

Re Lord Professor Winston

I have OCR'd Lord Professor Winston's witness statement in bold type, and appended various comments to it in normal type, within indented lines or paragraphs. Please note the following:-

1. The matters in which lie action for perjury are listed as follows according to Winston's own paragraph numbering system. These are 7,9, 13,19,25,27,31,32,33,34,35,37,38,39,and 41
2. I have added comments to other of his paragraphs which may not constitute perjury per se but go to support the general thrust.
3. I believe Winston is liable for two instances of Perversion of the Course of Justice and have annotated them accordingly. They, of course, also encompass the related offence of perjury.

Third Defendant Professor Lord Winston 1st Statement

1996 G No. 1441

IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION

BETWEEN:

DR JACK GLATT

Plaintiff

- and -

CENTRAL INDEPENDENT TELEVISION PLC ROGER COOK PROFESSOR ROBERT WINSTON

Defendant

WITNESS STATEMENT OF PROFESSOR LORD WINSTON

I am Professor Lord Winston, of Hammersmith Hospital, Du Cane Road, London W12, the Third Defendant in these proceedings. I make this statement from my own knowledge or information and belief where the source of that information and belief is referred to.

1. I am currently director of the Reproductive Medicine Department at Hammersmith Hospital. I qualified MB, BS, LRCP, MRCS in 1964, doing training posts at The London Hospital, The Royal Hampshire County Hospital, Winchester, and The Hammersmith Hospital. I gained Membership of The Royal College of Obstetricians and Gynaecologists (MRCOG) in 1971 and was appointed Fellow (FRCOG) in 1982. I was a research worker at Hammersmith on a Medical Research Council Grant from 1971-

1973, researching improvements in infertility management. In 1974 I was awarded a Wellcome Senior Research Fellowship and in 1976 joined the faculty at Lieven University on a Belgian Government Scholarship. In consequence of the international reputation of my research and clinical practice, in 1980 I was appointed Professor of Gynaecology at the University of Texas at San Antonio, then the world's leading centre of reproductive medical research. I was appointed Reader in Fertility Studies at the Royal Postgraduate Medical School in 1981, and Professor there in 1986. I have published some 300 scientific publications and nine books concerned with fertility medicine. In addition, I have, by invitation, delivered approximately 350 scientific presentations at leading international meetings, many of which have been published in abstract. In 1990-1993 I was Chairman of The British Fertility Society, the leading professional body dealing with reproductive medicine in Britain. In 1993 I was awarded the Royal College of Surgeons' triennial prize, the

Victor Bonney medal, for contributions to surgery, specifically for my work on tubal microsurgery. I was awarded the Gold Medal of The Royal Society for the Promotion of Health in 1998 and the Michael Faraday Prize by The Royal Society in 1999. I have won various other prizes for my work in reproductive medicine. I became a Founder Fellow of the Academy of Medical Sciences, in 1998. I have had extensive involvement with the lay media since 1975, publishing and presenting scientific and medical issues to promote the understanding of science and medicine. I was created a Life Peer in 1995.

2. I make this statement in response to the proceedings for malicious falsehood brought by the Plaintiff. Save where appears to the contrary, the facts stated are within my knowledge. Where I refer to matters outside my own knowledge, I identify the source of my information and belief. In the 1980s the infertility clinic at Hammersmith was one of the largest in the world and almost certainly the largest in Britain. The great majority of our infertile patients came then, and still come now, as a result of tertiary referral, in other words from another specialist centre, or from another specialist in the field - very frequently from outside our normal hospital catchment area. Consequently it is fair to estimate that about 95% of the new patients we see have already failed infertility treatment at other centres before attending Hammersmith Hospital. Over many years, the unit has gained a substantial international and national reputation and in the 1980s was seeing and treating between 6,000 to 8,000 patients annually.

3. In 1976, together with Mrs Bull (an old tubal surgery patient of mine) and Lord Soper, I set up a national charity called CHILD which was designed to give support to childless couples and to offer advice both medical and emotional to couples undergoing tubal surgery and other fertility treatments. This organisation produced a newsletter called CHILDCHAT, which contained general medical advice. Pressure of work meant that I became progressively less involved with CHILD, though I remained a trustee, and indeed still am. During the 1980s, some time after Dr Jack Glatt's association with my clinic at Hammersmith ceased (see below), I supported the nomination of Dr Glatt as medical adviser to CHILD and he wrote a fairly regular column of medical advice to the readers of CHILDCHAT. I believe that the editors of CHILDCHAT subsequently were not entirely satisfied with Dr Glatt's input. At the time I was not privy to these concerns, but I have been told recently, by CHILD'S current Chief Executive, Mrs Clare Brown, that this is because he did not always deal punctually with the correspondence from CHILD'S membership and there were a constant number of letters outstanding. I also understand from Mrs Brown that there were in consequence a number of complaints about Dr Glatt from CHILD members.

I was an unpaid medical consultant to CHILD and the extensive advice I gave to inquirers letters had to be authored in my own spare time. I did get very occasional messages from CHILD link volunteers if I could speed some replies but there were only occasional inevitable delays and I am not aware of any significant complaints from CHILD members but would have been made aware given that I was the medical consultant to CHILD.

In or around September 1988, Dr Glatt resigned as medical advisor to CHILD very suddenly. Subsequently Dr David Bromham from Leeds (now deceased) was appointed in his place. Within days of his resignation, CHILD'S committee learnt that Dr Glatt had set up his own support organisation called BABIE, which it was believed had charitable status. It is untrue to suggest that I, as a trustee of CHILD, regarded BABIE as a rival, but both the committee of CHILD (of which I was not a member) and I did feel anxious about Dr Glatt's activities with regard to BABIE. This is because it was learnt that, as part of its activities, BABIE was offering cut price in vitro fertilisation but only to people who had paid its membership fees and then only at Dr Glatt's own clinic. It was felt that, firstly, the standard of IVF offered at a very low price would compromise patients' treatment, and that Dr Glatt would not be a disinterested party in promoting membership to his apparently charitable organisation.

This was my clinic's registered charity support group. Winston purports to express concerns that the very low "cut" prices charged by my clinic would "compromise patient treatment" whereas our clinics had one of the highest success rates (1st or 2nd highest as per HFEA) in the country including that of Hammersmith Hospital and the private clinic in Leeds with which Winston was associated – Allerton Medicare.

I am aware that Mrs Bull left CHILD to join BABIE. I am also aware that Dr Glatt has claimed as part of his case that Mrs Bull left CHILD because she was unhappy with my role and behaviour within CHILD. So far as I am aware Mrs Bull and I had a perfectly friendly and cordial relationship. The extent of my involvement in CHILD

was as a rather inactive trustee. I met with trustees occasionally and attended AGM's at which I would sometimes be invited to speak. The child answerphone was located in Robert Winston's Hammersmith Hospital office for years. His secretary was the chairwoman of CHILD.

Hammersmith Hospital had the first clinic in the UK to set up in vitro fertilisation service (IVF) under the aegis of the National Health Service and the great majority of our patients have received this treatment free and without charge. The mix of NHS and private practice has changed only recently - in the last four years or so - because the NHS has been increasingly reluctant to fund IVF. At the time in question, that is during the time of our association with Dr Glatt in around 1982-85 and until after the transmission of the television programme The Cook Report, we were mostly offering an NHS service. The income from any private work done by any member of the team was paid into a general charity, The Institute of Obstetrics and Gynaecology Trust Fund, and neither I, nor any other team members gained any personal pecuniary advantage from our private work. The majority of our funding came from private work unrelated to IVF and was mainly generated because of our reputation for specialised tubal microsurgery, much of it from overseas nationals. Over 15 years all income from private work was used to fund the NHS and academic sector and well in excess of four or five million pounds has been raised by myself and my colleagues for this purpose. All fees from this work were paid into this fund, and indeed still are.

6. It is difficult to recall events of some twenty years ago. To make things more difficult there are now, as far as I am aware, no staff records available for Hammersmith Hospital during the early 1980s. However, sometime in 1981, or possibly 1980, I was approached by Dr Glatt who was working as a full-time private practitioner in London at, I believe, 147 Harley Street. I knew of him slightly on a personal basis, because he had been a member of my wife's synagogue in Hendon, and he seemed a sensible doctor with sound qualifications, holding the Membership of the Royal College of Physicians (MRCP) and the Membership of the Royal College of Obstetricians & Gynaecologists (MRCOG).

Winston admits to my sound qualifications but then tries to demean them later in his witness statement.

He had an interest in male infertility and artificial insemination by donor. He requested an attachment (an honorary unpaid position) at Hammersmith on a part-time basis. The advantage to Dr Glatt was that he would gain useful postgraduate experience at Hammersmith and status by being associated with a reputed clinic.

I was not interested in the status. I never mentioned my attachment to Hammersmith Hospital in my clinic's brochures or on my clinic letter heading so status was not of any advantage to me.

I never had the slightest interest, training, nor any experience in male infertility whatsoever as Winston well knows so it is extraordinary that Winston repeats this in several parts of his witness statement. I was the opposite -an Obstetrician and Gynaecologist by training. Perhaps he tries to dilute or diminish my gynaecology credentials which is the far more sophisticated and complex component of a couple's infertility investigations and treatment.

The advantage to us was his free services. After consultation with my senior colleague and head of department, Professor Murdoch Elder, and with my closest senior colleague, Mr Raul Margara (now Reader at Hammersmith), we agreed a temporary informal appointment of the kind Dr Glatt wanted.

This was not a temporary appointment – I was there for approximately 3 ½ years. Nor was it informal, Winston's letter of 13th April 1981 [my Evidence 46] makes it clear that he intended a formal application and position. Indeed I had to fill up an application form which I returned to Winston, and also had to complete the appropriate hospital pharmacy process form so that my prescription signature would be accepted by its department as a bona fide member of staff. Approximately 15 years later, during my defamation case investigations, I discovered by direct enquiry from the hospital that they had no record of my tenure. It seems that Winston did not process my forms for reasons best known to himself.

