

# I'm sorry if I caused offence to Dhara's husband

## Consultant's apology

Heartache: Michael Kivlehan with his wife Dhara, who died in September 2010

By Marese McDonagh

A CONSULTANT told an inquest he was sorry if he offended the husband of a new mother who died shortly after the birth of her son.

Michael Kivlehan told consultant anaesthetist Dr Seamus Crowley that he was being patronising when they were discussing the need to move his wife Dhara to intensive care.

Dr Crowley acknowledged that he had asked Mr Kivlehan whether he was a nurse or a paramedic. He told the inquest into Mrs Kivlehan's death that Mr Kivlehan had mentioned that he spent time at a London hospital.

The anaesthetist thought Mr Kivlehan might have a medical background, and so maybe he could use medical terminology with him. However, Mr Kivlehan had only been a patient at the hospital following an accident.

Mrs Kivlehan, 29, died in Belfast's Royal Victoria Hospital on September 28, 2010, four days after being airlifted from Sligo hospital where she had given birth to her first baby, a son Dior, after an emergency Caesarean section.

The consultant said he had told Mr Kivlehan that because his wife was of Indian origin, her dark complexion would make jaundice 'more difficult to appreciate'.

But he stressed that he had



Anaesthetist: Dr Seamus Crowley

reassured Mr Kivlehan that blood test results were available and were what he would base his clinical assessment on.

'Jaundice is just a clinical sign. It is not a disease,' he said.

Mr Kivlehan has told the coroner's court in Carrick on Shannon that he was too stunned to respond when Dr Crowley said it was hard to tell whether someone who was Indian had jaundice. Coroner Eamon MacGowan was told that the consultant was upset by this.

Dr Crowley said Mr Kivlehan had made frequent references to not

trusting doctors. Under cross-examination, Dr Crowley said he was unnerved by his conversation with Mr Kivlehan. He said that of course Mr Kivlehan was anxious and frustrated, but added: 'I certainly did not mean to offend him.'

Dr Crowley said he had reassured Mr Kivlehan that his wife was assessed by the obstetric team and himself, and that the obstetric staff would remain in close contact with ICU. She would be reviewed again if she deteriorated.

Asked whether he agreed that Mrs Kivlehan was in acute renal failure on January 22, the day after her baby was born, Dr Crowley said that in his opinion, 'she had ongo-

### He was anxious and frustrated

ing acute renal injury'.

Pressed on why Mrs Kivlehan did not see a renal consultant until September 24, the day of her transfer to Belfast, he said she was under obstetrician Dr Raouf Sallam even after she was transferred to ICU.

'I cannot account for why Dr Sallam did not refer her for a renal consult,' Dr Crowley said. He added that he did not know why Roger Murray, solicitor for the Kivlehan family, was asking why this had not happened by September 22, as it could have happened earlier.

Mr Murray replied that he was 'absolutely right' - there was a 96-hour delay rather than 60 hours previously suggested.

Meanwhile, a nurse who cared for Mrs Kivlehan in the Sligo ICU told the inquest that she did not tell Mr Kivlehan to stop listening in on doctors' conversations.

Mr Kivlehan said he was 'extremely shocked' by the behaviour of a nurse who grabbed his arm, led him back to his wife's bed and told him to 'stop eavesdropping'. However, denying that she said this, ICU nurse Siobhan Surlis said: 'No, I would never use those words.' Asked whether she told Mr Kivlehan if he wanted to make himself useful he should go downstairs and get his wife a drink, she responded: 'I might have asked him to go to the shop.'

Earlier last week the inquest heard that no intensive care bed could be found in four Irish hospitals for Mrs Kivlehan as she lay at 'death's door'.

Mrs Kivlehan, originally from India who moved to Co. Leitrim with her husband, was taken by emergency helicopter after consultants were told no space could be freed up in ICUs in Sligo, Galway, Cork or Dublin. The transfer to Belfast was secured on the evening of September 24, but Mrs Kivlehan died four days later.

The inquest has been adjourned to Monday when expert witness Dr Peter Boylan will give testimony. [reporter@dailyemail.ie](mailto:reporter@dailyemail.ie)

# Garda wins bid for judicial review against Commissioner

By Helen Bruce

A GARDA who was accused of striking a member of the public has taken a legal challenge against the Garda Commissioner for reopening an investigation against him after criminal charges were struck out.

