

18th October 1991

JG/CJI

Professional Conduct Committee
The General Medical Council
44 Hallam Street
London W1

Dear Sirs

I originally wrote to you on 11th June 1991 to register a complaint regarding a TV programme called "**The Cook Report**", which was transmitted on Monday 16th April 1991 at 7.00pm by Central Television. The complaint was directed at Professor Robert Winston's involvement with that programme, and the statements that he made which was broadcast during the course of it.

I subsequently received a letter from your office (Evidence 4), the third paragraph of which begins by saying

"The Chairman has given very careful consideration to your letters and the transcript of the television programme in question. However, he has decided that there is insufficient evidence to justify disciplinary action against Professor Winston on the grounds that he disparaged your professional abilities. The Counsel considers that members should be free to express general comments in the media on matters of public interest, and the Chairman notes that you have provided no evidence which would indicate that Professor Winston had any control over the context in which his comments, which do not mention any Doctor by name, when transmitted."

Regrettably, I had been informed by the GMC that it was not necessary to submit evidence but merely make a complaint in the form of a letter, which I therefore did. As it transpires, some of the relevant evidence did not come to light until shortly after your letter of 6th August.

This new evidence clearly demonstrates Professor Winston's active involvement and collusion with the TV programme and, in light of this and other aspects described within, believe that the GMC can do nothing other than ensure that this case be put forward to, at the very least, the preliminary formal disciplinary hearing.

This new evidence takes the form of a dossier provided by "**The Cook Report**" team which was forwarded on to me by Central Television, the relevant parts of which will be submitted herein. This letter is being written to the Professional Conduct Committee to forward on details of this new evidence which should be evaluated in light of my original complaint (Evidence 11) and which now forms an integral part of this new complaint.

INTRODUCTION

You will recall from my initial submission to the GMC that none of the women who had voiced complaints on The Cook Report programme about myself/the Infertility Advisory Centre had ever made any complaints prior to the programme to myself, the Infertility Advisory Centre or any other Authority.

Phillipa Langton - one of the complainants - went to see Professor Winston following her third miscarriage, which occurred in September 1990, in our IVF programme.

- a) I believe Professor Winston wilfully misled this patient into believing that her case had been incorrectly managed.
- b) Furthermore, Professor Winston then prompted and directed the patient to make a complaint in this respect directly to The Cook Report programme without his or her recourse to normal methods of dealing with patients complaints, such as complaining directly to myself, her GP, the Infertility Advisory Centre, the Interim Licensing Authority, the General Medical Council, the Community Health Council, the Area Health Authority which licences our Centre, Citizens Advice Bureau, or by legal recourse. This action can only be considered highly unethical and unprofessional in view of his own active role as a Medical Advisor to the programme (see below), as well as his role as an active participant in the programme itself.
- c) At no time was there any communication from him to determine the accuracy or content of vital medical facts, investigations and treatment, without which it could not have been possible to advise his patient correctly. This method of directing a patient to complain immediately to the media without recourse to conventional channels is intolerable and cannot be sanctioned by any professional body. It constitutes serious professional misconduct and was a wilful attempt to bring a professional colleagues reputation into disrepute.

ITEM 1 EVIDENCE PROFESSOR WINSTON ASKED PATIENT TO COMPLAIN DIRECTLY TO 'COOK REPORT'

The evidence for Professor Winston's persuading the patient to make a complaint

to The Cook Report is given in two separate places on Page 4 of Central Television's dossier to me (Evidence 1, Page marked 4, Paragraph 1); -

"one of the three women was being helped by Professor Winston who established the nature of her problem and asked if she wished to discuss her case with "The Cook Report" and put the onus on that patient to contact us ...".

Further down on that page, in Paragraph 5, referring to our mutual patient, Phillipa Langton, Central Television says; -

"this patient was asked by Professor Robert Winston if she wished to talk to The Cook Report".