7. Initially he attended some of my out-patient sessions, but most of the time I think he sat in on Dr Wayne Gillett's clinic I am not sure what is meant by sitting in on his clinic. I had my own list of patients., who was then my Senior Registrar. Dr Wayne Gillett remained my Senior Registrar until November

1982, when he then returned to New Zealand to take up a senior academic post at Otago University. This meant that I no longer had a Senior Registrar, and consequently had a vacant consulting room in all my infertility clinics. We therefore decided to allow Dr Glatt to see patients in this "spare" room. The advantage to us was that he was an unpaid pair of hands in our increasingly busy practice; he also had particular interest in male infertility - a field which was not well covered at the time in question at Hammersmith. The arrangement was that he would see infertile males in our clinic and a single session on Wednesday afternoons was granted to him, under my supervision.

Nonsense. Winston was well aware I did not have the slightest interest, experience or training in the highly specialised field of male infertility. This was always covered by another consultant – a urologist – who attended this clinic and specialised in male infertility and it was he who managed the male side of infertility – never me. Male infertility specialists were normally urologists who happened to have an interest in this particular area. My clinic did run a sperm bank merely as part of a wide range of infertility services, and this was under the umbrella of one of my colleagues and our laboratory staff – not me.

Although Dr Glatt did not have formal reproductive medicine training of the sort we would have considered ideal and although he had never held a substantive Senior Registrar (final training) appointment, we were happy to have him as a part-time team member.

There was no formal reproductive medicine training as it was not yet a recognised sub-speciality producing graduates until many years later. I have the MRCP and MRCOG so had very significant qualifications in the field. I am not aware of any private practitioner working as an infertility specialist at the time who had either of these higher specialisation qualifications. I believe that Mr Margara, who was Winston's colleague and right-hand yes man, was remarkably unqualified for his position as he did not possess the MRCOG or other higher UK recognised postgraduate specialisation qualifications, but owed his position entirely to Winston's patronage.

We were, at the time, short of staff and had little to offer in the specific treatment of male infertility. More relevant, we did not run a donor insemination programme and it was felt that his presence would add to the variety of treatments we could offer our patients.

Winston could have obtained donor sperm from any of a number of sperm banks available in London and had no need to rely on my clinic's sperm bank. I did not offer any specialised male infertility personal expertise whatsoever, as explained above. I would have been guilty of gross professional misconduct had I tried to pass myself off as a male infertility specialist in any manner or form.

8. This arrangement continued reasonably well for the first year or so of Dr Glatt's informal part-time appointment. However, my colleagues, Professor Elder and Mr Margara, had some increasing misgivings about Dr Glatt's approach to patients and to his practice at Hammersmith Hospital. I do not precisely recall when but at least one year after he started running a clinic room my colleagues first advised me to reconsider the association with him. There started to be a number of complaints from patients which increased. Some complaints related to the fact that Dr Glatt turned up late for clinics or did not turn up at all. Given the fact that a very large proportion of our patients came long distances to attend for appointments - for example, from Scotland or the West Country - this caused distress.

Winston claims that 'some' complaints related to lateness. There were some occasions in which I may have been late but no more frequently than Winston or Mr Raul Margara. I can recall only one instance when I could not attend at all due to car breakdown earlier that day. Had any of this been of any significance during this first year which Winston describes, then I would not have been permitted to work for another two and a half years in the department.

This inevitably meant that Mr Margara or I had to take those patients into our already crowded clinics, meaning that we both often had to work extremely late to accommodate them. I had also been told that Mr Margara had been telephoned by a private London clinic requesting details of the specialised surgical instruments which Dr Glatt was purportedly using at Hammersmith. As Dr Glatt had never performed an

operation at Hammersmith, this led to an impression that he might be passing himself off as someone with experience of undertaking operations at Hammersmith.

This statement is a mischievous, incomprehensible, non sequitur following a peculiar description of an alleged phone call which makes no sense. It is impossible to understand what Winston is trying to describe.

Dr Glatt had initially shown some interest in possibly undertaking training in specialised microsurgery, he certainly never attended latterly more than one or two of our operating lists - certainly not remotely enough to constitute the detailed training needed for such operations.

I attended at least a dozen such operations.

9. Patients also complained to me about Dr Glatt's manner towards them but complaints of this nature are normal in any clinic, and there was no one really serious incident which I recall. In fact, I was rather supportive of Dr Glatt and felt it would be unjust to ask him to step down without really good cause and when we did not have a replacement practitioner who could offer male infertility treatment. I also liked him personally but was somewhat disappointed that the research projects that he had promised to conduct under our direction never came to fruition. Dr Glatt proposed a number of project ideas but these seemed to us to be of most limited academic merit and we did not follow them up.

Knowingly untrue. I have always been a clinician first and foremost. There was never any question of me being involved in research projects. I have never suggested any project ideas, and the Department never requested this of me. My attachment to the Department was purely a clinical one – i.e. to see patients. Even if I had wished to become involved in a research project this would have been impossible to carry out given my presence in the Department of only three hours once per week. I have never been the slightest bit interested in research and have never carried out research previously or subsequently. Winston's letter 13th April 1980(my Evidence 46) to me regarding the post makes no mention of possible involvement in research. The letter made it clear the post under discussion was a "clinical assistantship" (my underlining).

I continued allowing Dr Glatt access to the Hammersmith patients for about another year until the beginning of 1985, when my colleagues, Professor Elder and Mr Margara in particular, made more forcible suggestions about our discontinuing our honorary arrangement.

Prof Elder, the head of the department, confirmed in a phone conversation with me that he made no such suggestion and was completely unaware of any problems regarding myself. See (my Evidence 44)

10. By 1985, our clinic had changed considerably. The IVF programme we had tentatively started during 1980 was now very successful and we began to take on new staff. At that time we were housed in an inadequate outpatient clinic with very limited space (since demolished and rebuilt) and I was under the greatest pressure to use what space we had more effectively. Moreover, we needed to run the clinic on a more or less daily basis, and it was no longer feasible to offer space to a part-time practitioner on one afternoon a week. The daily basis included regular postcoital tests and ultrasound examinations, as well as more frequent clinics. We were also developing relationships with other, specifically qualified, male fertility specialists who could help constructively with our infertile men.

11. At this time we had been without a substantive Senior Registrar for just over two years. We found a mixture of NHS and departmental funding for a Senior Registrar appointment. Dr Glatt's clinic was, in any event, taking place in a room shared, I think, with the ultrasound facility, which was growing.

There was never a functioning ultrasound machine in the patient consulting room that I had been using.

We had to find a permanent room for the new full-time Senior Registrar, and given the concerns about Dr Glatt in any event, we all therefore felt it was necessary to ask Dr Glatt to discontinue his sessions with us.

12. I wrote to him on 1st February 1985, this letter is exhibited at page 1 of "RWI" to this witness statement to set out the position and I think it is apparent from that letter that it was done on amicable terms and in the

hope of maintaining a good relationship with Dr Glatt. At no time did I voice the concerns about him that my colleagues had raised; I felt that that was unnecessary and merely damaging to him personally.

The letter thanked me for “sterling service” and alleged my notice was secondary to lack of room in the clinic. It is inconceivable that such a thankful letter could have been written had there been any issues of “concerns” grave enough to require giving notice. Elsewhere in his witness statement Winston explains my notice only on the basis of lack of room in the clinic. Also, Winston admits in this current paragraph 12 that no issues of concern were ever personally raised with me; again, it is inconceivable that Winston would dismiss me because of alleged “concerns” without mention, discussion, or notification of the alleged reasons. See Section 13.

I was well aware that Dr Glatt had started to establish an IVF practice, but it is simply untrue to suggest that any of us felt the slightest threat from his being involved with a separate IVF practice elsewhere. There is no substance in the notion that I, or my colleagues, were jealous. For one thing, we were not operating commercially and, for another, we had serious problems being already greatly overburdened with huge demand. Indeed our main problem at this time was long waiting lists and a consequent inability to see and treat all the patients being referred to us.

13. I am aware that Dr Glatt has claimed that I asked him to leave when he told me that he had had his first IVF success. I cannot recall him telling me about any IVF successes during any interview as he claims. Indeed my recollection is that I first heard that he had an established IVF pregnancy at his private clinic from my colleague, Mr Margara, who confirms this memory.

Knowingly dishonest. I went to see Winston for two reasons. Number 1), to apologise for the Sunday Times two page article in which I had been described as the specialist at Hammersmith Hospital whereas Winston had been mentioned, in passing, as merely, “the reader”. Number 2), I informed him of my clinic’s first IVF success. Winston was the first person in the department that I informed of this as he headed the infertility section and I felt duty bound to let him know first as a matter of courtesy. Contrary to Winston’s assertion therefore, Mr Margara was not the first person I had told, with Winston then hearing from him second hand. And it is not logical that I would have apologised to him regarding the newspaper article but not inform him of my clinic’s first IVF success. Both events had occurred within the same week. The chronology is convincing.. 13/01/85 newspaper article [my Evidence 43]; 25/01/85 I wrote a letter to Bob Edwards – the IVF pioneer – to inform him of our success [my Evidence 42]; 01/02/85 Winston wrote his dismissal letter [my Evidence 45]. His denial that I had ever informed him of my IVF success in the meeting is far more important than it might initially sound because 1) it goes to a witness statement dishonesty, and, 2) I believe this dishonesty stems from professional jealousy which is why Winston has gone to remarkable lengths (sections 8,9,10,11,12, and 13) with lengthy, muddled and contradictory explanations for giving me notice despite it having little to do with the matter in hand.

Even if he did so I think I would have found it totally unremarkable because many practitioners were at the time experimenting with IVF and setting up clinics.

There were not that many and most of those were finding it difficult to achieve success. I did so in the unprecedented period of only 7 months, was the first to do so entirely within the independent sector, was the first to open a second centre (Birmingham) and then the first to open a third (Leeds). Our success rates were among the highest in the UK [my Evidences 34 and 35] despite what Winston calls elsewhere in his witness statement our “cut-prices”.

Although I recall that Dr Glatt looked rather crestfallen when he was told that there was no longer any room for him at Hammersmith, we parted amicably. Indeed, for some time afterwards, we referred the occasional patient to him for donor insemination, and for some years continued the purchase of donor sperm from his clinic, for use for those patients at Hammersmith who had totally sterile male partners.

14. I understand that Dr Glatt claims that his "dismissal" was in some way linked to a Sunday Times article of 13th January 1985 in which he was wrongly quoted as a senior figure at our clinic and that I was jealous of this. Dr Glatt claims I was very angry about the article. I do not recall being angry about the article but I do remember being irritated because there was an unwritten rule within the clinic and a clear rule within the hospital, and indeed the medical school, that any junior staff member should get permission from the Director

of Service or a Department Head before making any comments to the press. I would have been concerned that this procedure had not been followed. It is untrue that this article played any serious part in our collective decision to terminate our agreement with him - a decision which had already been taken when it became obvious that we would be able to appoint a Senior Registrar. In any case, from time to time, several members of my team at Hammersmith have been incorrectly credited for sundry advances in the popular press, but I have never regarded such instances as being a threat and have never needed to take action against such team members.

