

Fatal flaws

The tragic death of 10-year-old Robert Powell could have been prevented. Nick Davies unravels a shocking story of medical negligence, cynicism and bureaucratic failure

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Fifteen years ago, Will Powell saw his 10-year-old son die. Within days, he began to suspect that doctors who had looked after the boy had been negligent. He filed a complaint. Within months, he began to suspect that somebody was tampering with his son's medical records. He filed more complaints, and spent 15 years fighting for the truth. Now, finally, he has it - and he was right.

During those 15 years, he turned for help to the state - to the coroner and the local health authority, then to the Welsh Office and the parliamentary ombudsman, to the local police, the Crown Prosecution Service (CPS) and finally to an outside police force and the Independent Police Complaints Commission. They all let him down - guilty variously of indolence, indifference, cynicism, favouritism and sheer incompetence. Now the state that failed him is denying him the public inquiry that might expose the depths of its weakness.

Before he came to power, Wales's first minister, Rhodri Morgan, repeatedly supported Powell, accepting that the case had to be investigated because the systemic failure that Powell was uncovering was likely to be afflicting numerous other UK citizens who lacked his tenacity to expose it. And yet, since he has gained office and has had the power to establish an inquiry, Morgan has delayed and prevaricated.

Robert Darren Powell died on April 17 1990 of Addison's disease, a rare illness that stops the adrenal glands pumping vital hormones. Four months before his death, in December 1989, he had suffered a bout of stomach pain and vomiting that was so bad he was admitted to Morriston hospital, Swansea, where he recovered on a drip. His parents were told that the problem was gastroenteritis.

Years of pressure

It has since been revealed that the senior paediatrician at the hospital, William Forbes, suspected at that time that Robert was suffering from Addison's disease, but failed to tell his parents and failed to conduct the adrenocorticotropin hormone (ACTH) test that could have confirmed the diagnosis. After years of pressure from Powell, the crown prosecution service finally dealt with the case and concluded that Forbes had been negligent: "It is undoubtedly true that an ACTH test performed in January would almost certainly have saved Robbie's life."

On April 1 1990, Robert fell ill again and, over the next two-and-a-half weeks, as he suffered from vomiting, weight loss and stomach pains, he was seen seven times by five GPs in the local surgery in Ystradgynlais, near Swansea. It has since been revealed that four of those GPs never read his notes: they did not see each other's diagnoses, nor the record of Robert's accumulating symptoms nor - crucially - the letters from the hospital warning that he might be

suffering from an adrenal problem. None of the GPs performed a blood test or took Robert's blood pressure. One tried to test his blood sugar but found his kit was out of date. None recognised that they were dealing with a very sick boy in need of an urgent transfer to hospital.

On April 11, an ailing Robert was seen by Mike Williams, the only GP who did read the notes. He too failed to tell Robert's parents of the suspected adrenal problem. Williams agreed to refer the boy back to the consultant at Morriston hospital. It has since been revealed that he failed to do so for nine days, by which time the boy was already dead. The belated CPS report concluded that Williams had been negligent: "The failure to refer immediately was clearly a bad mistake."

Robert continued to decline over the Easter weekend. On April 15 and 16, he was seen by doctors Paul Boladz and Keith Hughes. The boy had obviously lost weight and was so weak that he had to be carried in and out of the surgery, and yet neither doctor thought to send him to hospital. The CPS eventually concluded that Boladz had been negligent and "should have made an immediate referral to hospital, and there is no doubt that such a referral would have saved Robbie's life". And, in relation to the following day, that Hughes too had been negligent: "Robbie would have survived if admitted to hospital at this point."

On April 17, at about three in the afternoon, Robert collapsed at home. GP Nicola Flower visited, diagnosed a throat infection that had gone to his chest, and refused to send him to hospital. At 5.30pm, with the boy complaining of stomach pains, Flower returned, refused again to send him to hospital, had an argument with Powell, relented, scribbled a referral note and walked angrily out of the house, leaving Robert's parents to drive their limp son to Swansea. When they arrived at Morriston hospital, some 30 minutes later, staff immediately called the crash team. They subsequently said that, on arrival, Robert was "desperately ill and close to death" and "looked like someone from a concentration camp." The boy died as they tried to revive him.

The CPS report concluded that on both of her visits that day, Flower had been grossly negligent: "At both times, the proper course of action was an emergency referral to hospital, and there is clear evidence that the risk of Robbie dying would have been obvious to any reasonably competent GP... She failed to recognise a seriously ill child who needed immediate hospitalisation."

Robert's parents knew nothing of this negligence until, three days after Robert's death, Powell persuaded one of the GPs to let him look at his son's file and there, to his amazement, he saw two letters that showed the hospital had suspected an adrenal problem 12 weeks earlier - but nobody had done anything about it. Realising the importance of this, Powell arranged for a local vicar to witness the file's contents and lodged a formal complaint of negligence with the local family health service authority.

