she realised when the case was picked up that it had not been dealt with in a timely way and there had been a lack of communication. She went to the Commission and said the IPCC had failed to communicate and therefore an apology was needed. The public apology was made. She was also aware of the fact that the complainants had not been responded to effectively before the IPCC received the file.

Mr Wilson asked where the apology was placed. He had never seen it. He was told it was in The Times, at least. It was issued to the media but the IPCC had no control over who printed it.

Mr Wilson asked why he never received a response when he wrote.

It was explained that some of the questions he asked had already been asked by other people and were being looked at. It was thought that Mr Wilson had received a response from Douglas Cleaver. Mr Wilson replied that the only letter he had received from him was to say he did not deal with complaints.

It was expressed that his feedback was important and would be brought back as a learning point for the organisation. However, it was explained that RM was intentionally avoiding becoming involved in any of the historical aspects of this case. She wanted to keep a clear focus on the facts of the case and others could consider the learning from the prior handling of the cases.

Mr Wilson said he didn't want to waste RM's time. He had only had two letters from the PCA – one to say the IPCC had taken it over and one from Laurence Lustgarten with his decision and if no-one can find anything malicious done by John James because it is under the Police Act 1996, there would be nothing the IPCC could do about it. On the basis of what he understood the situation to be i.e. in terms of the response they gave to Laurence Lustgarten's letter, their response was picking up on aspects where they considered John James had failed them, not to cause them harm, but hand on heart, he could not go forward and say he had done it maliciously. He said they had to go away and consider what they needed to do now.

It was explained there was one investigation, but individual complaints which informed that investigation. Everyone today had been told, if they had new complaints, how these would be handled as direct complaints to the IPCC. The distinction between Police Act and Police Reform Act complaints was explained.

Mr Wilson said what they needed to know was the complaint was commenced back in 2002. He understood that the complaint was terminated. That complaint was one of a number of complaints made at that time. He understood it was still ongoing,

COM 2003 002112

albeit in a different form. Hampshire were re-investigating again and again. Was that correct?

It was explained that investigations going on were investigations into the criminal activities of Gosport War Memorial Hospital. As far as LS was aware, they were not looking at the police handling of the case.

Mrs Bulbeck said they had had so many investigations, all by different people. So many police had been met and so many letters had been written. This had been going on for almost 5 years. They did not know the others were complaining. They were not asking for compensation. They had other things to do. She had suffered a heart-attack, probably caused by all of this. Something was badly wrong and she needed peace of mind.

Mr Wilson said they couldn't get closure in any way until the police investigation was concluded. He had been told the police investigation was not concluded, therefore the NHS would not meet with him and he could get no information. The NHS received a letter from the police in 2003 saying they were concerned the Press were giving information to the families, which was compromising their investigation, so now they would not meet with them to discuss. The GMC and Nursing Council would not speak with them until the investigation was complete.

Mr Wilson said, if the investigation were still ongoing, the mere fact that it was happening, bearing in mind that Hampshire first investigated this in 1992, there was something wrong in the way they were handling the matter.

It was explained what would constitute a new complaint and what would fall under the old Act.

Mr Wilson said it was not about money. There were individuals still working in that hospital or elsewhere. They could not have any of them investigated because they would not give them names until the investigation was concluded. If it took long enough, under the Statute of Limitations Act, it would be too late to take them to the Civil Court.

RM clarified that they felt the force were intentionally delaying, which would be matter falling under the Police Reform Act. The options for making direct complaints were outlined.

Mr Wilson said "We will take you up on that and will prepare." He said that they needed to revisit. He felt RM had helped them identify where they should be going and what they should be doing. He asked if Mr James were still a serving police officer. When told 'no', he said "Then there is nothing we can do."

It was explained that a PRA investigation would only consider allegations of criminality with regard to non-serving officers or staff, not misconduct.

Mr Wilson said they did believe that the findings were incorrect in terms of procedure regarding standard police procedure which should be verified. He did not believe the IPCC preliminary findings really stood up to scrutiny. It would be wrong to let it go

COM 2003 002112

forward unchallenged. He believed the IPCC were erroneous in terms of how they had dealt with the complaint.

It was understood why Mr Wilson felt as he did, but based on the information they currently held, the IPCC felt the original decision was justified. However, they are unable to disclose this information under the old legislation. The need to consider any additional evidence resulting from the discussions with the complainants and the force before finalising the decision was reiterated.

Mr Wilson said he would be asking for a judicial review on how the IPCC had made their decision. He said this was all very stressful.

The different disclosure arrangements under the old and new legislation were explained. Mr Wilson, of course, had the right to judicially review decisions.

Mr Wilson said it was Mrs Bulbeck's decision at the end of the day – it was her mother. It would be stressful again.

It was reiterated that, based on the full information held by the IPCC, the decision did appear reasonable. The issue for Mr Wilson was whether or not it was that information he wanted access to or whether he wanted to overturn the IPCC's decision.

Mr Wilson said this was what he needed to discuss with Mrs Bulbeck. He had his reasons.

Mr Wilson said, going back to the provisional findings of 28 June, Mr James took a decision not to take statements from the relatives concerned to solely concentrate on the expert evidence because he decided, from his experience, that was the correct way to deal with the situation. If the IPCC are not likely to clarify, how did they work?

It was explained that the IPCC offered oversight and made decisions, which were practical and appropriate to the individual case circumstances. The IPCC had a legal directorate to support their work.

The new disclosure rules were reiterated and Mr Wilson was informed that a judicial review would not prevent him making new complaints. The frustration of the inability to disclose under the old system rules was understood and shared.

