

Enquiries To: Jade Franklin
 Manager HR and Business Relationships
 People Performance and Excellence

Telephone: [REDACTED]
 File Ref: [REDACTED]



Health Support Queensland

Department of
Health

Amanda Reeves
 [REDACTED]

Return to work

I refer to your letter to Mr Paul Csoban, Executive Director, Forensic and Scientific Services dated 5 February 2017 and your previous correspondence and discussions regarding your recent return to work request.

I have discussed this matter with Mr Csoban and Mr Jade Franklin, Manager Human Resources and Business Relationships and reviewed the relevant correspondence in relation to this matter.

I will now consider each of the matters you raised in your letter dated 5 February 2017.

Grievance against Alan McNevin

In relation to the investigation into the matters you have raised against Mr Allan McNevin I note the following:

- (a) HSQ is satisfied that Ms Whelan and Ms Brisotto undertook the appropriate local management action to investigate the matters you raised in relation to the incident which occurred on 9 July 2016. As outlined in the letter to you from Mr Csoban dated 3 February 2017, Mr McNevin's conduct was addressed by Ms Whelan promptly. This, in combination with the offer of a mediation process and a facilitated discussion between yourself and Mr McNevin, was determined an appropriate response to the matters you had raised.
- (b) In response to your question raised in your letter dated 5 February 2017 regarding "*why Mr McNevin remained within the workplace*" and you wanting to understand whether it was "*normal practice to suspend or move a subject officer from the workplace*". I note you were not suspended or moved out of the workplace. Your absence from the workplace was as a result of your health.

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Since you have received medical clearance, our concern has been to return you to your position provided it is safe, and is reasonably practical to do so.

- (c) In response to the matters you have raised regarding suspending or removing Mr McNevin from the workplace. We did not move Mr McNevin because in our view it was not appropriate or necessary to protect you, Mr McNevin or other employee's health and safety. Again, as stated in the letter from Mr Csoban dated 3 February 2017 "*I remain satisfied with all steps taken to date by Ms Whelan and Ms Brisotto to attempt to resolve the matter at a local level*". Further, other than to the extent that it impacts on your immediate working environment, what steps are taken in relation to Mr McNevin's employment are a matter for HSQ and Mr McNevin and are personal to him. They are not a matter for discussion with you.
- (d) The Livingstones investigation is an independent investigation into the concerns you have about Mr McNevin. This independent investigation was initiated by Mr Paul Csoban. As previously advised, the final report from Livingstones is yet to be received by HSQ and as such I confirm that HSQ has not "*formed a view*", but, as advised in the letter to you from Mr Csoban dated 3 February 2017 "at this stage the outcome of the independent investigation is still pending and in the absence of a finalised process I do not have a valid reason to remove Mr McNevin from his substantive position". As outlined above, I am satisfied the measures taken in the interim ensure that there is no risk to the health and welfare of any employee, including yourself and Mr McNevin.
- (e) In relation to the findings of the Livingstones report, HSQ will consider the findings of the report and recommendations and take appropriate management action as appropriate. I wanted to take this opportunity to clarify that the findings of the report will not be "*tabled*" with you or be provided with "*clarification as to why their actions were deemed appropriate or not*" as suggested in your letter. HSQ will review the findings of the Livingstones report and take action it considers appropriate, including meeting with you to discuss any aspect that impacts you as HSQ considers appropriate.

Issues raised with the Scientific Process

I have been advised that concerns with the integrity of the scientific tests that are undertaken in relation to testing semen samples which could affect the outcome of criminal proceedings relating to sexual assault cases, were first raised by members of your team in or around March 2016. I am also aware that you then escalated these concerns. I note that you provided additional documents to Mr Csoban in a meeting on 19 January 2017 in relation to your continued concerns regarding the integrity of scientific tests. Thank you for raising these concerns, it was proper and appropriate for you to do so and for providing us with further documentation.

After the initial complaint was made in March 2016, Forensic and Scientific Services (**FSS**), considered alternative processes to conducting the test to ensure the veracity of the testing

which included a series of quality assurance tests to confirm the reliability of the testing regime. This process, as you are aware because you were directly involved was named Project #181. A slightly modified testing procedure was introduced in or around August 2016.

