

Privy Council Appeal No. 69 of 2000 from the professional conduct committee of the General Medical Council before Lord Bingham of Cornhill; Lord Cooke of Thorndon; Lord Millett; 18th June 2001

JUDGMENT Delivered by Lord Millett

1. This is an appeal by Dr Ghosh from a direction of the Professional Conduct Committee ("the Committee") of the General Medical Council ("the Council") made on 9th October 2000 that her name be erased from the Register.
2. Dr Ghosh is aged 52. She qualified as a doctor in 1973 and has been in general practice in East London since 1983. She worked as locum tenens to general practitioners.
3. In February 1994 she was working in that capacity for Dr Bannerjee, a general practitioner in sole practice in Canning Town, during his absence on holiday. One of Dr Bannerjee's patients was a two year old boy, David Neil. He was unwell over the weekend. On the Monday morning 7th February 1994 his mother telephoned the surgery, described his symptoms and asked for a home visit. Dr Ghosh told David's mother that she was too busy to make a visit, and without having examined David wrote a prescription for Klaricid, an antibiotic, for his mother to collect from the surgery. David's mother rang again in the afternoon and again asked for a home visit. Dr Ghosh did not visit David or make any arrangements for him to be admitted to hospital for observation. On the following day David's mother took him to hospital, where he was operated on and treated for acute appendicitis and peritonitis.
4. In March 1996 Dr Ghosh was employed as a locum for Dr Subramanian, a general practitioner in sole practice in Chingford, during his absence on holiday. One of Dr Subramanian's patients was William Lea, who had been discharged from hospital on 21st February with terminal cancer. Dr Ghosh visited him at his home on 6th March. He died two days later. Dr Ghosh was responsible for attending the funeral parlour to complete a cremation form in respect of Mr Lea. She attended the parlour but completed the form inaccurately, falsely stating (for example) that she was the ordinary medical attendant of the deceased.
5. These two incidents led to Dr Ghosh's appearance before the Committee on 22nd April 1998. At the conclusion of the hearing, which lasted three days, the Committee made findings which can be summarised as follows:
 - (i) on 7th February 1994 she twice failed to visit David Neil when requested to do so;
 - (ii) she prescribed Klaricid for him without having put herself in a position to make an adequate assessment of his condition and treatment needs;
 - (iii) she did not make any, or any adequate, arrangements for David's condition to be assessed in hospital;
 - (iv) by her actions and omissions she failed to ensure that David received adequate medical assessment and treatment, and failed to make an adequate record of the events of 7th February in David's medical records.
 - (v) she failed to visit Mr Lea on 4th March 1996;
 - (vi) she did not take sufficient care in filling in Mr Lea's cremation form.
6. The Committee found that Dr Ghosh had been guilty of serious professional misconduct. The Chairman said that the Committee was concerned by the evidence of her failure to fulfil her professional responsibilities to a patient in her care, and that the standard of care which she had provided fell short of the standard which the public and the profession were entitled to expect of a registered medical practitioner. The Committee directed that for a period of two years Dr Ghosh's registration should be conditional on the following requirements:
 - (1) She was to seek and follow the advice of a Director of Postgraduate General Practice Education in undertaking supervised re-training in general practice designed to remedy the deficiencies in her clinical knowledge and skills revealed during the course of the proceedings with particular reference to clinical assessment, record keeping and communication skills;
 - (2) Before the next hearing of her case by the Committee she was to supply the Council with objective evidence of the satisfactory completion of this programme of retraining;
 - (3) She was not to engage in locum posts in any capacity;
 - (4) She was not to engage in any unsupervised practice or in single-handed practice;
 - (5) She was to advise any prospective employer and any agency with which she was registered, or whom she approached concerning medical employment, of the conditions imposed on her registration.
7. The Chairman told Dr Ghosh that, unless she exercised her right of appeal, her registration would become subject to the conditions 28 days after the date when written notice of the direction was to be treated as having been served upon her. He told her that the Committee would resume consideration of her case at a meeting to be held before the end of the period of conditional registration, when the Committee would consider whether to take further action. He said that at intervals during her conditional registration she would be asked to send to the Council the names of those who had advised her and participated in her retraining. Reports would be sought by the Council from them about the advice and training she had been given and their assessment of her progress. Their reports would be put before the Professional Conduct Committee at the resumed hearing.
8. Following the hearing Dr Ghosh lodged an appeal to the Privy Council. She later withdrew the appeal and the conditions attached to her registration took effect on 21st October 1998. In the meantime the Council had written to Dr Jackson, the Director of Postgraduate General Practice Education, and asked him to arrange appropriate re-training for Dr Ghosh "to enable her to remedy the shortcomings in her professional skills which came to light during the hearing of her case". Dr Jackson was provided with a copy of the conditions which the Committee had imposed and subsequently received a transcript of the hearing before the Committee.

