

# **An independent inquiry into allegations made against Lord Greville Janner**

Sir Richard Henriques

*19 January 2016*

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# Independent inquiry into allegations made against Lord Greville Janner

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## Background

1.1 On Thursday April 16<sup>th</sup> 2015, The Director of Public Prosecutions (DPP), made a public statement that Lord Janner would not be prosecuted due to the severity of his dementia. She explained that there was no treatment for his condition and no current or future risk of his offending. She went on to explain at some length why it was not in the public interest to launch criminal proceedings now, and emphasised that but for medical considerations it would undoubtedly have been in the public interest to prosecute. She rejected the possibility of launching a Fitness to Plead process, since four medical experts were in agreement that Lord Janner was suffering from a progressive degenerative dementia, which is rapidly becoming more severe. He would inevitably be found not fit to plead, the powers of the court would be restricted to measures designed to treat, rehabilitate and support and that, on the present facts, the outcome would result in an absolute discharge. There was no possibility of Lord Janner making a recovery and no future risk of reoffending. The DPP fully understood the wishes of the victims to tell their story publically. They would have such an opportunity before the Goddard inquiry into child sexual abuse.

1.2 Of particular concern to the DPP was that three earlier investigations into alleged sexual misconduct by Lord Janner had not resulted in prosecutions. Grave allegations had been made and, in the DPP's judgement, the Crown Prosecution Service (CPS) made mistakes in 1991 and 2007 and also by the Leicestershire police in 2002. She expressed the belief that Lord Janner should have been prosecuted in relation to each of those complaints. In consequence of that failure, I have been asked to conduct an independent and thorough review into the CPS decision making and handling of all past matters relating to allegations against Lord Janner and make whatever recommendations I consider appropriate.

1.3 My terms of reference are as follows i) the Independent Inquiry will examine the 3 cases listed below and make findings in respect of the following matters a) whether the

approach and decision making of the CPS and counsel instructed was correct in relation to advising the police and including but not limited to case building, the making of further inquiries, advice on charge and the sufficiency of evidence b) whether the CPS followed all relevant guidance and policy c) whether the CPS arrangements in place for handling the case were adequate and properly followed d) any other matters that the Inquiry feels would be relevant in preventing occurrence, ii) the Independent Inquiry will also make such recommendations it feels appropriate in light of the examination and findings set out above including, if appropriate, recommendations about CPS policy and guidance and CPS arrangements for handling involving high profile or political figures, iii) the Independent Inquiry has been established by, and will present its findings and recommendations to, the DPP.

### The Three Cases

1. Allegations by an individual in the trial of Frank Beck in 1991. The CPS considered the evidence and advised the police that there was insufficient evidence to prosecute. The police took no further action.
2. Operation Magnolia in 2002. Allegations were referred to the CPS but apparently not the allegations relating to Lord Janner. Police decided that No Further Action should be taken against Lord Janner and the CPS decided that No Further Action should be taken against any other individual.
3. Operation Dauntless in 2006. Allegations of offending by three individuals including Lord Janner. The CPS decided there was insufficient evidence to prosecute in 2007.

1.4 In conducting this Inquiry I must have regard to the evidence available at the time of each decision, and the relevant guidance then available to the CPS in relation to charging and referring cases to the DPP for consideration.

1.5 Lord Janner was born on 11 July 1928, he was called to the bar in 1954, took silk in 1971, having become an MP in 1970 representing Leicester North West and then Leicester West until 1997 when he was created a Life Peer taking the title Baron Janner of Braunstone, in the county of Leicestershire. Every allegation precedes his ennoblement and accordingly, throughout this report, I will refer to him as Greville Janner or Janner. No disrespect is intended.

## **1990/1991 Complaint by Complainant 1**

- 2.1 Between May 1990 and the 4<sup>th</sup> December 1991, Leicestershire Police considered information following a complaint by Complainant 1 in which allegations against Janner of oral sex, indecent assault and buggery were made, such conduct allegedly having taken place between the summer of 1974 and December 1975 when Complainant 1 was under 16 years of age.
- 2.2 The first information to reach the Leicestershire police potentially implicating Janner was on the 11<sup>th</sup> May 1990, when investigations were being made into grave sexual allegations made against one Frank Beck (Beck) and others involved in the management of Children's Homes in Leicester. A female resident at Ratcliffe Road Children's Home (Ratcliffe Road) made a statement complaining of rape by Beck and went on to speak of Beck calling Complainant 1 a whore. She stated that Complainant 1 used to write and visit the MP Greville Janner and that Complainant 1 wanted Janner to visit him but that Beck would not allow it and they would argue about it. Complainant 1 was telling Beck about having sex with Janner.

### Complainant 1's First Statement

- 2.3 On the 21<sup>st</sup> August 1990, Complainant 1 was seen by the Police. Complainant 1 made a statement in which he said that he had never been ill-treated by any member of staff at Ratcliffe Road under the supervision of Beck. He did not mention Janner in the police statement. A synopsis in the police file records that Complainant 1 "did mention their relationship". A report prepared by a then Detective Inspector states "he stated there had been an association but he did not make any complaint".

### Janner's Letters

- 2.4 On the 30<sup>th</sup> August 1990 Beck's home was searched by the police and a number of letters were recovered. The letters were written by Janner to Complainant 1 and confirmed that some form of relationship existed. They did not establish a sexual relationship but a number of letters were signed 'love Greville'. Janner was anxious in those letters for Complainant 1 to write to him. He sent some stamps; he described Complainant 1 as his right hand man; he said he could help at his surgery; he arranged for the boy to visit his home, sending him a ticket; he wrote whilst away in hotels

lecturing and also during a parliamentary committee meeting. He spoke of any letter written by Complainant 1 “which is private will be treated confidentially by me”. He wrote, “it seems strange not having you flipping around like a friendly flea! In fact I miss you.” He signed the letter, which was on House of Commons notepaper “and my love to you, Greville. P.S. you were a super excellent and very helpful and thoughtful guest, I know the effort it sometimes took, well done! See you at the Holiday Inn on Tuesday (12 August) Jonathan will arrange for a bed for you in the sitting room... good night now, its 10 and the division bell has just rung so I must vote”. The letters establish that Complainant 1 visited Janner’s home in London at a time when Janner’s wife and daughter were visiting Israel. While the letters did not provide proof of a sexual relationship, they are, in my judgement, consistent with such a relationship. No action appears to have been taken by the police upon discovering those letters.

2.5 On the 20<sup>th</sup> January 1991, Beck’s legal representative (a former police officer) of Green D’sa Solicitors contacted the police stating that Complainant 1 wanted to make a complaint against Janner and that he would only make such a statement in his presence. Beck’s trial was at this stage pending and due to commence in early September 1991. Accordingly the police arranged for Complainant 1’s interview to be tape recorded and, on the 29<sup>th</sup> January 1991, Complainant 1 made his first statement alleging sexual misconduct by Janner. Complainant 1 was at this stage 30 years of age and was relating events some 16 years earlier.

#### Complainant 1’s Statement of 29 January 1991

2.6 This was a detailed statement covering some 12 pages. Complainant 1 described meeting Janner at his school where Janner performed a magic show as a member of the magic circle. According to Complainant 1 he seemed a nice man and visited a couple of times to set up a project to improve the community, involving local children in cleaning up the area to reduce vandalism. On another visit to the school he invited Complainant 1 to watch him open a fete nearby and he took Complainant 1 in his red Jaguar XJ6, the number of which Complainant 1 correctly stated as GNN690J. Complainant 1 described how he was taken back to Station Road Children’s Home after the fete, there Janner met the house parents and on leaving he promised to ring during the week and said he would see Complainant 1 the following weekend.

2.7 Thereafter Complainant 1 received regular phone calls most weeks at the home from Janner, they exchanged letters almost weekly and met at weekends. Janner took him to the Labour Party offices and to his constituency surgeries. If Janner had a private meeting his aide would take Complainant 1 around town and the aide would be given money to buy Complainant 1 sweets and toys. Sometimes Complainant 1 would sit in on surgeries if people agreed. He was introduced in meetings as a friend of Janner. Janner would either pick Complainant 1 up from the home or they would meet at the Holiday Inn where Janner always stayed when he was in Leicester.

2.8 In due course Janner suggested meeting in London. With the agreement of the house parents the visit went ahead, Janner sending the rail ticket. Complainant 1 indicated that he very much enjoyed the visit and on his return to school bragged about his visit to his friends.

2.9 A second visit to London followed, Janner again sending the ticket.

2.10 On Complainant 1's birthday, Janner sent some money to him, said by Complainant 1 to be a large amount, and a third visit to London followed. Significantly Mrs Janner and her daughter were away from home, visiting Israel. Janner met Complainant 1 at St Pancras and instantly gave Complainant 1 a cuddle, which Complainant 1 said felt strange. This was the first physical approach. In the car, according to Complainant 1, Janner patted him twice on the knee and on arrival at the Janner home he was shown to a box room. In his statement he was able to accurately describe the house in some detail, and accurately remembered the name of the cook. Soon after their arrival, Janner's son left the house and phoned later saying that he was staying with friends overnight. It was during this visit that Complainant 1 first described how Janner kissed him, cuddled him and simulated sex upon him.

2.11 The next day, Janner took Complainant 1 to meet a friend whose daughter was about to be married. The house had a large swimming pool and Complainant 1 was told he could have a swim and he dived in the pool wearing only underpants, which came off as he entered the water. The house owner apparently left the house leaving Janner and Complainant 1 together. Janner then entered the pool naked. Whilst at the address mutual cuddling and petting also occurred.

2.12 The following weekend Complainant 1 described going with all the Janner family to the owner of the swimming pool's daughter's wedding at a church with a reception at a hotel. Thereafter a few weeks passed without Complainant 1 seeing Janner.

2.13 In due course Janner called saying he was coming to Leicester and asked if Complainant 1 could get permission to stay at the Holiday Inn with him. It was agreed and Complainant 1 and Janner stayed the night in a suite at the Holiday Inn. After a meal they watched television and then took a shower together with mutual cuddling and petting once again. Janner then went to do some work before getting into bed with Complainant 1 where simulated sex and oral sex took place. In his statement Complainant 1 states that he did not want this (oral sex) to happen.

2.14 After this event it appears that Complainant 1 was found to have been stealing from Janner but he was forgiven by him and Janner promised to buy Complainant 1 a racing bike for Christmas.

2.15 Thereafter Complainant 1 visited Janner at the Holiday Inn in Leicester on several occasions. He stated that Janner arranged private use of the swimming pool and they would swim together naked and, on every occasion, they would end up in bed together.

