

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

Present:	Mrs Bulbeck	Complainant
	Mr Bulbeck	Complainant's husband
	Mr Wilson	Complainant's cousin
	Rebecca Marsh	Commissioner, IPCC
	Code A	Senior Casework Manager, IPCC PA, IPCC

RM introduced herself as Commissioner with responsibility for Hampshire.

RM explained the purpose of the meeting, to explain the role of the IPC in this case, to inform Mrs. Bulbeck what was happening and were 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 IP in relation to Police Act 12996 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.

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 properly i.e. delays and 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 aware of the fact that the complainants had been neglected 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 Code A 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 it clean and others would focus on the prior bad 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. 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, they could be taken from them and passed to the force. The IPCC could take some control of it for them and make sure things happened and are progressed. To fall under the Police Reform Act, the complaints would need to be about the current investigation, otherwise, they may fall under the Police Act and would be subject to the old processes rather than the new. It was quite a distinction.

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, 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 she 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 us 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 said if they felt the force were intentionally delaying, they could be investigated under the Police Reform Act. If Mrs Bulbeck would like to give the IPCC a statement of complaint, they could offer her that.

Mr Wilson said "We will take you up on that and will prepare." They needed to revisit – RM had identified for them 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 if a new investigation uncovered some criminality, that could be pursued.

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 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 the IPCC has access to information that they felt justified the original decision. However, they are unable to disclose this information under the old legislation

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.

It was explained that, under the IPCC's new powers, things were completely turned around under the new rules. The IPCC wanted to be open and transparent, but have to follow the guidance set out in the old legislation. She added she was quite comfortable for them to JR them. She said he may get the information or the Judge might agree with the IPCC.

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 stand up. 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.

It was further explained that if it was information he needed, this could be gained through the new rules under the Police Reform Act. He could do both if he wished – JR and a new complaint. There was nothing to stop them. One of the most frustrating things was where the IPCC could not tell people what was held on file. Legal challenges had been unsuccessful because of the Police Act. It did depend on what they wanted to achieve. Even if they were unsuccessful at JR, the worst thing that could have happened under the old system was that John James could be sent to a panel.

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, made decisions which were practical and appropriate. They were not part of a legal system. The old Police Act was very legalistic. The IPCC had a team of lawyers to test the legality of their work.

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.

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.

It was explained that there were various officers with project lines and guidelines which they must apply, depending what they were investigating. They had a discussion based on their experience and other information on how they felt they were going to get the best result in any given situation. Sometimes it was not appropriate to get those statements first of all, depending on the nature of the criminality that had been alleged because it may be that getting other information first would be able to direct them to how they go about acquiring witness statements. For the best chance of getting the best result, they would go to the best place first of all. Getting the medical expert information first, and then coming to complainants or other areas to get additional information to support that, would not be wrong. If the investigating officer made that decision and the complainants disagreed with that 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.

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.

It was explained that the complaint was against Hampshire Constabulary, but the only powers in relation to this were misconduct concerning the individual officer. Even if he made the wrong decision, the issue was whether or not that was a breach of the Code of Conduct, not whether it was an intentional act. There was a direction and control process where the public could make complaints to the Chief Constable. This was not the same as the conduct of officers. They were dealing with two different pieces of legislation and an old case. What they could do under the new system would be to give the complainants all the papers on the case and help them resolve the issues.

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

Mr Wilson said that he then retired.

It was explained that, under the PCA, there would be no requirement for the force to inform the IPCC of that.

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 were 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.

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 the Casework Manager's details. If they had any questions about the current procedures, then they should let her know. There were quite wide-reaching powers for difficult types of complaints and how the IPCC could receive them and the requirements and powers to deal with them.

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 did not have a current complaint, but through the meetings today others had indicated they wish to discuss and may go to them as a

group. The IPCC would deal with whichever way they were most comfortable with. They would not 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 said if those complaints were made after April 2004, then she could call them in.

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 Code A Code A or 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.

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.

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 said she was concerned that she could not take forward new issues for them.

Mr Wilson said, in terms of Judicial Review, the IPCC are funded by the Home Office. He asked if the IPCC had sufficient funding for its purposes.

RM said there was not a public body in this country that was optimally funded.

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

It was explained the IPCC was growing and taking on new staff. They had funding to allocate what they take on to staff. They were currently taking on HMRC and SOCA so they were taking on new staff to deal with them.

RM said she was responsible to the Chair of the organisation and collectively they were responsible to Parliament. It was not a Home Office civil service approach. The Commission was a decision-making board delegated to specific Commissioners.

In some cases they would make decisions with panels of Commissioners. Recently there was a case decision made by three Commissioners and not by just one because of legal complexities. If she does not turn up to work, the Chair will shout at her, but not sack her. He would have to go to the Secretary of State. The Chair was appointed by the Queen, which was why he was independent of the Home Office, although they were funded by the Home Office.

Meeting ended