9. At Dr Jackson's request Dr Reed Bowden, the Associate Dean of Postgraduate General Practice Education, undertook responsibility for the supervision of Dr Ghosh's retraining programme. After contacting Dr Ghosh he wrote to her outlining an educational plan and confirming that she had agreed to it. The plan included attendance at a course on communication skills, which Dr Reed Bowden identified as an area of special importance. He pointed out that if her appeal was unsuccessful and the Council's conditions remained the same, she would be required to produce written evidence that the educational plan was being followed.
10. Dr Reed Bowden met Dr Ghosh for the first time on 5th June 1998. Dr Ghosh arrived half an hour late for her interview, gave no apology for being late, and kept looking at her watch as if she had another appointment. According to Dr Reed Bowden's notes, they seemed to be speaking different languages at first, and he found it difficult "to get on the same wavelength" and to persuade her that "he was not supposed to re-run the G.M.C. hearing". She evidently did not accept the Committee's findings, but she did agree that attitudinal and communication problems rather than lack of medical knowledge were behind her difficulties, and she confirmed that she was prepared to enter an educational plan as summarised in his letter.
11. In November 1998, after the withdrawal of her appeal, Dr Ghosh met Mr Carson of East London and The City Health Authority, and it was agreed that she should be employed as an assistant in the practice of Drs Gopinthan and Kalhoro ("the practice") and work under their supervision. Mr Carson wrote to Dr Ghosh on 25th November confirming her undertaking (i) to agree an educational plan in writing with Dr Reed Bowden who would monitor her progress and provide a report to the Council on its satisfactory completion and (ii) to agree with the practice a procedure for assessing her progress and reporting it in a structured way. Mr Carson told her that this would allow her to have the appropriate evidence available for the Council when required.
12. Dr Ghosh began work at the practice on 1st December 1998. Dr Reed Bowden met Drs Gopinthan and Kalhoro a few days later and agreed with them detailed proposals for her retraining with monthly reporting to him. Special attention was to be paid to Dr Ghosh's communication and attitude, including punctuality and response to calls. She was to undergo one hour a week of tutorials with either Dr Gopinthan or Dr Kalhoro with a brief written record of what was covered each time; her attendance at courses was to be recorded; and a record was to be kept of complaints of her work as well as compliments or praise.
13. Dr Reed Bowden wrote to Dr Ghosh on 25th November asking her to confirm that she was putting into practice what had previously been agreed between them. Having had no reply, he wrote to her again on 17th December setting out what had been agreed with Drs Gopinthan and Kalhoro. He asked Dr Ghosh to send him any additional records every month so that he could report to the Council.
14. Between the end of January and the end of March 1999 Dr Ghosh attended eight workshops of between one and two hours each at Newham General Hospital on various subjects. On 21st April Dr Reed Bowden reported to the Council that Dr Ghosh had been working for nearly six months; the practice had adapted well to Dr Ghosh's in-house educational needs; and weekly tutorials were being held. He said that Dr Ghosh had agreed with him to continue to attend training courses, to seek out and attend a consultation skills course, and to keep a record of educational experience. He told the Council that he himself had initially experienced poor communication from Dr Ghosh, with letters unacknowledged and a meeting missed, but that there were signs of improvement.
15. Shortly afterwards, however, meetings between Dr Reed Bowden and Dr Ghosh ceased. On 20th May Dr Kalhoro wrote to Dr Reed Bowden and reported that the weekly tutorials had ceased in April because Dr Ghosh's attendance had become unreliable and he could not spare the waiting time. On several occasions he had waited for her to attend only to discover that she had already left the surgery without telling him.
16. Dr Ghosh attended a course on disease management in May 1999, and had another meeting with Dr Reed Bowden on 25th June. It came as no surprise to him that she insisted that the cessation of the tutorials was not her fault. He told Dr Kalhoro that he had asked her to approach him to see if they could begin again. He said that his next interim report to the Council was due in October, and that if nothing changed it would not make satisfactory reading. He mentioned that he was finding it difficult to impress on her the importance of following the guidelines she had been given.
17. At the beginning of July the practice received a letter from a patient complaining of Dr Ghosh's failure to visit her when asked to do so. It seems that Dr Ghosh was given the patient's notes in the morning and asked to make a visit. The patient was told that the visit would be between 12 noon and 1.00 pm. The patient's husband called the surgery at 1.30 pm desperate for a doctor to visit and then called an ambulance. A note from Dr Ghosh was later found saying that she had called at 3.30 pm.
18. Dr Ghosh now went absent from the practice without warning for 2½ months. Dr Kalhoro wrote to her on 9th July 1999 and on three subsequent occasions in July, August and September protesting at her behaviour and asking her when she intended to return. Unknown to Dr Kalhoro, she was in India, having left England on 9th July. She did not contact the surgery until 17th September, when she telephoned and indicated that she would be returning to work on 20th September. She has since attributed her behaviour to a deterioration in her health which made it advisable to take time off work and two deaths in her family which made it necessary for her to go to India.
19. On 23rd September Dr Reed Bowden sent another interim report to the Council. He indicated that in general Dr Ghosh had failed to comply with the arrangements made for her. He said that Dr Kalhoro would be writing a separate letter giving details of her behaviour within the practice, and that these included complaints that she had antagonised staff and patients, failed to attend tutorials, been late for surgeries, and failed to communicate her