15. Some time after Dr Glatt left his unpaid honorary appointment at Hammersmith, there was a considerable expansion of interest in IVF treatment nationally. Also, in 1986, Mr Enoch Powell MP, introduced his private member's bill: The Unborn Child (Protection) Bill. This Bill, which was eventually defeated through lack of Parliamentary time, presented a most serious threat to IVF practice in Britain with heavy and harsh criticism of the integrity of clinicians doing this work. Had it succeeded, IVF treatment would have been severely curtailed and the internationally recognised research we were doing at Hammersmith on embryology and genetics would have been halted. I became heavily involved in attempts to defeat this bill and to improve the general public profile of infertility treatments, helping to set up PROGRESS, a parliamentary campaign to inform MP's and the press about IVF research and treatment.

16. Subsequent to the defeat of the Powell Bill, Parliamentary activity continued and a series of private members sought to curtail or heavily regulate IVF. In consequence, the Royal College of Obstetricians and Gynaecologists together with the Medical Research Council introduced a voluntary licensing authority (VLA) to which IVF clinics voluntarily submitted. The VLA was chaired by Dame Mary Donaldson and this body inspected and regulated the activities of the various British clinics. I was not a member of the VLA and made no representations to them beyond matters which concerned the conduct of my own clinical practice and clinic. In or around 1988, when it became clear that the Government intended to legislate and regulate this area of medicine, the VLA changed its name to the Interim Licensing Authority (ILA) which continued under the chairmanship of Dame Mary Donaldson. Regular inspections of all clinics continued on a voluntary basis and licences were granted. I recall that at this time, Professor Ian Craft came under some criticism from the ILA because he continued to transfer four embryos during IVF treatment, although the main body of professional opinion felt that this practice risked high order multiple pregnancy. This is important because it produced a flurry of unwelcome and damaging publicity and Professor Craft's clinic was one of those scrutinised by the subsequent Cook Report programme on television.

17. Unsurprisingly the press interest continued. For a considerable time, the Hammersmith had a high public profile and I was frequently called upon for press comment on numerous occasions. In a number of radio, newspaper and television interviews I set out my concerns about some unspecified private clinics in very similar words to those used in my subsequent interview in the Cook Report. This was never done in a spirit of malice but because I, and many other colleagues, were very concerned about the good name of infertility treatment. Moreover, by this time (1989) I was seeing a very substantial number of tertiary referral patients who quite clearly had had highly unsatisfactory or possibly even negligent treatment from several private, and also NHS, clinics. At this time I read at least two papers at major international professional meetings in Britain expressing these concerns, and also at a meeting held at The Royal College of Obstetricians and Gynaecologists. At at least one of these meetings I showed a slide of the highly damaged uterus of the Nigerian woman who had undergone multiple IVF attempts and who I refer to in more detail later in my statement. At these meetings there was never any expression of disagreement about the concerns I was raising.

18. I would say that out of an average daily clinic of 15 - 25 patients, around three or four were patients who had been damaged by inappropriate treatment at private clinics. After the publication of the Government White Paper, the Human Fertilisation and Embryology Act 1990 was passed. The Government set up a regulatory authority (HFEA) with powers to license IVF clinics, and those undertaking donor insemination, as well as to regulate research on human embryos. The HFEA came into being in 1991, under the chairmanship of Sir Colin Campbell, and proceeded to grant licences to practise very much along the lines already established by the I LA. I was never a member of the HFEA, nor an inspector for them. Moreover, I at no time made representations to the HFEA or any of their staff about my concerns about the practice conducted at any specific clinic. So far as I was concerned, the Government had set up a statutory regulatory body

empowered to inspect clinics and it was their job to make appropriate enquiries. In particular, I never made representations about Dr Glatt, his clinics, BABIE (his charitable organisation), or any part of his practice. However, I continued to see an alarming number of patients from many private clinics including clinics run by Dr Glatt whom I considered had received poor treatment.

Like Langton? If he truly thought any of my patients had received poor treatment, then he could easily have queried such alleged management. My clinics' very high success rates could not have been achieved if patients were not managed properly. Winston occasionally wrote to me asking for details of investigations and patients but he never queried any patient's management.

I have a clear memory of this, but at this distance in time, it is no longer possible to identify the specific patients.

19. I do not recall the exact circumstances in which I was contacted by the Cook Report. I think I was telephoned by a researcher, possibly Graeme Thomson, who said that they were making a programme about the exploitation of patients receiving treatment for IVF at private clinics. I do not remember when this contact was made. I believe that I was approached because I had made a number of statements to the media on this theme previously. I am certain that whoever contacted me made no mention of Dr Glatt, although Graeme Thomson may have mentioned to me at a later stage that they were interested in interviewing Dr Glatt. This could have been before or after my own interview was recorded.

I was not asked to be a medical adviser to the Cook Report nor did I perform this role in any sense.

This is a knowingly dishonest claim. The TV programme had no independent medical advisory board but relied entirely on the IVF experts currently familiar with the cases. Evidence from multiple correspondences by the TV programme [Evidence 13] to Winston demonstrate how heavily it relied on Winston for medical advice and to specifically recruit patients for it (see below). He recruited Philippa Langton for the programme, he was the sole source of medical advice regarding this case, and he personally appeared on the programme.

Nor was I in any way involved with the assembly or editing of the programme. Subject to what is set out in paragraph 32, the substantive extent of my involvement with the programme was to give one interview on camera.

According to Dame Mary Donaldson (chairperson of the Interim Licensing Authority and wife of the then Master of the Rolls) the final version of the programme was approved by the medical advisers [my Evidence 22] so Winston cannot claim to be uninvolved with the assembly and editing. Moreover, it is inconceivable that Winston, having recruited the patient himself, provided her with devastating, false information with the knowledge that it was bound to destroy the professional reputation of an ex-colleague of his, and having appeared on the programme himself, would fail to evaluate the final product. It is similarly inconceivable that this investigative programme would fail to require his stamp of approval given their total reliance on their famous media savvy professor Robert Winston in respect of this patient who was so much the star of the show that her clip was rebroadcast for a 2nd time approximately 3 months later as part of the best of the current series of the Cook Report, and then a 3rd time as part of the best of the decade in December 1994.

Similarly, Winston's claim "**the substantive extent of my involvement with the programme was to give one interview on camera**" is knowingly dishonest;-

The programme relied on him to recruit patient and to provide medical advice [Evidence 13] for example; -

- 26th of November 1990 –“ I still require further examples of bad management relating to the clinics we are interested in. Your help in this matter is greatly appreciated.”
-
- 21st of December 1990 – “re patient KC... As she has been a patient of yours, in your opinion is this case worth highlighting? I would be interested in speaking to BC who received gift in Liverpool despite the fact that she had been sterilised, telephone 0214291398. Could you advise me if Philippa Langton's x-rays from the Whittington Hospital confirmed severely uterine abnormality. I still, desperately need more couples who have been badly treated..... I am confident, together we can

make a superb programme that will inform and make all those concerned sit up and take notice, but right now I need couples on camera.” (my underlining).

- 14 November 1990; – “would you be so kind as to take a look at the information enclosed and inform me whether the drug dosage prescribed to Mrs KT seems excessive.

I would be grateful for your comments regarding her clinical management in as far as you can determine from these notes.”

- 29th of November 1990; –“ further to our conversation earlier today, I enclose a verbatim transcription of the treatment received by a Derby patient at the Humana..... Bearing in mind the warnings you gave me I would be obliged if you could contact me after reading these notes with any advice you could proffer.

The one element I know of that would turn this programme around concerns the woman paid £30,000 for infertility treatment when the fact that she hadn't got a uterine cavity meant she was incapable of becoming pregnant that way.

I understand she has consistently refused to talk about her experiences, but can I ask you to approach once more....We could also send a letter routed through your office explaining the programme and our objectives.

Could you please let me know the outcome as soon as possible. Once again, thank you very much for all your help”.

- 31st January 1991; - “To bring you up to date, so far we have a good programme, but not a great one”. I understand she has consistently refused to talk about her experiences, but can I ask you to approach her once more. we could also send a letter routed through your office explaining the programme and our objectives. Could you please let me know the outcome as soon as possible. Once again, thank you very much for all your help.

Please note that after receiving this letter Winston admits in his witness statement that; – “After receiving Graeme Thomson's letter of 31st January I recall that I reluctantly spoke to the Nigerian lady again by telephone,....”. Thus Winston's patient recruitment efforts even extended as far as phoning a patient to try to persuade her to feature on the programme

Accordingly, Winston's claim that he was not a medical advisor in any sense, and that his substantive extent of his involvement was merely to give a single interview, is knowingly dishonest. The evidence shows he was pivotal as advisor to the programme, a patient recruiter, and indispensable in relation to Philippa Langton's case contrary to his witness statement claim. The TV journalists obviously considered him so integral to the programme they even considered it appropriate to offer to write to a patient via his office.

I never met Mr Cook during the making of the programme as all my dealings were with researchers, in particular Mr Thomson. None of the comments I made were given in a spirit of malice and they were truthful. I acted out of a simple concern for the welfare of infertile couples and the good name of fertility treatment in this country. Furthermore, I was not the only medical practitioner or counsellor to voice these concerns in the programme and I do not understand why Dr Glatt has singled me out.

Everything Winston did regarding Philippa Langton was in a spirit of malice and his comments were untruthful, as evidenced beyond reasonable doubt by the relevant defamation case disclosure documents. There was no concern for the welfare of Philippa Langton whose reproductive career he wilfully destroyed over a period of a year. And, as the most prominent and well know infertility specialist in the country, Winston cynically abused his high position to tarnish the good name of fertility treatment in this country.

