

<https://minhalexander.files.wordpress.com/2022/03/jasna-macanovic-et-judgment-dr-j-macanovic-v-portsmouth-nhs-hospitals-trust-1400232.2018-amended-judgment.pdf>

From Employment Tribunal judgment Macanovic v Portsmouth Hospitals University NHS Trust

Simon Holmes's role in Dr Macanovic's case: he initiated disciplinary action against her and failed to share NCAS correspondence with her.

"Report to the GMC

64. On 19 April, while these complaints were being considered by the Medical Director, Dr Macanovic carried out her threat to report matters to the GMC. She sent the same letter wrote to the CQC. (Disclosures 6 and 7 - p.499). It named Dr Lewis as the Chief of Service who "assumed full responsibility for this uncontrolled experiment" and also mentioned the Medical Director, at that time Mr Holmes. Mr Gibbs and Dr Sangala were also named as those leading the practice. She accused them of a coverup, of lying and dishonesty. It was by any standards a serious step, and might have led to them being suspended or struck off.

Disciplinary Action

65. On 2 May, Dr Holmes, the Medical Director, and Ms Susie Lowe, Head of the Employee Relations team, took some telephone advice from NCAS - the National Clinical Assessment Service. They are a division of NHS Resolution (the replacement body for the NHS Litigation Service), and they generally advise on doctors who are perceived to be under-performing in some way. Their written response to Dr Holmes (p.572) on 4 May confirmed their discussion: The Trust is mindful that Dr 19339 is a whistle blower, but concerns have been expressed by her colleagues about her behaviour and you have received 3 letters of complaint alleging that she exhibits aggressive, bullying and intimidating behaviour. ... The issue is, as you are aware, complicated by Dr 19339 whistle blowing status and it will be important to document carefully the preliminary information which has been received so that this is available for future scrutiny if required. Potentially it may be necessary for the Trust to be able to demonstrate that Dr 19339 is not being victimised for having raised concerns. I advised that to avoid any allegations of bias, it may also be useful for the role of Case Manager, to be delegated so that the person making any decision

about how to proceed is free of any real or perceived conflict of interest. Likewise the Case Investigator should be suitably senior, experienced and independent.

66. The key principles were correctly stated in this letter – any action taken should not relate to the allegations but to her conduct, it should be investigated at a senior level, and the Case Manager should oversee things to ensure that this distinction was upheld. The letter also invited them to share their advice with Dr Macanovic, though this was not done.”