whereabouts during a prolonged absence. He reported that it had not been possible to contact her at her usual address. Recorded delivery letters had been returned and the telephone had gone unanswered. So far as his own experience of Dr Ghosh was concerned, she had been late for meetings or failed to make an appearance, did not acknowledge letters even when asked to do so, and had failed to send certificates of attendance at educational events. He said that she did not seem to appreciate that her continued registration could not be guaranteed. He concluded his report by suggesting that the Council should review her case in the near future rather than at the due date in May 2000, and indicated that he would withdraw from offering her further help, which he felt was "an empty exercise". He informed the practice of his decision a few days later.

20. On 30th September 1999 the Health Authority advised the Council that it was taking disciplinary action against Dr Ghosh for failing to report her absence in an appropriate manner, to comply with her training regime, to visit a patient on 2nd July and to comply with an instruction to respond to the patient's complaint. A hearing was held on 1st October and Dr Ghosh was dismissed for gross misconduct in failing to visit the patient at the time instructed. The Chairman of the panel informed her that the distress she had caused to the patient and her family by her failure to attend was entirely unjustified and the impact on the family and the reputation of the surgery could not be underestimated (sic).
21. Dr Ghosh was unable to find other employment and found it difficult to meet the conditions of her registration. She telephoned the Council's secretariat and reported that she had been off work due to ill health between July and September. She agreed to write with information about her recent activities, to supply a letter from her doctor, and to supply details of how her training programme was progressing. She did not write as agreed.
22. Later she telephoned the secretariat again and asked if she could undertake hospital work. She was asked to obtain confirmation from the Postgraduate Dean that this would constitute acceptable training. She replied that Dr Reed Bowden had refused to help her any more because she was ill and had failed to keep an appointment. She said that he had been totally unreasonable. She agreed to write to the Council and explain why she was unable to fulfil her conditions. She also agreed to provide the information which had been requested previously. She did not do so.
23. In December she telephoned again with yet another query. She indicated that she was aggrieved by Dr Reed Bowden's refusal to help her; it was unjustified as she had missed "only a couple of appointments due to ill health". She complained that she had been unfairly treated by the Committee, which sided with patients rather than doctors and "believed the pack of lies told by the patients", and reiterated that the conditions on her registration were undeserved. She was reminded that a letter was awaited from her with information about her activities since the conditions were imposed. She agreed to write. In January 2000 the British Medical Association wrote on her behalf with details of the courses she had attended during the previous 12 months. The letter asked for confirmation that they were sufficient to fulfil the conditions imposed by the Committee.
24. Dr Ghosh telephoned the secretariat again in January 2000 to ask what work she could undertake and in particular whether she could act as a partner in a general practice surgery. She was reminded of the conditions of her registration and that she was not permitted to engage in unsupervised practice. She was told that if she accepted a post in a surgery she must ensure that the other partners were aware of the conditions attached to her registration and were willing to supervise her work and provide reports to the Council. She was told that the Director of Postgraduate General Practice Education should also be consulted; she replied that Dr Reed Bowden had refused to help her. She was reminded that she had been asked to write about various matters so that her case could be reviewed. She promised to write and supply information about what she had been doing since October 1998, why Dr Reed Bowden had refused to help her, and details of her ill health. She did not do so.
25. During this period Dr Ghosh not only repeatedly failed to keep her promises to supply information to the Council, she also made no attempt to contact Dr Reed Bowden to ask him to reconsider his decision to withdraw his help or to ask Dr Jackson for his assistance.
26. On 9th October 2000 the Committee resumed consideration of Dr Ghosh's case. The Council and Dr Ghosh were each represented by counsel. The Committee was differently composed from the committee which had sat on 22nd April 1998. It was told of the evidence which had been called at the original hearing, the Committee's findings, and the conditions which had been attached to Dr Ghosh's registration. Counsel then addressed the Committee on behalf of the Council and adduced evidence of Dr Ghosh's conduct since the previous hearing. It was the Council's case that Dr Ghosh had failed to comply with the conditions of her registration, particularly in that she had failed to follow the advice of the Director of Postgraduate General Practice Education and had failed to supply the Council with objective evidence of satisfactory completion of the programme of retraining.
27. Dr Ghosh did not give evidence to the Committee. Her counsel addressed the Committee at length on the facts. She submitted references from referees nominated by Dr Ghosh. These included a letter from Mrs Sarah Hussain, who confirmed that Dr Ghosh had attended antenatal clinics at Whipps Cross Hospital as an observer during August, September and October 1999 (during most of which period Dr Ghosh was in fact in India); and a letter from Drs Gopinthan and Kalhor who recounted the history of her employment in the practice and the circumstances in which she had been dismissed. Counsel conceded that things had broken down after a year or so, but suggested that Dr Ghosh had tried to remedy them herself. She referred the Committee to evidence which indicated that Dr Ghosh suffered from high blood pressure and that during 1999 this had reached a level when she was dangerously unwell, causing her to miss appointments with Dr Reed Bowden. She said that Dr Ghosh conceded that she should have been more diligent in advising the practice of her whereabouts and should have

