

CHAPTER NINE

Dr Banks Advises Detective Inspector Smith

Detective Inspector Smith Meets Dr Banks

- 9.1 In the morning of Wednesday, 1st April 1998, Detective Inspector Smith attended Selbourne House to meet Dr Banks. This was the first time that the two had spoken to each other. It was Dr Banks' recollection that DI Smith was accompanied by another police officer. DI Smith said that he was alone. Mrs Parkinson, who also attended the meeting, could not remember whether or not a second police officer was present. Dr Banks described the 'other officer' as older than DI Smith but apparently junior to him in rank, probably a detective sergeant or detective constable. GMP has made extensive efforts to identify an officer who might have been with DI Smith on this occasion but without success. There is some evidence that DI Smith was accompanied by another officer when he visited the crematorium later that day. If he was, that might suggest that he was also accompanied during the morning. I regret to say that I am unable to reach any conclusion as to whether or not DI Smith attended this meeting alone or in the company of another officer.
- 9.2 Mrs Parkinson did not take a note of the meeting. That is a pity, as her earlier note was valuable. She said that she did not take a note as she was attending only as an observer and did not have to take any action arising from the meeting. The Inquiry is therefore wholly reliant on the recollections of those present as to what was said. Those recollections differ considerably.

Detective Inspector Smith's Account

- 9.3 DI Smith said that he met Dr Banks in a small room downstairs. Dr Banks had the medical records with him. He said that he had gone through them and could not see anything odd or of a criminal nature. He had recorded some information on a chart, which DI Smith saw at the time; the chart is at Appendix D of this Report. DI Smith said that Dr Banks did not go through the individual deaths in detail; he just drew attention to one or two cases in which, he said, there was a lack of information in the records. Dr Banks pointed out that some of the computerised records appeared to have been made on a system that provided very limited character space within the relevant fields. There were one or two cases in which, according to Dr Banks, the cause of death was not sufficiently specific. DI Smith could not recall which cases these were but said that Dr Banks had said that, in these cases, there was insufficient information for a doctor to diagnose the cause of death. Dr Banks personally would have referred those deaths to the coroner. However, this information did not ring any alarm bells with DI Smith. He said that it had never occurred to him that, if Shipman had killed a patient, he might want to avoid referring the death to the coroner. I find it disturbing that an experienced detective could have failed to grasp the simple concept that a doctor who had murdered a patient might wish to avoid an autopsy of the victim's body.
- 9.4 DI Smith recalled that Dr Banks told him that Shipman was an old-fashioned doctor who often visited his patients at home and liked to keep his elderly patients at home rather than

send them into hospital. DI Smith said that Dr Banks told him that there was nothing in the notes to suggest criminality. He said that he felt reassured by Dr Banks' opinion. He did not discuss with Dr Banks the possibility that Shipman might be killing his patients by giving them a drug of some sort, as suggested by Dr Reynolds. Nor did he ask Dr Banks how a doctor might kill his patients. He did not appear to have realised that a discussion of how a doctor might kill a patient might have affected Dr Banks' approach to the medical records.

Dr Banks' Account

- 9.5 Dr Banks said that the meeting took place in the boardroom. He began by showing DI Smith the typical contents of a set of records and explaining what information was kept in them. He said that he handed DI Smith a copy of his chart (which he recalled DI Smith took away with him after the meeting) and showed him from where, in the records, the information had come. He said that, in allowing DI Smith to see confidential information taken from the medical records, he was exercising his discretion under the Health Authority's 'Access to Medical Records Procedures' to allow limited disclosure of medical information in the public interest. He said that he went through the chart, case by case. He told DI Smith that, in some cases, there was insufficient information to allow a reliable diagnosis of the cause of death and he expressed the view that the computerised notes might be incomplete. Dr Banks said that he told DI Smith that there were some cases that he felt should have been referred to the coroner. As I have already mentioned, Dr Banks told the Inquiry that he was sure he had mentioned to DI Smith the cases of Miss Mabel Shawcross, Mrs Cissie Davies and Mrs Winifred Healey.
- 9.6 Dr Banks could not remember whether there was any discussion of the common features of the deaths. He said that DI Smith did not ask whether there were any signs of criminality and he (Dr Banks) did not volunteer the opinion that there were none. That would not have been his function or within his expertise. He could not understand how DI Smith could claim to have been reassured by what he said.
- 9.7 Dr Banks said that DI Smith was very friendly and relaxed. He had the impression that DI Smith was taking his investigation seriously but was not making any progress. There was no sense of urgency at this meeting, although he had received an impression of urgency when told earlier about the request for access to the records. Dr Banks said that there was no discussion about death rates at the meeting. He had seen Mrs Parkinson's note and knew that DI Smith had told her that there had been 16 cremations of Shipman's patients in three months. However, it appears to be common ground that Dr Banks was not told about the comparison between the death rate in Shipman's practice and that of the Brooke Practice. This is consistent with my view that DI Smith did not regard the comparative death rates as important. Dr Banks agreed that DI Smith did not tell him that it had been suggested that Shipman might be killing his patients by giving them a drug. Dr Banks recalled DI Smith using expressions such as 'gossip between GPs and undertakers' and 'rumour and innuendo'.
- 9.8 Dr Banks had the impression that he was the last important source of information available to DI Smith. He said that he thought other sources were open to DI Smith, if he felt it