Garda Declan O'Connor of Blackrock Garda Station won leave yesterday from the High Court to take a judicial review against the Commissioner.

His counsel, Mark Harty SC, said Mr O'Connor was accused of striking a member of the public who was in custody at the station in June 2012.

The court heard the man who made the claim was allegedly abusive and violent at Seapoint Dart station, which was why gardai had been called and an arrest made. Mr Harty said the Garda Ombudsman investigated after the man made a complaint, and a criminal file was sent to DPP. An assault charge followed, but the man was said to have withdrawn his complaint due to medical reasons.

'A prosecution commenced, and was struck out,' Mr Harty said.

Mr Harty said that in circumstances where a criminal charge was struck out, the Garda Ombudsman was not entitled to investigate the same matter again. But he said the Garda Ombudsman did investigate his client again, albeit this time in a disciplinary, as opposed to criminal, context.

The Commissioner told Garda O'Connor in a letter of September 2013, that GSOC would determine 'whether there was evidence to suggest an abuse of authority in the unnecessary violence towards [the complainant]'.

Mr Harty said that a report was issued arising from this second GSOC investigation, and in May this year a sworn inquiry into breaches of the garda disciplinary regulations began at Dún Laoghaire Garda Station.

He said the disciplinary inquiry could not be lawful, as it was based upon a criminal charge which had been struck out. He said the garda board of inquiry was unlawfully established, as it was based upon a GSOC report which should never have been sent.

The disciplinary hearing was adjourned until October 1, but Garda O'Connor has now won a stay on that inquiry continuing, until his full legal challenge is heard later this year.

In that action, he will be seeking an order of prohibition preventing the Commissioner from carrying out any further investigation into the events of June 2012.

Leave to bring the judicial review was granted by Mr Justice Max Barrett. The matter will be back before the court on November 25, when the Commissioner will be represented in court.

# Five arrested over water meter protest



Arrested: Councillor John Lyons

GARDAÍ arrested five men last night following protests over the installation of water meters.

The arrests, under the Water Services Act, came after three protesters were held on Thursday at a flashpoint in Raheny, north Dublin.

The scene of the arrests was where the first protests happened five months ago.

Among the five arrested and released last night was Councillor John Lyons, of the People Before Profit party.

He said last night: 'It would appear that Irish Water wants to outlaw people power, the only force that can protect our society from the ravages of austerity.'

Separately, on Wednesday, nine protesters had given an High Court undertaking that they would not 'harass or assault water meter installers'.

Campaigners said that one of the

By Eamon Donoghue

nine has been arrested despite what they insisted were 'peaceful protests'.

Irish Water last night said that 'the High Court ordered that nine named individuals and anyone else on notice of the order refrain from assaulting, harassing, intimidating, endangering or otherwise unlawfully interfering with or obstructing any person working on behalf of our contractor GMC/Sierra which is installing water meters in Dublin city region.'

The firm said: 'The nine named individuals then gave an undertaking to the court that they would refrain from these activities and the court maintained the order against all persons on notice of it.'

Irish Water said a further application to the court has been made by our contractor following an alleged breach of the order by certain

individuals. 'We understand a number of arrests have been made in respect of offences committed under the Water Services Act,' the firm said.

'This states that it is an offence to obstruct or interfere with a water services authority in the performance of its functions under the Water Services Act. Irish Water intends to prosecute such offences.'

The firm has claimed staff have been forced to leave their jobs due to the stress caused by previous alleged clashes with protesters. Protesters have threatened to lodge a formal complaint with gardai about the alleged incidents in Raheny in May.

One protester, who called himself simply Mark, claims he was manhandled in the protest four months ago.

He said: 'I was sitting on the road peacefully protesting. I had my hands up. I was sitting there between the road and the curve to block the digger from passing. The digger wasn't

moving and it was 20 metres away. I was sitting with my hands up.'

'There were no barriers or signs even and I was chanting that it was a peaceful protest.'

'There were a few of them and they were mainly laughing and jeering but I was left with my nerves shattered after they dragged me. There were a few of them.'

The protester claims he was one of three and said he hurt his ankle in the protest. He said he would be reporting the alleged incident to gardai before Irish Water's injunction case re-appears before the courts in mid-October.

Irish Water said staff had suffered high 'stress' due to the situation, which had caused them to leave their jobs shortly afterwards.

A spokesman said: 'The stress these protesters were causing them... they actually left their jobs the week after because it was so terrible.'