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Health Professions Council,  
Park House,  
184 Kennington Park Road,  
London, SE11 4BU.

Thursday, 26th August 2004

IN THE MATTER OF MR. PETER R. JELLET

RECORD OF PROCEEDINGS  
of the CONDUCT & COMPETENCE PANEL  
-- PHYSIOTHERAPISTS  
(RESTORATION HEARING)

DISCIPLINARY PANEL

MR. SANDY YULE  
(In the Chair)  
MS. KATHRYN KLOET  
MR. ROY NORRIS

IN ATTENDANCE

MS. ANGELA HUGHES  
(Legal Assessor)

REPRESENTING THE COUNCIL

MR. MICHAEL CAPLAN QC  
(of Messrs Kingsley  
Napley)

REPRESENTING THE APPLICANT

MR. PATRICK CORDINGLEY  
(of Messrs Chattertons)

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(Transcript of the Shorthand Notes of Marten Walsh Cherer Ltd.  
Midway House, 27/29 Cursitor Street, London EC4A 2LT.  
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P R O C E E D I N G S  
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1 THE CHAIRMAN: Good morning. We are starting early. I assume  
2 everybody is happy to start before 11 o'clock. I will start  
3 by introducing myself. I am Sandy Yule. I am the Chairman.  
4 On my right is Kathryn Kloet, who is the physiotherapist  
5 registrant member. On my left is Roy Norris, who is the lay  
6 member of the Committee. Perhaps I could ask Mr. Caplan to  
7 introduce yourselves and we will then start the proceedings.

8 MR. CAPLAN: Thank you very much, Mr. Chairman, and members of  
9 the panel. Good morning. I appear on behalf of the Council  
10 this morning. Mr. Cordingley appears on behalf of  
11 Mr. Jellet. Mr. Jellet sits next to Mr. Cordingley.

12 Perhaps if I can outline the position. This is an  
13 application by Mr. Jellet for restoration. Mr. Jellet was  
14 originally registered with the board under the procedure then  
15 in operation with the Council for Supplementary to Medicine.  
16 In the light of a disciplinary hearing, which I will come to  
17 in a moment, before a Disciplinary Committee in 1996 he was  
18 struck off the register and he applies today for restoration  
19 before the Conduct and Competence Committee of the Health  
20 Professions Council.

21 As far as the regulations are concerned, there are  
22 transitional regulations which deal with these particular  
23 applications and say that when you have an application from  
24 someone who was previously registered with the CPSM, then you  
25 should deal with it in the way which is contained within the

1 Health Professions Order and, in particular, article 33.

2 So far as article 33 is concerned, which deals with  
3 restoration, the application before you cannot be made, in  
4 this case, before the end of the period of five years,  
5 beginning with the date upon which Mr. Jellet was struck off  
6 the register. Certainly, this application is more than five  
7 years after that date so in that sense it is an application  
8 which properly can be made and considered by you. Secondly,  
9 before making any decision you must give the applicant an  
10 opportunity to be heard, and obviously Mr. Jellet is here  
11 represented by Mr. Cordingley.

12 You have to be satisfied on such evidence as you may  
13 require that Mr. Jellet has satisfied you that he has  
14 complied with all or any necessary training requirements and  
15 education requirements and is also a fit and proper person to  
16 practise physiotherapy. That is contained in sub-clause (5)  
17 of article 33.

18 You can, if you were minded to grant this application,  
19 make it subject to Mr. Jellet satisfying any requirements  
20 which are additional education, training and experience  
21 requirements as may be specified by the Education and  
22 Training Committee. You can, to complete the picture, on  
23 granting the application, if you were minded to grant it,  
24 direct the Registrar to register the applicant on the  
25 physiotherapy register on him satisfying any of those

1 requirements imposed, if you impose requirements, and you can  
2 make it subject to a conditions of practice order with  
3 respect to him.

4 So far as the conditions of practice order is  
5 concerned, sir, I know you and your colleagues will be fully  
6 aware that those can only in any event last for a certain  
7 period of time. I think the maximum is three years. It is  
8 not open to impose a conditions of practice order for ever.  
9 It is only for three years, although it can be reviewed  
10 before that.

11 Forgive me, sir, for going through it in some detail,  
12 but this is obviously a procedure which I think the  
13 Competence and Conduct Committee are dealing with for the  
14 first time today.

