



JABS Briefing Note 9TH April 2008

GMC's disciplinary hearing into Dr Andrew Wakefield, Professor Simon Murch and Professor John Walker-Smith

Dr Horton and the GMC hearing

Documentary evidence has come to light concerning the role of Dr Richard Horton in the disciplinary hearing against Dr Andrew Wakefield and colleagues currently before the General Medical Council. The investigation by the GMC was instigated at the behest of the then Health Secretary, John Reid, following allegations by Dr Horton that Dr Wakefield had hidden his involvement in the MMR litigation at the time of the publication of his controversial 1998 study.

Subsequently Dr Horton gave evidence to the GMC under oath in 2007 to the effect that he was totally unaware of Dr Wakefield's involvement in a class-action lawsuit being led by the Norfolk solicitors Dawbarns when The Lancet published its controversial paper in February 1998 that led to the intense and long-running controversy over MMR's safety.

The recently unearthed correspondence between Dr Horton at The Lancet and the lawyers seeking compensation for children believed to have been damaged by the MMR vaccine would indicate that Dr Horton knew, almost a full year before the controversial paper appeared, that Dr Wakefield was also involved in assembling medical evidence for the lawsuit.

From this correspondence it appears that both Dr Horton and members of his staff at The Lancet had been informed of this and did not see it as a reason to withhold publication. JABS would like to know how someone with Dr Horton's responsibility could make apparently erroneous claims over a period of more than four years, and also how this could have gone overlooked by The Lancet's staff and legal advisors over this period.

Dr Horton's problem is compounded by the fact that a letter to the Lancet from Dr A Rouse, Department of Public Health Medicine, was received on Tuesday 4th March 1998 just one working day following publication (Friday 28 February 1998)

and forwarded by the Lancet on 9 March 1998 and in its original version plainly alluded to circumstances prior to publication of the study.

Dr Rouse's letter was edited and published in The Lancet on 2 May 1998 with a response from Dr Wakefield. Textual analysis shows that Dr Wakefield was answering the original version of Dr Rouse's letter, not the one published more than eight weeks later. Moreover, Dr Rouse's original letter cited extracts from a Dawbarns Fact Sheet dated July 1997.

There could therefore be no reasonable mistake on Dr Horton's part that Dr Wakefield might be referring to any potential involvement commenced after the publication of the study on 28 February 1998, rather than before.

Dr Horton has repeatedly stated that, if he had previously known of Dr Wakefield's evidence-gathering for Dawbarns, the 1998 paper would not have been accepted. One of the main reasons the GMC's long-running hearing is being held is precisely because Dr Horton subsequently accused Dr Wakefield of concealing this crucial involvement, leading to the accusations by Mr Brian Deer and the Sunday Times.

JABS believes that Dr Wakefield has been falsely accused ever since by the Department of Health, the medical establishment and the Sunday Times of deliberate concealment, something that he has always denied. Dr Wakefield has always openly confirmed his involvement with the MMR legal action, and the new evidence now fully supports him all the way back to early 1997.

Mr Richard Barr, the solicitor at Dawbarns at the centre of the correspondence with Dr Horton at The Lancet has agreed to make available all the original copies of the correspondence to the GMC hearings.

In the opinion of JABS these latest revelations now throw the GMC prosecution case, against Dr Wakefield in particular, into chaos.

The GMC should have no option but to re-question Dr Horton in the light of the new evidence, to try to get to the bottom of what he and his staff knew and when they knew it, and why they apparently subsequently stopped knowing it!

This dramatic development in the MMR controversy may also ultimately lead to calls for Dr Horton to resign if his evidence to the GMC has been knowingly at variance with the facts.

Concern must also surround the fact that Dr Horton was on his own account drawn into framing charges against Dr Wakefield by the GMC only three days after his denunciation, as well as subsequently acting as a prosecution witness.

He states in his book *MMR Science and Fiction: Exploring the Vaccine Crisis*:

'...Indeed, the GMC seemed non-plussed by Reid's intervention. The best their spokeswoman could say was: 'We are concerned by these allegations and will be looking at what action, if any, may be necessary.' In truth, they had not a clue where to begin. At a dinner I attended on 23 February, one medical regulator and I discussed the Wakefield case. He seemed unsure of how the Council could play a useful part in resolving the confusion. As we talked over coffee while the other dinner guests were departing, he scribbled down some possible lines of investigation, and passed me his card, suggesting that I contact him directly if anything sprang to mind. He seemed keen to pursue Wakefield, especially given ministerial interest. Here was professionally led regulation of doctors in action - notes exchanged over liqueurs in a beautifully wood-panelled room of one of medicine's most venerable institutions...' (Horton p.7-8) (1)

A further deeply unsatisfactory feature is that Dr Horton has never disclosed that his boss, Sir Crispin Davis, chief executive of Reed Elsevier, was appointed a non-executive director of MMR defendants GlaxoSmithKline in summer 2003 only a few months before the Sunday Times article in February 2004 that accused Dr Wakefield.