2.16 Complainant 1 described being taken on a two week lecture tour with Janner who lectured on employment law. They stayed in a different hotel each night with various sexual activities taking place including oral sex, but no penetration. After the lecture tour, Complainant 1 described drifting apart from Janner.

2.17 Just before Christmas 1975, when Complainant 1 would be just 15, he left Station Road Children's Home and moved to Ratcliffe Road where Beck was in charge. Over a period of time he told Beck of his relationship with Janner and gave him the letters Janner had written to him. These letters were subsequently recovered by the police upon Beck's arrest (paragraph 2.4). Beck instructed Complainant 1 not to see Janner again.

2.18 Shortly before Christmas, Janner arrived at Ratcliffe Road Children's Home with a racing bike as promised but Beck returned it to him.



2.19 Some 14 years passed before Complainant 1 saw Janner again. They started writing to each other and Complainant 1 invited Janner to his wedding. Janner did not attend but sent a cheque for £50 and subsequently some money and clothes for the new baby.

2.20 It was upon Beck's arrest that Complainant 1 telephoned Janner and according to Complainant 1, Janner denied that he had ever known him.

#### Female Resident at Ratcliffe Road

2.21 On the 1<sup>st</sup> February 1991, a female resident at Ratcliffe Road made a further statement. She was taken into care aged 11 when her mother could not cope with her. In 1975 she was placed in Ratcliffe Road Children's Home where Beck was in charge. Not long after Complainant 1's arrival, she heard Beck shouting at Complainant 1 in Complainant 1's bedroom, which was adjacent to hers. Complainant 1 was being told that he could not see Janner again. Beck referred to Janner as Complainant 1's pimp. Complainant 1 was pleading with Beck to allow him to see Janner. In a subsequent discussion Complainant 1 confided in her that he had been "having sex with Greville Janner who was an MP." She did not then know what MP meant.

#### Complainant 1's Social Worker

2.22 On the 4<sup>th</sup> February 1991, Complainant 1's Social Worker was interviewed by police. He made a statement in which he recollected Complainant 1's "involvement with a local member of parliament, Mr Greville Janner." He stated "I became aware that Complainant 1 was spending weekends away, staying with Mr Janner. I believed that this mixing with the 'high-life' i.e. staying in hotels and the like was not in the best interest of the boy". As a result Complainant 1's Social Worker visited Janner and expressed the view that this kind of living was not in the boy's best interest. At the end of the meeting he was not fully reassured. He produced Complainant 1's social work file and number of entries that referred to Janner including: 25<sup>th</sup> June 1975, Case Review Note "involvement with Greville Janner to continue." 8th July 1975, telephone call to Complainant 1's Social Worker to tell him that "Complainant 1 had returned from the House of Commons. He had with him several objects that did not belong to him, they were the property of Mr Janner. Mr Janner had seen Complainant 1 today and recovered his property. Mr Janner said he will sort this out with Complainant 1 and is still taking him camping." 1<sup>st</sup> September 1975, "Janner MP causing confusion,

Complainant 1 has been to the Houses of Parliament, his home, on a Scottish holiday with him, relationship now marred by Complainant 1's thefts including £25 from Janner's wallet." 25th September 1975, meeting with Janner "the relationship is finished, it was probably patronising anyway, Mr Janner is going to continue visits with Complainant 1 but will not take him home or away. Felt discussions about level of commitment mostly got nowhere, he has been deeply upset by being made a fool of." 2nd October 1975, "Janner said he was going to visit, Complainant 1 seemed quite pleased but was using the glory game a bit and would obviously capitalise on having a star visitor."

### Frank Beck

2.23 Beck was employed by Leicestershire County Council as officer in charge of Children's Homes in Leicester where children of both sexes between the ages of 8 and 16 years resided having been placed in the care of Social Services. Under the guise of a form of therapy, known as regression therapy, children were sexually abused in the gravest possible manner.

2.24 Beck was arrested in April 1990 and was tried between the 17<sup>th</sup> September 1991 and the 29<sup>th</sup> November 1991 when he was convicted of 4 counts of buggery, 1 count of rape, 2 counts of attempted buggery, 6 counts of indecent assault and 3 counts of assault occasioning actual bodily harm. He was sentenced to life imprisonment on each of the 4 counts of buggery and rape and a total of 24 years imprisonment on the remaining counts.

2.25 On the 6<sup>th</sup> February 1991, Beck was interviewed in the presence of his legal representative. The interview was recorded and a statement was taken. Beck indicated that towards the end of 1975, he became aware of a disturbed boy, Complainant 1, a resident at Station Road Children's Home and proposed that he might move to the Ratcliffe Road Children's Home where he, Beck, was the officer in charge. He attended a case conference and was made aware that Complainant 1 had a befriender, Mr Greville Janner, a local MP. The term befriender was in common use for persons who took out from Children's Homes. Beck stated "these people were officially vetted." I have seen no evidence of any official vetting of Janner and, in his written evidence to the Kirkwood Inquiry in 1992, Janner wrote, "he was not part of any formal befriender scheme".

2.26 Complainant 1 moved to Ratcliffe Road just before Christmas 1975, shortly after his 15<sup>th</sup> birthday. Beck indicated that Complainant 1 began to open up about his association with Janner. Complainant 1 told Beck he shared a room at the Holiday Inn with Janner that they had swam together at the hotel and at one stage Janner's towel dropped and he had an erection. They ended up cuddling one another naked and performed mutual masturbation. During later discussions, Complainant 1 disclosed acts of oral sex and simulated sex. Complainant 1 mentioned to Beck the visit to Scotland, staying in hotels with acts of mutual masturbation and oral sex. Complainant 1 was receiving clothes and sweets from Janner and indicated that on almost every occasion that he met Janner, sexual activity took place. Beck indicated that he believed these disclosures and reported them to the Director of Social Services who replied "oh no, not again". Beck recalled either Janner or Janner's aide trying to leave a bicycle for Complainant 1 but he then refused to accept it and the bicycle was taken away. During Complainant 1's first few weeks at Ratcliffe Road, Janner rang to ask if Complainant 1 was ok and to ask what they were talking about. Complainant 1 had given Beck letters from Janner confirming their association.

2.27 In due course Complainant 1 left Ratcliffe Road. Several years later, after the birth of Complainant 1's first child, Beck put Janner and Complainant 1 back in touch with each other in the hope that Janner would support Complainant 1 in some practical way.

#### Complainant 1's statement of 7 February 1991

2.28 Complainant 1 was interviewed again in the presence of Beck's legal representative. He had remembered the name of one of his pals from school and remembered the names of Janner's aides who went on the Scotland trip. Complainant 1 described the first cuddle at St Pancras as the sort of embrace one would have with a close member of one's family following a long absence. "He put his arms round me and pulled me close to him." He elaborated on stealing from Janner saying he stole two or three LPs from his home and some money from his wallet in Scotland, possibly as much as £60, and £30 from the Labour party office. He corrected himself in relation to the Scotland visit believing the aide was with them for the earlier part of the visit and left part way through. He then prefaced what was to follow by saying "I must tell you something else, which is very difficult for me" and went on to say that he had never told anyone this, including Mr Beck. There followed a graphic and detailed description of an act of buggery that I need not set out in this report. It hurt a lot he said, it was on one of their

sessions at the Holiday Inn and he was injured requiring the Doctor to be called by the Children's Home. Complainant 1 did not disclose the cause of his injury to the doctor, merely saying his bottom was sore and he was given some cream. Complainant 1 said he was bugged on four or five occasions by Janner, twice in Scotland and on the remaining occasions at the Holiday Inn. Although Complainant 1 said he was reasonably happy with other sexual activity he was totally against being bugged.

2.29 It appears from a police synopsis that a meeting took place between police and the CPS on the 12<sup>th</sup> February 1991, five days after Complainant 1's statement, to consider the way forward. The note reads, "Agreed that certain potential witnesses could be approached, without fear of enquiry becoming public knowledge. Further meeting to be called on the 25<sup>th</sup> February 1991 to assess how we can gain access to documents held by Beck's solicitors."

2.30 On this same date, the 12<sup>th</sup> February 1991, the Chief Crown Prosecutor for Leicestershire / Northampton CPS (the Chief Crown Prosecutor) sent a memo to the Head of Central Casework Division at CPS Headquarters in London (the Head of Central Casework Division), enclosing a copy of a police file in respect of "the member of parliament I referred to". He indicated that enquiries were continuing and a conference with counsel was to take place to consider the overlap with the Beck trial. The memo concluded, "I understand from the police that a number of people are aware of the allegations against the MP. There is the possibility that other boys were taken out by the MP and the police are seeking to establish whether this is the case and if so what their identities are. I will keep you informed of developments at each stage as agreed." A lawyer at Central Casework Division at CPS Headquarters in London acknowledged this memo on the 20<sup>th</sup> February 1991.

#### Complainant 1's House Mother

2.31 On the 14<sup>th</sup> February 1991 Complainant 1's house-mother was interviewed and made a statement. She became Officer in Charge of Station Road Children's Home on the 4<sup>th</sup> August 1975 at a time when Complainant 1 was with Janner in London. Indeed she received a phone call from Complainant 1 in which he said "he was at the House of Commons with Greville Janner". The following day Janner brought Complainant 1 back to the home. A few days later she went on holiday, returning on the 1<sup>st</sup> or 2<sup>nd</sup> September 1975. Soon afterwards she discovered Complainant 1 had been stealing from Janner

and Complainant 1 admitted stealing £120 from Janner's wallet whilst they were in Aylesbury together with a couple of LPs. She rang Janner and asked him to call at the home next time he was in Leicester and, the following weekend, he did so. When she told him of the thefts she said he was totally gobsmacked and said "don't tell Myra, don't tell Myra." He went on to tell her "not to tell his wife because he kept her on a strict budget of £40 week and knowing that he had lost £120 without realising it would cause him problems." He asked how Complainant 1 had taken the money and she told him that the money had been stolen in Aylesbury the previous weekend. Janner said that Complainant 1 "must have taken it whilst he was in the shower at the hotel whilst he had left his clothes on the bed." He asked if he could see Complainant 1 on his own so that he could thrash him. The house-mother declined. They went through to the children's sitting room where Janner saw Complainant 1 in her presence. Janner said he felt let down and did not want to see Complainant 1 again. Janner then left.

2.32 The house-mother concluded from the description given of the theft whilst Janner was in the shower that Complainant 1 and Janner were sharing the same room and Complainant 1 had been away almost every weekend with Janner. Accordingly she reported the facts to her supervisor, who stated there was no problem and that the department and the Director of Social Services knew and approved of the association. Following Janner's visit there was no contact between him and Complainant 1 for some 10 days whereafter Janner came to the home and took Complainant 1 to his surgery. On this occasion Complainant 1 stole £15 to £20 from party funds. She recovered £3 or £4. She informed Janner and stopped Complainant 1's pocket money until the money was repaid. Janner came to collect the money and saw Complainant 1. That was the last time they saw each other. Just prior to this theft Complainant 1 was having serious sexual problems with other residents and she asked that he be removed from the home. He was taken to Ratcliffe Road Children's Home on the 20<sup>th</sup> December 1975 against his wishes.

