



Private and Confidential

Lewis Kett
Duncan Lewis
Spencer House
29 Grove Hill Road
Harrow on the Hill
HA1 3BN

19 March 2019

Our Ref: 47C19999917

Dear Mr Kett,

Victims' Right to Review (VRR) Scheme – Your client: **D1527**

I am writing to you as the Specialist Prosecutor dealing with this matter, following your request on behalf of your client for a formal review under the VRR scheme of the decision of the Crown Prosecution Service not to bring a prosecution in this case.

I have now completed my review of the case papers provided by the police and I am able to inform you of the outcome.

Following a careful and fully independent consideration of all the available evidence, I have concluded that the decision not to prosecute this case was in fact correct. In other words, I agree with the original decision and this means that the suspect will not be charged.

I will explain as clearly as I can the reasons for the decision I have reached in this matter but before I do so, it may help if I briefly highlight some guiding principles upon which all prosecutors must rely when reviewing cases. I apologise if this has been explained before but it is very important that your client understands the basis upon which these very difficult decisions have to be made.

Crown Prosecution Service



Crown Prosecution Service, Appeals & Review Unit, 7 Floor, 102 Petty France, London, SW1H 9EA

Tel: 0203 357 1111 | Email: RightToReview@cps.gov.uk

www.cps.gov.uk

J82a

DL0000120_0001

When considering the case papers provided by the police a prosecutor must apply the Code for Crown Prosecutors. In order for the case to proceed I must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. A 'realistic prospect of conviction' means that a jury or bench of magistrates, properly directed, will be more likely than not to convict on the charge alleged. This is a separate test to the one the courts themselves apply; a jury or bench of magistrates must only convict if they are sure of the defendant's guilt. If there is sufficient evidence to prosecute, I must then go on to consider whether a prosecution is required in the public interest.

There are a number of allegations of behaviour relating to the suspect, including the following:

- On the 25 April 2017 the suspect choked your client saying 'Don't you fucking move you fucking piece of shit. I'm going to put you to fucking sleep'
- Following the incident on the 25 April, the suspect did not make any paper record or 'use of force' report in attempt to cover up his actions.
- On 25 April and 6 June 2017 the suspect said that whilst a prisoner officer at HMP Wandsworth he deliberately harmed prisoners, including cutting them with razor blades and beating their heads against sinks
- On 6 June 2017 the suspect says that whilst working at HMP Wandsworth, if a prisoner hurt an officer they would have broken legs, broken arms, twist his ankles and twist his legs.
- On 9 May 2017 the suspect said that he 'does not cringe at breaking bones or that he was not bothered if he killed anyone.

By way of clarification, I should explain that I am only considering the first two points in this review. There is no evidence that the suspect has in reality carried out any of the actions he describes such as cutting prisoners, breaking bones or killing anyone. Whilst these comments could be described as distasteful and offensive, in themselves they would not amount to any criminal offence. They cannot be taken as an admission of truth or as reprehensible behaviour to support a criminal prosecution in this matter and I have disregarded them for the purpose of this review.

The offence I have considered is misconduct in public office. A charge of assault by beating is no longer available as the statutory time limit for bringing charges has long since expired. I have considered whether there is sufficient evidence of an injury to support a charge of assault occasioning actual bodily harm, but I have concluded there is not. It is not possible to attribute any injury to your client as a result of the actions of the suspect. I am afraid I don't agree that the PSU report indicates that the assault caused the reddening injury which was noted. It is simply not possible to be sure about how this injury was caused bearing in

mind your client had attempted to self-harm with a ligature and his hands around his own neck shortly before the incident with the suspect. I have read with care the 56 page psychiatric report obtained on your client.

The psychiatrist is unable to comment with any certainty about the impact these incidents (assaults, use of restraint and humiliation by staff, segregation and responses to his fragile mental state) had on your client's mental state although he does conclude that the cumulative effect of these experiences have been damaging to him. Psychiatric/ psychological harm that involves more than mere emotions such as fear (which you mention), distress or panic can amount to assault occasioning actual bodily harm. The psychiatric report, however, is not sufficiently clear to identify and prove the impact of any one particular incident on your client's mental state.

In your representations you say that the police have not gone far enough in gathering evidence from Callum Tulley, Clayton Fraser and Charlie Francis but you do then go on to quote from the account given by Charlie Francis. I have seen an account from all the officers and the nurse that you mention in your letter.