ITEM 2 EVIDENCE THAT PROFESSOR WINSTON WAS MEDICAL ADVISOR TO 'COOK REPORT'

Professor Winston was a principle Medical Advisor to the programme and specifically advised them regarding Phillipa Langton. As such he bears full responsibility for the tone and context of the whole programme and not just for his own interviews within it.

The evidence that he was a Medical Advisor is clearly stated on Page marked 3 of Evidence 1, paragraph 7 (in reply to my query regarding how medical advice had been obtained), which states; -

"in each case we analysed what Dr Glatt had said, discussed it with the IVF experts familiar with the cases and decided the patient had a valid complaint".

Patently, Professor Winston, the "IVF expert" familiar with Phillipa Langton, was one of the Medical Advisors.

ITEM 3 EVIDENCE THAT FINAL VERSION WAS SEEN BY MEDICAL ADVISORS

Dame Mary Donaldson's letter dated 24th April 1991 (Evidence 2) records a conversation that Dame Mary Donaldson had with Mr Clive Entwistle, the Director of "The Cook Report". This letter states; -

"Medical advice was taken on the programme and the final version was approved by the Advisors."

The manner in which medical advice was taken on the programme has been documented immediately above. Irrespective of Dame Mary's confirmatory evidence, the Medical Advisor has full responsibility for what is broadcast by the programme, even more so when one of his own patients is featured on the programme, he himself is interviewed, and the visual context of that interview is laden with innuendo which would be seen by the average viewer as being directed against myself, as outlined in Pages 4 and 5 of my initial submission to the General Medical Council, 11th June 1991 (Evidence 11).

ITEM 4 EVIDENCE PROFESSOR WINSTON SANCTIONED AND APPROVED THE CONTEXT IN WHICH HIS COMMENTS WERE APPROVED

The GMC letter of 6th August (Evidence 4), to me, states that **"you have provided no evidence which would indicate that Professor Winston had any control over the context in which his comments, which do not mention any Doctor by name, were transmitted."**

The evidence that he approved of the context in which his comments were transmitted is provided by the fact that; -

- a) an open letter that Professor Winston wrote to Central Television (Evidence 3) on 29th July 1991 states on Page 4, Paragraph 1, that;
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"the editorial control is a matter for Central Television, but I see no great problem with the placing of my comments within the context of the programme."
- b) he was a principle Medical Advisor and therefore had full responsibility for what transpired.
- c) in any event, the final version of the programme was approved by the Medical Advisors.
- d) he himself had directed our mutual patient to make a complaint to the programme and therefore recognised full well the content of that programme and that his quotations would have serious implications in this context.

ITEM 5 WILFULLY MISGUIDING THE PATIENT

- 5) Phillipa Langton's misguided allegations were made not only because of direct prompting by Professor Winston, but because Professor Winston deliberately

misled the patient regarding the medical facts.

This was outlined on Pages 6 and 7 of my initial submission to the General Medical Council, 11th June 1991 (Evidence 11). It is evident that she had been given information to the effect that "her money had been wasted" and that she had "a badly malformed uterus", and that the IAC had known about it all along.

This information could only have been provided by Professor Winston, who, in any event, was aware of her exact allegations in view of his role as Medical Advisor.

Irrespective of this;

- a) a letter from Mr Trevor Dutt, 22nd May 1991 (Evidence 4), who was the Consultant who had referred Phillipa Langton to the Infertility Advisory Centre in the first place, details a telephone conversation with Winston shortly after the transmission of the programme in which Professor Winston believes that Phillipa Langton has Asherman's Syndrome, which represents adhesions inside the uterine cavity acquired secondarily to D and C's and most probably occurred after her final D and C following her last miscarriage in September 1990. This totally contradicts the impression given to, and by, Phillipa Langton.
- b) This is in keeping with the only letter that Professor Winston sent her GP prior to the programme stating "**uterus abnormally small ? for IVF.**". The GP will be in a position to provide this evidence, if required, at a Preliminary Hearing of the committee.

