

**GENERAL MEDICAL COUNCIL**

**FITNESS TO PRACTISE PANEL (MISCONDUCT/PERFORMANCE)**

On:  
Friday, 29 July 2011

Held at:  
St James's Buildings  
79 Oxford Street  
Manchester M1 6FQ

Case of:

**GORDON ROBERT BRUCE SKINNER**  
**MB ChB 1965 University of Glasgow**  
**Reference 0726922**  
**(Day Two)**

Panel Members:  
Professor B Gomes da Costa (Chairman)  
Dr I Berry  
Mrs A Granne  
Mrs M Obi (Legal Assessor)

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MR A HAYCROFT, Counsel, instructed by RadcliffesLeBrasseur, Solicitors, represented the doctor, who was present.

MR B MORWOOD, Counsel, instructed by GMC Legal, appeared on behalf of the General Medical Council.

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**A**

STRANGERS HAVING BEEN READMITTED

THE CHAIRMAN: Good morning, everybody.

DETERMINATION

**B**

THE CHAIRMAN: Mr Morwood, you submitted an application on behalf of the GMC that, in accordance with Rule 29(2) of the General Medical Council (Fitness to Practice) Rules 2004, these proceedings be adjourned and the conditions on Dr Skinner's registration be extended for a period of at least six months, in order that further expert reports might be sought.

**C**

The Panel has heard that in November 2007 a Fitness to Practise Panel found that Dr Skinner's fitness to practise was impaired by reason of his misconduct and deficient professional performance. That Panel determined to impose conditions on Dr Skinner's registration for a period of three years.

The Panel has noted that in December 2007 Dr Skinner appealed that decision. His appeal was discontinued, by consent, at the High Court and the sanction of three years conditional registration commenced in August 2008.

**D**

In outlining the history of Dr Skinner's case, you told the Panel that the conditions imposed on his registration required Dr Skinner to keep logs of his treatments and that these logs were to be reviewed by a GMC-appointed expert.

**E**

You submitted that Professor Pierre Bouloux had been instructed as that expert. Dr Skinner was informed accordingly and he did not raise an objection. On 16 March 2011 the expert's report was received. Dr Skinner was sent a copy of the report and was notified of the GMC's intention to include the information from the expert's review in evidence provided to this Panel.

**F**

On 23 March 2011 Dr Skinner wrote to the GMC stating that he was "very concerned" by the contents of Professor Bouloux's report. On 30 May 2011 Dr Skinner wrote a further letter to the GMC, stating that he had drafted a rebuttal to Professor Bouloux's report, which he had sent to the Medical Protection Society for their advice.

**G**

On 21 June 2011 the GMC wrote to Dr Skinner extending the duration of this hearing from two days to five and requesting his comments on the content of the expert report.

The Panel has also noted a letter from Dr Skinner to Professor Bouloux, dated 24 June 2011. In that letter, Dr Skinner requested an explanation of an allegation that he, Professor Bouloux, had commented to one of their mutual patients that "he (Dr Skinner) had been struck off the medical register" and that "he (Dr Skinner) has been giving us the run around for years but we've got him at last". The Panel has further noted Professor Bouloux's written response, dated 27 June 2011, to Dr Skinner's request for an explanation.

**H**

The foregoing facts, together with Professor Bouloux's unavailability yesterday and

**A** today, explain why, with the explicit concurrence of the defence, Professor Bouloux's expert opinion has not been placed before this Panel.

**B** You have submitted that the GMC has had insufficient opportunity to commission the opinion of an alternative expert in time for this hearing. You directed the Panel's attention to the determination of the Fitness to Practise Panel of November 2007, which required an assessment of the documentary evidence submitted by Dr Skinner to prove compliance with the conditions on his registration to be placed before this Panel.

**C** You told the Panel that, notwithstanding any prejudice to Dr Skinner that arises from a delayed hearing, it would be wrong to proceed with today's review without appropriate expert evidence. You submitted that the granting of an adjournment and the extension of Dr Skinner's conditions for a period of at least six months would, on balance, be in the public interest.

On Dr Skinner's behalf, Mr Haycroft submitted that the situation you outlined was of the GMC's own making and that the expert in question, Professor Bouloux, was in any event not appropriate.

**D** My Haycroft told the Panel that in February 2010 the GMC cancelled three other cases involving Dr Skinner, which had been under investigation and on which advice had been sought from experts, including Professor Pierre Bouloux. He submitted that it was clear that Professor Bouloux had prejudged Dr Skinner's fitness to practise and that, by reason of such prejudgement alone, Professor Bouloux should never have been instructed as an expert for the purposes of this review hearing.

**E** My Haycroft told the Panel that Dr Skinner's most recent Fitness to Practise hearing was some three years ago and that he had been under conditions since June 2005; he had complied with all the conditions imposed upon him.