I would have been concerned about the ethics of commenting on other doctors' patients and wished to comment only on a general basis. I have been shown copies of letters apparently written to me by Mr Thomson and Paul Calverley of the Cook Report dated between 14th November 1990 and 31st January 1991 these are exhibited at pages 2 to 9 of "RW1". In the letters dated 14th and 26th November 1990 Mr Thomson refers to a Mrs Kelli Taylor (apparently a patient of Dr Craft) and asks me for my views on drug doses given to

her and for my comments regarding her clinical management. Mr Thomson wrote that as a result of hyperstimulation Mrs Taylor spent two weeks in a hospital intensive care unit. I have no recollection of Mrs Taylor or her drug dose. In general, however, hyperstimulation is not entirely related to overdoses of drugs but more to do with individual patient idiosyncrasy. I have a vague recollection of talking to Mr Thomson in general terms about hyperstimulation over the telephone, but not about a particular patient.

- The final sentence is a further example of evidence of his role as medical advisor and I note the telephone communications in addition to the written correspondence.

21. In Mr Calverley's letter to me of 29th November he refers to "warnings" given to him by me. I do not remember meeting Mr Calverley but I remember him telephoning me as somebody who was assisting Mr Thomson. After such a long interval of time I do not remember the precise nature of the conversation we had, but the warnings that I gave him would have been to remind him that a patient's recall of events or treatments that she felt were negligent was often very clouded. Infertile patients frequently feel both severe guilt and anger, frequently unjustifiably directed at the doctor they last saw. I believe I also reiterated that my comments on the activities that were under question in the private sector were of a general nature and that I would not be prepared to give specific views about any individual practitioners. I do not think I answered Mr Thomson's letter of 21st December 1990. If I read it I could only have done so belatedly because I was-abroad at the time and did not return to Britain until after the New Year. I do not recall whether he asked for further details of Mrs Philippa Langton's x-rays. As far as I can remember Mr Thomson's persistent enquiries were by this time already a source of some mild irritation. Though I cannot recall and no longer have any record of the date of my interview, I am sure that at this stage I had filmed my interview and considered my involvement as closed.

Winston claims his involvement was closed at this point – ie circa Dec 29th 1990. But he considered it important enough at Langton's first consultation to book a laparoscopy and hysteroscopy procedure to assess her uterus, which was not due until February next year. Therefore he had sent Philippa Langton to the TV programme to voice her complaint only 2 days after having 1st met her, without intending to wait for the results of this operation, as he did not care about the results because he had already taken irrevocable steps to destroy me. This was the only conceivable reason for him now considering his involvement closed.

22. I have seen a copy of Mr Thomson's letter to me dated 31st January 1991. This is exhibited at page 9 of "RW1". Before receiving this letter and before I had been approached by the Cook Report, I had been in touch with the woman who had paid large sums of money for repeated IVF, and who did not have a uterine cavity. This woman was a Nigerian patient living in North West London whom I had seen from a clinic outside London not run by Dr Glatt.

23. Her history was as follows: some years earlier she had had a myomectomy (removal of benign tumours - fibroids, from the uterus), following which she had had very scanty menstruation. This is a standard sign that the uterine cavity may have been compromised by the surgery. The surgeon, who had done this operation at a clinic outside London, then offered her in vitro fertilisation which was repeated many times at the clinic directed by the same surgeon. This surgeon, who was a senior and experienced gynaecologist, should have recognised the likelihood of uterine cavity damage from the symptoms and performed simple investigations such as x-rays or hysteroscopy to evaluate this. He failed to do so. I was in a difficult position because it was quite clear that no treatment could rectify this and get her pregnant. My lengthy conversations in my clinic led me to the view that it was probably likely to be less stressful to her not to encourage doubt about what had happened in previous years.

24. After receiving Graeme Thomson's letter of 31st January I recall that I reluctantly spoke to the Nigerian lady again by telephone, largely because of the very strong pleas in his third paragraph. I attempted to probe very gently whether or not she might wish to take matters further and indeed, possibly speak to the press, because at that time there was a great deal of general interest in the media in fertility treatments and the problems they can cause. During the phone call it was rapidly evident that, after my consultations in the clinic, she had decided to call a halt to further fertility tests or treatment; moreover, she wanted to draw a line under that part of her life • a reaction I commonly see in many women who have undergone repeated failed fertility treatment. As further discussion of the problem would, I felt, have caused further grieving by reopening the bereavement process, I decided that it would be wrong to reopen wounds. I told her that she

should contact my unit at any time if she wished to seek professional counselling and I did not provide any information about her to Mr Thomson.

25. The Cook Report was broadcast on April 16th 1991. The programme was made and broadcast before the HFEA started its regulatory activity; at that time the I LA was still in existence. The programme makers extracted two statements from my interview and broadcast them separately on this programme. My remarks were critical in general of some private clinics. None of them referred to Dr Glatt and indeed I did not have him in mind when I made them. In fact, the clinics mostly in my mind were the Hallam Medical Centre in London and Bourne Hall in Cambridge, both of which were owned and run by the drug company Serono UK Ltd. It was a very real concern to me that a company then having a total monopoly over the drugs needed to stimulate ovaries for IVF treatment should have a commercial interest in the treatment of patients. Equally there had been other private clinics which had caused me concern other than those of Dr Glatt. I was particularly concerned about this because Members of Parliament had already referred to the vested interest of commercial companies in our field, in debate in Westminster. These statements were recorded in Hansard. The comments I made throughout my interview were truthful and substantiated.

Knowingly dishonest. Winston claims that none of his critical TV comments referred to myself and that he did not have me in mind when he made them. But he agreed an out of court defamation case in my favour in 2000 based on exactly the opposite contention.

26. The first comment I made concerned the woman who had repeated embryo transfers into a largely non-existent uterine cavity. This comment referred to the Nigerian patient, whom I mention earlier in my statement, who was living in North West London whom I had seen from a clinic outside London not run by Dr Glatt. I still have a photograph of the x-rays which were taken of this patient and which show that she had no uterine cavity. As I mention earlier in my statement, a slide of this x-ray was shown at medical meetings before my interview for the Cook Report. I certainly did not intend to give the impression that the patient had been treated by Dr Glatt. My quotes were part of a general interview.

Winston knowingly gave the impression that I had been responsible for treating this patient as his comments about this patient on TV were made immediately after featuring myself on the programme. He had seen the finished programme so was aware of this juxtaposition and the effect of this on the average TV viewer who would assume this was my patient. Moreover, even after the programme was broadcast, he writes in his witness statement that he felt quite pleased about what he watched. His malice and intention in so doing is reinforced by his repeating this same patient descriptive scenario and juxtaposition in a letter written to the British Medical Journal within weeks of the first TV broadcast after which transmission he could not have failed to be aware of its effect in this respect [my Evidence 17].

27. Similarly, the second comment I made, about private clinics offering IVF for a multiplicity of causes (implying that other less expensive and demanding treatments were being ignored) is also clearly true. My comment that private clinics employed people who were frequently below standard was also true - indeed, I consider that that statement is still in some cases true, though regulation has very greatly improved this. I was not referring to Dr Glatt - indeed, he of course, was not an employee of a clinic but a director - although I believe he fits the description.

I was not a director, but an employee of my clinic at the time.

I have been shown a copy of Dr Glatt's CV for the years 1970 to 1980 which he submitted as part of his case. It is, in my view, a rather poor CV showing that he spent an eight year period employed as a house officer in various NHS hospitals. It is usual to spend a maximum of 2 years as a house officer, 2 to 4 years as a registrar and 2 years as a senior registrar before becoming a consultant. As I mentioned earlier, Dr Glatt had never held a senior registrar's appointment and I believe he would have found it difficult to gain employment in a good NHS department.

Winston is fully aware of the dishonesty of this assertion. I have double higher postgraduate qualifications – initially the MRCP (Member of the Royal College of Physicians and subsequently the MRCOG (Member of the Royal College of Obstetricians and Gynaecologists). There are only handfuls of practitioners who have managed to achieve this in the UK, but, after spending years of training as an Internal Medicine physician, it required starting all over again with additional years of training to achieve the higher qualification in Obstetrics

and Gynaecology. Separately from this training period I also worked in Jerusalem for approximately 2 ½ years. I never had any difficulty in obtaining good posts within the NHS at first class institutions. Self-evidently Winston would not have accepted me in his own institution, otherwise.

28. The third comment which is attributed to me by Mr Glatt, about the potential for exploitation of childless couples because of their degree of desperation, was actually made by Mr Clements.

I do not know what this third comment refers to or what Winston is trying to say.

29. All the concerns that I had voiced on this programme had been previously voiced publicly by me repeatedly including during my Presidential address to the Fallopius International Society, Puerto Rico, February 1987, "The choice of treatments in tubal disease"; The Annual Meeting of the London Jewish Medical Society, May 1988, "Controversies in the treatment of the infertile couple"; my keynote lecture to the National Association for the Childless, Birmingham, September 1988; my keynote lecture to the Federation of International Gynaecologists and Obstetricians World Congress, Rio de Janeiro, Brazil, October 1988 "Why is the treatment of infertility so inadequate?"; my Keynote address to the British Fertility Society Annual Meeting, London, December 1988, "Is the diagnosis of unexplained infertility justified?"; and to the British Congress of Obstetrics and Gynaecology, London, July 1989, "Unexplained infertility: a model for infertility management"; and to a BMA overseas meeting in a plenary lecture, Xth ANZCOG Meeting, in Queenstown, New Zealand, February 1991.

30. Before my interview, I had never watched the Cook Report on television. I had heard it on the radio and thought it a well-made and hard-hitting programme. I have a vague recollection of being quite pleased with the interview I gave, particularly the points I made regarding regulation and about IVF clinics offering IVF for a multiplicity of causes when there might be other, more appropriate, treatments.

The Cook Reports general ethos is to unfrock criminals, gangsters, tricksters, fraudsters, drug runners, swindlers, cowboy builders, hoodlums, rip off merchants, etc., in the name of good TV entertainment. I note that Winston felt quite pleased with his involvement.

31. I did not mention to the Cook Report that Dr Glatt had worked at Hammersmith, because I did not think it relevant.

This a knowingly dishonest statement. The fact that we had worked together was highly relevant. Winston used the programme to try to destroy an ex-colleague's career. Had the TV programme known that we had previously worked together for 3 ½ years it would have immediately smelt an extremely large rat. The relevance was clear. His failure to reveal our association was a deliberate act of concealment.

Dr Glatt had left the clinic six years previously and obviously a huge number of staff, including a very large number of clinical fellows on honorary attachments, had passed through the clinic before and subsequently. Had I known that Dr Glatt was to be featured in the programme in the way he was, I might have thought it relevant to raise the fact that we had worked together.

