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H A M P S H I R E C o n s t a b u l a r y

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22/11/99

Professor B. Livesley
MBChB DHMSA MD(Lon) FRCP MAE

Code A

Dear Professor Livesley,

In Confidence

I am writing to you, on the advice of the National Crime Faculty, in order to discover whether it would be appropriate to formally seek your assistance, as an expert witness, in connection with a case I am currently investigating.

In order to help you determine this I thought it might be helpful if I provided you with a fairly detailed introduction to both the history of the police investigation and the circumstances which gave rise to the allegation which has been made.

My enquiries focus on the circumstances surrounding the death of Gladys Mable Richards (born **Code A** Mrs Richards died at the Gosport War Memorial Hospital, Gosport, Hampshire on Friday 21st August 1998 whilst recovering from a surgical operation carried out at the nearby Royal Hospital Haslar to address a broken neck of femur on her right side.

Following her death Mrs Richards' two daughters, Mrs Mackenzie and Mrs Lack, complained to the Hampshire Constabulary about the treatment which had been given to their mother whilst she was admitted to the Gosport War Memorial Hospital. No complaint was made about any aspect of the care which their mother received whilst admitted to the Royal Hospital Haslar.



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Mrs Richards' daughters alleged that their mother had, in fact, been unlawfully killed as a direct result of treatment decisions made by the visiting General Practitioner and Clinical Assistant, Dr Barton, who was primarily responsible for her care whilst she was an in-patient at the Gosport War Memorial Hospital.

As a result of this allegation a police investigation was carried out by officers from Gosport Police Station. In due course a file of papers was submitted to the Crown Prosecution Service and, in March 1999, the reviewing CPS lawyer gave the opinion that, on the evidence available, he did not consider that a criminal prosecution was justified.

On learning of this decision Mrs Mackenzie expressed her dissatisfaction with the quality of the police investigation. She has made a formal complaint against the officers involved and this is currently being investigated.

A review of the police investigation was then carried out by Detective Superintendent Longman, of this Force, and it revealed that there was some additional investigation work which should be carried out. As a result I was appointed to re-investigate the case.

I will now provide you with an overview of the circumstances which preceded the death of Mrs Richards.

Mrs Richards was a resident in two nursing homes from 1991. The most recent, the 'Glen Heathers' Nursing and Residential Home, is situated in Lee on Solent, Hampshire. These premises were chosen because Mrs Lack, one of Mrs Richards' daughters, lives in the nearby town of Gosport.

Mrs Lack is a retired Registered General Nurse (RGN) with 41 years nursing experience. During the last 20 years of her career, prior to her retirement in 1996, she held supervisory and managerial positions and was primarily involved in the care of the elderly.

Mrs Lack stated that, during 1998, her mother's state of dementia became more marked and she became less physically able. Mrs Richards was inclined to wander and, according to Mrs Lack, following a change in her mother's medication for the symptoms of her dementia, she began to suffer falls. Despite this Mrs Lack described how her mother was able to stand, walk and attend the toilet.

Mrs Richards suffered a fall, at the 'Glen Heathers' Home, at approximately 1450 hours on Wednesday 29th July 1998. She was transferred to the Royal Hospital Haslar, in nearby Gosport, at approximately 2100 hours the same day. On admission Mrs Richards was found to have a broken neck of femur on her right side.

In fact, the findings suggested that Mrs Richards condition was consistent with her having been 'walked', after the injury had been sustained, thereby aggravating matters significantly.



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Mrs Lack expressed serious concern about the delay, on the part of the nursing home staff, in recognising that her mother may have been seriously injured and in making arrangements for her transfer to hospital.

Mrs Richards' daughters decided that they would not allow their mother to return to the 'Glen Heathers' Home, following treatment, because of wider concerns regarding the standard of care which she was receiving there. A complaint, to this effect, was made to the local Social Services Department. It is understood, however, that following investigation no evidence could be found to substantiate the allegations made.

On Thursday 30th July 1998 Mrs Richards underwent a surgical procedure at the Royal Hospital Haslar and was given a replacement hip on her right side. She remained at the Royal Hospital Haslar for a further eleven days until, on Tuesday 11th August 1998, she was transferred to Daedalus Ward at the Gosport War Memorial Hospital.