appropriate to pursue them, but he had the impression that DI Smith felt that they would lead nowhere. He also felt that DI Smith was satisfied with the information he was giving him. Dr Banks did not think that he told DI Smith that Shipman was an old-fashioned doctor (because he did not think he was), although he might have said that Shipman had a reputation for visiting his patients unannounced.

- 9.9 In 1999, Dr Banks provided a written statement for his employers, setting out details of his involvement in the March 1998 police investigation. The statement is undated. Dr Banks' line manager, Mrs Forster, believes that the statement was prepared as a result of a request from her in July 1999. However, Dr Banks believes that he wrote it earlier, probably in April. In the statement, Dr Banks said:

'I later met with Detective Inspector D Smith and a colleague where we reviewed each set of records and my findings. It was my view that there were few common features in each of these deaths. I expressed concern that in a number of cases there was insufficient evidence in the records on which to base a cause of death and that I personally would have arranged a post-mortem [sic]. Most causes of death given by HFS were consistent with the medical record.

At no time did I consider that HFS had done anything criminal.'

Mrs Parkinson's Account

- 9.10 Mrs Parkinson's recollection of this meeting was very sketchy. She recalled that Dr Banks had his chart with him but she had no recollection of the chart being handed to DI Smith or of hearing any case-by-case discussion. She had no recollection of Dr Banks expressing any concern about the records. She only recalled him saying that there were two cases where insufficient history was recorded but she did not recall him saying which they were. She could not recall him saying that there ought to have been an autopsy in some cases. She could not recall any discussion about the common features. Nor did she remember Dr Banks saying that the computerised records might be incomplete and there might be more information on the computer. She did not recall any discussion about the suddenness of the deaths; she thinks that she would have remembered that.

Were Other Topics Discussed?

- 9.11 Mrs Parkinson said that she was asked to obtain some information from the information department at the Health Authority's office at Lindley House, Oldham. She cannot remember how this came about but it would seem that there must have been some discussion about the size or make-up of Shipman's patient list. At 10.51am on 1st April, some extracts from Shipman's Practice Profile for the year ending March 1996 were faxed to Selbourne House. The Practice Profile is a document produced annually by the Health Authority for each general practice in its area and is designed to show the performance of each practice in such fields as prescribing, financial expenditure and hospital activity when compared with the average practice in Tameside. Mrs Parkinson believed that 1996 was the last year for which the figures were readily available at Lindley House, which, prior

to the creation of the WPHA, had been the office of the Family Health Services Authority. It did not matter that the information contained in the Profile was more than two years old, as, in fact, the more recent figures were very similar.