Knowingly dishonest. But Winston knew that I was to be featured in the programme. He had directed the patient only two days after her first consultation with him to complain to the TV programme for which he acted as medical adviser after priming her with false information which he knew would utterly destroy my reproductive medicine career. He had received repeated communications from the TV programme asking for his evidences – which he never provided. He previewed the final draft of the broadcast according to Dame Mary Donaldson. Accordingly he knew full well I **"was to be featured on the programme in the way he was"**. He subsequently kept our mutual association secret from the programme even after the broadcast. The programme discovered the association only after I revealed it in my subsequent complaint to the Broadcasting Complaints Commission. See Central Independent Television letter 22nd July 1991 [Evidence 25]

32. The background to my contact with Mrs Philippa Langton is as follows: she was originally referred to me under the National Health Service by her GP, Dr Sharpey-Schafer on 23rd October 1990. I understand that it had been suggested to her some years earlier, in 1987, by doctors at The Royal Northern Hospital, that she might seek our advice at Hammersmith, but she had elected to attend Dr Glatt's clinic because she had heard

of a very long waiting list at Hammersmith Hospital. I saw her at her first attendance on 13th November 1990. At that point, the majority of the clinics I gave were observed by visitors; normally visiting doctors from other hospitals or from abroad. We usually had between four to sometimes more than ten postgraduates on long or short term attachments to the unit - and most of these personnel wanted to be accommodated part of the time in clinics. In addition, occasionally, writers who were researching pieces for infertility asked to sit in on a clinic and we did nothing to discourage this because it heightened public awareness of the plight of the infertile who were poorly supported in the NHS. In all cases, the patient would be asked for consent, and if there was an objection, the visitor would be excluded. Given the nature of Graeme Thomson's research, I arranged for him to attend a normal clinic on a date which was mutually convenient. This by chance happened to be the clinic which Philippa Langton attended.

This is a blatantly dishonest claim. It was not by chance. The programme had asked him to recruit patients. The normal waiting list to be seen for infertility under the NHS at Hammersmith Hospital was approximately 3-4 years. This patient was seen only a matter of weeks after her last miscarriage following IVF at my infertility clinic. Under these circumstances and the presence of a TV journalist during this patient's first consultation this could only have been pre-planned and arranged by Winston. The clandestine nature of his attendance is all the more apparent when Philippa Langton reveals in her witness statement that she was never introduced to the journalist and he never spoke a word throughout her first consultation with Winston. She states she did not know of his identity until a later date. The whole visit was a setup and the subsequent chain of events demonstrate the reason why Winston embarked on it.

I understand that she says that it was not explained to her properly at the time that Graeme Thomson was a journalist. I can only say that I am horrified to hear this as it is normally my invariable practice that I or my secretary would warn patients and ask if they object and I would normally introduce the visitor to the patient in the consulting room and again, ask if there was any objection. Patients sometimes do object and the visitor then leaves. In Mrs Langton's case, there must have been a regrettable misunderstanding.

There was no misunderstanding – see above.

Philippa Langton gave a history of seven IVF attempts with Dr Glatt with three early miscarriages. Her GP's referral letter said that she had a small T-shaped uterus, which had been diagnosed on X-ray in December 1986. T-shaped uterus is a serious clinical condition because it is associated with intractable infertility in many cases, or recurrent miscarriage, or a higher than average chance of ectopic pregnancy. I had assumed until recently, when I was shown a copy of the Royal Northern Hospital's referral letter to Dr Glatt, that this would have contained the same information about the T-shaped uterus. I now see that it did not and I find that surprising.

The referral letter was from Mr Trevor Dutt who was a consultant obstetrician and gynaecologist at the Royal Northern Hospital and who had a special interest in infertility and ran an infertility clinic at the hospital. A 'T'-shaped uterine cavity is merely a description of no practical relevance unless both of a significant degree and also due to the administration of the mother of the affected patient during her pregnancy with diethylstilbestrol as this causes an exaggerated T-shaped uterine cavity as a teratogenic type effect. This was obviously not the case with Philippa Langton which is why Trevor Dutt, in his own witness statement, explained that he did not bother to mention such in his referral letter to my clinic requesting IVF for the patient. Winston would have known that the T-shape was irrelevant because he knew Trevor Dutt had continued to give Philippa Langton a trial of fertility drugs following his investigations which he would not have done otherwise. Winston did not bother to request a copy of Trevor Dutt's x-ray which would have revealed the insignificance of the T-shape cavity. Extraordinarily, Winston did not contact Trevor Dutt until phoning him after the first broadcast. In that telephone conversation Winston did not try to allege a T-shaped cavity or a congenital uterine septum but that Philippa Langton's problem was related to adhesions inside the uterus. Winston asked for a copy of Trevor Dutt's x-ray and in return promised to provide Trevor Dutt with his own, but, tellingly, failed to keep his promise. Winston's own hand-written note at the time of the first consultation made no allegation of a 'T'-shaped uterine cavity. Nor does he mention it in the medical record at any time throughout his management of Philippa Langton over a period of approximately one year. Nor is it mentioned in any correspondence back to the GP. It is evident that Winston knew it not to be of any significance and the three subsequent tests of the uterus at Hammersmith Hospital did not diagnose a T-shaped uterine cavity including his own secret uterine X-ray. Nor did the hysteroscopy at my clinic.

33. In a letter of complaint dated 16 July 1991 to the Broadcasting Complaints Commission about the Cook Report programme, Dr Glatt stated that one of his colleagues had performed a hysteroscopy in order to inspect Mrs Langton's uterine cavity under direct vision. I have now seen a copy of the notes resulting from this hysteroscopy which states that it was an easy procedure and that the uterine cavity was smooth with no polyps or adhesions. No abnormalities are recorded. This is now exhibited at page 11 of "RW1". Mrs Langton told me at her first attendance that a Dr Morcos (I think) performed the hysteroscopy in Dr Glatt's absence....

The fact that I was not present at the hysteroscopy does not mean that I was absent from the clinic which is what Winston's comment appears to imply.

.....and that it was done without any anaesthesia. This procedure was extremely painful (she described writhing in pain) and resulted in a degree of collapse immediately afterwards. In my view a diagnostic hysteroscopy under such circumstances without anaesthesia, 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 have been the case here.

Simple hysteroscopies are often carried out without general anaesthetic.

Winston cannot have honest belief in his claim that "it is very likely the significant abnormalities would be missed". He has seen a copy of the notes which are far more detailed than either of the two hysteroscopies performed by his colleague Mr Margara and subsequently by himself. Moreover it is apparent he has deliberately selectively edited the description which says it all. It reads as follows (quote from my IAC colleague Dr Morcos who wrote; – "day 8 (of the menstrual cycle). Easy procedure. Cervical canal normal in length. Vasculature. No polyp. No abn. (abnormal) angulation. Uterine cavity smooth. No polyp. No adhesion. Ostia Rt ticked Left ticked (ticked to indicate that they were identified). Endometrium ticked (indicating that the lining of the room looked healthy)".

This description is very detailed. It clearly rules out uterine adhesions and the presence of a congenital uterine septum. Furthermore, the absence of abnormal angulation confirms the absence of a septum and of any abnormal contours which might suggest a T-shaped cavity. Please note that no mention is made of any degree of collapse subsequently and I would like to emphasise that the operator, even if there was a degree of pain, described having obtained a good view in the face of which it is not feasible for Winston to have an honest belief that **"it is very likely the significant abnormalities would be missed, as appears to have been the case here."** It is the very fact that the operator documented he had obtained a good view, is the central defining key to the validity of the hysteroscopy findings.

34. Mrs Langton's uterus was measured for length using ultrasound. This is fine as far as it goes, but of course ultrasonic investigation of the uterus was then an extremely poor way of assessing whether or not there is a uterine abnormality. In my view, the assessment of Mrs Langton's uterus was at best incompetent and at worst less than a patient might justifiably expect given the expected expertise of a specialised infertility clinic.

This is a knowingly disgraceful and dishonest assertion of incompetence. Winston is very well aware that the whole purpose of measuring the uterus for length with ultrasound is solely to assess how far up the uterine canal to subsequently pass a catheter during embryo transfer in order for it not to hit the top of the uterus and traumatise it so jeopardising successful implantation. It is ludicrous to suggest it is a method of assessing for uterine abnormality and he knows this is not the reason why the uterine ultrasound was done. Moreover, the reason for our clinic assessing the length of the uterine cavity was fully explained in my original complaint to the Broadcasting Complaints Commission approximately eight years previously so is well known to Winston as I provided the same explanation to the near identical fatuous comment Winston had made at that time to the BCC.

Whilst it may be acceptable to offer IVF to a patient knowing her uterus is abnormal, in my view this is not defensible unless the patient clearly understands that her chance of any successful pregnancy is reduced and that her chance of miscarriage or ectopic pregnancy is increased. Mrs Langton told me that she was not warned about this at all at Dr Glatt's clinic, nor had there been an attempt to investigate as to the cause of her miscarriages.

None of this patients uterine tests prior to the broadcast ever documented significant uterine abnormality including those at Hammersmith Hospital.

Mrs Langton told me that she had made repeated requests at Dr Glatt's clinic for an investigation into the cause of the miscarriages.

The long established fertility convention is that multiple miscarriages are not routinely investigated until after the third one for very good reasons. Had Winston bothered to contact me or my clinic prior to directing Philippa Langton to the Cook Report programme, he would have discovered that this couple had a consultation with me that lasted at least half an hour in which multiple miscarriages were discussed and I advised that, should she experience 3rd miscarriage, she should be referred for chromosomal and immunologic studies to rule out these abnormalities. This is documented in the contemporaneous notes and in the subsequent letter to her GP. Moreover, immediately my clinic discovered she had experienced the third miscarriage on ultrasound scanning, the clinic wrote to her GP to confirming that the foetus be sent for chromosomal analysis and that Philippa Langton and her partner should have chromosomal studies. [my Evidence 02].