ITEM 6 PROFESSOR WINSTON'S LETTER TO CENTRAL TELEVISION

Professor Winston's letter to Central Television dated 29th July 1991 (Evidence 3) is an open letter, not marked private and confidential. It makes highly disparaging comments about myself or the Infertility Advisory Centre and contains many factual inaccuracies and allegations which cannot be sustained. Please keep in mind that Professor Winston has never, at any time, written to me or the Infertility Advisory Centre to obtain the medical facts regarding Phillipa Langton.

Page 1 - Paragraph 2

I notice that disparaging phrase ... "**unluckily for her, went to see Dr Glatt.**".

Page 1 - Paragraph marked 1

"Dr Glatt says that he never received any correspondence from the GP at any time, and says that he was unaware of any significant problems in the uterus. This is rather surprising ...". The fact that Professor Winston says this is "surprising" impunes

my integrity. However there was no correspondence to the IAC from the GP at any time. The Cook Report knew this from our telephone conversations and they, as well as Professor Winston, could have checked this fact by contacting the GP.

Page 1 - Paragraph marked 2

"The patient was apparently referred by Royal Northern Hospital to Dr Glatt. However, their records clearly showed an abnormal uterus, and I would be very surprised if this was not mentioned in the referral letter. Obviously I have not seen a referral letter so I cannot verify this." This was NOT mentioned in the referral letter (Evidence 12). It is Professor Winston's duty to check on the facts by writing to the Royal Northern Hospital or to myself prior to expressing doubts to the media, in this manner.

Page 1 - Paragraph marked 3

"Dr Glatt tries to absolve himself from responsibility for this patient by saying that he had very little contact with this couple. Of course this is no excuse for his inadequate care, ..." This is a disgraceful and disparaging allegation to make to the media. The notes will show that I saw this patient only during one of her seven IVF attempts and barely saw her at all during the other attempts. During all return visits before and after these IVF attempts I saw her on only three further occasions during the three years of her attendance at IAC. Irrespective of this, the accusation of my "inadequate care" to the media constitutes unethical behaviour and gross misconduct.

Page 2 - Paragraph 4

Alleges that a hysteroscopy was performed in circumstances **"when a patient is in pain and anxious, is unlikely to be useful in providing accurate information. If the patient is unable to keep still due to severe pain, it is very likely the significant abnormalities would be missed, as appears to be the case in Mrs Langton's situation."** Once again, this is a disgraceful allegation to make to the media, especially as Professor Winston has not communicated with the IAC at any time and is totally ignorant of the true situation. Neither pain, nor a degree of collapse was described by Dr Morcos in the notes, (Evidence 6). Not only does he describe it as an easy procedure, but the documentation of what he saw down a hysteroscope is very detailed and therefore no significant abnormalities were missed. Making unsubstantiated allegations to the media in this respect is unethical and constitutes professional misconduct.

Page 2 - Paragraph marked 5

"Dr Glatt claims that the uterus was measured for length using ultrasound. This is fine as far as it goes, but of course ultrasonic investigation of the uterus is an extremely poor way of assessing whether or not there is a uterine abnormality. In my view, the assessment of a uterus was most incompetent and it was less that a patient might justifiably expect given the expertise of a specialist infertility clinic." We do not use ultrasound to assess uterine abnormality. The uterus was measured for length using ultrasound in order to judge how far up the uterine cavity to pass a fine catheter for deposition of the embryos. This is standard practice in our Clinic, and many

others, for patients undergoing embryo transfer. Winston knows this well. The allegation of incompetence made to the media without any attempt to establish the facts is highly unethical and constitutes professional misconduct.