#### Male residents at Station Road

2.33 On the 18<sup>th</sup> February 1991 a male resident at Ratcliffe Road was interviewed and made a statement. He was by this time a leading steward in the Royal Navy. He had been in care from birth until the age of 18. He was at Station Road Children's Home at the same time as Complainant 1 and remembers that Complainant 1 was sexually confused. He remembered Complainant 1 being friendly with Greville Janner MP and Janner coming

to the home with various gifts and all the kids were impressed. Janner took five or six children to the Holiday Inn swimming pool in Leicester in his red Jaguar and he remembered Janner and Complainant 1 going off on their own for some time. It was, he said, as if the swimming pool was booked privately and we were the only ones there. He just noticed that “both Janner and Complainant 1 had gone”, as did others, and it was the subject of discussion.

2.34 On the 19<sup>th</sup> February 1991, another male resident was interviewed and made a statement. He was also in care at Station Road Children’s Home and remembered meeting Greville Janner MP. He remembered being asked to go to a fete at Braunstone Manor School and being driven in a red Jaguar with a chauffeur. En route Complainant 1 was picked up and following this Janner and Complainant 1 struck up a relationship. A few weeks later Janner took several children to the Holiday Inn in Leicester for a swim. “We all changed in a bedroom, including Mr Janner.” Sometime after this Complainant 1 went to Scotland with Janner and when he returned he had a lot of money. Complainant 1 told him and others not to tell anyone about it. Janner also organised a number of swimming trips, and on one of these trips he was caught stealing chewing gum, which Janner found out about and banned him from further trips.

#### The Director of Social Services

2.35 On the 20<sup>th</sup> February 1991, the Director of Social Services (now former) was contacted. She indicated that she did not remember anything about either Complainant 1 or Janner.

#### Beck’s Outburst

2.36 On the 27<sup>th</sup> February 1991, Beck appeared at Leicester City Magistrates Court on further committal proceedings. The Press had been contacted and were present in great numbers. Beck was prepared to read a three page statement from the dock alleging that the Police, Social Services and the CPS were conspiring together to prevent any prosecution of Janner. The Court Clerk cut Beck’s speech short but Janner’s name and the allegations were shouted out and reported the following day in a daily newspaper.

2.37 On the 4<sup>th</sup> March 1991, the Reviewing Lawyer in Beck’s case, a Principle Crown Prosecutor (the Reviewing Lawyer), spoke to Leading Counsel instructed to prosecute

Beck. Leading Counsel is recorded as having said that he agreed with the view that Beck has resolved the dilemma as to whether or not to arrest Janner and that he was of the view that Janner should not be arrested, but interviewed on tape at police headquarters by appointment.

### Janner's interview

2.38 On the 13<sup>th</sup> March 1991, Janner was interviewed under caution at Leicestershire Police Headquarters. He was not arrested, the interviews were in the presence of his solicitor Sir David Napley, and his answer to every question was 'as advised by my solicitor, I do not wish to answer'. Following the interview the solicitor agreed to provide certain information, in particular the names of Janner's aides and the owner of the house with the swimming pool.

### Janner's friend / Owner of Swimming Pool

2.39 On the 17<sup>th</sup> April 1991, Janner's friend / owner of a swimming pool was interviewed and made a statement. He had known Janner for over 30 years. They were regular visitors to one another's homes. He had no recollection of a visit by Janner with an unknown boy and he would never leave visitors alone using his swimming pool as he had a very sophisticated alarm system. The swimming pool was overlooked by nearby houses and no child of his was married in 1975 or 1976.

2.40 On the 17<sup>th</sup> April 1991, police visited Janner's former home and found it had been accurately described by Complainant 1.

### Janner's Aides

2.41 On the 18<sup>th</sup> April 1991, two of Janner's aides were interviewed and made statements. The first explained how he was employed by Janner as an aide in 1974. He had a vague memory of events but did remember one boy in particular from a Children's Home and he remembered him staying at Janner's home. He remembered something went missing from the house. He and Janner often stayed at the Holiday Inn in Leicester and often used the swimming pool. He could not say whether the boy stayed or not. Mr Janner normally had a suite with a bedroom off the main room. When visitors stayed they would be on a put-you-up bed. He remembered trips to Scotland but could not remember if

the boy went or not. The second explained how he worked as an aide to Mr Janner in 1975. He remembered a boy with the same name as Complainant 1 visiting the House of Commons several times. He was from a Leicester Children's Home and from a deprived background and Mr Janner was trying to be kind. He could not recollect the boy staying overnight in a hotel with Mr Janner.

### Police File

2.42 In a police file, compiled in April 1991, there is a note that reads, "Beck has intimated that at his trial he will bring out the allegation contained herein. The defence see it as a way of deflecting interest via a prominent person i.e. Mr Janner. The Beck case is tragic and there is little doubt that there will be a public inquiry at its conclusion. Having seen all the parties in the case, I am of the opinion that something untoward happened in 1975 between Complainant 1 and Janner. However, I am not convinced that the allegations made by Complainant 1 are completely genuine. There is no direct corroboration and it could be that the allegation has been made to fit the letters recovered from Beck."

2.43 On the 15<sup>th</sup> May 1991, the police file was sent to the Reviewing Lawyer with a letter stating that there are further inquiries that could have been carried out such as details of Janner's residence at the Holiday Inn and further details on children who were aware of the relationship between Complainant 1 and Janner. The police also wrote, "I do not think that these are in issue or that they would take us any further in proving the allegation. No doubt you will be forwarding this to London for a final decision."

### CPS Documents

2.44 On the 29<sup>th</sup> May 1991 two letters were drafted by the CPS but not sent, one was written by the Chief Crown Prosecutor to the Head of Central Casework Division at CPS Headquarters in London enclosing the police file with the comment "I do not think there is a realistic prospect of conviction on the papers". The other, bearing the initials of both the Chief Crown Prosecutor and his Articled Clerk (the Articled Clerk), was written to the Chief Constable asking for further police resources to carry out further investigation. At this time, the Articled Clerk had eight years' experience as a police constable in the Merseyside Police and was articled to the Chief Crown Prosecutor.



2.45 The Articled Clerk also drafted a document entitled "Supplementary enquiries to be undertaken at the request of the CPS". It referred to the obtaining of Complainant 1's medical records, Complainant 1's failure to mention the Aylesbury theft of £120, the need for further enquiries re: London wedding and the swimming pool, and, most significantly, the note states "I regret that it is still desirable to undertake enquiries with the Holiday Inn Leicester to establish what room arrangement Janner had at the time of these alleged indecent assaults."

2.46 On Tuesday the 4<sup>th</sup> June 1991, the Articled Clerk held a guarded and 'no names' telephone call with Leading Counsel instructed to prosecute Beck, who asked "is there sufficient evidence at present?" The reply was "we think no, we want your advice on that question." Leading Counsel then asked, "is there anything in it?" to which the Articled Clerk replied, "yes, undoubtedly, the police also think so." He went on to say "we believe police enquiries should be pursued further due to sensitivity of allegations, relevance to Beck trial and possibility of further enquiry post Beck."

#### Beck's cell mate

2.47 On the 20<sup>th</sup> June 1991, a statement was obtained from Beck's cellmate. He was a much convicted prisoner with very many convictions for dishonesty. I have also noted an antecedent history of formidable proportions. He is a man whose evidence must be treated with the greatest caution.

2.48 In April 1991, he had shared a cell with Beck whilst Beck was in custody awaiting trial. According to him, Beck had made a comprehensive confession to him admitting committing buggery with boys and girls, having sex with numerous children and also giving children a good thumping. Beck went on to say that he was going to plead not guilty and was going to drag all the top people in. He had got one of the kids to say that Greville Janner had taken him to Scotland and bugged him. When asked by Beck's cell mate if it was true, Beck said no, but it would throw the light off him. He went on to say that he was sure the kid would stand up and he had three newspapers on his side. It is of significance that the Prosecution did not rely on this evidence / witness during the Beck trial.

### Complainant 1's Statement in Scotland

2.49 On the 2<sup>nd</sup> July 1991, Beck's legal representative took Complainant 1 to Edinburgh to lodge a complaint against Janner to the Scottish police informing them that a complaint had been made to the Leicestershire Police and nothing was being done. Complainant 1 made a further statement in which he gave dates for the Scotland visit and named a hotel, the Caledonian in Edinburgh, which had no surviving record of accommodation booked. Complainant 1 also stated that he first met Janner on a school trip to the House of Commons and not at his school as stated in his statement of the 29<sup>th</sup> January 1991.

### Instructions to Counsel

2.50 At about this time instructions to Counsel to advise on evidence in the case of Greville Janner QC MP were drafted by the Articled Clerk. Leading Counsel instructed to prosecute Beck was also instructed to provide this advice and a consultation was arranged to take place with him at his chambers in Nottingham on the 12<sup>th</sup> July 1991. Those instructions referred to statements thus far in possession of the police and highlighted the deficiencies in the witness statements. It was suggested that Complainant 1 should be further interviewed in the absence of solicitors representing Beck, that Complainant 1's medical records be obtained and the relevant doctor interviewed, that further enquiries be made of the geography of the London swimming pool and that further enquiries be made as to the wedding said to be attended by Complainant 1. Other matters are canvassed in the instructions but, most significantly, it was said that "police investigations should be conducted to establish whether or not Janner did utilise facilities at the Holiday Inn Hotel Leicester as suggested in the various witness statements. Did the hotel have such en suite facilities inclusive of a shower and put-up beds?" The instructions also sought counsel's assistance on obtaining material in the possession of Beck or his solicitor which may be the property of the County Council and relevant to the enquiries into the allegation against Janner.

### Consultation with Leading Counsel

2.51 On the 12<sup>th</sup> July 1991, the consultation took place. Leading Counsel endorsed the instructions "advice (as presently informed) no prosecution, letter to be sent to Beck's solicitors, DPP to be consulted as to decision taken." A memorandum of the consultation was prepared by the Articled Clerk in which he wrote that Leading Counsel 'had no

hesitation in concluding that at present there was inadequate evidence to proceed against Mr Greville Janner in respect of the allegation made against him by Complainant 1 and others' and further that he 'was satisfied that on the papers he had seen in respect of the Janner allegations, the police had discharged their duty to investigate the allegations impartially.' The CPS was represented at this consultation by the Articled Clerk and two others clerks. The Chief Crown Prosecutor was abroad on the 12<sup>th</sup> July 1991. The police were also present.