I now turn to the specific elements of the offence of misconduct in public office.

The first requirement, that the suspect was working as a public officer at the time, is clearly met in these circumstances.

I then turned to consider whether the suspect wilfully misconduct himself, bearing in mind that the misconduct must be more than a serious mistake or a serious error of judgment or a breach or neglect of duty or breach of trust. An assessment of the context in which the alleged misconduct occurred is an important consideration in the assessment of seriousness.

In my review I considered whether there was a failure to make any paper record or "Use of Force" report and the likelihood of the suspect having colluded with the others not to correctly record a use of force.

I also carefully examined the choking allegation and whether there is evidence that the suspect deliberately apply direct pressure to your client's neck in an entirely unlawful application of force i.e. a deliberate assault, or did he take your client to the floor to gain control and compliance and then brace his neck to stop him swallowing a battery. Callum Tulley describes a 'phenomenal amount' of pressure on your client's neck for about 6 seconds.

John Collier, in his statements, describes the actions of the suspect as deliberate and not a simple misapplication of an approved pain-inducing technique. He goes on to state that in his view, there was no reason why the potentially dangerous use of pressure around the neck was used. Your client was under control. Had this been a medical emergency (re the battery) then the suspect should have alerted others. There was no mention of the battery by the suspect at the time this incident was occurring. Mr Collier further concludes that the dialogue used suggests that this was a deliberate assault.

The Home Office report concluded that there was no credibility to the suspect's explanations and his account of events were found to be untruthful and so, on a balance of probabilities, the allegation that the suspect assaulted and threatened your client was substantiated.

Callum Tulley was very concerned because he thought that the suspect would kill your client who was gasping for breath. The derogatory comments generally on the programme and by staff immediately before this incident show the disdain in which the staff treat the detainees.

On the other hand, an assessment of the context in which the alleged misconduct occurred is an important consideration in the assessment of seriousness. This is a difficult environment for all concerned. It is equally clear from the footage that some of the detainees are violent and volatile, attacking both each other and staff. The context of this behaviour is that Brook House can be an unpredictable place to work with self-harm and suicide attempts being rife. It is a toxic atmosphere that can erupt into violence in seconds. The background is that earlier that day, your client had threatened suicide, saying he would cut himself; he put batteries in his mouth, he was head butting the viewing panel to his room, he attempted to hang himself and self-strangulate, and told the staff they would have to use force to move him back into E Wing. He was low and angry by his own admission.

There is a critical obstacle to bringing a prosecution for misconduct in public office and that is in respect of the issue of the phone battery. Your client accepts he had a battery in his mouth and thinks he had attempted to swallow a battery twice before whilst at Brook House. The suspect says that he knew your client had a battery in his mouth and that he had already saved your client's life twice that day. The suspect had taken razor blades, ligatures, a lighter and a phone battery off him. The suspect says he believed your client was choking and was trying not to allow your client to swallow. He says your client was gurgling because of what he had in his mouth i.e. a battery.

I then considered the language used by the suspect towards your client. The suspect explains in interview that he said *"Don't move you fucking piece of shit. I don't want to put you to sleep"* in order to gain

compliance. He went on to explain that they can't go in saying *Please sir, stop doing that*; that you need to go in a high level and then de-escalate – that is what they have been taught.

It is accepted that the positioning of the suspect with his knees around your clients head is taught during training. The incident lasts for six seconds.

The suspect's words and actions must be judged not against the norms of everyday society, but against the atmosphere of brutality and unpredictability that pervades Brook House and the self-harming history of your client of which the suspect was acutely aware.

None of the other parties who were present at the time, apart from Callum Tulley, will co-operate with the prosecution of the suspect and I am bound to make an objective assessment of the evidence, including the impact of any defence and any other information that the suspect has put forward or on which they might rely. It is likely that these persons would give evidence on behalf of the suspect.

Although Cullum Tulley was distressed by this incident, and says he genuinely thought that the suspect was going to kill your client, he did not alert the authorities immediately afterwards, notwithstanding the issue of recording the use of force with Brook House. This is concerning and undermines his view that your client was in a genuine life threatening situation.

