

Information about Professor William Hamilton

Malcolm Hooper 23rd June 2011

As a result of the feature article by freelance journalist Nigel Hawkes in the current issue of the BMJ (Dangers of research into chronic fatigue syndrome: BMJ 2011:342:d3780 doi:10.1136/bmj.d3780) in which Dr (now) Professor William Hamilton makes certain statements, I have decided to put in the public domain evidence in my possession in respect of my complaint to the General Medical Council about Dr Hamilton's actions relating to the unsuccessful Judicial Review of the NICE Clinical Guideline 53 on Chronic Fatigue Syndrome that has not hitherto been made public.

Dr Hamilton is on record as expressing incompatible views, one for NICE, one for the insurance industry for which he works, and another for the High Court. I believe that statements made to the High Court by Dr Hamilton are untrue; that he knew them to be untrue, and that his untruths were a determining factor in the outcome of the Judicial Review. I also believe that Dr Hamilton's evidence to the High Court was designed to conceal how insurance contracts are drafted to defeat the claims of people with CFS/ME and to conceal his own active role in denying those claims.

So that people can make up their own mind based on the evidence, the following documents are appended, extracts from which are set out below:

1. Dr Hamilton's Witness Statement dated 29th January 2009 to the High Court in which he made statements about the position adopted on CFS/ME by the insurance companies for which he works as Chief Medical Officer.

<http://www.meactionuk.org.uk/Hamiltonwitnessstatement.pdf>

2. My redacted complaint about Dr Hamilton dated 26th April 2010 to the General Medical Council setting out evidence which I believe proves that Dr Hamilton's Witness Statement to the High Court was intentionally misleading (thus deceiving Charles Bear QC acting for NICE and instructed by Beachcrofts) and thereby perverted the course of justice. For example, at paragraph 9 of his Witness Statement Dr Hamilton informed the High Court that: ***"In relation to Friends Provident...there are no relevant exclusions"***. In this regard, attention is drawn in the complaint to the GMC to Dr Hamilton's report dated 22nd July 2008 for Friends Provident: ***"FP have deliberately worded their exclusion to exclude functional***

disorders...CFS can be classified as such...I am concerned that the exclusion clause was not used". In his report for Friends Provident, Dr Hamilton demonstrates (i) a clear understanding that the classification of a disease would affect the validity of a claim; (ii) his assertion that CFS can be classified as a functional disorder; (iii) his knowledge of the company's exclusion clause; (iv) his wish that the exclusion clause be invoked to deny benefit and (v) his advice to Friends Provident that that the exclusion clause should be invoked. At paragraph 15 of his Witness Statement, Dr Hamilton informed the Court that he does not have "*a committed position in relation to CFS/ME*". He does, however, have a committed position about it, which he confirmed in his report of 22nd July 2008 for Friends Provident; he regards it as a functional disorder: "*FP have deliberately worded their exclusion to exclude functional disorders. CFS can be classified as such*". (Dr Hamilton's published papers on CFS also confirm his committed position). Similar contradictions occur in his Witness Statement in relation to the Exeter Friendly Society and Liverpool Victoria insurance companies <http://www.meactionuk.org.uk/GMC-REDACTED-complaint.doc>

3. Not appended is a letter dated 28th October 2010 from Messrs Bond Pierce, solicitors for Liverpool Victoria insurance company (one of three insurance companies for which Dr Hamilton is Chief Medical Officer). It is unequivocal: "***It is our client's position that CFS/ME is a functional disorder as opposed to an organic disease***". Given that functional disorders are excluded from cover in LV policies, the letter from Messrs Bond Pierce clearly contradicts Dr Hamilton's evidence to the High Court.

4. Dr Hamilton's CV. In his CV, Dr Hamilton states about his "*Interests outside medicine*": "*I won 87 international caps in fencing from 1975-83, and was 5th in the 1978 Commonwealth Games*". **That cannot be true. There was no fencing in the Commonwealth Games in 1978 – fencing ceased to be an event in the Commonwealth Games in 1970.** The fencing competition in which Dr Hamilton may have taken part in 1978 was The Independent British Commonwealth Fencing Championships (at which there were only eight competing nations) which has no affiliation to the Commonwealth Games. It was held in Glasgow, whereas the 1978 Commonwealth Games were held in Edmonton, Canada. I believe it is not credible that when mentioning in his CV a sporting event that took place when he was 20, Dr Hamilton made an inadvertent slip about the country or competition in which he took part.

<http://www.meactionuk.org.uk/HamiltonsCV.pdf>

As is well-known, the Judicial Review was heard before Mr Justice Simon; it failed on all counts and permission to appeal was refused. As Peregrine Simon QC, Mr Justice Simon was at Brick Court Chambers, a leading set of chambers acting for the insurance and re-insurance industry.

In his article in the BMJ, Nigel Hawkes quotes Mr Justice Simon: *“Unfounded as they were, the allegations were damaging to those against whom they were made and were such as may cause health professionals to hesitate before they involve themselves in this area of medicine”*.

In his submission to the High Court, Charles Bear QC said: *“Dr Hamilton was the victim, in my submission, of some particularly misconceived and painful allegations”* and Mr Justice Simon said in his Judgment: *“Dr Hamilton’s evidence is clear and is now unchallenged”*.

The Claimants continue to believe that their challenge failed because at the 11th hour, NICE took issue over what it considered were unjustified allegations of bias causing reputational damage to certain Guideline Development Group members (including Dr Hamilton); NICE issued threats of a punitive wasted costs Order against the Claimants’ lawyers unless the evidence of alleged bias was withdrawn. As a result, about 60% of the Claimants’ evidence was withdrawn, but Mr Justice Simon nevertheless granted NICE a wasted costs Order of £50,000 against the Claimants’ lawyers.

The Claimants have since received legal advice from a leading criminal barrister (who is also a Deputy High Court Judge) that Dr Hamilton’s Witness Statement was material to the Judgment and currently the case is being considered by new lawyers.