The modified testing procedure was implemented after consultation and is based on the risk assessment and quality assurance processes of the FSS procedures. No concerns with the testing process have been raised by the '*collective group*' including your direct colleagues since that process was undertaken.

However, since the introduction of the modified testing method, you have raised a number of concerns with the process on the following occasions:

- (a) during a telephone conversation between Mr John- Anthony Hodgens (your legal representation) on 8 December with Mr Franklin. Mr Hodges referred to the fact that it was open for you to make a public interest disclosure application regarding the testing regime;
- (b) in a meeting on 19 January 2017 with Mr Franklin and Mr Csoban, which you advised you still had "*concerns*" regarding the testing regime;
- (c) during a telephone conversation with Ms Frederiksen, Principal Adviser, Safety and Wellbeing on 24 January 2016. This conversation was regarding your return to work, during which you provided Ms Frederiksen with an understanding of what a suitable duties plan could include. Your proposed plan included conditions which included not attending court and not undertaking work related to sexual assault cases that needed semen screening.

Whilst I acknowledge that you have now, in your letter dated 5 February 2017, advised HSQ that you are confident in undertaking the full scope of your role (on the basis that other employees are confident in the modified testing process). This is not consistent with your previous position as outlined above.

Your email to Paul Csoban on 7 February 2017

I confirm that you first notified HSQ of your desire to return to work on 19 January 2017 in a meeting with Mr Franklin and Mr Csoban. In this meeting Mr Franklin confirmed the requirement that you obtain medical clearance. You initially obtained medical clearance for 3 days work and subsequently for 5 days work.

Since you first notified HSQ of your desire to return to work HSQ has been working with you, and your treating medical practitioner via Ms Frederiksen to facilitate your return to work.

You provided notice of your return to work on 19 January 2017 after being on leave for approximately 2 months. The suggested conditions of your return to work you discussed with Ms Frederiksen on 24 January 2017. These conditions were outlined in Mr Csoban's correspondence dated 3 February 2017. HSQ carefully considered the conditions you

requested however it was determined that it was not operationally viable and administratively would have been difficult to implement.

Direction pending outcome of Scientific Report

Your role has significant obligations to the Court including that you provide honest and independent expert evidence. We are extremely concerned that despite your most recent comments you are fundamentally unable to give expert evidence until you have taken additional steps to verify your concerns about the scientific process and satisfy yourself accordingly. We consider the external expert that will undertake a further scientific investigation and provide a report (**scientific report**) will assist you in alleviating the concerns you have regarding the integrity of the testing. Until such time as those additional steps are taken, in my view you cannot in good conscience give professional expert evidence to the Court and HSQ will not place you in such a position of potential conflict.

Given the concerns outlined above, I direct you not to undertake any duties which involve the reporting on semen testing or any related duties until such time as the outcome of the scientific review is provided and HSQ has had an opportunity to consider the outcomes identified in the report. In the interim, I direct you to participate in a temporary role participating in scientific research which, on review of your role, responsibilities and position description is within your expertise, role and classification. You would undertake this task full time at your same classification and pay rate and will be located at the Coopers Plains Campus, 39 Kessels Rd. If you would like further information about this position, please contact Mr Csoban directly.

As a gesture of good faith I have on this occasion decided to pay you from the date of your first medical clearance which was on 18 January 2017.

Next steps

Please advise Mr Franklin as soon as possible, that you have read and understood the contents of this letter and will comply with the direction. Mr Franklin can be contacted on [REDACTED].

I appreciate that this may be a difficult time for you. Employee assistance offers a confidential counselling service which is free of charge to all employees of HSQ for up to six sessions per calendar year. Access to this service is by self-referral. Please contact Optum on [REDACTED]. More information on employee assistance can be found at <http://qheps.health.qld.gov.au/eap>.

Yours sincerely,

[REDACTED]
 Mr Gary Uhlmann
 Chief Executive Officer
 Health Support Queensland

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