Page 2 - Paragraph 6

"It is true that Mrs Langton had seven attempts at In-Vitro-Fertilisation, with embryo transfer on six occasions. It is also true that she conceived on no less than three occasions and on each occasion aborted in the first trimester. What is extraordinary is that in spite of Mrs Langton's repeated request, no attempt of investigation as to the cause of miscarriage was undertaken. Mrs Langton has a clear recall of a conversation with one of the Embryologists, who also suggested to the Clinicians that investigations were necessary. This suggestion was put to the Doctors in the Clinic and no attempt was made to try to understand the underlying basis for this miscarriage." Open any standard gynaecological text book and the recommendation would be seen that multiple miscarriages are not generally investigated until the third miscarriage. That wisdom is standard medical practice. Indeed in Phillipa Langton's notes it is clearly written in the notes, and the letter to the GP, (see Evidence 9 and 10) that further investigations were to be done if the third miscarriage was to ensue. Professor Winston's allegations to the media is therefore totally unsubstantiated and unfounded. The phrase "no attempt of investigation of the cause ..." is therefore a totally unfounded accusation to make to the media. It should never have been made in the absence of obtaining details of the case notes from the Infertility Advisory Centre. Such behaviour disparages the integrity of the Doctors, is unethical and constitutes gross misconduct.

Page 2 - Paragraph 7

"All of Mrs Langton's miscarriages were dealt with by the National Health Service, where the uterus was scraped out. This, I think, says a considerable amount about the deficiency of the care provided by Dr Glatt, who preferred to dump his ill patient on a National Health Service Hospital, rather than to undertake responsibility for the consequences of the failure of In-Vitro-Fertilisation. ..." Private Infertility Clinics, Doctors and Clinics outside the NHS handle problems of miscarriages exactly the same way as we do. We have always suggested to patients with miscarriages to have them dealt with under the NHS. This is a well recognised, standard practice. No complaints have ever been received in this respect from GP's or NHS Hospitals. Patients come to the private sector for infertility investigations and treatments because the facilities in the NHS for this speciality are so inadequate. Once pregnancy occurs they are dealt with in the same way as any other pregnant woman. That is they are booked by their GP, for pregnancy care, at their local NHS Hospital. The IAC does not have any specific Antenatal or Gynaecological facilities. Our price structure is low and the type of patient that we attract does not necessarily have the extra finances to undergo the unexpected additional burden of private D and C. Patients are entitled to the same on the NHS during pregnancy, or for that matter for illness, or for fertility problems, irrespective of whether they have been seen privately, previously, that is a right. One wonders what Professor Winston does regarding pregnant women who miscarry in his own private IVF programme when they have financial problems preventing private D and C's, or, if they live well outside London and therefore are unable to travel and thus have to be seen at a local NHS Hospital. Moreover, this patient was not ill. Phillipa's particular type of miscarriages were generally without

significant symptoms, being discovered as an unfortunate incidental finding on routine ultrasound examination of the abdomen. Professor Winston's specific allegations about deficiency of care and preferring to dump ill patients on the National Health Service, made to the media, are extraordinary and must constitute gross professional misconduct.

Page 2 - Paragraph marked 8

"There is suggestion from a brief record to the GP, a copy of which Dr Glatt has presumably got, that we were considering putting this patient into our own In-Vitro-Fertilisation Programme. This of course is not strictly correct. What we have found is confirmatory evidence of a severely abnormal uterus, which both Mr Margara and I (both qualified Consultant Infertility Specialists working in the National Health Service) have deemed to be congenitally abnormal as a result of a septum ...". The only communication that the GP had received up to the time of the transmission of The Cook Report, from Professor Winston at Hammersmith Hospital, was **"uterus abnormally small, query for further IVF"**. This was based on their laparoscopy and hysteroscopy. The GP will be in a position to confirm this at the Hearing stage of the General Medical Council. There was no mention of septa or other uterine deformities. Interestingly the uterus was not described as small in the actual operation report.

Page 4 - Final Paragraph

I have never been informed of **"a number of irregularities which were of a serious nature"**. I am totally unaware of this. It is disgraceful for such allegations to be made to the media and constitutes professional misconduct.