- 9.12 Neither DI Smith nor Dr Banks can remember this document being called for or received and neither has any recollection of any discussion about its contents. It would seem therefore that this material was not carefully examined. That is unfortunate, as it contained information which, although slightly stale, would have illuminated any discussion of the death rate among Shipman's patients, had one taken place. First, it established the size of Shipman's patient list. That would have clarified the significance of the comparative death rates provided by Dr Reynolds. Second, it showed that, in 1996, Shipman had 169 (or 5.49%) patients over the age of 75 years; in 1995, 6.7% of the population was over 75, so the proportion of patients over the age of 75 within Shipman's practice was not above average. That would have scotched any notion that Shipman had an unusually large number of elderly patients and could therefore be expected to have a higher than normal death rate among his patients. There was also further information that would have undermined any suggestion that Shipman had an unusually large number of elderly female patients, such as might account for the deaths of so many elderly women. The Practice Profile showed the age/sex distribution of Shipman's list, compared with the average Tameside practice list. The average Tameside practice list had just over 6000 patients, which was about twice the size of Shipman's list. Shipman had about half as many male patients over 75 as the average practice; in other words, the proportion of males over 75 in his list was the same as that of the average practice in Tameside. More significantly, he had about two-fifths of the average number of female patients over 75. This confirmed that, far from having a lot of elderly female patients, Shipman actually had a smaller proportion of such patients than the average practice.
- 9.13 I have come to the conclusion that this data was not examined at all during the meeting. I think that Dr Banks must have asked Mrs Parkinson to obtain some practice population information and that the two men continued their discussion in her absence. I think that, by the time the extracts from the Practice Profile had arrived, the discussion of the individual cases was over; Dr Banks had said that he had found nothing of concern (save for the **'couple of'** or 'few' cases where there was insufficient information to diagnose the cause of death) and DI Smith was quite satisfied with the outcome. Neither man then saw any need to examine or discuss the figures. This accords with Mrs Parkinson's recollection of some discussion about the practice population, after which she telephoned the Oldham office. She does not recall any subsequent discussion.

The 'Bad Joke'

- 9.14 Dr Banks said that, shortly before the end of the meeting, DI Smith said something like 'We will just have to see if he [*Shipman*] does it again'. This must have occurred at the time when it had become apparent that perusal of the medical records had yielded nothing of significance to the investigation. Dr Banks thought this was a failed attempt at 'black humour'. Mrs Parkinson also remembers this remark and thought it was in very bad taste. She thought DI Smith had immediately regretted making it. DI Smith does not think he said it. I am satisfied that he did and that it was an attempt at humour. Dr Banks said that he

did not think this indicated that DI Smith had serious concerns that Shipman might be killing his patients. I accept that this is so; indeed I think that, by this time, DI Smith was firmly of the view that there was no foundation for Dr Reynolds' concerns. But the fact that Dr Banks understood the 'joke' means he must have realised that the nature of the concerns underlying the investigation was that someone thought Shipman might be killing his patients.

Findings

- 9.15 It is clear that there was no preliminary discussion between DI Smith and Dr Banks which might have ensured that Dr Banks was fully informed about the nature of the concerns expressed and knew exactly what information DI Smith was looking for in the records. DI Smith did not seek a preliminary discussion because, in my view, he did not have a very clear idea of what he was looking for. He did not know what kind of information was likely to be recorded in the notes. His mind was focussed mainly on discovering whether the records revealed a pattern of common features. I think he believed that, unless all the deaths showed a clear pattern of the features described by the undertaker, there was no evidence within them to support Dr Reynolds' concerns. Probably, he had conveyed that view to Mrs Parkinson, who had passed it on to Dr Banks. I do not think that, at the time of making his request, DI Smith had realised that it might be possible to form a view about whether the cause of death certified was consistent with the medical history revealed by the records. It may well be that he realised that during his meeting with Dr Banks. He was certainly aware of it when he wrote his first report of his investigation on 17th August 1998.
- 9.16 In my view, Dr Banks did not clarify his instructions from DI Smith because he believed that he knew what he was looking for, namely a clear pattern of similar features present in all the deaths. I accept, however, that he also had in mind the question of consistency between the medical history and the cause of death, as revealed in the records.
- 9.17 I find that Dr Banks began the meeting by explaining the nature of the medical records and the type of material they contained. I think he probably explained the importance of confidentiality and the reasons why he could not release the records to the police. I think it likely that, although Dr Banks was concerned about the confidentiality of the material within the chart, he allowed DI Smith to look at it while he was explaining his findings. However, I do not think that the question ever arose of DI Smith taking the chart away.
- 9.18 There is a conflict as to whether Dr Banks went through the chart case by case, as he said, or whether he discussed the cases only in a general way, as DI Smith claimed. I find that there was some discussion of the individual cases. I say that mainly because it is clear that DI Smith was able to remember some details of one case when he spoke to Detective Superintendent Ellis in April 2000, which he could not have known from anywhere else. However, I do not think the cases were discussed in depth. Nor do I think that there was any discussion about the presence of common features; rather the emphasis must have been on the absence of common features. I find that the gist of Dr Banks' opinion was very much what he had said to Mrs Parkinson on 27th March, which she had recorded in her note. This was that there was no clear pattern of features to be seen within the records. I am satisfied that Dr Banks did not draw attention to the fact that his chart revealed

that all but one of the deceased were female, that all but two (Mrs Norah Nuttall and Mrs Bianka Pomfret) were over 65 and that all but one had, on the face of the records, died at home. In fact two had died in institutions. I am sure that he did not draw attention to the fact that, according to the chart, Shipman appeared to have been present at or about the time of the death in no fewer than ten of the 14 cases. These were features that bore some relation to Dr Reynolds' concerns and, had they been mentioned, might have raised DI Smith's level of concern.