Use of force forms

A form was completed, but it did not contain the force used against your client on the floor. The suggestion is that the suspect prevented the others from fully completing a use of force form. DCO Fraser and DCO Francis were asked why they did not complete use of force reports and they both agreed they should have. Both stated there was no collusion and they were not told by the suspect not to complete the report. It is also not helpful that Callum Tulley himself did not fill in a use of force form, nor report the incident to anyone in authority immediately who could have taken action.

The words used by the suspect are '*as it stands no use of force.....that's your answer as it stands...just hold fire....*' This instruction is clearly a temporary one with the option open to the suspect to come back and advise that the forms be completed. I cannot see a reason given by the suspect as to why this was said but these words and actions are not such that I can advise a charge of misconduct in public office.

On reviewing the material I have come to the conclusion that there is not a realistic prospect of a conviction in this case. This is a finely balanced decision, that may well have been different had your client not had a battery in his mouth during the course of this incident. Overall, the behaviour by the suspect is extremely short, and although violent, there is an explanation. No-one else alerted the authorities including Callum Tulley, and the background to this, as described above, leads me to the conclusion that the suspect's actions do not reach the high bar set in cases of misconduct in public office

Even, if had concluded that there was a realistic prospect of a conviction, I could not have concluded that the original decision of the CPS area was wrong. There is no unreasonable decision to disregard compelling evidence; a failure to consider, or an unreasonable decision to ignore relevant CPS policy; an incorrect application of the law; or a significant misinterpretation of the evidence. Their decision not to proceed with this matter is upheld.

I realise that your client is likely to be very disappointed with the decision I have reached but I am grateful that he felt able to raise his concerns about this case with the CPS. It is through such contact that we are able to ensure that prosecutors are making the right decisions and that we identify all opportunities for improving our service to the public.

The Appeals and Review Unit will now notify South East CPS Area of the outcome of this review.

I hope you will understand that having fully and independently reconsidered this matter, this decision is now final and no further review will be conducted by the Crown Prosecution Service in accordance with the VRR Scheme.

Finally, it is very important to us that those affected by our decisions understand the reasoning behind them and I hope that this detailed explanation has assisted you in that respect.

Yours sincerely,

Signature

C Pickering

Specialist Prosecutor

Cc to South East Area CPS



Sussex Police
Serving Sussex

www.sussex.police.uk

Professional Standards Department

D1527

c/o Lewis Kett
Duncan Lewis
Spencer House
29 Grove Hill Road
Harrow on the Hill
HA1 3BN

Your ref:

Our ref:

Date: 08 April 2019

Contact Name: Investigator Edwards

Tel Ext: 545267

Tel No: 101

Dear Mr Kett obo **D1527**

I am writing to inform you that the investigation into the complaint you raised on 04 March 2019 has now concluded.

Throughout the course of this investigation the Investigating Officer (IO) considered whether or not Special Requirements existed. A complaint is subject of Special Requirements when it appears to the IO that a person subject of investigation may have committed a criminal offence, or behaved in manner which would justify disciplinary proceedings. In this case the IO determined that your complaints were not subject to Special Requirements.

The investigation has concluded that your complaints were not upheld.

A detailed report of the findings is attached.

I am satisfied that the criteria for a referral to the Crown Prosecution Service have not been met.

This letter concludes the complaint process, but you have a right to appeal the outcome.

The relevant appeal body is the Head/Deputy Head of Professional Standards Department on behalf of the Sussex Police Chief Constable. There is no right of appeal to the Independent Office for Police Conduct (IOPC).

Should you wish to appeal please write or email to the following address for an appeal form:

Professional Standards Department, Sussex Police, HQ, Church Lane, Lewes BN7 2DZ or
psd@sussex.pnn.police.uk.

Please head your letter or email 'Appeal Form Request'. Appeals must be made within 29 days of this letter.

Yours sincerely

Signature

P Tomlinson
Detective Inspector CT475
Professional Standards Department



Sussex Police
Serving Sussex

www.sussex.police.uk

PSD Case Reference - CO/00143/19

REG 20 - COMPLAINT FINAL INVESTIGATION REPORT

J82h

Investigation information

Operation name (if applicable):	N/A
PSD reference:	CO/00143/19
Investigation type:	Complaint not subject of special requirements
Investigator:	Katie Edwards
Supervisor:	Martin Sapwell

The investigation
Key issues to be addressed by the report
Outline the areas the report will address

- Whether the performance of any subject in this investigation has fallen below the standard expected of them
- Any lessons which may need to be learned by Sussex Police relating to the investigation.