This is in addition to the embarrassment that the high court judge who dismissed the MMR autism cases just seven days after Dr Horton's accusation was none other than Sir Crispin's younger brother Sir Nigel Davis. (2) (3)

JABS believes it is essential that there is now a full and open public enquiry into this matter.

JABS is a support group for parents of vaccine damaged children.

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(1)<http://www.bmj.com/cgi/eletters/329/7473/1049#83447>

(2) <http://business.timesonline.co.uk/tol/business/article992360.ece?token=null&offset=24>

(3)[http://www.theoneclickgroup.co.uk/documents/vaccines/media/MMR%20Judge%20and%20%20%20Glaxo%20.pdf](http://www.theoneclickgroup.co.uk/documents/vaccines/media/MMR%20Judge%20and%20%20Glaxo%20.pdf)

Summary of Key Dates and Events

1995 - Dawbarns solicitors of Kings Lynn (employing solicitor Richard Barr) were (along with Freeth Cartwright, another firm of solicitors) appointed by the then Legal Aid Board to manage claims over serious neurological damage (including autism) following MMR.

First quarter of 1997 - Dr Edwards of the Medicines Control Agency wrote privately to Dr Richard Horton, editor of The Lancet, pointing out that Lancet papers' text and tables were being reproduced by Dawbarns in the "Fact Sheets" provided to parents in the class action.

19th March 1997 - Kirsten Limb at Dawbarns receives a phone call from Sarah Quick at The Lancet, which she marks "urgent" on a memo, referring to Dr Edwards' written approach to Dr Horton. Dr Edwards is not named at the time, but is named in a subsequent phone call by Sarah Quick at The Lancet.

Sarah Quick tells Kirsten Limb that Dawbarns should apply for retrospective permission to reproduce The Lancet material in Dawbarns' Fact Sheets to parents. Sarah Quick indicates there should be no problem about granting this permission.

3rd April 1997 - Richard Barr at Dawbarns writes to Dr Horton by fax and by post, explaining Dawbarns' position. In the coversheet of the fax he makes it clear that his letter to Dr Horton, and correspondence between Barr at Dawbarns and Dr Susan Wood (now deceased) at the Medicines Control Agency were included with the fax, and in addition the Dawbarns Fact Sheet and other original material were being sent to Dr Horton by post.

This letter makes it absolutely clear that Richard Barr works for Dawbarns solicitors and that he is involved in litigation related to potential damage to children following exposure to MMR and measles-rubella vaccines.

In this letter, Barr also asks Dr Horton for retrospective permission to quote specific Lancet references contained in the Dawbarns Fact Sheet. Barr's letter specifies the references by number, including reference 50, **which is a reference to a paper co-authored by Dr Andrew Wakefield.** The text associated with this footnote reads:

*'...There is convincing evidence of a link between vaccination and inflammatory bowel disease including Crohn's Disease. It is a serious lifelong illness that has affected a large number of the children we are helping. **We are working with Dr. Andrew Wakefield of the Royal Free Hospital London. He is investigating this condition...***

Barr thus takes Dr Horton directly to the text that describes Dr Wakefield's working relationship with Dawbarns and Barr. It is therefore inconceivable that Dr Horton did not scrutinise the precise copyrighted material to which Barr directed Dr Horton.

In addition, Barr refers specifically in the letter to exchanges that he has had with Dr Wakefield and the latter's granting of permission to Barr to quote (in the Dawbarns Fact Sheets) papers previously authored by Dr Wakefield and published by The Lancet.

Barr also refers to pressure from the Medicines Control Agency and the Department of Health, upon The Lancet, to have The Lancet references withdrawn from the Dawbarns Fact Sheets. Barr also encloses correspondence with Dr Wood at the Medicines Control Agency about the contents of the Dawbarns Fact Sheets.

8th April 1997 – Dr Horton at The Lancet responds to Barr at Dawbarns, denying him permission to use material (this was in direct contrast to the above-cited encouraging comment from Sarah Quick at The Lancet)

16th April 1997 - Barr responds to The Lancet seeking the intercession of the Lancet's Ombudsman, Professor Sherwood.

23rd April 1997 - Dr Horton replies to Barr, saying that he would be happy to refer the matter to The Lancet's Ombudsman

29th April 1997 - Barr wrote to Dr Horton enclosing his correspondence with Dr Edwards at the Medicines Control Agency, and asking to be put in touch with The Lancet's Ombudsman (Dr Horton out of the UK at that time).

12th June 1997 - Dr Horton writes to Barr giving him instructions on how to make contact with the Ombudsman.

