

25. Credibility and reliability of a witness is fundamental to the question of the sufficiency of evidence and helps a prosecutor determine whether or not there is a realistic prospect of conviction. It bears repeating that this is not in any way a determination that a person has or has not been a victim of crime.
26. At the time of the advice the law around corroboration would have been a valid concern. At common law there was a requirement to provide a warning to the jury about convicting on the uncorroborated evidence of a person where the charge was a sexual offence<sup>1</sup>.
27. I note that there was an investigation into the allegation of parental physical abuse running alongside the allegation of sexual abuse. The two allegations appear to be inextricably linked. At page 86 of the police file the sexual assault is referred to as a "counter allegation". One can see from page 89 of the file that the assault file appeared to have been sent separately to CPS and there was a decision that no further action should be taken and from page 93 that the victim withdrew his allegation against his father. It would have been important for both allegations to have been considered together so that the prosecutor could make a fully informed decision in relation to the evidence as a whole. It seems likely that the defence would have suggested that the sexual allegations were made in order to deflect the original allegations of abuse by his father.
28. It is unfortunate that the paragraphs where the lawyer appears to be about to discuss the rationale for the decision are entirely unreadable. We are therefore unable to come to any conclusions about the reasonableness or otherwise of the decision. However, the matters which can be gleaned all appear to be valid points to consider.

#### David Pearce [2004]

29. Through the Inquiry we have also been provided with a copy of the 2004 Metropolitan Police Service file (**OHY006649**) in respect of Pearce. The file is 77 pages long and includes 2 statements, a police 'CRIS' report and a closing report. At page 5 of the file is a copy of a letter from the CPS to the police dated 19 October 2004 headed 'Advice'. In reviewing these documents the following summary emerges:
30. The complainant, **RC-A6** (statement not within the file), alleged that in around 1991 when he was 11 years old he was abused by Pearce. The CRIS report refers to 4 matters;
  - i. on one occasion he was feeling unwell and was taken to the infirmary by Pearce who loosened his collar and removed his trousers and pants and looked at him;
  - ii. on a second occasion Pearce took him to the infirmary, removed his trousers and pants and touched and squeezed his testicles;
  - iii. on a third occasion Pearce brought a video camera into the boys showers and filmed them. He said he told his mother about it and she confronted Pearce who said he would delete the tape. His mother (**Name Redacted**) was subsequently spoken to and

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<sup>1</sup> This was abolished under s 32 and 33 Criminal Justice and Public Order Act 1994. However in *R v Makanjuola* (1995) 2 Cr. App. R. 469 (convictions for indecent assault), it was said that the Judge retained a discretion to warn the jury if he thought it necessary.