Prior to her discharge, from the Royal Hospital Haslar, Mrs Richards is described, by her daughter Mrs Lack, as responding to physiotherapy, able to walk a short distance with the aid of a zimmer frame and no longer in need of a catheter. Her medication, for dementia, had been reduced and she was able to recognise family members and make comments to them which made sense. Mrs Richards was, with encouragement, eating and drinking naturally and, as a result, the drips which had facilitated the provision of nourishment, after the operation, had been removed. Code A considered it significant to note that her mother was no longer in need of pain relief and it was apparent, to her, that her mother was pain free.

The Gosport War Memorial Hospital is managed by the Portsmouth Health Care NHS Trust. It is a Community Hospital operated, on a day to day basis, by nursing and support staff employed by the Trust. Medical expertise is provided by way of visiting general practitioners and clinical assistants. Consultant cover is provided in the same way.

The Gosport War Memorial Hospital does not provide high tech acute care for patients. As I was clearly uncertain what this meant I was given, as a relevant example of this, the fact that whilst fluids could be delivered to a patient subcutaneously it would not be possible to administer fluid nutrients intravenously as this would require the continuous availability of a doctor.

Mrs Richards was treated in Daedalus Ward, at the Gosport War Memorial Hospital, which provides continuing care primarily for elderly patients who are in need of special nursing attention.

On Wednesday 12th August 1998 Mrs Lack visited her mother, in Daedalus Ward, and found that she was unrousable, unable to take nourishment or be kept hydrated. Mrs Lack was told that her mother had been given 'Oramorph' for pain. Mrs Lack was further told that her mother had been calling out, showing signs of anxiousness and it was believed that she had been in pain although, according to Mrs Lack, the cause of the apparent pain had not been investigated.



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Mrs Lack has expressed the view that her mother's symptoms of dementia, calling out and being anxious, may have been misinterpreted for pain.

In her draft statement Mrs Lack stated that the staff at the Gosport War Memorial Hospital may, in fact, have treated the symptoms of her mother's pain as for dementia, and vice versa, at different stages of her admission.

She believes this issue to be significant in terms of the appropriateness and the quality of treatment and care given to her mother.

The following day, at approximately 1545-1600 hours on Thursday 13th August 1998, Mrs Lack again visited her mother. She stated that she immediately saw that that mother appeared to be uncomfortable and in pain. She had an anxious expression, was weeping and was calling out.

Mrs Lack was subsequently told that her mother had suffered a fall earlier in the afternoon but despite asking questions about her mother's condition little appeared to be being done to discover whether she had sustained any injuries especially in the light of her recent surgery.

Later in the evening, at approximately 2130 hours, Mrs Lack received a telephone call, at home, from the Gosport War Memorial Hospital. She was told that when her mother had been put to bed she appeared to be in great pain and may have "done something". The caller added that the doctor considered that it was too late to send Mrs Richards to the Royal Hospital Haslar and, as the X-Ray Unit at the Gosport War Memorial Hospital was closed, Mrs Richards was to be given 'Oramorph' and x-rayed the following morning.

This made Mrs Lack extremely concerned about the care her mother was receiving at the Gosport War Memorial Hospital. She considers that it was representative of a pattern of omission and failure which, ultimately, contributed to her mother's death.

The following morning, Friday 14th August 1998, Mrs Lack returned to the Gosport War Memorial Hospital and was told that her fears as regards her mother having injured herself did, in fact, appear to be true and the Royal Hospital Haslar had agreed to take her back.

Mrs Richards was re-admitted to the Royal Hospital Haslar during the morning of Friday 14th August 1998. It was found that her right hip had become dislocated and it was manipulated back into the socket.

Mrs Lack pointed out that it took almost 24 hours to diagnose and remedy what, she considers, were the rather obvious probable consequences of her mother's fall the day before.

On Monday 17th August 1998 it was decided that Mrs Richards was fit to be returned to the Gosport War Memorial Hospital.



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Mrs Lack described how her mother was pain free and able to use a commode for the toilet with weight bear for transfer. Mrs Richards had begun to eat and drink naturally and the drip, which had been applied, was removed.

Mrs Lack pointed out that when her mother's condition was correctly diagnosed and treated she began to recover. Mrs Richards was transferred to the Gosport War Memorial Hospital by ambulance at approximately mid-day.

Mrs Lack, and her sister Mrs Mackenzie, arrived shortly afterwards and stated that they found their mother gripping her right thigh and complaining of being in great pain. It was apparent to Mrs Lack that her mother was lying in an awkward position on her bed. With help from the staff Mrs Lack adjusted her mother's position and she became quieter.