Complaint allegations agreed with complainant	
Allegation No	Summary of complaint
1	It is alleged that an allegation of assault was investigated so slowly that an offence of Common Assault could not be prosecuted due to statutory time limits having elapsed.

Subject officers/staff member	
Name and role	Brief description of conduct/potential breach of Professional Standards of Behaviour
DCI CR949 Richardson	<p><u>Duties and Responsibilities</u></p> <p>It is alleged that an allegation of assault was investigated so slowly that an offence of Common Assault could not be prosecuted due to statutory time limits having elapsed.</p>
DS CS890 Sweeney	<p><u>Duties and Responsibilities</u></p> <p>It is alleged that an allegation of assault was investigated so slowly that an offence of Common Assault could not be prosecuted due to statutory time limits having elapsed.</p>
DC CT592 Trott	<p><u>Duties and Responsibilities</u></p> <p>It is alleged that an allegation of assault was investigated so slowly that an offence of Common Assault could not be prosecuted due to statutory time limits having elapsed.</p>

Chronology of events/timeline
<p>Succinctly bullet point key dates and times in chronological order. It is important that the summary is focussed and proportionate but contains enough information for the Appropriate Authority to understand what has occurred to enable them to make an informed decision.</p>

3. This incident came to the attention of Sussex Police Professional Standards Department (PSD) on 04 March 2019.
4. On 08 September 2017, Sussex Police commenced an investigation into a number of potential offences that had occurred within Brook House Immigration Removal Centre (IRC) in Gatwick, Sussex.
5. The alleged offences came to light as a result of an investigation by the BBC programme Panorama and the use of a 'whistle-blower' working within the IRC. The programme was aired on 04 September 2017 and highlighted a number of alleged offences which were recorded under Sussex Police reference 47170131030 on 11 September 2017.
6. A review of the programme identified one of the main offences was the alleged 'choking' of a detainee: **D1527** by a Detention Officer Mr Paschali, which had occurred on 25 April 2017
7. On 20 September 2017 this alleged assault was recorded under Sussex Police reference 47170135745. The investigating officer (OIC) was Detective Constable Trott, overseen by Detective Sergeant Sweeney (Deputy Senior Investigating Officer) and (then) Detective Inspector Richardson (Senior Investigating Officer).

8. The alleged assault was investigated as Actual Bodily Harm. On 24 October 2018 the Crown Prosecution Service (CPS) made the decision not to charge Mr Paschali with any offences and the matter was closed with no further action being taken.
9. The complainant, who is represented by Duncan Lewis Solicitors, requested a Victim Right to Review to the CPS, and submitted a complaint to Sussex Police stating that the investigation was run so slowly, the offence of Common Assault could not be pursued.
10. On 19 March 2019 the Victim Right to review conducted by the CPS found that the original decision not to proceed with the matter was upheld.

Summary of the evidence

In this section you need to select and summarise the evidence that you believe is relevant to answer the key issues, terms of reference (if applicable) and any concerns that have been raised.

Summary of complaint of **D1527** – dated 04 March 2019

11. **D1527** is being represented by solicitor Lewes Kett of Duncan Lewis Solicitors
12. In his letter, Mr Kett referred to the decisions made by CPS under their Victim Right to Review Scheme and documented in letters from Senior Crown Prosecutor Libby Clark dated 07 November 2018 and Senior District Crown Prosecutor Lisa Ramsarran on 10 December 2018.
13. Both the letters confirmed that they could not charge Mr Paschali with the offence of Common Assault on the basis that the 6 month limit to charge had already passed by the time Sussex Police referred the investigation to the CPS.
14. Mr Kett documented the following concerns on behalf of his client regarding the police handling of the investigations, in particular he raised the following points:
 - On 09 October 2017, in an email, DC Trott told the firm that he was "*progressing the investigation slowly*".
 - This phrase was repeated again in an email from DC Trott dated 11 January 2018 that "*the investigation is making progress slowly but surely*" and that "*I am looking at interviewing the suspect (Yan) once I have got a date from him*".
 - On 17 February DC Trott confirmed that Mr Paschali had been interviewed under caution. This was followed by an email from DCI Richardson on 27 March 2018 that the "*CPS have been consulted with and a further meeting has been arranged for early April*".
 - On 30 April 2018 DCI Richardson confirmed that the "*CPS are continuing to review the evidence in relation to the allegation of assault on your client*".
15. Mr Kett stated that these emails confirm that Sussex Police were approaching the investigation slowly and were not mindful of the 6 month time limit for Common Assault, despite the offence being the lowest threshold of offences in which a case could be made against Mr Paschali.
16. Mr Kett stated that, despite overwhelming video evidence that the assault had taken place, it appeared that Mr Paschali had been invited to interview '*at his own leisure*' and after the 6 month time limit had already passed.