2.52 During the consultation, the memorandum further records that "discussion was also made into the desirability and practicality of arresting and interviewing both Complainant 1 and Beck's legal representative in relation to offences of attempting to pervert the course of justice and/or perjury. Following general discussion as to the practicality and usefulness of such a course of action, Leading Counsel concluded that the police should not undertake any further investigations against the witnesses in the Janner allegations. Leading Counsel felt that to a large degree the allegations disclosed against Janner at this stage were designed to take the eyes off the Beck ball." The trial of Beck was due to commence in early September.

#### Police File to CPS Headquarters London

2.53 In the meantime the Lothian and Borders police had decided to leave the investigation in the hands of the Leicestershire Police and, on the 15<sup>th</sup> July 1991, the Leicestershire police completed the police file for onwards transmission to the CPS Headquarters in London with this concluding observation "in view of ..... 's statement and the discrepancy in Complainant 1's new statement, I am even less convinced of the truth of this allegation. It appears more and more that this complaint is a means for Beck to divert attention during his forthcoming trial."

2.54 On the 17<sup>th</sup> July 1991, the Articled Clerk telephoned the Director's Private Secretary to the effect that he intended, on the advice of Leading Counsel, to send the Janner file to the Director by hand for his consideration. Instructions were given to deliver it to the Head of Central Casework Division at CPS Headquarters in London, as the Head of Casework was in Berlin and the Director was away for two weeks.

2.55 On the 19<sup>th</sup> July 1991, the Articled Clerk delivered the file by hand to the Head of Central Casework Division at Furnival Street, delivering the papers to him personally.

Since he was not apprised of the facts of the Beck prosecution he summoned the Lawyer at Division, who was in possession of the Chief Crown Prosecutor's copied file relating to the Janner allegations. The Articled Clerk gave them both a very brief outline of the Beck incidents and the allegations arising against Janner. The Head of Central Casework Division indicated that neither Beck's legal representative nor Complainant 1 should be arrested before Beck's trial or thereafter without referring the matter to CPS Headquarters. He said they would consider the papers and send a decision in due course emphasising it could only be a decision based on the papers known to the police at present and that he may require a further conference before making the decision.

### Provisional Decision

2.56 On the 28<sup>th</sup> August 1991, the Head of Central Casework Division wrote to the Chief Crown Prosecutor stating, "the papers have now been carefully considered and I am of the opinion that the available evidence is insufficient to justify criminal proceedings against the Member of Parliament with a realistic prospect of conviction. Needless to say I will reconsider the matter if further evidence comes to light. I will await the outcome of the Beck trial." The absence of any written reasons confirms the provisional nature of this decision.

### Beck's Trial

2.57 Beck's trial took place between the 17<sup>th</sup> September 1991 and the 29<sup>th</sup> November 1991. I have been assisted by a background note from Junior Counsel for the Crown. As I have earlier indicated, Beck was convicted on numerous counts, and sentenced to life imprisonment. The note indicates that no evidence of significance in relation to Janner came to light during Beck's trial that was not already known to the police. It appears that every effort was made by the prosecution to conduct the trial without reference to Janner. The initial statement made by the female resident from Ratcliffe Road had been redacted so that references to Janner were removed, thus forming no part of the prosecution case, and the file in relation to the Janner enquiry was not initially supplied to the defence. In due course this information was provided to defence counsel and there is no question arising of any non-disclosure.

2.58 In evidence she stated that she could hear Complainant 1 arguing with Beck about Janner. When Beck gave evidence he stated that one child under his care had been

abused by Janner for two years. Beck's defence was that he was innocent of any sexual abuse of children in his care and that his responsibility was to counsel children who had sexual problems arising from sexual abuse. One such child was Complainant 1 and his abuser was Janner. Beck called Complainant 1 as a witness and he gave evidence essentially in accord with his statements of the 29<sup>th</sup> January 1991 and the 7<sup>th</sup> February 1991 describing how he stayed in hotels with Janner, which culminated in an incident where he was buggered by Janner. He also mentioned visiting hotels in Scotland where he was buggered twice in different hotels. Complainant 1 alleged that Beck became aware of the relationship between himself and Janner and forbade Complainant 1 from seeing or hearing from Janner again. Beck returned the gift to Complainant 1 of a bicycle from Janner.

2.59 In cross examination by Leading Counsel it was put, according to Junior Counsel's note to Complainant 1, that allegations against Janner had been manufactured by him and embellished as time went by. It was further put to him that he had been approached by the media and enticed by sums of money. During his final address to the jury, Leading Counsel stated that the Janner/Complainant 1 topic was a huge red herring designed primarily to deflect attention away from the culpability of Beck.

#### The 1991 Charging Decision

2.60 On the 4<sup>th</sup> December 1991, the Chief Crown Prosecutor wrote to the Chief Superintendent of Leicestershire Constabulary stating that on the available evidence there was no realistic prospect of conviction in relation to the allegations made against Greville Janner MP and, on the same date, the Assistant Chief Constable wrote to Janner's solicitors informing them that having taken advice of the CPS, it was not the intention of the police to refer any charges against Mr Janner. It is of significance that there appears to be no reference back to the Head of Central Casework Division at the conclusion of Beck's trial. The Chief Crown Prosecutor understandably accepts that it is impossible to recollect details of events some twenty four years ago. No records of the Chief Crown Prosecutor remain from 1991. However, he feels certain that contact was made by telephone with CPS Headquarters in London before communicating any decision to Leicestershire Police. The Lawyer at Central Casework Division at CPS Headquarters in London has no recollection of any such communication.

## Conclusions

2.61 Against that evidential background, I considered the decision not to charge Janner in 1991. It is now manifest from evidence subsequently collated that a fuller and more comprehensive investigation should have taken place in 1991. I make that observation conscious that the IPCC are undertaking their own enquiry into the conduct of the investigation by the police into the allegations against Lord Janner. I have, however, read the report produced by Operation Enamel in 2014. The comprehensive nature of that report demonstrates the insufficiency of evidence gathering in 1991. In 1991 there were statements from 10 civilian witnesses attached to the 10 page police report. Operation Enamel obtained a total of 32 witness statements in support of Complainant 1's allegations, 12 of which dealt with events in the Holiday Inn Leicester in and around 1975. All this evidence could have been available, had it been located, in 1991. Indeed, further evidence may then have been discoverable it being 23 years more proximate to events under investigation. In 1991, it was of critical importance to investigate sleeping arrangements at the Holiday Inn in Leicester, Aylesbury and at a number of Scottish hotels. It is significant that Janner, in his written evidence to the Kirkwood Inquiry, asserted that Complainant 1 stayed only once in the Holiday Inn in Leicester, in the sitting room, that the trip to Scotland was for two to three days at the most, and they had separate accommodation and that they had never visited Aylesbury together. The events in question were, of course, in 1975 some sixteen years before the 1991 investigation. Remarkably, Operation Enamel was able to discover significant information 23 years later. In 1975, Janner was 47 years of age, Complainant 1 was 14 years of age. With information that they had together visited Scotland and Aylesbury and that Complainant 1 had stayed on numerous occasions at the Holiday Inn as Janner's guest, it is my conclusion that no decision should have been made by any prosecutor until every avenue of enquiry as to sleeping arrangements in every locality had been exhausted. It is significant that, on the 15<sup>th</sup> May 1991, the police wrote in a letter to the Reviewing Lawyer that they "did not think that details of Janner's residence at the Holiday Inn would take us any further in proving the allegation". Two months later, on the 15<sup>th</sup> July 1991, in a memo to the CPS, they indicated that Complainant 1 had given the dates for the visit to Scotland but no significant attempts were apparently made to investigate the matter further. As to Aylesbury, there was evidence available from Complainant 1's house-mother that Janner himself had said that Complainant 1 must have taken his £120 while he, Janner, was in the shower. A clear inference that they were in the same bedroom accommodation. The importance of any hotel evidence was not lost on an Articled Clerk at the CPS who wrote, in his document entitled

'Supplementary enquiries to be undertaken at the request of the CPS', undated but apparently in July 1991, saying "I regret that it is still desirable to undertake enquiries with Holiday Inn Leicester, to establish what room arrangement Janner had at the time of these alleged indecent assaults." There can be no doubt that the police had been instructed to obtain evidence of hotel accommodation. At p117 of the 1991 file, a list of outstanding enquiries has, at number 8, "obtain details of Greville Janner's stays at hotels". This note appears to have been created in February 1991, prior to the interview with Complainant 1's house-mother. When interviewed by me, the Articled Clerk expressed frustration at police officers failure to fully investigate arrangements at the Holiday Inn Leicester.

2.62 Police investigations in London were also inadequate in 1991. These were limited to the taking of a single statement apparently discrediting Complainant 1's description of a swimming pool in North London and, more significantly, discrediting Complainant 1's assertion that he attended a wedding in the company of the Janner's family. Operation Enamel identified the church and the bride and produced film depicting Complainant 1's presence at the wedding. As matters were left in 1991, there was an appearance that Complainant 1 had fabricated both the swimming pool event and the wedding. Further, the 14 witnesses identified in Operation Enamel, several of whom made statements in 1991, in their totality provide greater support for Complainant 1 than was available in 1991.

2.63 Further enquiries within Children's Homes in which Complainant 1 stayed, were extremely limited both as to members of staff and children. Operation Enamel carried out numerous interviews and, as a result, obtained a significant volume of relevant evidence. None of this, of course, is relevant to any decision making in 1991, which had to be based on evidence then available.

2.64 The decision making process in 1991 was in two stages. On the 28<sup>th</sup> August 1991, the Head of Central Casework Division, had written to the Chief Crown Prosecutor stating "the papers have now been carefully considered and I am of the opinion that the available evidence is *insufficient* to justify criminal proceedings against the member of parliament with a realistic prospect of conviction. Needless to say, I will consider the matter if further evidence comes to light. I will await the outcome of the Beck trial." The second stage was on the 4<sup>th</sup> December 1991, when the Chief Crown Prosecutor wrote to the Leicestershire Police informing them that on the available evidence there was no

realistic prospect of conviction in relation to allegations made against Greville Janner QC MP.