25th June 1997 - Barr acknowledges Dr Horton's letter, and subsequently corresponds with Professor Sherwood. Prof Sherwood subsequently rules that permission should have been obtained by Dawbarns from The Lancet for use of the references and reproduction of tables but in the circumstances and given the not-for-profit nature of the Fact Sheets he agreed that the tables/references in them could remain.

To summarize: the above detailed exchanges document that Dr Horton and The Lancet were fully aware of both the Dawbarns litigation and Dr Wakefield's professional link with the Dawbarns litigation, in the year before and leading up to the publication of the crucial February 1998 paper in The Lancet.

June 1997 - Dr Wakefield and co-authors submit their paper to The Lancet for peer review and approval prior to publication by The Lancet the following February.

July 1997 - Correspondence still continues between Richard Barr at Dawbarns and Professor Sherwood, The Lancet's Ombudsman. Prof Sherwood is provided with an amended version of the Dawbarns Fact Sheets. It is extremely likely that this amended version would have been passed by Sherwood to The Lancet for approval.

28th February 1998 - The Lancet publishes Dr Wakefield's paper on 12 children.

4th March 1998 - Dr. Rouse (Department of Public Health Medicine) wrote to Dr Horton at The Lancet, the letter being headed "Vaccine adverse events: Litigation bias might exist". Dr Rouse quotes from a Dawbarns Fact Sheet:

'...Extracts from a 48 page: Vaccines, FACT SHEET prepared by Dawbarns Solicitors, Kings Lynn for *Society for The Autistically Handicapped*

Inflammatory Bowel Disease. We are working with Dr Andrew Wakefield of the Royal Free Hospital London. He is investigating this condition. Page 27

Inflammatory Bowel Disease and Autism. If your child has developed persistent stomach problems (including pains, constipation or diarrhoea) following the vaccination, ask us for a factsheet from Dr. Wakefield. Page 44...

If you believe your child has been damaged: .. we propose to seek proper compensation in the courts, ... we will also help with applications to the Vaccine Damage Tribunal. Page 47 – 48...'

This letter will again have reminded Dr Horton of his year-long knowledge of Dr Wakefield's involvement with Dawbarns.

2nd May 1998 - Dr Wakefield's letter in response to Dr Rouse is published in The Lancet, addressing (amongst other aspects) potential "litigation bias". Oddly, the letter from Dr Rouse, also published in The Lancet, has had this phrase removed but from Dr Wakefield's wording it is obvious that he was responding to the original version. (The Lancet 351 May 2 1998)

18th February 2004 - A meeting is held at The Lancet offices in which Sunday Times journalist, Brian Deer, accompanied by Liberal-Democrat MP Dr Evan Harris, makes accusations against Dr Wakefield and colleagues. The Lancet rejects most of these, but Dr Horton runs with the issue of non-disclosure of the Legal Aid Board work.

20th February 2004 – Dr Horton calls a news conference, and states: "If we knew then what we know now we certainly would not have published that part of the paper related to MMR, although I do believe there was and remains validity in the connection between bowel disease and autism".

22nd February 2004 - Brian Deer and the Sunday Times suddenly, after six years, publish the story alleging Dr Wakefield's supposedly "hidden" conflicts of interest (by his working on clinical evidence for the class action whilst studying a group of twelve children as described in The Lancet paper) resulted in the 1998 Lancet paper being compromised.

Dr Wakefield denies that this was ever concealed from The Lancet, but the hue and cry mostly follows the Sunday Times' lead, and Dr Wakefield and his study - despite support from some other researchers and doctors - become routinely described as "discredited" in the media, with a few honourable exceptions. Dr Wakefield thus finds himself "guilty until proven innocent".

23rd February 2004 - Dr Horton (as described in his book "MMR - Science & Fiction") on page 7 states:

'...In truth, they had not a clue where to begin. At a dinner I attended on 23rd February, one medical regulator and I discussed the Wakefield case. He seemed unsure of how the [General Medical] Council could play a useful part in resolving any confusion. As we talked.....he scribbled down some possible lines of investigation and passed me his card, suggesting that I contact him directly if anything else sprang to mind. He seemed keen to pursue Wakefield, especially given the Ministerial interest. Here was professionally led regulation of doctors in action...'

This would suggest that Dr Horton actively assisted a GMC official as to how to frame charges against Dr Wakefield, resulting from the Secretary of State for Health, Dr. John Reid's interest.

6th March 2004 – The Lancet (Vol 363) publishes a statement by Dr Andrew Wakefield in which he gives a very detailed explanation in response to a number of allegations made against him. There is also a statement by the Royal Free Hospital and from Prof John Walker-Smith.

July 2007 - General Medical Council hearings into alleged professional misconduct by Dr Andrew Wakefield, Professor Simon Murch and Professor John Walker-Smith commence.

25th March 2008 - GMC hearings resume after a lengthy recession. Case for the defence of the three doctors begins, 27th March 2008.