35. After my initial consultation with Mrs Langton and because of the apparently abnormal uterus I arranged a second x-ray. The x-ray showed an indentation at the top of the uterus which looked as if it might be a septum, or division coming down into the uterus, which is very likely to be a congenital abnormality (by which I mean an abnormality present from birth). There was also a suggestion of some adhesions lower down in the uterus. These were taken on 15th November 1990. It was clear that there was no realistic chance of Mrs Langton sustaining a pregnancy with her uterus in that condition, which to me indicated a congenital abnormality. The issue was whether any further action could be taken in order to make the uterus fit for IVF. It follows from what I am saying that in the light of the referral letter from the GP which made it clear that it had been known as long ago as 1986 that Ms Langton had an abnormal uterus, I was, to put it mildly, surprised that she had undergone seven IVF attempts by Dr Glatt. I first conveyed the information to Philippa Langton that I was most concerned about the state of her uterus after I had performed the hysterosalpingogram and inspected the photographs - it would be my usual practice to show the freshly dried photographs to the patient and explain the findings immediately.

The above section is knowingly dishonest and deceitful.

Note the word "apparently" in the first sentence and note the word "might" in the second. "might be a septum". "might???? What does Winston mean, "might"?"

I belatedly complained to the then Broadcasting Complaints Commission after the broadcast. This complaint resulted in Winston being called to account in a letter by the broadcaster 3 months later. Within the same week of receipt of this letter Winston falsified the Hammersmith Hospital medical record to claim in his own handwriting the presence of a uterine septum without any explanation or reference to any uterine test showing this, in the following manner;- **"28/7/91. Worth trying to remove septum. Get in Day case hysteroscopy by RW for resection in September. If we can get uterus normal may be worth NHS IVF attempt November 1991...."** His falsification appears in the record 'out of the blue' approximately 6 months after Philippa had last attended or any other entry. His entry in the notes is dated on a Sunday when no clinics or outpatient interactions take place. The very next day Winston then wrote a 5 page vitriolic diatribe in reply to the broadcaster having called him to account. It contained a single sentence claiming the "septum" without any explanation of how this diagnosis was made. This sentence, and Winson's hospital note, are the only two mentions of this alleged, false, uterine septum diagnosis in any record or document in existence. This is even more relevant given that his falsified entry into the medical record is manufactured 6 months after the immediately prior entry which relates to the laparoscopy and hysteroscopy performed by Winston's consultant colleague (Mr Margara) which did not describe any significant intrauterine problems, whatsoever. It is important to note the following;- the X-ray which Winston refers to was a "secret" X-ray. It was performed only two days after his first consultation. In his 1st Hammersmith consultation notes Winston documented that he intended to arrange a laparoscopy and hysteroscopy under the NHS. Indeed, this was performed several months later by Mr Margara, prior to the first broadcast. However, no mention is made of his intention to personally perform the uterine X-ray only two days after his 1st consultation at a small private hospital (the Royal Masonic) instead of using the modern, 1st class, free radiological facilities at his Hammersmith Hospital.

This enabled Winston to keep his X-ray, and its true results, completely “secret”. The GP was never informed of his intention to perform the X-ray, nor of the results at any time and no mention is ever made of it, or its results, in the Hammersmith Hospital record nor any other medical record. Yet, Winston thought it more appropriate to direct the patient to the Cook Report programme with which he was already heavily associated to complain that I must have known all the time that the uterus could not sustain a pregnancy as it was “badly deformed” and she had been ripped off. More extraordinarily, he now allegedly based his verbal advice to her, according to this witness statement, on the fact that there “might” be a septum according to his “secret” X-ray. Even more extraordinarily, he admits in his witness statement, when he did bother to contact Mr Trevor Dutt following the first broadcast to belatedly obtain a copy of Mr Dutt’s original uterine X-ray, that this did not show a congenital uterine septum at all. Note that Winston does not clearly state that he told Philippa Langton she had a congenital uterine septum. He merely informed her she had an “abnormally deformed” uterus according to her witness statement. Accordingly, Philippa Langton describes an abnormally deformed uterus in her TV interview but does not allege a uterine septum. The contemporaneous notes of the journalist [Evidence 12] present during Langton’s first consultation similarly describes Winston asserting a “severely deformed” uterus but does not specifically mention a congenital uterine septum either. Importantly, the only independent expert radiological report on Winston’s uterine x-ray does not confirm the presence of a uterine septum nor congenital abnormality, and confirms that the uterus in Trevor Dutt’s initial uterine X-rays was normal.

The dictum in the practice of medicine is that if it is not written down it has not happened or does not exist. The same is true in legal practice. There is not a single independent test result relating to any of the 4 uterine tests that Philippa has ever had which demonstrates or mentions a uterine septum let alone a congenital abnormality (the latter is a very vague phrase). Accordingly, she does not have one. Thus, Winston’s assertion that he believed Philippa Langton had a uterine septum or, for that matter, any sort of meaningful congenital abnormality is a panicked invention made after his being called to account. Furthermore, had Winston honestly believed Philippa Langton had a uterine septum or other congenital abnormality of such significance that it prevented successful pregnancy then he would have been professionally bound to inform her GP immediately, and obliged to inform Mr Trevor Dutt and myself. There is no septum and not even a “might”. One last thing. Winston foisted on Philippa an operation to resect her so called septum. But Winston’s subsequent hysteroscopy operation notes made no mention of the septum! Instead, he claimed (only his eyes down the fiberoptic operating hysteroscope) the uterine cavity was near obliterated by adhesions despite none of Philippa’s 4 previous uterine tests showing any such problem. Winston makes no attempt in his operation record to explain the extraordinary change in diagnosis. However, he must have realised that my interim evidences to the Broadcasting Complaints Commission made it clear that his septum claim was unsustainable.

36. I understand that Philippa Langton has described me as looking angry when discussing the condition of her uterus with her. I do not remember this, but it is possible. The reason would have been that I was confronted with a woman who was then at the end of her reproductive life. Fertility halves in women during the ages of 36-39, and by the age of 42 a half of all women are infertile. The fact that the abnormalities which I diagnosed in Philippa Langton's uterus had not been addressed undoubtedly reduced her chances of successful IVF.

Note the description “abnormalities” but not specifically of a uterine septum.

Although I have no recollection at all of the conversation, I believe it would have been at this point, or shortly afterwards at Graeme Thomson's request that I would have asked Philippa Langton whether she was prepared to speak to him as part of his research for The Cook Report.

Philippa Langton’s witness statement [Evidence 12] states it was at this point he directed her to the Cook Report programme; that is only 2 days after the first consultation with Winston, immediately after personally performing the uterine X-ray (hysterosalpinogram, often abbreviated to HSG).

37. Subsequently, my secretary arranged for her to be admitted for a second hysteroscopy and laparoscopy to inspect the uterus properly under general anaesthetic. This was done on an NHS basis on 18th February 1991 by my colleague Mr Margara. I refer to "RW2" which are Philippa Langton's notes. However, I note that

his notes state that the "horns" were very prominent. This is another way of saying that the congenital abnormality which I felt I observed on the x-ray was present.

No it doesn't. This is a knowingly dishonest, absurd invention. Winston did not describe prominent horns in his secret uterine X-ray. Mr Margara merely described the appearance of the uterine horns [Evidence 11] during his hysteroscopy (together with laparoscopy) but I know of no association of this description with any specific congenital abnormality or any significant uterine pathology. It has no more relevance than my describing someone as having, say, a prominent nose. I note that Winston again uses the word "abnormality" instead of asserting a congenital uterine septum but even so does he not attempt to explain how it relates to prominent uterine horns, which it does not. Immediately after the description of the uterine horns the surgeon – Mr Margara - Winston's colleague - writes describing the uterine cavity quite unequivocally as "all else normal". That means what is says. There was no mention of congenital uterine septum or intrauterine adhesions.

The notes state on 18th February 1991, "plan - poorly developed uterus? further IVF attempt, but high risk of further miscarriage". All of this is consistent with the diagnosis which we had made of a congenital abnormality

The words "**poorly developed uterus**" are written in such a way in terms of position in the notes and handwriting style as to appear as a curious addition written some time after the actual contemporaneous operation report. There is nothing in the operation report itself to describe, or even suggest, a poorly developed uterus and the diagram drawn of the uterus in the operation notes is that of a normal womb appearance. Nowhere in this apparent addendum is an explanation as to what "poorly developed" means. It is a meaningless expression if not explained, but, despite this, the discharge letter to the GP makes it clear that irrespective of this allegation the Hospital was considering putting the patient into its own IVF programme. No claim was made that operative correction was necessary prior to doing so. Had any operative procedure been required beforehand, then the contemporaneous notes would have documented this, and the GP informed in the discharge letter.

"**A congenital abnormality**"? - there is no mention of such in any part of the operation notes and the meaning of the expression "poorly developed" is not explained. See above.

Of Perversion of the Course of Justice- Part 1 of 2;-

Follow up was by my junior colleague Dr Coulter-Smith and by Mr Margara, but I did not see her again until 28th July 1991 when I considered we ought to try to repair the uterus at a further operative hysteroscopy.

The notes state "worth trying to remove septum ... if we can get uterus normal, may be worth NHS IVF attempt in November 1991". Once again, this is consistent with my diagnosis of a congenital abnormality.

Re Alleged Congenital Uterine Septum

22nd July 1991 Central Independent Television wrote to Winston during the week before the above entry in the Hammersmith Hospital notes; –

"as you will have noticed from the Broadcasting Complaints Commission letter from Dr Glatt, he outlines his clinical management of Philippa Langton and attacks yourself with regard to your involvement in the Allerton Medicare unit in Leeds and his own employment in your unit in 1983/84.

I now as a matter of urgency have to draft a reply to his specific allegations and for this I need your help.

If you would be kind enough to put in writing your clinical management of Philippa to date – your assessment of the uterus and what tests brought you to your conclusion much in the same clinical format that Dr Glatt is done – explain why the letter from her GP suggested there was a problem with the uterus and why Dr Glatt should have realised she had a deformed and damaged uterus prior to and during treatment.

It is important that we see this one off at the pass as a ruling against Central TV could open the way for legal action. We have a strong case in Philippa which I with your help need to articulate in the medical sense.....

A spirited defence I am confident will resolve this matter quickly.”

28th July 1991

Winston’s hand written Hammersmith Hospital subsequent entry; –

“worth trying to remove septum.

Get in Day case hysteroscopy by RW for resection in September.

If we can get uterus normal may be worth NHS IVF attempt November 1991.

Trying to adopt in Islington.”