DI Richardson

17. On 18 September 2017, DCI Richardson documented his policy decision in relation to the offence to be investigated as follows:
- 'Choking' assault allegation on **D1527** by Jan Paschali. This will be investigated as an ABH.
18. DI Richardson recorded his justification for this decision as follows:
- *Whilst there did not appear to be any lasting injury to **D1527** from watching the BBC programme and nothing reported to the police, the manner in which the alleged assault took place indicates that a sentence of longer than 6 months may be likely. As such the offence of common assault would not be appropriate. In addition the victim was being restrained in a Detention Centre by DCOs and the alleged assault by a DCO.*
19. Timeline of investigation:
- 25 April 2017, alleged assault on **D1527**
 - 04 September 2017, Panorama programme aired.
 - 11 September 2017, master Niche¹ occurrence recorded in relation to a number of potential offences highlighted in the programme.
 - 20 September 2017, Niche occurrence recorded in relation to the alleged assault on **D1527** (reference 47170135745). The incident is recorded as Assault – ABH.
 - 21 September 2017, DI Richardson emailed CPS to introduce himself and to seek advice around any potential Misconduct in a Public Office (MiPO) offences.
 - 05 October 2017 DS Sweeney conducted a review on the investigation, he recorded the review on the Occurrence Enquiry Log (OEL²) *"this will be investigated as an ABH and my rationale is that a detention officer has allegedly strangled a detainee. He is in a position of authority/responsibility and his actions could have resulted in serious injury. This in line with the CPS charging standards"* DS Sweeney acknowledged that the starting point for charging where there are no injuries or injuries which were not serious, should generally be Common Assault, he added that *"very occasionally, it will be necessary to depart from this basic approach in cases where injuries are at the lower end of the scale of seriousness. In such cases the level of injury will not only be the factor to be considered, as this may not alone accurately reflect the nature and seriousness of the offence as a whole" and "an injury may not of itself turn out to be serious but the manner in which it was caused (such as through strangulation) may indicate that a sentence of more than six months is likely, however the aggravating factors should never in themselves be the basis for deciding the appropriate charge.*

¹ Niche – the crime and intelligence recording system used by Sussex Police

² Occurrence Enquiry Log - the minutes sheet of an investigation recorded on Niche

- 25 October 2017, 6 month statutory time limit for Common Assault reached.
- 28 October 2017, CPS emailed DCI Richardson requesting an MG3³ to outline the investigation to date and any potential suspects or offences.
- 14 November 2017, DI Richardson emailed the MG3 to CPS.
- The investigation was progressed over the following months, DC Trott was required to take a number of statements and review the uncut footage which was obtained from the BBC via a Court Order.
- 12 February 2018, Mr Paschali was interviewed in a Voluntary Attendance Suite (VAS).
- 19 April 2018, DCI Richardson met with the CPS, a number of actions were set in relation to the investigation.
- 20 April 2018, file sent to the CPS for review. DS Sweeney recorded that "we are now finalising CPS actions and awaiting a decision regarding charge".
- 15 June 2018, previous actions set by the CPS completed.
- 24 October 2018, CPS provide a charging decision as follows: Common Assault – out of time, ABH – level of injury not sufficient, MiPO – insufficient evidence.