Mr Haycroft stated that Professor Bouloux was being invited to comment on Dr Skinner's clinical practice, which was tantamount to a performance assessment via the back door. Based on their findings of fact, the Panel in 2007 had stated that it would be "inappropriate to order an assessment" of Dr Skinner's professional performance.

**F** Mr Haycroft submitted that there were no grounds to depart from that finding. It was common ground that neither the GMC nor the defence were in a position to put any expert evidence before this Panel.

**G** Mr Haycroft told the Panel that Dr Skinner acknowledges that his methods of treatment are not mainstream, but he directed the Panel's attention to the many references and testimonials from patients that had been presented to the previous Fitness to Practise Panel and which could, in due course, be put before any substantive review Panel.

Mr Haycroft reiterated that the previous determination had not required a performance assessment. He asserted that any review needed more properly to assess whether or not Dr Skinner had satisfactorily complied with the conditions imposed on his registration and whether Dr Skinner's fitness to practise was currently impaired.

**H**

**A** Mr Haycroft stated that conditions 5, 6, and 7 required an appropriate expert to assess Dr Skinner's practice on behalf of the GMC, and that to date nothing untoward in relation to his clinical care had been communicated to Dr Skinner. He submitted that, if this Panel were minded to grant an adjournment, they should again find that no formal performance assessment is required.

**B** Mr Haycroft asked the Panel to consider whether it was appropriate to adjourn and whether it would be fair to extend Dr Skinner's conditions, given that the situation in which he finds himself at this hearing was not of Dr Skinner's making. He stressed that it would be wrong to adjourn these proceedings given that the lack of expert evidence could be laid at the door of the GMC; there was, accordingly, no evidential basis on which a Panel could properly find that Dr Skinner's fitness to practise is impaired. He invited the Panel to go ahead with the proceedings and hear submissions following evidence from Dr Skinner himself as to whether he had complied with the conditions on his registration.

**C** While the Panel is of the view that there is no in-principle reason why the GMC should not use the same expert at a review hearing as at first instance, it accepts that the content of Professor Bouloux's alleged conversation with a mutual patient of his and Dr Skinner's renders it inappropriate for him to give evidence on behalf of the GMC.

**D** The Panel were concerned by the resultant lack of expert evidence available. This gives rise to a justifiable concern as to whether it could be fair to make a determination on a practitioner's fitness to practise without such appropriate expert evidence.

It might well be the case that Dr Skinner had complied with the conditions on his registration. However, under Rule 22(c) the Panel also has a duty to make findings not only on his compliance with conditions but also on his fitness to practise and, absent expert evidence, it cannot fulfil its obligation in this latter regard.

**E** Given all the circumstances of this case and balancing the public interest against Dr Skinner's interests, it would not be appropriate to continue these proceedings in the absence of the evidence of an expert endocrinologist.

**F** The Panel has therefore determined that your application for an adjournment should be granted.

The Panel went on to consider the length of the adjournment. The Panel noted your request for an adjournment of at least six months, but feels that, in the interests of justice and to eliminate possible prejudicial delay, three months is appropriate. The Panel has therefore determined that the hearing should be adjourned for a period of three months and, given that the current conditions are due to expire on 20 August 2011, has also determined to exercise its power under Section 35D(12)(c) of the Medical Act 1983, as amended, to extend the current order of conditions for a period of three months.

**G** The effect of this direction is that, unless Dr Skinner exercises his right of appeal, this decision will take effect 28 days from when written notice of this determination is deemed to have been served upon him. The current order of conditions will remain in force until the end of the appeal period or, in the event of an appeal, until the outcome of

**H**

**A** that appeal is decided. A note explaining Dr Skinner's right of appeal will be sent to him.

Today's hearing is therefore adjourned.

**B** MEMBER OF THE PUBLIC: You talk of public interest but not one of Dr Skinner's patients has in any way been harmed in over 40 years. You cannot say that of all the doctors and endocrinologists who have misdiagnosed so many patients, who went through appalling suffering. Where does the public interest come in there?

Is it not possible for any doctor in this country to challenge the thinking of the GMC without being persecuted? This persecution now continues. To work while you are impaired, you have to admit as a professional to anybody who approaches you "I am impaired." Nobody has come to any harm whatsoever. This is an unfair verdict.

**C** THE CHAIRMAN: Sir, I have given you an opportunity to say what you wanted to say. The Panel has no formal right to make any further comment. The hearing stands adjourned and that is all that we can properly say.

MEMBER OF THE PUBLIC: I accept that. My remarks are referred to the GMC rather than yourself.