Mr Wilson said, when he spoke to someone else, he was told a different reason why there was a public apology and was also told that the provisional findings of Lawrence Lustgarten were not acceptable. At the end of the day, one of the reasons was because the reason put forward in that letter as the main reason for backing up Mr James was his personal decision to go straight to the experts instead of taking statements from the relatives. That was not police procedure. To investigate a crime means you take statements from witnesses. Mr James was investigating suspected deaths and allegations of suspected abuse. Nowhere in that document was criminal abuse or ill-treatment mentioned, because he did not take statements.

COM 2003 002112

It was explained the point of the meeting was to attempt to pick up the concerns of the complainants. The papers from the force had all been received in relation to the case and they would be making their final decision based on the findings.

Mr Wilson said it was important to him to have a statement saying the police did not conform to their procedures.

The nature of the IO's decision-making in an investigation, to gain best evidence, was explained. Getting the medical expert information first, and then coming to complainants or other areas to get additional information to support that, would not necessarily be wrong. If the investigating officer made that decision and the complainants disagreed with a decision, unless he made it in breach of the Code of Conduct, it would not change the findings.

Mr Wilson said the complaint was against Hampshire Constabulary. They asked John James to do the job. At the end of the day it would be Hampshire Constabulary who would be found guilty or not guilty. What was important was that John James used his discretion. He went to the experts. After that he did not go back to the individuals because they had a letter from him where he identified that Mrs. Bulbeck's mother's death was not suspicious. After that they decided, at long last, that they were going to take statements. Why did he not then re-investigate the matter?

It was explained that, unfortunately, the IPCC could not disclose to Mr Wilson or refer to anything in the file that would satisfy him or explain to him, due to rules of disclosure

Mr Wilson said the police had a duty and their duty was to collect evidence for the CPS. It was no good collecting 50% of the evidence.

The differences between a direction and control complaint about a force's approach, compared to a misconduct complaint under the Police Reform Act were explained

Mr Wilson said while they were making complaints about John James, he was being promoted. It was agreed that may be so.

Mr Wilson said that he then retired.

The situation regarding retirement was explained.

Mr Wilson asked if they made a complaint against Hampshire Constabulary today relating to matters that took place in 2001, would that go back to the 1996 Act?

The distinction between the old and the new Act was explained to Mr Wilson.

Mr Wilson said they found him quite a pleasant man. Their complaint was that he didn't take the matter forward. He said he would be very concerned if he had a relative in the hospital. Couldn't anyone understand they were not just doing it for the fun of it? Why should it take this long? Kent police had a similar investigation into similar circumstances.

COM 2003 002112

It was felt if the complainants could see the papers they would understand why.

Mr Wilson said they had heard things but they didn't know if they were true. He had heard of doctors who were still working but not allowed to prescribe any more.

He said until the police had finished their investigation no action could be taken against the people concerned.

It was stated the IPCC felt the recommendations and the outcome of the investigation were proportionate.

Mr Wilson said it didn't matter what the IPCC think, it is only if they can prove that what John James did was a deliberate attempt to cause harm, but he didn't.

He said they had the opportunity to go away to re-think the matter. If the police had completed their investigation they could go back to the NHS and find out what went on. Unfortunately, this was taking all these years.

Mr Wilson was reminded of LS (the Casework Manager) contact details. If they had any questions about the current procedures, then they should let her know. The powers for different types of complaints and how the IPCC could receive them and the requirements and powers to deal with them were explained.

Mr Wilson said he would probably ask if they could tell him if there were ongoing complaints against Hampshire Constabulary relating back to the circumstances that they were investigating under their present powers because if there were such a complaint ongoing, he thought they would be better served by being part of that one complaint.

It was explained the IPCC was not aware of a current complaint, but through the meetings today others had indicated their wish to discuss with their fellow complainants and may wish to make collective complaints. The IPCC would deal with whichever way they were most comfortable with. No-one would make them all go into a group if there were one person who wished to go it alone.

Mr Wilson said he had made a complaint about other police officers as they had taken on the case.

RM explained the Police Reform Act call-in powers.

Mrs Bulbeck said her mother had a stroke and was referred on for her rehabilitation so that she could live on her own. She did not get the appropriate care she should have had. Mrs Bulbeck had to sit by her bed and feed her. She does not feel she had the care she should have expected.

Mr Wilson said their complaint was 25 March 2004. He asked RM to thank Jane Carter for him for trying to arrange a meeting with John Wadham. In terms of what they had been told at this meeting, there is just no point in wasting his time. They should start formulating new complaints.

COM 2003 002112

Mr Wilson said the IPCC would come out with their formal findings and justify their deliberations under the Police Act and they would have to appreciate that, depending on the wording, the IPCC may hear further from them.

Mr Wilson indicated to Mr and Mrs Bulbeck that it was felt to be unfortunate their only recourse was Judicial Review.

Mr Wilson said he was not interested in the disclosure aspect. He was very interested in the findings that would be made public by the IPCC on how they had concluded the case had been dealt with. It seemed impractical to him to find that Hampshire Constabulary had dealt with things under the appropriate procedure.

Mr Wilson said the Commission couldn't justify to people whose relatives have died that a certain body had acted properly when they had not.

RM expressed her sympathy that she could not take forward these new issues for them.

Mr Wilson enquired about the IPCC's funding and its sufficiency. The funding and structure of the IPCC was explained.

Mr Wilson asked if the IPCC had sufficient funding to be able to say to the public that they could do their job properly.

The IPCC was growing and taking on new staff. They were currently taking on HMRC and SOCA so they were taking on new staff to deal with them.

The appointment and reporting structures of the Commission were explained as were the decision making delegations.

Meeting ended

Mrs Bulbeck shared her Mother's photograph with RM.