Winston’s handwritten entry is the only mention of a uterine septum in the whole of the Hammersmith Hospital record or any record elsewhere. No explanation is given for this diagnosis, or for its derivation as no test to date in any medical record has mentioned a congenital uterine septum. This first time assertion is an invention. Winston’s entry in the notes suddenly appears out of the blue given that there has been no hospital visit, test, or patient interaction of any sort since the laparoscopy and hysteroscopy which was performed almost 6 months previously. Nor is there any convincing evidence that Philippa Langton was present at the time as no mention is made in the notes of her presence, any discussion with her about the diagnosis or of the need for an operation, nor of her agreement to it. Moreover, the 28th July 1991 is a Sunday, when no hospital clinics operate. No letter was sent to the GP to document a patient visit or his plan to perform resection of a newly alleged septum. Philippa Langton makes no reference to this in her witness statement.

Accordingly, this first time- and only time - assertion of a uterine septum, and Winston’s entry in the notes, represents falsification of the medical record in response to the request for a “spirited defence”. The septum was a ruse invented to avoid the possible threat of legal action that he had just learned of, and to justify the letter he planned to send the following day.

29th July 1991

Winston replies to Central Independent Television the day following the above entry with a five page highly vitriolic, personal diatribe against me [my Evidence 21] in which he incorporated only one single sentence in actual response to Central Independent Television’s request of 22 July. This sentence alleged the presence of a uterine septum without explanation, evidence or answering in the manner required by Central Independent Television. Despite presenting this alleged diagnosis to the TV company the alleged diagnosis is kept secret from the GP, as is the subsequent planned operation.

Summary

Perversion of the Course of Justice is evident through Winston falsifying the medical record in his own hand by purporting the presence of a uterine septum without any evidence whatsoever of such. He did so because he had been warned by the TV company only a few days previously, about the probability of legal action ensuing in the absence of an explanation of his allegation that the patient’s uterus could not sustain a pregnancy, and that Dr Glatt must have known about it all the time. He therefore falsified the record, and then replied to the TV company with his false diagnosis. The whole sequence of events took place within the same week. There had been no patient interaction for the previous ½ year to explain this sudden entry into the notes.

Of Perversion of the Course of Justice – Part 2;-

I performed the operation on 12th September 1991 warning Mrs Langton I was pessimistic about the chances, but that IVF might be worth considering afterwards if we could improve things. The operation notes state "largely tube-like uterus ... cavity enlarged approximately 3 times ... would be worth repetition but with laparoscopy".

However, according to Winston's own hand-written note of 28th July the operation booked for 12 September was booked/planned for the resection (operative removal) of the alleged congenital uterine septum. But this was not the operation that was performed. The September operation report shows there was no confirmation nor mention of a uterine septum, let alone its resection.

Instead, Winston now alleges the presence of uterine adhesions so dense that the uterine cavity had been obliterated to 1/3 of its normal size and he restored the cavity by removing the adhesions in an operation called division of uterine synechae (adhesions). Winston gives no explanation in his operation notes, nor in his witness statement, for the sudden change of diagnosis despite all the previous x-rays and hysteroscopies failing to demonstrate significant intrauterine adhesions.

Summary

Further perversion of the course of justice is evident by repeat falsification of the medical record. Winston purported in this 2nd operation the removal of dense uterine adhesions for which there was no previous evidence instead of performing a uterine septum resection which had been the alleged reason for embarking upon the operation. The dramatic change in diagnosis suddenly made during this operation is, beyond all reasonable doubt, because Winston had become aware in the interim of my evidence to the Broadcasting Complaints Commission showing the impossibility of his previous assertion of a uterine septum as, being a congenital condition, it would have been diagnosed on all her previous uterine tests.

Essentially, I was trying to enlarge the uterus to make the prospects of IVF worthwhile. However, on 5th December 1991 Mrs Langton wrote to me saying she had decided not carry on with further treatment. In her letter she stated "I have spent a good deal of emotional and physical energy over the past ten years attempting to have a baby of my own. In lots of ways I had started to withdraw from this experience last Spring .. I am desperate to gain control over this part of my life". In ending her letter she thanked me for my "kindness and concern" and asked to be remembered to my secretary, Josie, who had dealt with her by phone on several occasions.

Winston had destroyed this patient's reproductive career.

Of Winston's Liability for Assault or Battery

Winston is liable for assault battery as the patient's consent form for her 12th September operation must have been signed under false pretences. He booked her for resection of a uterine septum when this was never the case. Moreover, Winston purportedly performed a different operation for alleged removal of intense uterine adhesions when this was never the case as no previous investigations had demonstrated this.

38. I am aware that Dr Glatt has claimed as part of his case that I should have contacted him before treating Mrs Langton to determine what treatment she had received at his clinic. I am also aware that he has stated that during his time at Hammersmith Hospital I insisted that information be obtained in respect of patients' previous IVF attempts and laparoscopies. He has also stated that I required details of hysterosalpingograms performed on any patients so that copies of the actual x-ray files would be forwarded to Hammersmith. It is my practice to seek further information from practitioners in cases where the patients are themselves are unable to provide details or where they are not clear about the treatment they have received. In Mrs Langton's case, I had received a referral letter summarising her treatment from her GP and I considered her to be an articulate patient who was able to provide satisfactory details of her past treatment.

Patient's recall of past treatments or investigations are not necessarily reliable. It must have been evident to Winston that she was in no position to recall or describe the medical results of my clinic's hysteroscopy from a medical point of view, so Winston was not able to get satisfactory details of her past treatment. Winston's 1st consultation notes make no mention of my clinic's hysteroscopy and he therefore made no attempt to evaluate

it. Prior to embarking upon actions which were sure to destroy the reproductive medicine career of an ex-colleague of his it was obviously essential to contact his ex-colleague to obtain relevant first-hand information and to discuss important aspects of patient management. Instead, Winston preferred a star-chamber inquisition approach as I had no idea who my accuser was given the programme researchers refusal to divulge this information, stating that their medical adviser (Winston) insisted he remain anonymous. Accordingly, I answered the questions posed by the journalist during the weeks leading up to the 1st broadcast which questions they explained had been demanded by their anonymous medical adviser but, in return, I never received any direct or indirect response to my answers from my unknown accuser via the programme researchers. I did not discover Winston was my secret accuser until I complained to the Broadcasting Complaints Commission several months after the 1st broadcast.

Winston also states that he required copies of the actual hysterosalpingograms (uterine X-rays) on any of his referred patients (as opposed to a written report), but he did not do so with Langton. The GP was in no position to describe the X-rays properly as he had not seen them herself, and there was no official expert radiologist report. Winston could not possibly have been able to evaluate the GP's third hand, indirect description in any meaningful way.

Extraordinarily, Winston phoned Mr Trevor Dutt to obtain copies of his uterine X-rays of Philippa Langton shortly after the broadcast, but not before. No explanation has been provided for this.

I then conducted x-rays and the hysterosalpinogram to establish a diagnosis before even attempting IVF on Mrs Langton. It had become my practice in cases where I was concerned that there might be a uterine defect to take the x-rays myself on a high resolution machine at The Royal Masonic Hospital. In this way, I could ensure high quality x-rays at the angles necessary to assist the diagnosis.

No. This is a knowingly dishonest explanation for not performing a straightforward X-ray at Hammersmith Hospital where Philippa Langton had otherwise been treated under the NHS throughout. It is inconceivable that the world famous Hammersmith Hospital, containing what Winston claims in his witness statement to be the largest infertility facility in Europe, had X-ray facilities so substandard that he felt obliged to perform his patient's uterine X-rays personally at a small private hospital (Royal Masonic) despite his patient otherwise being managed by him entirely within the NHS. This was a manoeuvre designed to ensure that his performance of the X-ray, and the results of it, would be kept secret from the Hammersmith Hospital medical records and the GP. The existence of Winston's X-rays was not revealed by Winston in his initial disclosure documents, but the details/pictures were specifically requisitioned at a much later date when its existence was discovered by my legal team following references to it in Philippa Langton's witness statement and the journalist's contemporaneous notes [Evidence 12].

This is what I did in Mrs Langton's case. This made it unnecessary to send for the earlier records or to contact Dr Glatt since I had carried out my own investigations. In the event, all of the treatment Philippa Langton received at the Hammersmith Hospital was directed at trying to create conditions in her uterus to enable IVF to go ahead. As it happened, she terminated the treatment voluntarily before any IVF was attempted.

This is knowingly dishonest. It was absolutely necessary to send for the earlier records and to contact me prior to taking irrevocable steps to ruin the reproductive medicine career of an ex-colleague. The only test he had performed to date according to the above chronology was the secret uterine X-ray concerning which did not reveal significant pathology. In fact, it is standard practice for a second opinion practitioner to always request relevant information, records, test results, etc., from the initial practitioner.

An impartial observer would conclude Philippa Langton "terminated the treatment" because Winston destroyed this patient's reproductive career by deliberately mismanaging her investigations, lying to her about her diagnoses, and not offering her any fertility treatment during the 12 months that she was under his care. Note that Miss Heulwen Morgan, a consultant gynaecologist with a special interest in infertility had written to the GP only 1 day before Winston's appointment with Philippa Langton to advise the answer to this patient's infertility problems was to continue with IVF [Evidence 47].

"..... since I had carried out my own investigations". But Winston falsified the results.

“In the event, all of the treatment Philippa Langton received at the Hammersmith Hospital was directed at trying to create conditions in her uterus to enable IVF to go ahead.” This is knowingly dishonest. His uterine X-ray was performed in secret and was directed at providing false information for the TV programme so that he could destroy my professional and personal reputation. Winston’s personal hysteroscopy was repeated only 6 months after his own colleague’s (Mr Margara’s) hysteroscopy for no other purpose than to falsify the medical record in order to avoid legal action. Winston wasted 1 yr of Philippa Langton’s reproductive life when every month counted. Winston never tried to create conditions in her uterus to enable IVF to go ahead, at any time.

Furthermore,

According to Philippa Langton’s witness statement, Winston told her after his personally performed hysteroscopy operation that she would require up to 5 further uterine operations prior to considering IVF treatment. This must have been a terrifying prospect based entirely on Winston’s falsification of the medical record which would not, in any event, have justified this appalling treatment plan especially given Langton’s advanced reproductive age (40 years). It appears to have been designed to ensure that Philippa Langton would remain under Winston’s wing until she exhausted any realistic chances of successful pregnancy. In this manner, Philippa Langton would have been most unlikely to be in a position to seek yet a third opinion who would then discover the enormity of what Winston had done. Tellingly, Winston’s future operative intentions in this respect was kept hidden from the notes and from the GP as there is no record of it other than Philippa Langton’s witness statement. The court would accept this explanation beyond reasonable doubt as there is no other reasonable explanation for this drastic, unjustifiable treatment plan.

