

**Private and confidential**

Emma Kelly-Dempster, Good Practice  
Officer

Dear Ms Kelly-Dempster

**Complaint from Ms Mackenzie about the handling of her fitness to practise case (Gosport War Memorial Hospital Case)**

Thank you for your letter of 21 June 2010.

It should be noted that Gillian Mackenzie has never submitted a complaint to the Nursing and Midwifery Council (NMC) or the United Kingdom Central Council for Nursing and Midwifery (UKCC). On 18 September 2001, however, the UKCC's Preliminary Proceedings Committee (PPC) considered the care provided to Mrs Mackenzie's mother, Gladys Richards, following correspondence received from Hampshire Constabulary. The case file no longer exists, but a set of the papers from that meeting was retained.

**Preliminary Proceedings Committee, 18 September 2001**

No specific complaint was made by Hampshire Constabulary regarding the conduct of any registered nurse, but three nurses were named within the correspondence as having been the subject of interview.

The PPC considered the following supporting information:

- Copy correspondence from Hampshire Constabulary and a copy of Mrs Mackenzie's police statement and that of her sister, Lesley Lack (now O'Brien);
- Copy correspondence and supporting documentation from Portsmouth HealthCare NHS Trust. This includes copy correspondence between Mrs Lack and the Trust; the Trust's investigation report and copy correspondence between the Trust and the police. The Trust makes the observation that Mrs Richards family did not pursue any complaint through the NHS complaints procedure;
- A copy of Mrs Richards' notes.

In a covering report, the PPC was informed of the nature of the concerns expressed by Mrs Mackenzie and Mrs Lack to the Trust and the implication that she had received high doses of morphine instead of proper treatment and nourishment and, as a consequence died.

In addition, Mrs Richards' family's concerns are summarised in detail.

The PPC was advised that the police had confirmed that there was insufficient evidence to support prosecution of the three registered nurses nor had the Trust's investigation in 1998 found any evidence of misconduct.

It should be noted that the PPC was unable to proceed with a case until the conclusion of a police investigation and judicial proceedings. The committee was informed that these had concluded and was invited to consider possible allegations that could be put to the three registered nurses. It was also provided with reasons why it should consider taking no action.

The PPC declined to proceed with case. At the time, the committee did not have to give any reasons for its decision.

I shall now move on to the issues that CHRE has raised by addressing the bullet point in your letter.

- **She has not been told why her case was closed in 2001.**

We did not write to Mrs Mackenzie in 2001 with the committee's decision as she was not the complainant in the case. As you know, the PPC reconsidered another case concerning nurses Gosport War Memorial Hospital in April 2010. This case had been adjourned in September 2002.

In the knowledge that Mrs Mackenzie had been included in correspondence in following the adjournment of this case in September 2002 (see below), it was decided to write to her at the same time as the other complainants. A letter, dated 23 March 2010, was sent to her and explained the history of the two separate sets of cases that were considered by the PPC. This letter explained that the NMC could not reopen the case concerning Mrs Richards' care as the matter had been considered by the PPC in September 2001, that it had declined to proceed and why we had not written to her at the time. We took the opportunity to apologise that the issue had not been clarified with her until then.

- **She is unsure why, if her case was closed in 2001, she was written to in 2002 and advised that the PPC had adjourned consideration of her case to await the outcome of the investigations by the police and CPS.**

Records show that Mrs Mackenzie telephoned our office in April 2002. She was asked to submit her concerns in writing. No written response was received.

A further handwritten note was made on 3 August 2002 and Mrs Mackenzie and her sister's addresses were taken down together with some information about the possibility of the police case being reopened. Mrs Mackenzie and her sister were designated "Further complainants" in this note.

We believe that this may be where the error lay and the case officer at the time wrote to Mrs Mackenzie and her sister believing them to be complainants in the case. On 25 March 2010, however, Mrs Mackenzie telephoned the NMC and explained that she had never received the letter that was sent to her on 27 September 2002. A further copy was sent to her.

- **She is unclear why her case has never been reconsidered in light of all the new evidence that has come to light over the last few years.**

The issues relating to the nursing care provided to Gladys Richards considered by the PPC in 18 September 2001 do not vary from those concerns expressed by Mrs Mackenzie today. As stated above, the PPC had the option to adjourn and put allegations to registrants or, indeed, direct that a wider investigation be carried out by the Council's solicitors. It decided to decline to proceed with the case and we cannot see how the case can be reopened.

While she has engaged in correspondence recently, Mrs Mackenzie has not provided any new information.

It should be noted that the NMC's in-house legal team reviewed all of the information considerable information that was disclosed by the police between 2004 – 2007. It logged each file and reviewed the police reports, expert comments, and summaries of the evidence. In considering the information, the NMC's lawyers were seeking to establishing whether or not there were new areas of concern against any additional registered nurse that had not formed part of the complaints made in 2002 that should be considered under the new rules. The lawyers found that there was no information.

- **She has experienced delays in receiving responses to voicemails and letters since March 2010.**

Mrs Mackenzie wrote to the former director of Fitness to Practise, Ian Todd, on 25 and 29 March 2010. These letters were received at our off-site scanning unit on 1 and 6 April 2010 and the hard copies were not received until later that week due to the Easter vacation.

It was agreed to pass the correspondence to the senior case officer, **Code A** **Code A** who had been dealing with the second Gosport War Memorial Hospital case. Regrettably, **Code A** fell ill at the end of April 2010.

Following his return to the office, he engaged by telephone with Mrs Mackenzie. He has recognised that her correspondence is complicated and raises issues regarding the various enquiries relating to Gosport War Memorial Hospital outside that of the UKCC/NMC. In addition, he explained to her that her correspondence warranted a considered response. In addition, he recognises that there is little we can add to our earlier correspondence and is anxious to ensure that this is conveyed as sensitively as possible.

**Code A** believes that he has always maintained a good relationship with Mrs Mackenzie under the circumstances and has spent considerable time with her on the telephone. He is disappointed if she feels that she has not received attention but recognises that her correspondence has not received the detailed reply she was expecting and will endeavour to ensure that she receives it by the 23 July 2010.

In terms of voicemail messages, it appears to be Mrs Mackenzie's practice to leave messages outside office hours. These message are not necessarily requests to call her back but rather to convey background information. Where she has asked to be telephoned back, we have endeavoured to do so promptly.

We recognise that Mrs Mackenzie is unlikely to ever accept the NMC's decision or the decision by the PPC in September 2001 to be a palatable one but hope to resolve this matter sensitively.