Mrs Lack immediately returned to the Royal Hospital Haslar and confirmed that her mother had been well upon discharge. In fact she happened to see a doctor who had treated her mother and he told her that they would be prepared to see her again if she was referred back to them.

Later in the afternoon Mrs Richards was x-rayed at the Gosport War Memorial Hospital. Mrs Lack was told that whilst there was no evidence of dislocation "something" had apparently happened.

Although it has not been confirmed it is believed that Mrs Richards may have been inappropriately 'handled', during transfer, using a blanket as opposed to a rigid stretcher.

Mrs Lack stated that she told Dr Barton that Haslar would be prepared to re-admit her mother but, in reply, she was allegedly told that this would be inappropriate. Instead, Mrs Richards was given 'Oramorph' during the night and her case was to be reviewed the following morning.

The next morning, Tuesday 18th August 1998, Mrs Lack stated that she was told that her mother had developed a massive haemetoma in the vicinity of the hip operation site which was causing her severe pain.

At this point it was explained to Mrs Lack that the plan was to use a syringe driver to deliver pain relief to her mother.

Mrs Lack stated that she, once again, pointed out to Dr Barton that the Royal Hospital Haslar had offered to re-admit her mother but, according to Mrs Lack, Dr Barton allegedly told her that, "It was not appropriate for a 91 year old, who had been through two operations, to go back to Haslar Hospital where she would not survive further surgery."

Dr Barton allegedly added, Mrs Lack recalled, "And the next thing will be a chest infection."



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Mrs Lack recognised that the decision to keep her mother at the Gosport War Memorial Hospital, and to introduce a syringe driver as a means of delivering morphine to keep her mother pain free, would effectively prevent steps being taken to sustain her, facilitate her recovery and would result in her death.

Mrs Lack wanted her mother to be referred back to the Royal Hospital Haslar where she had recently received treatment, on two occasions, and had begun to recover. However, she was distressed and now, in hindsight, wishes that she had challenged Dr Barton's decision more vigorously.

Mrs Lack and her sister both strongly believe that their mother was entitled to this opportunity and, further, question whether Dr Barton was qualified to make such a judgement.

The decision, which was apparently made by made on or about Tuesday 18th August 1998 by Dr Barton, to keep Mrs Richards at the Gosport War Memorial Hospital and to move to a palliative care regime, as opposed to exploring ways of treating her condition and attempting to facilitate her recovery at a nearby hospital equipped to do so, would seem to lie at the heart of this matter.

Both Mrs Mackenzie and Mrs Lack have raised they issue of whether the decision was possibly made in order to avoid a further referral thereby concealing the fact that each time their mother returned to the Gosport War Memorial Hospital, having achieved a reasonable level of recovery at the Royal Hospital Haslar, her condition appeared to quickly deteriorate.

Mrs Lack stated that she believed that her mother's kidneys failed during Wednesday 19th August 1998. She noticed that no further urine was passed and the same catheter bag remained in place until death occurred.

Mrs Richards survived until 2120 hours on Friday 21st August 1998 when she died. Death was certified by Dr Barton who recorded the sole cause as being bronchopneumonia although I have yet to obtain a copy of the certificate.

Once again, with hindsight, Mrs Lack believes that she should have challenged Dr Barton on this issue having spent, together with her sister, the last few days of her mother's life more or less permanently at her bedside. Mrs Lack has doubts, based upon her observations, as regards the accuracy of the certified cause of death. She stated that, when registering the death of her mother, she once again believes that she should have spoken out but did not feel strong enough, emotionally, to do so.

Mrs Richards was cremated.

I am in the process of taking statements from Mrs Mackenzie and Mrs Lack. I have obtained copies of the medical notes from the Gosport War Memorial Hospital and the Royal Hospital Haslar and both are on notice to retain all original papers and associated materials. I am also requesting the outcomes of any x-ray procedures.



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Clearly this has been simply an overview of what I have thusfar gleaned. Should we proceed all material would be available for direct reference.

May I please ask you to advise me:

1. Is this case wherein you would be able, having had access to all available information, to offer an opinion as regards whether, or not, there is evidence to support criminal proceedings against any party to the care of Mrs Richards?
2. If so would you kindly give me details of the scale of charges which you would be likely to make in order that I can obtain an appropriate budget provision.

I would be happy to come and see you in order to provide you with more information and, if you would like to speak to me, I am contactable, during 'office hours', via Code A

Code A

Yours sincerely,

Ray Burt
Detective Chief Inspector