2.65 So far as the decision on the 28<sup>th</sup> August 1991 is concerned, I agree with the decision which was plainly provisional. I have no doubt that the Head of Central Casework Division expected to have an opportunity to reconsider the matter after the Beck trial which was due to commence within days. The words “I will await the outcome of the Beck trial” could not have been plainer. Any other decision at that stage would have been contrary to the advice of Leading Counsel prosecuting in the Beck trial and contrary to the views of the police that Complainant 1’s complaint was a means for Beck to divert attention during his forthcoming trial. Any arrest or charge of Janner, at that stage, would have run the real risk of causing Beck’s trial to be adjourned, a trial in which a large number of young victims were due to give evidence. The only rational decision at that stage was to await the outcome of the Beck trial.

2.66 I cannot concur, however, with the decision taken at Leicester on the 4<sup>th</sup> December 1991. It should have been clear to those involved that the Head of Central Casework Division expected to be involved in any final decision. He wrote, “I await the outcome of the Beck trial.” If, in fact, no phone call was made, the Head of Central Casework Division should have been consulted before any final decision was made. Had he been consulted it is likely that he would have asked for further enquiries to be made at the various hotels and at homes at which Complainant 1 had resided consistent with enquiries, which the Articled Clerk had requested on more than one occasion. Further, since Complainant 1 had given evidence on oath and been cross-examined, it is likely that a transcript of his evidence would have been studied to evaluate his credibility.

2.67 Whether or not any further communication with CPS Headquarters in London took place I have concluded that the decision not to charge Janner in 1991 was wrong and that there was enough evidence against Janner, on the 4<sup>th</sup> December 1991, to provide a realistic prospect of conviction. It is unfortunate that no reasons were given to police when advising that there was an insufficiency of evidence and that the identity of the prosecutor who tendered that advice is unknown. It may, of course, be that the Head of Central Casework Division’s note of the 28<sup>th</sup> August 1991, (Para 2.64) was relied upon, if this is so, it should not have been as it was clearly a provisional advice reserving to himself the option of making a final decision after the Beck trial. The absence of any reasoning in the note confirms the provisional nature of the decision.



2.68 The following evidence was available to the prosecution:

- i) Complainant 1's evidence contained in four statements. The disclosure of criminal conduct was progressive for reasons, which are now clearly recognised but were less so in 1991. The disclosure of shameful conduct cannot always be immediate or total.
- ii) There was evidence coming from Janner's letters that Complainant 1 and Janner shared a suite at Holiday Inn Leicester.
- iii) There was evidence from Complainant 1's house-mother that Janner told her that Complainant 1 stole money from his wallet in Aylesbury whilst he, Janner, was in the shower and his clothes were in the bedroom. Thus placing the two together in accommodation in Aylesbury.
- iv) There was evidence in a letter from one of Janner's aides to Complainant 1 that Complainant 1 and Janner had visited Scotland together.
- v) A male resident at Ratcliffe Road stated that during one swimming expedition, Complainant 1 and Janner went off on their own for some time.
- vi) Another male resident at Ratcliffe Road gave evidence that he, Complainant 1 and other boys all got undressed in the same room in the Holiday Inn in Leicester.
- vii) A female resident from Ratcliffe Road stated that Complainant 1 had said to her that he had had sex with Janner.
- viii) From letters it is established that Complainant 1 stayed at Janner's home whilst his wife and daughter were in Israel.
- ix) Complainant 1's Social Worker spoke of Complainant 1 spending weekends away with Janner staying in hotels and the like.
- x) Complainant 1's house-mother spoke of Complainant 1 having been away almost every weekend with Janner.
- xi) Social Service records indicate that Janner invited Complainant 1 to travel to Israel with him.
- xii) Social Service records disclose sexual misconduct on Complainant 1's part within the home contemporaneous and coextensive with his alleged abuse by Janner.
- xiii) The tone and circumstances in which Janner wrote to Complainant 1 are supportive of the relationship alleged.
- xiv) Janner's continued pursuit of Complainant 1, after several alleged thefts from him, are supportive of the relationship alleged, not least his statement

that he intended to take Complainant 1 camping with him, notwithstanding the thefts from him.

2.69 In my judgement there was thus a sufficiency of evidence and a reasonable prospect of conviction.

2.70 It is important to note that the police relied upon two factors as adversely affecting Complainant 1's credibility and, in my judgement, wrongly so (see paragraph 2.53). They relied on the statement from Beck's cellmate that Beck said to him that he had got Complainant 1 to say that Janner had buggered him but that it was untrue. For such a statement to carry weight Beck's cellmate, a habitual dishonest offender, must have told the truth and Beck, a man facing numerous grave allegations, must have told the truth to him is, in combination, an unlikely event. Secondly, in Complainant 1's statement made in Scotland, he said he first met Janner in the House of Commons having earlier said he first met him when Janner visited his school. Using this difference as a discrediting factor was wrong. There are any number of possible innocent explanations not least the passage of time – some 16 years. Since the two most certainly did meet, it was wrong to use this as a discrediting factor.

2.71 Two other factors may have wrongly and adversely affected the police's attitude towards Complainant 1's credibility. Firstly, it may have appeared that Complainant 1 invented attending a wedding together with Janner's family, where more comprehensive investigation would have established that this is not so (see paragraph 2.62). Secondly, it appears that the evidence from Janner's friend / owner of a swimming pool that Complainant 1 and Janner could never have been alone at his swimming pool may have been relied upon to discredit Complainant 1 with no regard for the fact that he was a close personal friend of Janner.

### Police Failing

2.72 The primary cause of failing to prosecute Janner in 1991 was, in my judgement, an inefficient investigation by police. The explanation for this appears to lie in the fact that the same two officers were the officers primarily responsible for the prosecution of Beck, which was a case of substantial proportion where there were 600 potential witnesses identified and traced and witness statements were taken from 383 of them. This contrasts markedly with the 13 witness statements taken from 10 witnesses in the

Janner enquiry. Statements should have been taken from the former employees of the Holiday Inn in Leicester, enquiries should have been made in Aylesbury and full details of any Scottish itinerary sought with appropriate enquiries at Scottish hotels. Full details of the London wedding should have been sought, together with full details of absences by Complainant 1 from the Station Road home. Many contemporaries of Complainant 1 and staff at the Homes should also have been interviewed. The contrast between the intensity of Operation Enamel and the limited activity of the Janner enquiry is very marked and it suited the case against Beck for there to be no evidence or no sufficiency of evidence against Janner. It may also be relevant that there was an atmosphere of distrust of Beck's legal representative by one or more of the relevant police officers. Reliance on what Beck's cellmate said Beck had said to him was ill judged (paragraph 2.70), as was the asserted inconsistency in Complainant 1's Scottish statement.

2.73 On interviewing Leading Counsel and on interviewing the Reviewing Lawyer, both independently told me that Leading Counsel initially wrote a written advice in manuscript during consultation advising that Janner should be arrested. I have not seen this advice. Apparently he gave this advice to ensure that Janner was treated in exactly the same way as Beck and thus avoid any suggestion that Janner was receiving preferential treatment. He believes the advice was addressed to the Chief Constable and no such arrest was ever made nor was his home searched. It is to be noted that when a search warrant was obtained in March 2014, Janner appeared to be "a great keeper of records and memorabilia... however of the pocket diaries recovered, they date from current day only back to 1987, it is notable that the diaries covering the key period of allegations against Janner are missing." (Operation Enamel report p 110)

### CPS Failings

2.74 It is a matter of some significance that the day to day management of the Janner file was entrusted to an articled clerk, albeit a man then in his 30s with eight years' experience as a Constable in the Merseyside police and someone who was closely supervised by the Chief Crown Prosecutor. However, discussion with Leading Counsel, two consultations with Leading Counsel, preparations of instructions to Counsel and attending at CPS Headquarters in London with the file were all conducted by the Articled Clerk alone. It is clear from interviewing him and from reading the CPS file, that he performed his duties conscientiously and to the very best of his ability. It is also clear that he lacked the weight of seniority and the experience of the criminal justice process

to ensure that senior police officers acted upon his advice. It is to be noted that his instructions to counsel were to advise on evidence in a possible prosecution of Janner. What resulted was an advice 'as presently informed, no prosecution'. When questioned by me, the Articled Clerk candidly accepted that he had raised with police officers the necessity to make enquiries at the Holiday Inn Leicester, both orally and in writing and was frustrated that the enquiry was not bottomed out. He perceived some reticence on the part of the police. I venture to suggest that a senior qualified lawyer would have been more successful in that regard. Whilst it may have been acceptable practice for an articled clerk with relevant earlier experience to have day-to-day management of a file, however, the significance and public interest of this particular case necessitated a senior qualified lawyer to be present at both consultations with Leading Counsel and to meet with and to advise the police officers in this case. The Chief Crown Prosecutor's absence abroad explains, to some degree, why there was no lawyer present on a number of occasions, however, he has made it clear that, in his absence the responsibility for a lawyer being present rested with any Acting Chief Crown Prosecutor.

2.75 As I have already indicated, the case should have been referred back to CPS Headquarters in London at the conclusion of the Beck trial with a transcript of Complainant 1's evidence, together with further relevant enquiries having been made. A further consultation should have been arranged with counsel.

2.76 A difficulty facing the prosecution, post the Beck trial, arises from the decision made during the trial of Beck to cross-examine Complainant 1, asserting that he had manufactured and embellished his evidence. This assertion based upon views formed by the police officers, created a difficulty in any subsequent prosecution of Janner based upon Complainant 1's evidence alone. It is right to say that Leading Counsel told me that he was unaware of the exact terms of the Head of Central Casework Division's letter of the 28<sup>th</sup> August 1991 and that he conducted his cross examination on the basis that there was an insufficiency of evidence to prosecute Janner. This problem does not in any way detract from my conclusion that there was a sufficiency of evidence in 1991 (see paragraph 2.69).

## **Operation Magnolia**

### Background

- 3.1 I have been supplied with a ring binder containing a single document, an advice written by the Reviewing Lawyer (the same reviewing lawyer in the prosecution of Beck and the 1991 decision), to the Leicester Constabulary dated the 20<sup>th</sup> September 2002, with a schedule annexed that refers to suspects and allegations. The name Janner does not feature in that document and, accordingly, such information as I am able to identify is contained in the Dauntless and Enamel files.
- 3.2 During the period from 2000 to 2002, Leicester Constabulary carried out an investigation into the Ratcliffe Road and the Holt Children's Homes investigating allegations of abuse of young people in care. The inquiry was initiated by a letter of complaint received in October 1999, sent by a former resident whilst he was in care in those two homes. The complaint was against members of staff and did not relate to Greville Janner.
- 3.3 106 potential witnesses were identified in the Operation of which 76 made written statements. Of those 56 made allegations of abuse and 26 members of staff from Ratcliffe Road were interviewed as suspects. After consideration of the evidence the Reviewing Lawyer concluded that the evidence was insufficient to provide a realistic prospect of conviction for any offence that can now properly be charged. He was, however, satisfied that, if proceedings had been brought in time, there was evidence which would have provided a realistic prospect of conviction against some members of staff for offences of common assault on children.
- 3.4 It appears that Complainant 2 made a statement on the 10<sup>th</sup> April 2000 in which he disclosed being seriously sexually abused by Janner. Complainant 2 had several convictions. In 1985 the burglary of a dwelling, in 1990 the burglary on a non-dwelling, in 1992 indecent exposure and lesser offences of failing to surrender to bail and criminal damage.