**D** MR HAYCROFT: Sir, I do not have the text in front of me. The current conditions will expire on 20 August. Your extension takes place 28 days from today. There is likely to be an overlap of a few days. I do not see a difficulty with that in this particular case but--  
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THE CHAIRMAN: My understanding is that the current conditions continue until such time as ours slot in automatically, so there ought not be a lacuna.

**E** MR HAYCROFT: You are extending them from 28 days though, sir. Your decision only takes effect in 28 days, which is after 20 August.

THE CHAIRMAN: It says that the current order of conditions will remain in force until the end of the appeal period.

**F** MR HAYCROFT: Under what power is that, sir?

THE CHAIRMAN: That is the normal clause, it is my understanding, that is inserted in these cases. Can you be specific as to what your concern is?

**G** MR HAYCROFT: It just occurred to me that there might be a small gap between them but I do not see a difficulty in this particular case because the conditions relate to matters of providing information, and if there were five days' difference, it is not going to make any difference. I just thought it right to---

THE CHAIRMAN: You will further note that although there is no specific reference to a performance assessment, in essence one has not been ordered.

**H** MR HAYCROFT: Absolutely, sir, yes. No, I just thought I would raise that. It is

**A** difficult when one is listening to a determination but on reflection – I look at my learned friend – I do not think it presents any practical problems.

THE CHAIRMAN: It may be worth my repeating.

**B** “The effect of this direction is that unless Dr Skinner exercises his right of appeal, this decision will take effect 28 days from when written notice of this determination is deemed to have been served upon him. The current order of conditions will remain in force until the end of the appeal period.”

**C** MR HAYCROFT: I know you have said that, sir. My concern is, under Section 35D – I am obliged to my instructing solicitor for articulating this – if the current conditions lapse on 20 August and yours have not... If one leaves aside the sentence for the moment about “the current order will remain in force”, if your extension does not come into force for 28 days ---

THE CHAIRMAN: The current conditions still prevail, is my understanding.

**D** MR HAYCROFT: The original order means they expire on 20 August, unless you have exercised an interim order.

THE CHAIRMAN: They remain in force until the end of the appeal period. The appeal period is 28 days from---

MR HAYCROFT: I am not clear under what provision that is the case.

**E** It seems to me, with respect, that you need an interim order. If this were an original hearing and you imposed conditions, they would take effect in 28 days from the determination but until the end of the appeal period the only way you could have conditions in force would be to order an interim order. In this case the legitimacy for the conditions pending the appeal period are the original order itself, which will expire on 20 August, which is the maximum period; three years is the maximum period that you can have conditions. Will they not lapse on 20 August?

**F** THE CHAIRMAN: My understanding is that the current order of conditions remains in force either until the end of the appeal period, in which case our new conditions slot in automatically thereafter, or, if an appeal were made, until the outcome of that appeal is decided. It is my understanding that the things are end-on. What does the GMC say about this?

**G** MR MORWOOD: In essence, it makes no practical difference, I think, because effectively the conditions would only relate to reporting over that period of time. The new period of conditions would begin a few days after the order of 20th had lapsed, and then would take effect for three months.

**H** MR HAYCROFT: I am sorry to talk across my learned friend. If on 20 August the current conditions lapse and then there is a break of six days or whatever it is, you cannot

**A** then extend the conditions; they will have gone.

MR MORWOOD: A new order of conditions has been made by this Panel under Section 35D.

MR HAYCROFT: How can they extend? I am not being obtuse, sir.

**B** THE CHAIRMAN: I think what I am going to suggest is that both counsel retire with our Legal Assessor to see in fact whether they can sort it out between the lawyers and then come back and tell us what they think they have arrived at, and we will take it from there.

MR HAYCROFT: I am sorry, sir. I am sure you want to make sure this is---

**C** THE CHAIRMAN: There is no need to apologise. You are doing your job. When the lawyers have finished their consultation, we will come back in.

*(The Panel adjourned for a short time)*

**D** THE CHAIRMAN: The bard wrote two plays: one was *Much Ado About Nothing*, the other was *All's Well that Ends Well*. I hope it is going to be the latter case. Legal Assessor, can I call on you to just put on record briefly the discussions that you had with both counsel?

**E** THE LEGAL ASSESSOR: I am grateful, Chairman. Both counsel and myself have agreed that the relevant authority with regard to your power to extend conditions up until the period of expiry is under Schedule 4 of the Medical Act, paragraph 11(3) and on that basis it is agreed by the lawyers in this case that that means that your determination does not need to be amended in any way; it is accurately worded and you do have power to do it as drafted.

THE CHAIRMAN: Both counsel concur?

MR HAYCROFT: That is right. I am sorry if I have caused any apprehension.

**F** THE CHAIRMAN: I can finally announce, as I did previously, that today's hearing is therefore adjourned. Thank you, everybody.

*(The Panel adjourned until a date to be fixed)*

**G**

**H**