written to say that she was out of the country. She produced certificates of Dr Ghosh's attendance at various courses and told the Committee that while Mrs Hussain's letter was inaccurate in that Dr Ghosh had not started to attend the clinic until she returned from India in September 1999, she was currently continuing to attend the clinic. She said that Dr Ghosh was very anxious to be allowed to continue in practice, and invited the Committee to extend the period of her conditional registration and possibly subject it to more rigorous conditions.

28. At the conclusion of counsel's address, she was asked whether there was any evidence that Dr Ghosh had attended the antenatal clinic at any time since October 1999. Counsel replied that those were her instructions. The Legal Assessor said that he was talking about evidence. Counsel enquired whether the Committee wished to hear Dr Ghosh give evidence to confirm her instructions, and was told by the Chairman that that was a matter for Dr Ghosh and her counsel. In the upshot, Dr Ghosh did not give evidence.

29. After the Committee completed its deliberations the Chairman addressed Dr Ghosh as follows:

"Dr Ghosh, in April 1998 the Professional Conduct Committee found you guilty of serious professional misconduct in relation to the standard of care you provided, which fell short of the standard expected of a registered medical practitioner. They directed that for a period of two years your registration be subject to conditions requiring you to undertake supervised retraining in general practice to remedy deficiencies in your clinical knowledge and skills, with particular reference to clinical assessment, record keeping and communication skills. You were directed to supply the Committee with objective evidence of the satisfactory completion of such a programme.

In considering whether you have complied with the conditions imposed on your registration in April 1998, the Committee have carefully considered all the evidence before them today. They have noted that you sought advice initially, and were offered considerable help by the Office of the Postgraduate Dean and others in meeting the conditions.

You failed to comply with the arrangements for retraining agreed with the Postgraduate Dean and to co-operate with the programme of retraining which he and your general practice colleagues had instituted for your benefit. Moreover, there was a formal complaint from a patient about your professional conduct which led to your dismissal from the practice to which you had been attached for retraining.

No objective evidence of the satisfactory completion of any programme for retraining has been presented to the Committee. You have clearly broken conditions 1 and 2 which were imposed by the Professional Conduct Committee in April 1998 despite having had nearly two years in which to comply with them.

The Committee have taken note of the submissions made on your behalf. However, your failure personally to give evidence today either to explain your breaches of the conditions or to give assurances as to your future conduct have made it difficult for the Committee to be satisfied that the imposition of further conditions would provide sufficient protection for the public.

The Committee have concluded, on the evidence before them, that the protection of the public requires that your name be erased from the Register.

The Committee have further determined that it is necessary for the protection of members of the public that your registration in the Register should be suspended with immediate effect and they have accordingly ordered that your registration be suspended forthwith."