Irrespective of the multiple unfounded allegations of this letter, the tone and content indicates a maliciousness which underlies Professor Winston's original role in the making of The Cook Report and the reason why the programme considered me a justifiable target for their format which normally encompasses drug runners, gun smugglers, hamburger war kings, swindlers, con artists, etc.

Page 5 - Final Paragraph

"... whilst I regard many of the inadequacies of his practice clearly deficient, I have to say that these deficiencies are matched by other In-Vitro-Fertilisation units within the private sector.". Once again, this allegation to the media is unfounded and constitutes serious professional misconduct.

ITEM 7 PROFESSOR WINSTON'S LETTER TO THE BRITISH MEDICAL JOURNAL

Professor Winston wrote a letter to the British Medical Journal on 18th May 1991 (Evidence 7). The first paragraph of that letter reads "**Sir, - Mr Roger Neuberg's factually inaccurate letter carries innuendos beneath comment. However, I was in no way responsible for the treatment of Dr Jack Glatt or, indeed, anybody else mentioned in this programme. I neither wished for, nor had, any editorial input.**".

- a) Professor Winston is telling an untruth when he says that he was "**in no way responsible for the treatment of Dr Jack Glatt ...**". After all, it was he who had directed Mrs Phillipa Langton to "The Cook Report" programme. He had thoroughly discussed the case with Central Television (Evidence 1, Page marked 3, paragraph 7), was Medical Advisor to the programme and appeared on the programme himself.

- b) He states that he "**neither wished for, nor had, any editorial input.**". His own letter to Central Television (Evidence 3, Page 4, Paragraph 1) clearly demonstrates approval of the editorial control in the placing of his comments within the programme. Irrespective of this, it was his duty as a Medical Advisor to the programme to be aware of the use of his statements - even more so as he was aware of the nature of the programme and because he had directed his own patient to complain to The Cook Report programme. In any event, the final version of the programme had been approved by the Medical Advisors (see Evidence 2).

ITEM 8 FOREKNOWLEDGE OF COOK REPORT UPDATE

Professor Winston was obviously fully aware of the substance of The Cook Report programme following its transmission. At no time did he express any contrition regarding the manner in which his statements juxtaposed with the featuring of myself, the Infertility Advisory Centre and **babie**. He obviously condoned Mrs Phillipa Langton's appearance on television as she appeared again on The Cook Report Update programme transmitted on 18th July (video copy enclosed), once more making the same accusations against the Infertility Advisory Centre and myself. Had Professor Winston expressed reservations to The Cook Report regarding the manner in which his patient had been used in the programme, then the retransmission of her personalised, and unfounded, allegations could not have occurred. Knowledge that there was to be a follow up programme to The Cook Report, involving infertility, was common knowledge as I had been forewarned of this by colleagues, The President of The Royal College of Obstetricians and Gynaecologists, by colleagues of the British Fertility Society, and must have been known to Professor Winston. Furthermore, a letter was written by a colleague to the British Fertility Society (Evidence 8, 2nd Page, Final Paragraph) and

forewarned about the possibility of a follow-up programme. This was written as early as May 1991 and was circulated to the Secretary of the British Fertility Society and its members; Professor Winston is the Chairperson of the British Fertility Society. Please treat confidence.

GMC BLUE BOOKLET RELATED TO THIS COMPLAINT

I believe that Professor Winston is guilty of serious professional misconduct for the many reasons outlined above. The Blue Booklet says that; -

"If a medical man in the pursuit of his profession has done something with regard to it which would be reasonably regarded as disgraceful or dishonourable by his professional brethren of good repute and competency, then it is open to the General Medical Council if that may be shown, to say that he has been guilty of infamous conduct in a professional respect.". (Blue Booklet, Page 2).

"Infamous conduct in a professional respect means no more than serious misconduct judged according to the rules, written or unwritten, governing a professional.". (Blue Booklet, Page 2).