### Conclusions

- 3.5 I am satisfied that the police never supplied the statement of Complainant 2 to the Reviewing Lawyer in 2002. Had it been supplied to him, he would undoubtedly have referred to it in the Operation Magnolia advice written by him. Further, when I

interviewed the Reviewing Lawyer he produced a spreadsheet which made it plain that the statement had not been supplied to him; the statement not being in the list of documents that were supplied to him in 2002. The reason the document was not supplied to him as part of Operation Magnolia would appear to be that the Operation was into the alleged misconduct of staff at Children's Homes and that Janner, plainly, was not a member of staff. That, however, avoids the more significant question as to why the police did not take action in relation to the plainest possible allegation of grave misconduct by Janner when they already had an unresolved allegation of sexual misconduct by Janner against Complainant 1 in 1991. That is a matter for those looking into alleged police failings in relation to allegations against Janner and not a matter for the CPS.

3.6 Had Complainant 2's statement been supplied to the Reviewing Lawyer in 2002, it seems unlikely that he would have positively advised for a prosecution having regards to his response in 2007 when he did receive the statement. The Reviewing Lawyer then wrote "although there have been other allegations against Greville Janner, principally by Complainant 1, these have been reviewed previously and considered insufficient to justify prosecution, they do not therefore provide reliable corroboration of Complainant 3's evidence. The witness Complainant 2 makes an allegation of buggery against a man who 'I first thought was from County Hall and then later found out who was either Grenville or Granville Janner'. One wonders how he found out the name of this man and how accurate his information was." In fact Complainant 2 states, in terms, in his statement how he learned Janner's name. Suffice it to say at this time that the Reviewing Lawyer was not impressed with Complainant 2's statement and would not have advised any prosecution upon it or supported by it either in 2002 or 2007.

3.7 Eleanor Laws QC reviewed Complainant 2's' evidence, albeit with the advantage of further statements taken in Operation Enamel, and concluded that there was a realistic prospect of conviction on two counts of buggery, one count of indecent assault and one count of gross indecency. She observed "whilst there is no direct evidence from a witness corroborating Complainant 2's account, there is a wealth of evidence from staff and past residents that support the assertion that Lord Janner visited Children's Homes and not only had contact with children in them and that he also took them out on day trips." She did not consider that his past convictions undermined his account.

3.8 I agree with that assessment and would add that the complaint of Complainant 1 could, and should, have been revisited in 2002 and should have been prosecuted together with

the allegation made by Complainant 2. Since Complainant 2's statement was never supplied to the CPS none of this was possible. The responsibility for that omission lies entirely with the police.

3.9 This is confirmed beyond doubt by an entry in a police notebook on the 25<sup>th</sup> April 2007, which states that the police handed Complainant 2's statement to the Reviewing Lawyer in person on the 25<sup>th</sup> April 2007. An entry in the notebook also refers to the statement as being the "unrevealed statement". It will be for others to enquire into the reasons for not revealing such a significant statement.

3.10 It is a matter of concern that, upon receipt of such statement on the 25<sup>th</sup> April 2007, some seven years after its creation, the Reviewing Lawyer failed to bring this omission to the attention of either his Chief Crown Prosecutor or a senior police officer.

3.11 It is significant to note that at the Kirkwood Inquiry, between January and June 1992 (a Public Inquiry into Aspects of the Management of Children's Homes in Leicestershire between 1973 and 1986), Janner stated that he did not know Beck and that between 1975 and 1986 and that he had no contact with him. There was considerable evidence collated during Operation Magnolia to the effect that Janner was a regular visitor to Children's Homes and that he had a number of dealings with Beck. All of this would have been supporting evidence discrediting Janner and, thus, supporting the prosecution case. However, since Complainant 2's statement was never supplied to the CPS, no criticism of the CPS can reasonably be made in relation to their failure to prosecute Janner in 2002.

# Operation Dauntless

## Background

- 4.1 This Operation had its origins in a complaint made by Complainant 3 to a prison officer at HMP Onley in November 2005. It had produced a report of some 441 pages, dated the 23<sup>rd</sup> April 2007, which was submitted to the Reviewing Lawyer on or about that date (the same reviewing lawyer in the prosecution of Beck, the 1991 decision and Operation Magnolia). On the 19<sup>th</sup> December 2007, the Reviewing Lawyer advised in these terms “I take the view that the evidence of Complainant 3 is insufficient to provide a realistic prospect of a conviction. I am also of the view that given the difficulties with Complainant 3’s credibility’s there are no reasonable further lines of enquiry that would strengthen the case to a point where a prosecution becomes possible.”
- 4.2 By way of contrast, Eleanor Laws QC, advising in 2014 and with the advantage of further material obtained in Operation Enamel, concluded that there was a realistic prospect of conviction having applied the merits based evidential test.
- 4.3 Complainant 3 is now aged 43. He was received into care some two months later and remained in care until the age of 16. He lived in residential nurseries, care homes, including ‘The Beeches’, with foster parents and for a time with his natural mother. Having been discharged from care, he lived in hostels when not in prison and frequently smoked cannabis. He had, by 2007, some 21 convictions for 30 offences of which 25 were for dishonesty. His history is described as one of petty offending.
- 4.4 On the 6<sup>th</sup> August 1990, Complainant 3, then aged 18, was visited by police officers investigating Beck’s conduct at a number of Children’s Homes in Leicestershire including the Beeches. Complainant 3 told officers that he had not been interfered with at the Home and did not know of anyone else who had.
- 4.5 On the 10<sup>th</sup> October 1997, Leicestershire Social Services made a complaint on behalf of Complainant 3 to the Child Protection Unit that a teacher had sexually abused him. He was living with foster parents at the time. The allegation was that during a bonfire party he was forced into performing oral sex. It should be noted that Complainant 3’s foster parents were friends with both Beck and the teacher. The exact date of the bonfire party is unclear but Complainant 3 lived with his foster parents between 1980 and 1984, that is from the age of 10 to 14. In 1997, Complainant 3 failed to meet appointments with the



police and subsequently withdrew his complaint and the enquiry closed and was marked 'no further action'.

4.6 On the 21<sup>st</sup> April 1998, Complainant 3 went into Charles Street Police Station and reported sexual abuse both by Beck and the teacher during the period 1980 and 1984 when he was in foster care. It appears that having made the complaint, Complainant 3 failed to keep appointments and, on one occasion, was high on drugs when an investigating officer from the Child Protection Unit (CPU) visited.

4.7 On the 6<sup>th</sup> July 1998, Complainant 3 made a statement alleging that the teacher had sexually abused him whilst he was in a tent on a caving expedition. Complainant 3 stated that the teacher would masturbate him and vice versa. He also stated that the teacher made him perform oral sex on him when he was aged about 13.

4.8 On the 25<sup>th</sup> October 1998, officers visited the Complainant 3's foster parent's home with the view to establishing contact with the teacher. On being told the nature of the enquiries, Complainant 3's foster parent's claimed that Complainant 3 "kept threatening allegations against the teacher but they did not take him seriously." They declined to give the police officers the teacher's phone number or address but agreed to contact him. The following day, the teacher contacted the police and made an appointment to meet officers on the 4<sup>th</sup> November 1998. On the 3<sup>rd</sup> November 1998, the teacher took an overdose. On the 5<sup>th</sup> November 1998, the teacher committed suicide by jumping from multi-storey car park in Leicester. A suicide note read "I can't let you suffer any longer" it is not known to whom the note was addressed, if anyone.

4.9 Officers visited Complainant 3 on the 6<sup>th</sup> November 1998 to inform him of the teacher's suicide. In the conversation Complainant 3 mentioned asking the teacher to his flat to discuss an out of court settlement. When police officers visited Complainant 3 on a further occasion, Complainant 3 stated that it was the teacher who made an offer of money to settle the matter out of court.

4.10 In September 2005, Complainant 3, now almost 34 years of age, was sent to prison in HMP Olney for a number of offences including breach of a community rehabilitation order and shoplifting. In November 2005 he requested that prison staff contact the CPU with a view to his making a complaint against his foster parents alleging that they were aware of the sexual abuse that he had suffered from his teacher. Enquiries were made

and officers learned that his foster father had died several years earlier and the information was fed back to Complainant 3.

4.11 On the 25th November 2005, an entry was made on the case administration tracking system of the Child Abuse Investigation Unit (CAIU), which replaced the CPU. A prison liaison officer based at HMP Olney made the report on Complainant 3's behalf. The report began by Complainant 3 stating that he had told his foster father of his abuse by the teacher only for him to say, "who are they going to believe, you or a head teacher?" His foster father also threatened to have Complainant 3 beaten up if he went to the police. Complainant 3 also claimed to have been abused at the Beeches between 1976 and 1980 by Beck, who Complainant 3 stated was now in custody for similar offences. He said he was interviewed in 1989 but said nothing because he was too scared. Various enquiries were made a result of this complaint but, as his foster father and Beck were both deceased, the case was closed.

4.12 On the 27<sup>th</sup> February 2006, Complainant 3 was informed that no police investigation would result from his complaint. Complainant 3 stated that whilst at the Beeches he was sometimes put in a room with Beck when the abuse (including oral sex) took place and, on one occasion, there were two other males present in the room. One male he did not know the name of but he referred to the other male present as Janner. It was not until later in life that he realised that the male he called Janner was in fact Greville Janner. Complainant 3 went on to say that Janner was involved with other kids at the home, as well as himself and that he wished to pursue a complaint against him in relation to three specific incident of sexual abuse whilst he was a resident at The Beeches. The complaints involved allegations of oral sex and buggery. Significantly, during the third incident, Complainant 3 described how Janner patted Beck on the back and said words to the effect of 'well done, you groomed him well.' He did not see Janner after these three events.

4.13 On the 8<sup>th</sup> June 2006, police officers from the CAIU visited Complainant 3 in HMP Olney and tape recorded their interview with him.

4.14 On the 13 September 2006, a major crime enquiry was set up led by the police. The enquiry was named Operation Dauntless.

4.15 On the 8<sup>th</sup> June 2006, a verbal interview was conducted with Complainant 3 by his solicitors resulting in a statement dated the 14<sup>th</sup> June 2006.

