

**Other Document Form**

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1279

Title EMAIL DSQPT WILLIAMS - GROSS NEGLIGENCE ADVICE TO EXPERTS

(Include source and any document number if relevant)

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Further actions no(s)

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Code A

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**From:** Williams, David M  
**Sent:** 27 May 2005 11:36  
**To:** Niven, Nigel  
**Cc:** Grocott, David; Code A  
Code A  
Code A  
**Subject:** OP ROCHESTER LEGAL ELEMENTS.

Dear All..

I have previously sent the full advice..

Attached is a distilled version, a reminder of the elements required to constitute Gross Negligence Manslaughter..For information..

DW.



OP ROCHESTER  
EGAL ELEMENTS..d.



OP ROCHESTER.

Gross Negligence Manslaughter Elements- advice to experts.

1. Opinion how far below acceptable standards or practice the care falls.
2. Standard of proof terminology (beyond all reasonable doubt).
3. Act must be a substantially more than minimal cause of death, but not necessarily the operative cause (Unlawful Act Manslaughter).
4. Breach of duty of care characterised as gross negligence and causes or significantly contributes towards the death of the victim.
5. Causation..Death caused wholly or in part by the defendant..more than minimally negligibly or trivially.
6. Must be able to link 'the act' to at least an operative cause of death.
7. Where death is inevitable, hastening or accelerating of death can be a cause of death.
8. Not sufficient to prove causation if the Crown could only show the victim would have survived hours or days where intervening life would have been of no real quality.
9. In the case of multi-factorial death (numerous factors present and not possible to identify which if any had an operative cause) causation may be proved if one of the operative causes of death was due to the act or omission of the defendant(more than minimally).

DW.

Taken from CPS advice 12.8.04.