- 9.19 I am satisfied that Dr Banks told DI Smith that there were two or 'a few' deaths in which he considered that there was insufficient information in the records to enable a proper diagnosis of the cause of death to be made. He also said that he would have referred those deaths to the coroner. I do not think he said that any reasonable doctor would have referred those cases or implied that there was anything suspicious about Shipman's failure to do so. I accept that he mentioned that many of the records were computerised and that the available fields were limited. I think this was probably said in the context of providing an explanation as to why there was such limited information in the records. The implication was that more might be available if access were gained to the computer and that there might then be enough information to diagnose death. In other words, there was a potentially innocent explanation for the shortage of information in the two or 'few' cases.
- 9.20 I accept that there was some general discussion about Shipman and his reputation. I think it likely that Dr Banks revealed that he knew Shipman and respected him. I do not think it occurred to either man that Dr Banks' knowledge of and respect for Shipman rendered him unsuitable as an examiner of Shipman's records. Dr Banks found it virtually unthinkable that any doctor would deliberately harm his patients. It would be even more difficult for him to open his mind to that possibility in relation to a doctor whom he knew and respected.
- 9.21 I am satisfied that the overall impression created by Dr Banks must have been one of reassurance. Had it not been, Mrs Parkinson would have been quick to pick up any hint that her mother might be in danger from Shipman.
- 9.22 At the meeting, there was no discussion of the death rate among Shipman's patients as compared with those at the Brooke Practice. I think there must have been some brief discussion of numbers, which led to the request for the practice population information. I do not think that there was any discussion of that topic after the information had been obtained. There should have been discussion of the numbers recorded by Mrs Parkinson, which came from Dr Reynolds, and also about the comparative death rates in the two practices. DI Smith did not tell Dr Banks about the comparative figures because he did not understand them or their importance. Dr Banks did not pursue any question of the death rates because, rather surprisingly for a doctor in his position, he did not know the annual crude death rate for patients in UK general practice and the number of deaths recorded by Mrs Parkinson did not strike him as particularly high. I think it likely that Dr Banks said as much to DI Smith and further reduced his already low level of concern about the death rate. As I am satisfied that Dr Banks knew the nature of the concerns under investigation, I consider that he should have made it his business to find out the average death rate. This could easily have been discovered from Dr Friedman, the Director of Public Health Medicine, who would have realised immediately that the figures for Shipman's cremations mentioned by Dr Reynolds appeared unusually high.

- 9.23 I am also satisfied that Dr Banks did not explain to DI Smith that it was most unusual for one general practitioner to make any complaint about the conduct of another, let alone a complaint of so serious a nature as this one. Dr Friedman told the Inquiry that such concerns or complaints are very rare and I did not understand Dr Banks to disagree. I think that Dr Banks dismissed this expression of concern, made by one doctor about another, as malicious without any real basis for that belief.

The Adequacy of Dr Banks' Review of the Medical Records

- 9.24 In Chapter Fifteen, I shall consider in some detail the adequacy of Dr Banks' review of the medical records and the advice that he gave to DI Smith. At this stage, it must suffice to say that I shall conclude that he failed to notice or to advise DI Smith that there were at least four cases out of the 14 in which the circumstances revealed by the records made it mandatory that the deaths be reported to the coroner. I shall find also that there were at least five other cases where it was not clear whether a duty to report to the coroner arose. Those five, taken in conjunction with the four cases where a report was mandatory, should have raised Dr Banks' level of concern about Shipman's reporting practices. Further, Dr Banks should have noticed, but apparently did not, that certain of the features which had given rise to Dr Reynolds' concerns were present in some of the cases. I have concluded that Dr Banks' review of the records was defective because his mind was not open to the possibility that Shipman might be harming his patients. His approach was to seek for and find an innocent explanation for everything he saw.