4.16 Complainant 3 was re-interviewed on the 24<sup>th</sup> November 2006. There were six taped interviews, it is not necessary to summarise them here in any detail.

4.17 In the police report p51 refers to discrepancies when Complainant 3's statement and two interviews are carefully analysed. It states, "overall the three accounts are similar in a lot of respects and some of the anomalies can be explained by length of time since the event... There may be sufficient discrepancies in the accounts to question the credibility of the witness."

4.18 In seeking advice from the CPS, the police report, dated the 23<sup>rd</sup> April 2007, is in neutral terms as to whether Janner should be arrested and /or interviewed. It was said that an interview would probably result in a no comment interview. The comment was also made "that allowing Mr Janner the opportunity to comment upon the allegation by Complainant 3 would be right and proper and lawful, however this decision must be considered against the credibility of the complainant."

4.19 In his advice, dated the 19<sup>th</sup> December 2007, the Reviewing Lawyer, in advising that the evidence of Complainant 3 was insufficient to provide a realistic prospect of conviction, made specific reference to Complainant 3's late disclosure of his allegations against Janner, to inconsistencies in his accounts, to his convictions for dishonesty, to his psychiatric report dated October 1979, a report from a member of staff dated November 1988, to the absence of corroboration and to the difficulties in identification, stating that Complainant 3's assertion that his abuser is Janner is nothing more than speculation and supposition. The Reviewing Lawyer indicated that there were no reasonable lines of inquiry that would strengthen the case to a point where a prosecution becomes possible.

4.20 It appears that Janner was unaware that this investigation was taking place and the decision to take no further action was not communicated to him.

### Delay

4.21 I am immediately struck by the element of delay in decision making in this case, the police file bore the date the 23<sup>rd</sup> April 2007. The Reviewing Lawyer's advice was dated the 19<sup>th</sup> December 2007. This is plainly an extraordinary and unacceptable period of delay and I have sought an explanation from the Reviewing Lawyer. He accepted that

this was a long time and guessed it was pressure of work. He could not say if any delay was exacerbated by the referral of this file to York and their refusal to take the file. He could not remember how the file was referred to York or by whom. The CPS file for Operation Dauntless has been destroyed. The referral procedure and the mechanics of it would have been noted on that file. He produced three documents of which he was the creator, namely Complex Casework Summaries dated the 6<sup>th</sup> November 2007, the 18<sup>th</sup> December 2007 and the 30<sup>th</sup> January 2008. The November document stated, "Special Crime Division in York has declined to take the case. Well known public figure is not yet aware of the current investigation, case therefore highly sensitive, advice file submitted". The December document was in identical terms. The January document concluded by stating "advice now given, insufficient evidence to prosecute". The Reviewing Lawyer questioned if he had received the file on the date on the police file, namely the 23<sup>rd</sup> April 2007. He suggested there well have been some delay in the file reaching him. He was a special casework lawyer at the time. He was also covering Magistrates Courts and Crown Court shifts. In fact, an entry in a police notebook confirms that the file was personally presented to the Reviewing Lawyer on the 25<sup>th</sup> April 2007. During this period, the Reviewing Lawyer remembered talking to the police, discussing the case with them and potential outstanding lines of enquiry. Notes of these conversations would have been on the file, which has been destroyed. The Reviewing Lawyer had a substantial caseload, as is manifest from his complex casework summaries. The complex casework summary lists some 22 complex cases and, from the brief case summaries, the cases were indeed complex. The Reviewing Lawyer told me that, as a special casework lawyer, he was required to read every single statement and every police interview submitted to him and he conscientiously did so. This was a demanding job.

4.22 On the 1<sup>st</sup> October 2007, a new Chief Crown Prosecutor in Leicester was appointed. In written evidence to me she made specific reference to the Reviewing Lawyer's extensive experience in handling such cases and his impeccable reputation and integrity within the CPS and police. The Reviewing Lawyer took the view, he said, that when York declined to take the case it was down to him to get on with it. Before committing his decision to paper he discussed it with the new Chief Crown Prosecutor and she had agreed with his decision that there was insufficient evidence to prosecute.

## York CPS

4.23 It has been a matter of considerable concern to me that despite extensive enquiries and research, there is no manual or digital record of this case at York. There is no manual or digital record of this case ever having been referred to York. There is no human recollection of this case ever having been referred to York. My concern is enhanced by the fact that this case fulfilled all possible criteria for referral as set out in the CPS national guidance for referral of cases to Special Crime Division in 2005 and in respect of location Leicestershire cases were designated to go to York Special Crime Division. It is difficult to conceive of any basis for declining to take the case, subject only to the Unit Head's caveat to which I will shortly refer. The Unit Head observes in her written evidence "I am as certain as I can be, that had the case been referred to me, or to the Divisional Head, as a case involving serious allegations against a member of the House of Lords, I would have accepted it. Thus, notwithstanding the Reviewing Lawyer's documentation, I have had to consider the possibility the file was never, in fact, referred to York. The caveat to which I have just referred was set out in writing by Unit Head as follows "the only slight caveat I have, and this is purely speculative, that following the creation of the Special Crime Division (SCD) there was an initial push to devolve some of the casework we dealt with to CPS areas... it is therefore possible that a case such as this would have been left for the local CPS area to deal with on the basis that there would have been no particular expertise in relation to sexual offences within the SCD as compared for example to corporate manslaughter or election offences. However as I have said, I have no memory of the case or of this happening." She went on to say that if the case was referred and rejected there should be a written record from the Unit Head of the fact that the case was not accepted by SCD on the area case file but no such record existed relating to this case. She produced two such anonymised examples from around this period, including one to the Reviewing Lawyer.

4.24 The Unit Head in the Special Crime Division York was the same individual from its creation in 2005 until May 2014 and thus would have had every reason to have knowledge of any referral and rejection of this file. In her written evidence to me, the Unit Head in the Special Crime Division York makes an important point, namely, that whoever dealt with the case was obliged to include it on the sensitive case list for which this case, in my view, unquestionably qualified. This action alone would have informed the DPP and the Attorney General even if the case was kept on area.

4.25 It appears that a decision was made by the Chief Crown Prosecutor for Leicester in December 2007 not to include Operation Dauntless on the sensitive case list after the decision was made not to prosecute the case. In her written evidence to me, the Chief Crown Prosecutor stated “since as of that date, it was not now the prosecution of a MP. The decision not to prosecute was not likely to give rise to comment and was not subject to judicial review and the case was not likely to attract widespread media interest as they were unaware of the investigation.” She understandably did not anticipate recent events. The December 2005 sensitive case list criteria for inclusion states “Special Crime Division has responsibility for preparation of the sensitive case list and the role of collating entries for the list”. Both the Chief Crown Prosecutor and the Unit Head took the view that whoever dealt with the case was obliged to include it on the sensitive case list. The fact remains however that the case was not included in the sensitive case list in the April 2007, or on such date as the file arrived at the area CPS office in Leicester. The CPS would have been well served by the case appearing on the sensitive case list as at that date.

4.26 On the information before me I am satisfied that the file was not placed before the Unit Head or any senior lawyer in York. It is a matter of regret that there is no central log of cases referred and declined and I propose to make a recommendation correcting that omission. I decline to reach any conclusion as to why this file was not considered at York or whether indeed it was ever referred to York. Any such decision would require interviewing many members of staff employed both at Leicester and at York Headquarters in 2007, which is not possible within the scope and timeframe of this report. Suffice it to say this file should have been referred to York, accepted by York and considered by the Special Crime Division unless they chose to refer it back to area on the grounds that they lacked the expertise to handle it. The Unit Head should then have made a note that the case was declined by the SCD on the area case file.

4.27 I should add, for the sake of completeness on this topic, that I have also received written evidence from the Chief Crown Prosecutor for Leicester who assumed her responsibilities in Leicestershire on the 1<sup>st</sup> March 2007 and who remained in post until the 30<sup>th</sup> September 2007. She, too, cannot remember Operation Dauntless ever being referred to her.

4.28 The consequence of the file not being considered at York is nevertheless that a senior and experienced lawyer considered it in Leicester and discussed the case with the Chief Crown Prosecutor, before completing his MG3 advice, dated the 19<sup>th</sup> December 2007.

## 2007 Advice / Charging Decision

4.29 In summary form the Reviewing Lawyer reached the following conclusions:

- i) The timing of Complainant 3's disclosures about Janner and the inconsistencies in his accounts seriously undermined Complainant 3's credibility as a witness of truth. He waited until 2006 by which time all of the others he had named were dead.
- ii) There is an absence of reliable corroborative evidence.
- iii) Complainant 3's reliability is further undermined by previous convictions for dishonesty.
- iv) Although there have been other allegations against Janner principally by Complainant 1, these have been reviewed previously and considered insufficient to justify prosecution.
- v) Complainant 2 made an allegation of buggery against a man who "I first thought was from County Hall and then later found out was either Grenville or Granville Janner." The Reviewing Lawyer continued, "one wonders how he found out the name of this man and how accurate his information was. Rumours about Janner were circulating at the time."
- vi) Complainant 3 admitted he had not seen a photograph of Janner and it was only when the name Greville Janner was reported in the newspaper in connection with the Beck trial that he wondered whether it was the same Greville who had abused him adding that "there are not many Grevilles in the world, are there?" The Reviewing Lawyer continued, "In the absence of some evidence of identification, Complainant 3's assertion that his abuser was Janner is nothing more than speculation and supposition."
- vii) An attempt was made to corroborate, with medical evidence, a complaint made by Complainant 3 that Beck scarred his penis with a soldering iron. Two medical professionals examined the scar and expressed the view that it was caused by the Human Papilloma Virus and is more likely to have been caused as a result of an infection as an adult. This further undermined Complainant 3's credibility.
- viii) I do not think that interviewing Janner would further the investigation given that he answered no comment to all questions put to him in March 1991 about Complainant 1's allegations. There is no reason to believe that

he, Janner, would do anything different in relation to those made by Complainant 3.