The Blue Booklet further states (Page 9, Paragraph 31) in respect of convictions and forms of professional misconduct which may lead to disciplinary proceedings; -

"It does not pretend to be a complete code of professional ethics, or to specify all criminal offences or forms of professional misconduct which may lead to disciplinary action. To do this would be impossible, because from time to time the change in circumstances the Councils attention is drawn to new forms of professional misconduct.".

Page 9, Paragraph 3

This paragraph further states that; -

"Any abuse by a Doctor of any privileges and opportunities afforded to him or any grave dereliction of professional duty or serious breach of medical ethics may give rise to a charge of serious professional misconduct.".

Page 9 further states (Paragraph 33) that disparagement of professional colleagues is a recognised category of professional misconduct and Paragraph 34 states the various headings described have been adopted for convenience, but such classifications can only be approximate. I believe, for example, that prompting and directing patient to make a complaint to television media without addressing the issue by proper channels is a special category encompassed by the flexibility permitted by the above stipulations.

Page 16 of the Blue Booklet (Paragraph 62) states that

"Doctors are frequently called upon to express a view about a colleagues professional practice. This may, for example, happen in the course of a medical audit or pay review procedure, or when a Doctor is asked to give a reference about

a colleague. It may also occur in a less direct and explicit way when a patient seeks a second opinion, specialist advice or an alternative form of treatment. All this comment is entirely acceptable in such circumstances, provided that it is carefully considered and can be justified, that it is offered in good faith and that it is intended to promote the best interests of patients.". Phillipa Langton was deliberately misled by Robert Winston, as evidenced by this current submission and my previous submission dated 11th June 1991, Pages 6 and 7. Irrespective of this Professor Winston was negligent by not attempting to seek pertinent medical details from the Infertility Advisory Centre, without which it is impossible to properly advise the patient, anyway.

Page 16, Paragraph 64 states; -

"However, gratuitous and unsustainable comment which, whether directly or by implication, sets out to undermine trust in the professional colleagues knowledge or skills is unethical.". The open letter to Central Television does just this. Furthermore, the sentiments and tone adopted in that letter were obviously expressed by Professor Winston to The Cook Report in the original programme in his role as Medical Advisor. Phillipa Langton could not have made her highly inaccurate allegations without having been misled (I believe, wilfully) by Professor Winston.

Page 16, Paragraph 65 states; -

"As stated in Paragraph 32 of this pamphlet the question whether any particular course of conduct amongst a serious professional misconduct is a matter which falls to be determined by the Professional Conduct Committee after considering the evidence in each individual case. This applies equally to the categories of misconduct described in Part II and to the situations contemplated in Part III. Furthermore, it must be emphasised that the categories of misconduct described in Part II cannot be regarded as exhaustive. Any abuse by a Doctor of any of the privileges and the opportunities afforded to him, or any grave dereliction of professional duty or serious breach of medical ethics, may give rise to a charge of serious professional misconduct.".

In the circumstances the General Medical Council must consider this new evidence, as well as the fact that Professor Winston's patient, Mrs Phillipa Langton, was featured on another programme called "**The Cook Report Update**", in which she repeated her allegations. I was featured along with gun runners, cocaine smuggling, hot dog wars, holiday villa conmen, fast food battles, smugglers of stolen antiquities. I am enclosing a video of the latter programme and would respectfully request that this video is seen, as well as the video of the original programme and am doing so as the GMC letter of 6th August 1991 states "the Chairman has given very careful consideration to your letters and the transcript of the television programme in question.". It would seem, therefore, that the video had not been seen, yet this is of essence in view of the visual impact of the way the programmes were put together. Regretfully I submitted the video copy of The Cook Report programme weeks after my submission to the General Medical Council, very shortly before the letter of 6th August and therefore believe it was not seen.

I would respectfully like to request the GMC; -

- a) to appoint a new preliminary proceedings committee with different membership to the last, if the GMC agrees this is appropriate.
- b) that videos of both TV programmes are watched by all those on the committee as well as the President.

Yours faithfully

Jack Glatt MB BS MRCP MRCOG
Medical Director