Seven months later, Powell was formally served with the paperwork in the case - and was alarmed to find that one letter that he recalled, and that the vicar had witnessed, was simply not there; and that the second letter was of a different size and far less emphatic in its warning than the one he and the vicar remembered. Powell was sure somebody had tampered with the file. The doctors have always denied this and, to this day, there is no final proof of what really happened.

Backdated letter

However, evidence has since emerged that two of the GPs did forge some paperwork. Having said that he would refer Robert to the hospital consultant, Dr Mike Williams failed to get the referral letter typed until three days after the boy was dead. The letter was backdated by eight days, sealed in an envelope and addressed to the hospital. Somebody then tore it open and placed it in the file, thus giving the impression that it had been typed on time but had missed the post. The truth emerged only because the secretary who typed the letter turned out to have been on holiday all through the week when it was supposed to have been written.

The CPS eventually concluded that there was evidence that Williams and his secretary, Linda Sims, were both guilty of forgery, and evidence that Williams was also guilty of conspiring to pervert the course of justice. The file served on Powell also contained Flower's notes of her two visits to Robert on the day he died. These recorded none of the symptoms of a dying boy. Instead, she claimed he was "fully conscious and oriented", thus supporting her refusal to send him to hospital. As a result of scientific tests, it has since been revealed that these notes were written some eight weeks after the event. The CPS eventually concluded that there was evidence Flower was guilty of forgery and attempting to pervert the course of justice.

Back in 1990, Powell turned for help to the West Glamorgan family health service authority, which failed to detect a single example of negligence or forgery by any of the doctors. He went to the Swansea coroner, JR Morgan, who refused to hold an inquest. He appealed to the Welsh Office, which opened a hearing that collapsed in chaos when Powell discovered that Robert's medical file suddenly included new paperwork. He spent three years trying to persuade the Welsh Office to admit that this file had been in its possession when the extra paperwork was added. The then secretary of state for Wales, John Redwood, personally denied this in writing; his successor, William Hague, was eventually forced to admit this was false.

Powell went to the parliamentary ombudsman and the Welsh health ombudsman, who spent seven years refusing to take up the case before finally investigating and establishing that the Welsh Office was guilty of maladministration. Powell used the Data Protection Act to uncover internal paperwork from the ombudsman's office that revealed that, from the start, officials had set out to dismiss his complaints and had repeatedly described him in insulting terms. In October 2004, some 14 years after Powell first asked for help, the new parliamentary ombudsman, Ann Abraham, apologised in writing for the "deplorable lack of sensitivity and understanding by those concerned".

Powell sued, and in May 1996 the health authority admitted negligence at the hospital. A separate case against the GPs foundered when the doctors argued that they had no legal duty to tell parents the truth about a child's death. Powell took the issue to the European Court of Human Rights, which was forced to agree that "as the law stands now, doctors have no duty to give parents of a child who died as a result of their negligence a truthful account of the circumstances of the death, nor even to refrain from deliberately falsifying records".

In March 1994, Powell turned to his local Dyfed Powys police. It conducted two inquiries and failed to uncover any evidence of any wrongdoing. The local CPS assured Powell that "no stone had been left unturned" by the police force, which wrote to the GPs' solicitors to say that no action would be taken.

In April 2000, after intense lobbying from Powell, Dyfed Powys police agreed to invite an independent officer from another force to review its work. Detective Chief Inspector Bob Poole, then of West Midlands police, launched Operation Radiance, which duly uncovered evidence against the doctors, variously of negligence, gross negligence, forgery and conspiracy to pervert the course of justice. How had Dyfed Powys police, in its two inquiries, failed to uncover any of this?

It has since been revealed that whereas Operation Radiance recorded more than 100 sworn statements under section 9 of the Criminal Justice Act, Dyfed Powys officers recorded none at all - not even from Powell and his wife. Since no prosecution can take place without these section 9 statements, it is unclear how the CPS was in a position to decide to bring no charges, let alone to tell Powell that no further police work was needed.

It has since been revealed, too, that whereas Operation Radiance sent the CPS statements from a collection of experts, Dyfed Powys sent none; that whereas Radiance sent Robert's medical files for scientific analysis, which disclosed forgery, Dyfed Powys acquired no such analysis; that, although Powell had given Dyfed Powys his own expert's analysis, which suggested forgery in Flower's notes, it did not pass this on to the CPS on the grounds that it thought it must be confidential.

Operation Radiance found scientific evidence of Flower's forgery and took a formal statement from her about it; Dyfed Powys never spoke to her. Radiance explored the backdated referral letter and took a statement from a junior secretary in the GP practice who said she had been pressured to claim that she had typed the letter in the absence of the normal secretary, who had been on holiday; Dyfed Powys did speak to her but never got this information out of her. Radiance took formal statements from staff at Morriston hospital, whose account of Robert's condition on arrival showed that Flower had recorded false details in her notes; Dyfed Powys never spoke to them.