39. As I then ran a large practice with minimal secretarial support, it was not the most sensible use of resources to obtain previous records in respect of every patient. It is true that during Dr Glatt's time at Hammersmith, I did ask that information regarding previous IVF attempts and laparoscopies be obtained from previous practitioners. However, given the volume of patients we began to see this rule was relaxed although I do still occasionally call for copies of x-rays as I did in the case of Mrs Langton. I see from the notes that on 22nd April 1991, Mr Dutt at Royal Northern Hospital forwarded me some x-rays of his investigation of Philippa Langton's uterus in 1986. I only have a recollection of seeing one. However, I have now been shown several x-rays from 1986 taken at the Royal Northern Hospital. These show a markedly T-shaped uterus with a narrow fundus and only a clear right tube. The adhesions which are visible lower down in the 1990 x-ray are not present, but neither is the septum diagnosed by me and by Mr Margara. There are two obvious explanations for this discrepancy; one is that the uterus has changed in the interim period, but given that we believed we were seeing an abnormality present from birth, this seems unlikely. The other explanation could be the angle from which the x-rays were taken. If the cervix was not pulled down, it is possible that the uterus was bent so that the septum could be hidden. I believe that I probably spoke to Mr Dutt at some point regarding Philippa Langton, although I have no notes or strong recollection of the conversation.

Knowingly dishonest. Winston is deliberately misleading the sequence of events. He purports to separate a) Trevor Dutt forwarding his uterine X-rays to Winston from b) a phone conversation that he had with him – as if these were two separate events, but Mr Dutt did not forward his X-rays to Winston out of the blue. Winston had phoned Mr Dutt to ask for them. Also, his claim that he has no strong recollection of the conversation is not believable given the background and the following two circumstances; -

- 1). Winston phoned Mr Dutt some time after the first TV broadcast to specifically request copies of Mr Dutt’s uterine X-rays and in return he promised to send Mr Dutt copies of his own X-rays but failed to keep his promise [my Evidence 6].
- 2) Winston fails to give explain why he made the phone call after the broadcast, but not prior to directing our mutual patient to voice his falsely implanted complaints to the Cook Report.
- 3) Winston was obliged to record the contents of this conversation in Philippa Langton’s notes as part of her medical record as well as to incorporate the X-rays within, but did not.

I understand that he suggests we discussed Asherman's syndrome, which is a reference to a condition involving the presence of adhesions in the uterus after miscarriage. The letter from Mr Dutt to me dated 22nd April 1991 in Philippa Langton's notes, which is exhibited at pages 12-14 of "RW2" also makes reference to

Asherman's syndrome. I believe that in mentioning Asherman's Syndrome, I was referring to the adhesion shadows lower down in the uterus. This was not inconsistent with the existence of a congenital abnormality. I see that Mr Dutt confirms that the uterine cavity is small and T-shaped. My view remained that the primary problem was a pre-existing congenital one.

Knowingly dishonest. Mr Trevor Dutt told Winston during the phone conversation that there was no evidence of adhesions inside the uterus (Asherman's syndrome) on his (Mr Dutt's) X-rays according to the letter Mr Dutt wrote me [my Evidence 15]. This is also clear in the letter Mr Dutt wrote Winston of 22nd April 1991 to which Winston refers. Nor is there any evidence Winston mentioned or suggested a pre-existing congenital problem in either of these correspondences which he would have undoubtedly done at the time if he had an honest belief this was so – after all they were discussing their X-rays.

40. On 4th May 1991 the British Medical Journal (BMJ) published two letters about the programme. One was from a Mr Roger Neuberg, a part-time NHS consultant in Leicester, which was critical of me. The other letter was clearly not disinterested, coming as it did from Dr Glatt's own establishment. A critical article by Professor Drife, a consultant from Leeds who writes regularly in the BMJ, also appeared in the same issue. My reply in the following issue of the BMJ to these criticisms is also appended.

41. Sometime in July 1991, Mr Thomson of the Cook Report wrote to me informing me that Dr Glatt had made a complaint to the Broadcasting Complaints Commission about the programme. Mr Thomson asked me for his help in replying to Dr Glatt's allegations. He was very keen for me to assist him with the complaint particularly in relation to my treatment of Mrs Langton. After considering Dr Glatt's letter of complaint I drafted a letter addressed to Mr Thomson dated 29th July 1991. I refer to pages 15-19 of "RW1" which is a copy of this letter. I recall the letter took me some time to write. I was moved to respond because I considered that my professional judgement had been called into question as a result of my participation in the programme. I had already been attacked by colleagues in the British Medical Journal and it was clear that some private IVF practitioners were determined to berate me for having gone public with a matter which they felt should have been dealt with within the ranks. The letter I wrote to Mr Thomson was an attempt to justify why I felt it necessary to speak out in the programme. I was quite angry at some of the comments that Dr Glatt had made about me. For that reason, I expressed myself perhaps more forcefully than I would normally. I have explained that it was my belief at the time that Dr Glatt must have known from the referral letter that Philippa Langton had what was described as a small T-shaped uterus. I now know that that was not the case, but I still feel strongly that he should have discovered that it was the case and warned her of the probable consequences. In that letter I said that Mrs Langton "unluckily for her", went to see Dr Glatt. I believed at the time, and still do, that that was fair comment.

Knowingly dishonest. **"Unluckily for her?"** - This was the opposite of fair comment and could not have been honestly held by Winston. I am the only infertility specialist who succeeded in giving Philippa Langton the only wanted pregnancies that she ever had, though it is sad that she miscarried on each of the three occasions. Had she continued with IVF treatment I strongly believe she may have had reasonable chances of success as data shows a realistically high number of women suffering multiple miscarriage do eventually carry to term if they persist. She was managed correctly in our IVF programme at all times, received the correct treatment and did well considering her reproductive age. Winston cannot possibly have honest belief in the statement that it was **"unluckily for her"** that she went to see Dr Glatt, even though she is part responsible for how the saga unfolded. More so given his general dishonesty and constant lying to the patient, the TV company, the British Medical Journal, and in his own witness statement. Add deceit, falsification of medical records, concealing medical test results, keeping the GP in the dark and lying to the GP by omission and false reports, submitting Philippa Langton to unnecessary operative surgery under general anaesthesia, assault/battery, the purposeful prevention of any infertility treatment for a year while at a critical reproductive age, threatening her with the false need of up to 5 further operative procedures, manipulating her to ruin my reproductive medicine career by directing her to the Cook Report under false pretences, etc.. It was unlucky for her to see who, exactly?

Mr Langton had had seven IVF attempts with Dr Glatt with three early miscarriages. She told me that there had been no attempt by Dr Glatt to determine the cause of her miscarriages.

Already dealt with above.

42. Since that letter was written, there has been a short period during 1991 to 1995 when I received some private income from The Royal Masonic Hospital which amounted to between £13,000 to £20,000 per annum. The rest of the private income which I generated during that period amounts to well in excess of £1 million and went to the Charitable Trust I have mentioned in the letter.

43. In about 1993 I heard that the HFEA had refused one of Dr Glatt's clinic's licences. I was never privy to their deliberations and have not seen this evidence and was not consulted about this. I believe that the HFEA subsequently refused a licence for another or other of Dr Glatt's clinics. At that time I was asked by the Chief Executive, Mrs Flora Goldhill, and the Deputy Chief Executive of the HFEA, Mr Hugh Whittall, whether I had any evidence from patients about Dr Glatt's activities. I refused to offer any evidence or to put the HFEA in touch with any patients I had seen on tertiary referral, on the grounds that it was necessary for the regulatory authority to make their own judgement based on their inspection of his clinic. I was however prepared to recommend to patients who felt that had a justified complaint against any clinic to contact the HFEA. That seemed to me to be the proper practice. But, strangely, Winston never directed Philippa to complain to the HFEA at any time. The HFEA has never "refused" any of my clinic licences at any time as Winston must know well. See below.

44. I now stand accused of malicious falsehood. I say truthfully that I never felt any malice towards Dr Glatt. That I can be accused of falsehood is the more remarkable when one considers that the Government regulatory authority, the HFEA, after investigating Dr Glatt during their regular annual visits came to the conclusion that he was not a person suitable to be responsible for an IVF clinic and refused to continue his licences. That decision was taken by a large body of independent people, used to regulating fertility treatments. To my knowledge Dr Glatt is the only practitioner in the country whose licence to practise has been withdrawn by the HFEA.

I would be very glad to respond at length to the HFEA comment if necessary but is currently irrelevant to the issue at hand. Please let me know if you need further information however. The HFEA came into existence 3 months after the 1st broadcast and took over the role of the previous Interim Licencing Authority with whom we experienced no previous significant problems over the previous years. In fact, Dame Mary Donaldson, the then head to the ILA appeared supportive in the aftermath of the Cook Report broadcasts.

HFEA data showed my clinic had the highest IVF success rates in the UK even though our IVF fees were by far the lowest. However, the HFEA did indeed insist after the TV broadcasts that I step down as the "Person Responsible" whose role it is to be the nominated contact person for communication between the HFEA and the clinic. This role had nothing whatsoever to do with clinical practice. At that time the "Person Responsible" need not have any qualifications whatsoever, and the role could, for example, be held by a simple secretary which was the situation throughout the time in question. I refused to step down as the "Person Responsible" for my own clinic on point of principle and, instead, sold it to the Churchill IVF clinic especially because of financial collapse following the Cook Report. Certainly, my clinic was censured by the HFEA solely on errors of paperwork administration for the HFEA by the ancillary staff. This was not so surprising as, following the broadcasts, the decimated staff morale resulted in a tragically rapid turnover of staff especially on the nursing and secretarial side especially in the London clinic. All the medical staff, and all the Birmingham staff, stayed loyally to the end (the broadcasts featured the London clinic). Winston's description of a "licence to practice" is a mischievous non sequitur as no such role or description existed so was never an issue with the HFEA. Therefore, no such thing was ever withdrawn by the HFEA as Winston must know well. The clinics could readily have continued with my continuing to practice within them as long as I agreed to stand down as the HFEA's "Person Responsible".

45. I believe that the facts stated in this witness statement are true.

PROFESSOR LORD WINSTON

This was signed and dated by Winston as a statement of truth

End of my analysis, Jack Gilliat