

Fitness to Practise Panel

Dr David Southall

Reconvened hearing beginning 23 November 2010

Determination

29 November 2010

Mr Tyson and Miss O'Rourke

The Panel adjourned its consideration of these proceedings on 23 November 2010 until today. In doing so, it indicated that it expected to receive further information with regard to

- a. the steps taken to refer the case to the Court of Appeal, and
- b. what further consideration the GMC has given to its own position.

The General Medical Council (GMC) has not been represented before the Panel today. Its role in the events since 23 November will be touched on below.

The Court of Appeal in the same composition as when it made its remitting Order dated Monday 24 May 2010, received written submissions from the parties and the GMC on Friday 26 November 2010. It gave its decision by email on the morning of Saturday 27 November 2010. In the light of the amendment to Rule 7 of the General Medical Council (Constitution of Panels and Investigation Committee) Rules Order of Council 2004/2611, the Court of Appeal decided that the Panel would be entitled to continue to hear Dr Southall's case in a reconstituted form. The Court of Appeal indicated that a new medical member would be required to read the transcripts relevant to the decisions

now being taken and that it should be open to both parties to ask witnesses to be recalled.

The Panel has heard the submissions of both of the parties on the question of how to proceed. It has accepted the advice of the Legal Assessor. The Panel notes that both parties agree that the hearing should continue on future dates. The Panel has determined that this is the course of action that should now be taken.

Miss O'Rourke has asked for permission to recall Dr Williams. That permission is granted. The new medical member needs to be placed in the best position possible to enable him to contribute to the discussions and decisions in which he will take part. Both sides are at liberty to call or recall witnesses at the reconvened hearing subject to their evidence being both relevant and admissible. If evidence of professional opinion, for example on the impact or consequences of Dr Southall's actions, is to be put before the Panel, it will be helpful if, in accordance with the recommendations of the Legal Assessor, the nature of that opinion evidence could be reduced into writing. The Panel suggests that this should be served on the opposite side not less than four weeks before the commencement of the reconvened hearing.

The hearing will be adjourned until dates to be agreed, which the Panel has accepted cannot be earlier than May 2011 owing to the availability of Counsel.