Account of DC Trott CT592 dated 20 March 2019

20. DC Trott stated that the alleged assault on [D1527] occurred on 25 April 2017 but only came to the attention of Sussex Police on 04 September when the Panorama programme was aired.
21. DC Trott added that the investigation was frustrated waiting for material that could be presented as evidence.
22. In relation to the interview, a decision was made to interview Mr Paschali once the police were in a position to put evidence to him. This included showing him the relevant unedited clips and prison reports which had taken some time to obtain from the BBC and the prison service. DC Trott added that he wanted to in a position to proceed to the CPS post the interview.
23. DC Trott stated that there was no necessity to arrest or detain Mr Paschali.
24. DC Trott acknowledged that his use of wording (in relation to the investigation progressing slowly) could have been better. The investigation was progressing but waiting for the production of evidence from the BBC and the prison service was taking some time hence the use of the words 'slowly but surely'. DC Trott added that he was just trying to explain that things were progressing but that nothing would happen overnight.
25. DC Trott explained that the requests and subsequent reviews of the (un-cut) footage took a considerable amount of time for him to view. He added that all actions were completed as quickly as possible and carried out in line with the policy set by the SIO.

³ MG3 – a document used by investigators to record the facts of an investigation and to seek charging advice.

Account of DS CS890 Sweeney dated 20 March 2019

26. DS Sweeney stated that he recorded a detailed and comprehensive rationale on the Niche system (summarised in paragraph 19, timeline) regarding why they should and would proceed with ABH. He added that still believes that this was the correct course of action.

Code G of the Police and Criminal Evidence Act 1984 (PACE)

27. Under the Police and Criminal Evidence Act 1984 (PACE), a lawful arrest by a police constable requires two elements: a person's involvement, suspected involvement or attempted involvement in the commission of a criminal offence and reasonable grounds for believing that the person's arrest is necessary. Both elements must be satisfied.
28. Officers must always consider whether a person's arrest for an offence is lawful in accordance with section 24 of PACE and necessary under paragraph 2.9 of Code G of PACE.
29. The power of summary arrest is exercisable only if the constable has reasonable grounds for believing that for any of the following reasons, it is necessary to arrest the person in question:
30. The reasons are—
- to ascertain the person's name
 - to ascertain the person's address
 - to prevent the person in question
 - to prevent physical harm to self or another or suffering physical injury
 - to prevent physical harm to self or another or suffering physical injury
 - to prevent an offence against public decency
 - to prevent an unlawful obstruction of the highway
 - to protect a child or vulnerable person
 - to allow the prompt and effective investigation of the offence or of the conduct of the person in question
 - to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.
31. The decision to detain someone can only be justified if there is a real possibility that additional evidence may be gained whilst the person is in police detention.

Conclusion - Complaints not subject of special requirements

For each allegation you must explain why special requirements were not required e.g. BWV clearly shows that there was no breach of standards.

For each subject you should state whether the complaint is upheld or not upheld.

32. This report addresses one complaint, against three officers (DCI Richardson, DS Sweeney and DC Trott).

33. The criminal investigation was a complex one, which required a large amount of material to be obtained and reviewed, all of which took a significant period of time.
34. The alleged assault occurred on 25 April 2017 and did not come to the attention of Sussex Police until 04 September 2017. The nature of the alleged assault was deemed to be more serious than Common Assault due to the fact that it was by strangulation and committed by a Detention Officer. These decisions were documented in the policy file by DCI Richardson and on the OEL by DS Sweeney (paragraphs 18, 19, 20 and 21).
35. The date and process of interviewing Mr Paschali (voluntarily) was addressed by DC Trott (paragraph 23). The necessity test to arrest Mr Paschali was not met (paragraphs 28 to 32) and consequently it is unlikely that his detention would have been authorised in a custody suite. The use of the VAS was the most appropriate way to criminally interview Mr Paschali.
36. Ultimately the investigation was assessed, recorded and investigated as an ABH and it was the decision of the CPS not charge Mr Paschali.
37. This complaint is not upheld against DCI Richardson, DS Sweeney or DC Trott.

Performance	
In your opinion, were the actions of any officer unsatisfactory?	
Unsatisfactory Performance – means an inability or failure of a police officer to perform the duties of the role or rank he or she is currently undertaking to a satisfactory standard or level. This section should be completed when no breach of the standards has been identified but the officer needs re-training, UPP or management action.	

38. The investigation has not identified any performance issues in relation to the conduct of the officers concerned.

Organisational Learning

39. I have not identified any organisational learning recommendations as a result of this investigation. On this basis, future similar incidents are unlikely to be prevented with an organisational learning recommendation.