Avon and Somerset police was called in to investigate Dyfed Powys' failure. It produced a damning report in which it said the Welsh force was guilty of "institutional incompetence". It found that Dyfed Powys "failed to investigate professionally, efficiently and effectively the circumstances surrounding and subsequent to the death of Robert Powell ... The criminal investigations were badly managed by senior detectives within Dyfed Powys police. The complainant did not receive an adequate quality of service. There was an apparent failure to grasp the investigation. It was insensitive to the issues surrounding the death of Robert Powell ... There has been an organisational failure to address concerns articulated by William Powell".

Police failure

But that was not the end of the police failure. Avon and Somerset failed to do its job properly. It found clear evidence of failure by Dyfed Powys but never attempted to discover whether this was the result of incompetence or deliberate conspiracy. There were raw and untested allegations that the GPs were friends with senior detectives in the area. It is a fact that the GPs worked as police surgeons, although that does not mean they knew the detectives in their case.

The Guardian has established that the paths of the dominant partner in the GPs' practice, Keith Hughes, and the then head of Dyfed Powys CID, Jeff Thomas, have crossed: their parents lived within 10 minutes' walk of each other, in Llanelli, when the two men were born; the two

men played rugby for their respective schools in Llanelli and Ammanford at a time when the schools played against each other; both men played for Welsh juvenile teams and, for example, played in the same game on March 3 1967, when Keith Hughes captained the Welsh Secondary Schools team against Welsh Youth, for whom Jeff Thomas played No 8. But this does not mean that the two men knew each other; and they insist that they have never met. The point is that Avon and Somerset never attempted to find out.

Despite its unusual conclusion of institutional incompetence, no finding against any individual officer was ever made. The Police Complaints Authority (PCA), which was supervising Avon and Somerset's inquiry, allowed it to be cut short, apparently without protest.

The confusion over Avon and Somerset's behaviour is aggravated by the fact that the chief constable of Dyfed Powys, Terry Grange, had himself spent years working for them and risen to become their deputy chief. Thus, his former colleagues were investigating his current staff. It is quite possible that Avon and Somerset were called in for the entirely benign reason that, since they knew Grange, they would be more willing than other forces to lend him officers who were busy with their own inquiries.

All this police activity came to nothing. Finally confronted with the results of an effective police inquiry, through Operation Radiance, the CPS in April 2003 agreed that there was evidence that various doctors had been negligent or grossly negligent and/or involved in forgery and perversion of the course of justice - but concluded that none of them should be prosecuted because too much time had passed.

Furthermore, the CPS stated, Dyfed Powys police had made matters more difficult by writing to the GPs' solicitor with an unqualified assurance that no action would be taken against them. Since these problems were the direct result of failure by the police and the CPS themselves, Powell found that difficult to accept. He complained to the CPS, but it investigated itself and concluded that it had done nothing wrong.

Powell fights on. With the support of the attorney general, he forced the Swansea coroner to hold an inquest. This was transferred to neighbouring Pembrokeshire coroner Michael Howells, who proceeded to rule that he would hear no evidence into anything that had happened after Robert's death. This meant Powell was not allowed to show that some of his son's medical records had been forged, which meant the whole case was presented to the coroner's jury on a distorted basis. Nonetheless, on April 30 2004, a jury found that Robert's death had been aggravated by neglect.

The state continues to fail. After the inquest, Powell filed a formal complaint against the doctors with the General Medical Council (GMC); two years and 10 months later, it has taken no action. Dyfed Powys police promised to give Powell a copy of the report by Avon and Somerset police; nearly three years later, it has failed to hand it over. Dyfed Powys police also promised to provide paperwork to the GMC; it has offered a series of excuses and has failed to provide it. The new Independent Police Complaints Commission recorded a complaint from Powell; 19 months later, despite repeated promises of a swift response, it has failed to come up with anything.

'Deliberate cover-up'

In December 1995, in opposition, Morgan wrote to the then secretary of state for Wales, William Hague, referring to "what is, at first sight anyway, one of the worst cases of maladministration or deliberate cover-up that may have stained the record of the Welsh Office in its 30-years-plus history". In a television interview in December 1996, he said: "I think the history of the Powell case is so serious now, in terms of the cover-up that was involved afterwards, that I think nothing less than an independent inquiry is probably ever going to really get to the truth."

Powell's campaign for a public inquiry has been supported by the children's commissioner for Wales, the new parliamentary ombudsman and the Conservative leader in the Welsh assembly, Nick Bourne. Morgan, however, now first minister, has refused to make a decision - apparently acting under advice from the same Welsh Office that stands to be criticised by the inquiry.

In 2000, when the coroner finally agreed to hold an inquest, Morgan said he would have to wait for its result. Three years later, with the inquest complete, he said he would have to consider its verdict. Twenty-one months later, Morgan has still failed to make a decision.