

file copy

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HAMPSHIRE Constabulary

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Chief Constable

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Our Ref. D1/P418/98/AW

Your Ref.

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Mrs G M Mackenzie

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Code A

20th April 2001

Dear Mrs Mackenzie,

Following our telephone conversation on the 18th April, I have spoken with Mr Gear, PCA, and as we discussed, I have set out below a response to your letter of the 21st March, addressed to Mr Gear. I hope that I am able to clarify the issues for you. I have referred to the paragraphs of your letter. I will be only too happy to discuss any of these issues further, and if you have any other matters specifically for the PCA I am sure you will then take them up directly with the Authority.

Para. 1

There has never been any question over the fact that DI Morgan had supervisory responsibility for **Code A**. The omission, on her part, to follow established good practice in a supervisory capability was the subject of operational advice.

Para. 2

I agree that you made no direct allegation that the officers had been dishonest. However, I have a responsibility to consider whether this could have been the case.

The fact that formal statements were not taken from your sister or yourself, and the fact that medical records were not seized, was the subject of operational advice to DI Morgan.

As you point out, this decision was effectively taken by DI Morgan, hence she received the advice.

In respect of the selection of Dr Lord as an 'independent' medical opinion, Code A made the choice, which was accepted by DI Morgan. This appears to have been on the basis that none of the police doctors specialised in geriatric care. He therefore approached a geriatric consultant, Dr Lord. The fact that Dr lord had a supervisory responsibility for the ward concerned ought to have been identified by DI Morgan when she reviewed the file before second submission to the CPS. Accordingly DI Morgan received operational advice on this point.

Para. 3

The notes made by your sister, and the letters from the Portsmouth Healthcare Trust, were submitted to the CPS for consideration in March 1999. It would have been best practice to have 'converted' the notes into a statement form, by taking a statement, and it would also have been best practice to assure the provenance of the notes by exhibiting them. In our telephone conversation I hope I was able to properly explain the police meaning of the term 'exhibit'. These issues were the subject of operational advice to DI Morgan.

During our telephone conversation I outlined to you the file notes that have been made regarding the decisions on progressing the complaints investigation alongside the criminal investigation. Following the taking of your statement of complaint in April 1999 the criminal investigation was reviewed, a process that led to the appointment of DCI Burt as the senior investigating officer in the renewed investigation. I fully accepted that there was no note to indicate that you had been kept informed of this process, and why the complaint investigation was thus delayed, and thus I also accept that you were not so informed. This should have been done, and I add my apology to you here.

Para. 4

In our telephone conversation I explained that the reference to 'misinterpretation' of DI Morgan's comments referred only to her account of one conversation, where she stated she had found it "sad" that you may have been prepared to prosecute your sister. DI Morgan had said she did not intend this to be rude. In my view, if it had been said, it was not likely to be interpreted as a polite comment. DI Morgan received operational advice on this.

Para. 5

We had discussed the standard of proof required for matters at that point of time, and the standard applied now.

Para. 7

Investigating Officer's reports are currently a class of document covered by Public Interest Immunity, following case law on the subject. They are the property of the relevant police force, and we limit disclosure to the PCA alone, except upon the direction of a court. I am not therefore able to supply you with a copy. Clearly this limitation on disclosure also means that the officers subject of complaint do not see the report.

Para. 8 Sub para 2.

Prior to first submission to the CPS for advice, in November 1998, the file was routed through a Detective Superintendent for advice also. That officer indicated that a medical opinion would be necessary. A first medical opinion was sought and the file went to the CPS. The CPS returned the file and requested a further opinion. The opinion of Dr Lord was obtained and the file forwarded a second time to the CPS.

I mentioned to you, at the beginning of my part of the investigation, that I was aware an officer senior to DI Morgan had had some involvement with the file. I have now established that it was as I have set out above. Accordingly the responsibility for the quality of the file and investigation rested with DI Morgan.

Para. 8 Sub para 3.

In our telephone conversation we discussed the organisational responsibility of Chief Superintendent Basson, and that he is not able to be involved in actual investigations.

Perhaps I could close by summarising my understanding of the progress of your complaint;

- You made your complaint by letter on the 20th November 1998. Inspector Fuge (a member of Supt. Lockwood's team) spoke with you in December 1998 and indicated that he felt that the taking of a statement of complaint from you could be injurious to the criminal investigation, and it was arranged to delay taking your statement until April 1999.
- In April 1999 your statement of complaint was taken, the criminal case file having been submitted to the CPS and their decision having been received. At that time it appeared possible to investigate your complaint because no criminal prosecution had been commenced.
- The Force then reviewed the criminal investigation, and in the light of your complaint the criminal allegation was to be the subject of further investigation, under the direction of DCI Burt.

- The review of the investigation took until August 1999.
- In view of the renewed investigation the previous decision to await it's outcome before investigating your complaint was re-applied. You were not informed of this until the 20th April 2000, when you telephoned the Professional Standards Dept. to enquire as to progress.
- In July 2000 the decision not to investigate was reconsidered, and the investigation progressed. It was concluded in February 2001.

I very much appreciate that my understanding of this is taken from the file I have, together with our conversations, and that your perceptions and experiences may indeed be very different.

As I said at the outset, I will be very happy to discuss these issues further, and am willing to travel to see you, to discuss them in person, if that would be more productive.

Yours sincerely,

Adrian Whiting,
Superintendent

cc. Mr D Gear, Member - Police Complaints Authority