30. Before their Lordships counsel for Dr Ghosh rightly did not challenge the Committee's findings that Dr Ghosh had failed to comply with the conditions which had been attached to her registration, though he sought to belittle the seriousness of her failure. Dr Ghosh had been required to undergo a programme of supervised training and to provide objective evidence of the satisfactory completion of such a programme. It was beyond dispute that she had failed to comply with the arrangements which she had agreed with Dr Reed Bowden, and that she had failed to produce evidence that she had satisfactorily completed any retraining programme.
31. Counsel's principal contentions were directed to support a submission that erasure was an excessive and inappropriate penalty, and that the Board should substitute a lesser penalty such as a further period of conditional registration. He sought to persuade their Lordships to adopt a less restrictive approach to their jurisdiction than may sometimes have been adopted in the past. With this in view he reminded their Lordships that proceedings against a registered practitioner for professional misconduct involve a determination of his or her civil rights and obligations and accordingly attract the protection of Article 6(1) of the European Convention on Human Rights. Such protection requires either that the decision-making body (in this case the Committee) constitute an independent and impartial tribunal or, if not, that its processes be subject to control by an appellate body with full jurisdiction to reverse its decision. These submissions were not disputed by the Council and their Lordships accept them.
32. Counsel next submitted that the Committee was not an independent body, and that accordingly the Board must take an expansive jurisdiction when hearing appeals from the Committee if a breach of the Convention was to be avoided. Their Lordships do not find it necessary to consider whether the Committee as presently constituted fulfils the Convention requirements of independence and impartiality, because they are satisfied that their own jurisdiction is sufficient to remedy any deficiency there may be in these respects.
33. Practitioners have a statutory right of appeal to the Board under section 40 of the Medical Act 1983, which does not limit or qualify the right of the appeal or the jurisdiction of the Board in any respect. The Board's jurisdiction is appellate, not supervisory. The appeal is by way of a rehearing in which the Board is fully entitled to substitute its

own decision for that of the Committee. The fact that the appeal is on paper and that witnesses are not recalled makes it incumbent upon the appellant to demonstrate that some error has occurred in the proceedings before the Committee or in its decision, but this is true of most appellate processes.

34. It is true that the Board's powers of intervention may be circumscribed by the circumstances in which they are invoked, particularly in the case of appeals against sentence. But their Lordships wish to emphasise that their powers are not as limited as may be suggested by some of the observations which have been made in the past. In **Evans v General Medical Council** (unreported) Appeal No 40 of 1984 at p. 3 the Board said:

"The principles upon which this Board acts in reviewing sentences passed by the Professional Conduct Committee are well settled. It has been said time and again that a disciplinary committee are the best possible people for weighing the seriousness of professional misconduct, and that the Board will be very slow to interfere with the exercise of the discretion of such a committee. ... The Committee are familiar with the whole gradation of seriousness of the cases of various types which come before them, and are peculiarly well qualified to say at what point on that gradation erasure becomes the appropriate sentence. This Board does not have that advantage nor can it have the same capacity for judging what measures are from time to time required for the purpose of maintaining professional standards."

For these reasons the Board will accord an appropriate measure of respect to the judgment of the Committee whether the practitioner's failings amount to serious professional misconduct and on the measures necessary to maintain professional standards and provide adequate protection to the public. But the Board will not defer to the Committee's judgment more than is warranted by the circumstances. The Council conceded, and their Lordships accept, that it is open to them to consider all the matters raised by Dr Ghosh in her appeal; to decide whether the sanction of erasure was appropriate and necessary in the public interest or was excessive and disproportionate; and in the latter event either to substitute some other penalty or to remit the case to the Committee for reconsideration.