The Outcome of the Meeting

- 9.25 As a result of what Dr Banks had told him, DI Smith left the meeting believing that there was nothing in the medical records that in any way substantiated Dr Reynolds' concerns. Dr Banks had given the impression that the records contained nothing to suggest an abnormal pattern of deaths. However, DI Smith was not entitled to deduce that Dr Banks' opinion amounted to positive evidence that Dr Reynolds' concerns were unfounded. All Dr Banks was able to say was that there was no evidence in the records to support suspicion, which is very different from saying that there was positive evidence that all was well. A moment's thought would suggest that, if Shipman were killing his patients, one would not expect there to be overt evidence of it within the medical records, which, of course, he compiled and kept. One would expect any misconduct to be concealed.
- 9.26 DI Smith appears to have placed a great deal of reliance on Dr Banks' opinion of the records. Chief Superintendent Sykes said that he had the impression that, when DI Smith had received a negative response from Dr Banks, he had virtually reached the end of the investigation. Indeed, DI Smith said so himself in his first Inquiry statement, although in oral evidence he denied that it was the case.
- 9.27 I am satisfied that, to all intents and purposes, the receipt of Dr Banks' opinion on 1st April marked the end of this investigation. By that time, DI Smith was convinced that there was nothing in Dr Reynolds' concerns. However, he still had it in mind to visit the crematorium, to find out what proportion of Shipman's deceased patients had been cremated, and to

identify the still unknown female undertaker. I am satisfied that he did not expect those enquiries to yield any evidence to support Dr Reynolds' concerns.

Later Developments

- 9.28 As a postscript to this aspect of the evidence, it appears that, at some time after this meeting had taken place, Dr Banks received the medical records of Mr Harold Eddleston, a patient of Shipman, who had died on 4th March 1998. Dr Banks reviewed them (he says in much the same way as he had reviewed the others) and prepared a memorandum of his findings, dated 6th April. The circumstances of Mr Eddleston's death are to be found in Volume Four of my First Report. I found that Shipman killed Mr Eddleston only a few days after he had been accepted onto Shipman's patient list. Dr Banks was of the view that it was unusual for a patient to change his general practitioner so soon before his death, as Mr Eddleston had done. Dr Banks was also rather confused by the entry for the day of the death. He noted that it appeared that Shipman had seen the patient at some time and that the body was found in the afternoon by Mr Eddleston's grandson. Mr Eddleston's daughter had seen him alive at 12.30pm and Shipman had certified the cause of death at 3.40pm.
- 9.29 It appears that Dr Banks was prepared to have the information contained in the memorandum imparted to DI Smith. It is not clear when Mrs Parkinson first tried to contact DI Smith to pass it on. Certainly, she had not succeeded in speaking to him at the time when the investigation was closed on 17th April. She made a note that she had telephoned him on 20th April: see Appendix C. At that time, DI Smith was on leave. He returned to duty on 2nd May but did not contact her. She tried again on 15th May, and left a message asking him to telephone her. DI Smith finally telephoned her on 21st May and told her that he had spoken to the Coroner and that the matter was not going to be pursued further. Mrs Parkinson told Dr Banks and made a note to the effect that Dr Banks was **'happy for matter to be closed'**.
- 9.30 Dr Banks told the Inquiry that he was left with general, non-specific concerns about Shipman's practice. He said that he decided that he would take the opportunity to discuss these concerns with Shipman on 27th July 1998, when he was to carry out a routine prescribing visit. He said that, on that occasion, Shipman himself raised the topic and told him that he had noticed an excess of deaths in the practice during the first quarter of 1998. Shipman said that, with the assistance of his practice nurse, Sister Gillian Morgan, he had undertaken an audit of the deaths and was satisfied that all appropriate care had been given. The Inquiry has been unable to discover any evidence that such an audit was carried out and Sister Morgan and other members of the practice staff have denied all knowledge of it. Dr Banks said that he advised Shipman that the Health Authority had become aware of these deaths and that he personally had reviewed some of the records. He advised Shipman that he should send more deaths for autopsy as, where numbers of deaths seemed excessive, it was wise to obtain confirmation of the cause of death. Dr Banks said that Shipman did not seem surprised to hear that he had examined the records; he was pleasant and was more amenable than usual to suggestions for changes in his prescribing practice.
- 9.31 It appears to me that Shipman had become aware that the excess deaths in his practice had been noticed and was anxious to allay any concerns that might persist.