### Conclusions

4.30 I have considered this advice/charging decision with care and I do not agree with it. I have concluded that:

- i) The advice over-evaluates the delay in Complainant 3 making his report and over evaluates inconsistencies in Complainant 3's statements. It fails to make allowance for either the passage of time or the difficulties inherent in disclosing traumatic or shameful experiences. The assertion that Complainant 3 waited until the others against whom he made allegations had died is not supported by evidence. Indeed the evidence is that Complainant 3 did not know that the others were dead when he made the allegation against Janner. The advice fails to give weight to Complainant 3's explanation in interview, that when he was first seen by police he was in no fit state to make a statement.
- ii) The absence of corroboration in 2007 was no basis for advising there was an insufficiency of evidence. Any obligatory corroboration warning to jurors was abolished in 1995 by section 32 of the Criminal Justice and Public Order Act 1994. In cases of sexual abuse of young men by persons in authority or in charge of them, there will very rarely be corroboration and in any event corroboration has never been a necessity in law.
- iii) Whilst Complainant 3 had some 25 convictions for dishonesty, he was described as a petty offender and there was little to suggest he was a sophisticated and calculating liar. There is an inherent danger in over evaluating criminal records in cases of vulnerable complainants. Whilst a Consultant Psychiatrist did refer to Complainant 3 making up fantastic tales, he was aged 8 at the time. It is also correct that a member of staff described Complainant 3, some nine years later, as lying/fantatising. It is to be borne in mind that every young person in a Children's Home is monitored on a daily basis and any untruth is likely to find its way into a record.
- iv) The advice fails to give any weight to the fact that three complaints had been made against Janner by three different men at three different times,



none of whom knew one another and each resided in different Children's Homes at different times. Complainant 1 was a resident in Station Road in 1975, when he alleges he was buggered. Complainant 2 was a resident at Ratcliffe Road between August 1985 and September 1987 when he alleges he was buggered. Complainant 3 was a resident at the Beeches between July 1981 and September 1981 when he alleges he was buggered. No regard was had in the Advice to any possible cumulative effect of the allegations, rather they were taken independently, one after another, and each dismissed by reason of insufficiency of evidence regardless of the other two complaints. Complainant 3 was specifically asked in interview if he knew Complainant 1 and denied knowing him. There is no evidence that any one of the three knew any other one, thus there is no evidence of any collusion between the three complainants.

v) The advice asks the question of Complainant 2 "one wonders how he found out the name of this man." In Complainant 2's statement of the 10<sup>th</sup> April 2000, he says this "in answer to the question how did I come to know the name of the bald man with the big smile who I have referred to as Greville Janner. About 7 years ago I was in Leicester in the Narborough Road area, and near to a cross roads when I saw a picture of this man and I knew the face but I did not know the name. It turned out he was a Labour MP, it was the face I recognised." Doubtless the poster had upon it 'Vote for Greville Janner' or something similar. It is clear that Complainant 2 is therefore saying that he learnt the name from the poster and recognised the picture. Accordingly it was wrong to indicate that there has been no form of identification of Janner in Complainant 2's case.

vi) In my judgement it was also wrong, in Complainant 3's case, to suggest that there was an absence of evidence of identification. As Complainant 3 was cowering under the table he heard Beck turn round and say, "Greville I'll sort it". These words appear in Complainant 3's interviews at pages 171, 275 and 289. Greville is indeed a most unusual first name and as Complainant 3 himself put it "how many Grevilles are there?" There was available an abundance of evidence that Janner knew Beck, which was made all the more powerful by Janner's assertion to the Kirkwood Inquiry when Janner stated that he did not know Beck and that between 1975 and 1986 he had no contact with Frank Beck. A more pertinent question, if there was an issue over identification, would be "how many Grevilles did

Beck know?” In reality, the issue in Complainant 3’s case, and indeed both the others, was one of credibility and not one of identification.

- vii) In suggesting that medical evidence discredited Complainant 3, that advice was unbalanced. What the Specialist Registrar said, supported by a Consultant in genito-urinary medicine, was that scarring from any assault may have disappeared with the passage of time.
- viii) In asserting that interviewing Janner would not further the investigation the Reviewing Lawyer failed to have sufficient regard to the effect of Section 34 of the Criminal Justice and Public Order Act 1994, which would permit a jury to draw adverse inferences from a failure to mention facts, if indeed Janner responded in 2008, as he did in 1991. Further, no thought was given to the possible product of any search of Janner’s home.

4.31 I have spent some time in interview with the Reviewing Lawyer. He maintains his opinion that there was an insufficiency of evidence in Complainant 3’s case. He contended that the evidence against Janner was quite weak and, even with an adverse inference, would not have met the evidential test. He would make the same decisions again, even as to interview and search of the home, applying the standards and the guidance in force in 2007. He had tried to refer the case to York. He made reference to guidelines issued in June 2013 on a prosecutor’s approach to child sexual abuse cases intended in the words of the then DPP, Sir Keir Starmer QC, to spell out a different approach to prosecuting these very difficult cases. In particular, the guidelines make clear that the focus for prosecutors must be on the credibility of the allegation being made rather than focussing solely on the victim and underlined that the task is to build strong cases by linking evidence rather than by failing to bring cases because of perceived weaknesses in the victim. A number of factors identified in these guidelines are relevant in Complainant 3’s case. For example, at paragraph 52, “a victim may be reluctant to cooperate with those in authority or to participate in the criminal justice process”. In Complainant 1’s case, at paragraph 51, “they might initially refuse to identify as a victim of abuse, believing that they were in a genuine loving and non-abusive relationship”. In all three cases, at paragraph 52, “the length of time between an alleged sexual abuse and giving the account to the authorities is not a reliable indication of credibility” and “the length of time between an alleged incident of sexual abuse and giving the account to the authorities is not a reliable indication of credibility”. In all three cases, at paragraph 55, “prosecutors should guard against looking for corroboration of the victim’s account or using the lack of corroboration as a reason to not proceed with the case”. As the Reviewing Lawyer pointed out this guidance was not available in 2007. He and I maintained our differing

judgements as to the strength of the case against Janner in December 2007. Further, the Reviewing Lawyer asserted that even applying the 2013 guidelines there was, in his opinion, an insufficiency of evidence.

4.32 The Reviewing Lawyer stressed the fact that he had discussed the case with the Chief Crown Prosecutor at the time who has confirmed in writing that she did have such a discussion saying “ I did not review the evidence but relied heavily on his oral summary of the case which had a long and protracted history with which he was familiar. I felt confident in relying upon his outline of the case and his judgement of the evidence as he was a very experienced and competent senior lawyer. However it is likely that I would have questioned him about witness credibility, corroboration, potential additional evidence etc as this was my practice at the time. I recall he was very forthright in his conclusion that Complainant 3 would not be accepted as a witness of truth and that further investigation was therefore futile”. The Chief Crown Prosecutor went on to explain that this informal meeting was typical of that time, predating the more rigorous Case Management Panel Process implemented in 2008. I have no doubt that with current guidance and procedures, a case management panel would conclude that there was a sufficiency of evidence in all three cases considered in this report.

## Overview

5.1 I am satisfied that, in 1991, there was a sufficiency of evidence for a prosecution to be commenced against Janner for offences of indecent assault and buggery with Complainant 1.

5.2 The police investigation was incomplete and inadequate in 1991 and police officers failed to carry out enquiries advised by the CPS.

5.3 Police officers formed an adverse view of the credibility of Complainant 1, which was not justified on the evidence.

5.4 In Beck’s trial Complainant 1 was called as a defence witness and cross-examined on the basis that he had manufactured and embellished his evidence making it practicably impossible to rely on the same evidence in any prosecution of Janner based on Complainant 1’s evidence alone.

- 5.5 Leading Counsel so cross-examined Complainant 1 having been informed by police officers that Complainant 1's evidence was not credible.
- 5.6 No decision as to charge in 1991 should have been taken until the police had completed enquiries into hotel accommodation in Leicester, Aylesbury and Scotland and until staff and residents in Children's Homes (who were contemporaries of Complainant 1) had been interviewed. Operation Enamel in 2013/14 demonstrates fully the inadequacy of the police investigation in 1991.
- 5.7 Having referred the file to the CPS Headquarters in London and having been informed that the outcome of the Beck trial was awaited, no terminating decision should have been taken at area level in Leicester without referring the case back to Headquarters.
- 5.8 In 2002 the statement of Complainant 2 was not supplied by police to the CPS. Accordingly no prosecution was possible, nor indeed was any advice sought.
- 5.9 Having regard to events in 1991, the failure to forward Complainant 2's statement to the CPS for charging advice is remarkable and merits investigation by the IPCC.
- 5.10 Had the statement of Complainant 2 been forwarded to the CPS, there was, in my judgement, a sufficiency of evidence to commence a prosecution against Janner, in 2002, for indecent assault and buggery both with Complainant 1 and Complainant 2.
- 5.11 I have found it impossible to determine whether the Operation Dauntless file was forwarded or not to the CPS in York in 2007, and, if so, why it was declined. I have been unable to determine the cause of this apparent malfunction, which appears to merit an internal inquiry.
- 5.12 I do not agree with the decision of the reviewing lawyer at area level in Leicester that there was insufficient evidence of a realistic prospect of conviction. This was a matter of judgement, which would, in different circumstances, have been made by the Special Crime Division.
- 5.13 In my opinion there was sufficient evidence to provide a realistic prospect of conviction in 2007, and Janner should have been arrested and interviewed and his home searched.

He should have been charged with offences of indecent assault and buggery with Complainant 1, Complainant 2 and Complainant 3.

5.14 The delay in tendering advice in 2007, between April and late December, is unacceptable even if contributed to by outside factors. The Director of Public Prosecutions may wish to consider if time limits are appropriate, they are extendable only by application to a Chief Crown Prosecutor. A three month period may expedite matters and concentrate minds. She may also wish to consider whether a lawyer who has failed to deliver a charging advice within a specified period should be obliged to make a report to his/her Chief Crown Prosecutor.

5.15 Between 2007 and the present day, refinements to CPS procedures and guidance have ensured that decisions made in 1991 and 2007 should not be repeated. In particular the guidelines on prosecutors' approach to child sexual abuse cases issued on the 11<sup>th</sup> June 2013 are highly relevant.

5.16 Refinement to referral guidance is necessary to avoid the 1991 situation. A protocol should be established to ensure that once a case is referred to Headquarters by an area, no terminating decision should be taken at area level without a referral back to Headquarters.

5.17 At the same time there needs to be established a central log of cases referred and declined irrespective of whether a prosecution is to be commenced or not. Borderline cases should also be entered on the sensitive cases list. Discussions with members of staff from the Operations Directorate at CPS Headquarters in London indicate that there are management advantages to such a register that could be accommodated by entering such cases on "Share Point". Similar discussions also indicate that cases should be entered on the sensitive cases list both at area level and Headquarters. The test being "Does the Director need to know?" In all cases entry on the sensitive cases list should be made at the earliest opportunity.

## **Acknowledgment**

I have received considerable assistance in the production of this report for which I am most grateful. Louise Oakley of the Independent Bar has demonstrated a complete knowledge of the history of these events and a good understanding of the workings of the CPS. The DPP's Principal Private Secretary, Helen Kershaw, has organised and overseen interviews, messaging and report production with boundless energy, charm and enthusiasm. Finally, Hannah Kappler's considerable efforts triumphed over technology malfunction.