35. Counsel for Dr Ghosh subjected the reasons which the Chairman gave for the Committee's decision to criticism in a number of respects. He submitted that the Committee erred in law or acted unfairly in drawing an inference adverse to Dr Ghosh from her failure to give evidence, which he submitted was a breach of her fundamental right to silence, was not relevant to the question which the Committee had to consider, viz. whether erasure was necessary to protect the public, and was unfair since neither Dr Ghosh nor her counsel was given any warning that the Committee expected her to give evidence and would hold it against her if it did not. Their Lordships consider this criticism to be misconceived. It was made clear to Dr Ghosh and her counsel that there was no evidence before the Committee that she was currently attending an antenatal clinic, but that she could give evidence to that effect if she wished. She chose not to do so. The Committee drew no inference from her failure to give evidence in this respect; it merely proceeded, as it was bound to do, on the evidence actually before it. But in any case this was not what concerned the Committee. In asking for another period of conditional registration, Dr Ghosh was asking to be taken on trust in a matter where the protection of the public was at stake and where she had already once failed miserably. It should have been obvious to Dr Ghosh and her counsel that the Committee could not be satisfied that she would comply with any further requirements that might be imposed without hearing her acknowledge her failings and provide an excuse or at least an explanation for them and give her personal assurances of her future conduct.
36. Next, counsel submitted that the Committee failed to consider a relevant fact, viz. that the Council's own conduct had contributed to putting Dr Ghosh in breach of the conditions, because Dr Reed Bowden had withdrawn his assistance and the Council had failed to provide her with any guidance as to how she could comply with the conditions in those circumstances. This submission was not advanced before the Committee, which cannot therefore be fairly criticised for failing to take it into account. Their Lordships consider it to be unworthy of consideration. It was Dr Ghosh's responsibility to ensure that she complied with the conditions; Dr Reed Bowden's withdrawal was occasioned by her own conduct; the Council's secretariat indicated that she should ask him what she should do and she failed to do so. Even if Dr Ghosh believed that he would be unwilling to resume responsibility for her retraining, she had no reason to suppose that he or Dr Jackson would refuse to give her advice or refer her elsewhere.
37. Counsel submitted that the Committee also failed to take account of the fact that, in the period which had elapsed since the previous hearing, the penalty of erasure had become retrospectively more draconian. Under the law as it stood in April 1998, a practitioner whose name was erased from the register could apply for re-admission after 10 months. Under the Medical Act 1983 (Amendment) Order 2000 SI 2000 No. 1803, which came into force on 3rd August 2000, this period was extended to 5 years. Even before this, however, it was the Council's policy that a practitioner whose name was erased from the register could not normally expect to have his name restored; save in exceptional circumstances, erasure was for life. The amendment merely reflected the way in which the existing law was applied in practice.
38. Counsel also submitted that the Committee erred in law by failing to follow the statutory framework as explained in **Taylor v General Medical Council** [1990] 2 All ER 263 at p. 267 B-C:

"When the committee have ... judged that a practitioner has been guilty of serious professional misconduct the effect of rr 30 and 31 is to require them, in deciding what, if any, direction to give, to consider each possible course of action open to them in sequence. The steps in the sequence are (1) to give no direction, (2) to direct that the practitioner's registration shall be subject to conditions, (3) to direct suspension, (4) to direct erasure. At each step the

committee are to determine 'whether it shall be sufficient' to take that step. Only if they determine that it will not be sufficient are they to proceed to consider the next step."

39. The Committee was said to have failed to follow this process, since it leaped from stage 2 (conditional registration) which, it was submitted, the Committee had previously considered sufficient, to stage 4 (erasure) without considering whether stage 3 (suspension) would sufficiently protect the public. There is in fact no reason to suppose that the Committee did not consider suspension if only to reject it. Their Lordships observe that conditional registration, while in itself a lesser penalty than suspension in that the practitioner is permitted to continue in practice for the time being, is potentially more severe in that failure to comply with the conditions is likely to lead to erasure. The nature of the conditions imposed on Dr Ghosh indicated that she was regarded as unfit to practise unless she successfully completed a programme of supervised retraining. The original Committee did not decide that conditional registration was a sufficient penalty, but that Dr Ghosh needed to undergo retraining if the public was to be adequately protected. The logical response to her failure to complete such a programme was erasure, not suspension.
40. Their Lordships have themselves reviewed the evidence, and are satisfied that this was a bad case. Dr Ghosh never acknowledged the seriousness of her original misconduct, and patently failed to attend, let alone successfully complete, the programme that had been arranged for her. Her conduct in leaving the country for 2½ months without prior warning or subsequent explanation was unprofessional and in the highest degree irresponsible. On the evidence before it and without seeing Dr Ghosh and hearing her in person the Committee had no material on which it could be satisfied that Dr Ghosh would be any more likely to comply with the terms of a further period of conditional registration than she had in the past. Their Lordships recognise, as the Committee must have done, that erasure will effectively bring Dr Ghosh's career as a doctor to an end. But they consider that, in all the circumstances, the Committee had no real alternative but to order her name to be erased from the register. Their Lordships will humbly advise Her Majesty that the appeal ought to be dismissed. Dr Ghosh must pay the Council's costs before the Board.