15 THE CHAIRMAN: We have noted, with respect, Mr. Caplan, that the  
16 application was under the old CPSM Act. However, I know the  
17 HPC have written to Mr. Cordingley and have explained the  
18 situation. Am I correct in assuming that?

19 MR. CAPLAN: Yes, indeed, sir.

20 THE CHAIRMAN: You are quite happy with that?

21 MR. CORDINGLEY: I am entirely happy. Can I just say that I  
22 entirely agree with what Mr. Caplan has told you.

23 MR. CAPLAN: Thank you. Sir, if I can then very briefly outline  
24 to you, as I should, the reasons which led to the  
25 disciplinary proceedings in 1996. If you would kindly look

1 at page 2 of the bundle in front of you, you will see the  
2 charges which were there laid out against Mr. Jellet. You  
3 will see that they come from his appearance at Lincoln Crown  
4 Court and his conviction at that court on 28th June 1996. It  
5 sets out in a bit more detail the reasons and the offences  
6 for which Mr. Jellet appeared at Lincoln Crown Court and was  
7 convicted, he having originally denied the allegation against  
8 him, on 28th June 1996. He appeared in court on three  
9 charges. They were all found proved against him and, as you  
10 will see, he was sent to prison for a total of nine months.

11 If I can deal very briefly with the background to these  
12 offences as was placed before the Disciplinary Committee at  
13 the time. You really start with the third offence, that  
14 which was alleged to have taken place on 15th May 1995. The  
15 brief facts here were that the lady in question there (if I  
16 call her Miss A for these purposes) went to a private  
17 hospital in Grimsby on 15th May 1995. She was complaining of  
18 low back pain. She undid her bra and as she had been to  
19 Mr. Jellet for treatment on a previous occasion did not think  
20 anything wrong with this occurring. She was asked to lie  
21 down, she was lying down on her front, the bra was removed  
22 without any permission being asked by Mr. Jellet and then he  
23 gave her a full massage from her pubic features up to her  
24 neck, including her breasts. At one stage for a short period  
25 he put his hands inside her pants. The treatment was

1 concluded and this, of course, was a treatment in the course  
2 of Mr. Jellet's employment. Miss A got dressed, went home  
3 and immediately told her husband what had occurred. The  
4 husband went to see the hospital manager and told him and the  
5 hospital manager then said that he would investigate the  
6 matter. He saw Mr. Jellet and Mr. Jellet said he simply  
7 could not account for his conduct and he was then suspended.

8 Subsequently, Mr. Jellet was interviewed by the police  
9 in connection with this and during the course of those  
10 interviews he denied any question of indecency. Mr. Jellet  
11 in fact used to be at that time the team physiotherapist for  
12 a local football club and because of that there was press  
13 coverage. The press got to hear about the suspension and the  
14 fact that he had been interviewed by the police. A story  
15 appeared in the press and, as a result of that story, the  
16 police received another complaint from another female.

17 If I could refer to her as Miss B. She said that a  
18 very similar thing had happened to her. She said that on  
19 this occasion she had visited Mr. Jellet's private practice  
20 in Louth, Lincolnshire. On the first occasion her breasts  
21 were massaged and she thought this was normal. When it  
22 happened again she became suspicious and she apparently told  
23 her friends what had happened, but did not make a formal  
24 complaint to the police because she was too embarrassed at  
25 the time.

1           That matter occurred on 18th April 1995 and is in fact  
2 charge 2. Mr. Jellet was again interviewed by the police and  
3 on this occasion he said he could not remember anything that  
4 had happened in connection with this particular patient.  
5 What then happened was that Mr. Jellet wrote to all his  
6 patients, or at least a number of them, with a short  
7 questionnaire asking them to confirm that he had not  
8 indecently assaulted any of them. One person who received  
9 this questionnaire was Miss C. She was so incensed that she  
10 did in fact contact the police and said that she had been  
11 indecently assaulted in 1992. She told them that she had  
12 gone to see Mr. Jellet apparently for a neck injury and her  
13 breasts were massaged. Again, Mr. Jellet was interviewed by  
14 the police regarding this patient, but said that he could not  
15 remember. That allegation was the first in time of the  
16 allegations, but it only came to light in subsequent  
17 enquiries. That incident occurred on 31st March 1992.

18           Mr. Jellet was charged with these three offences of  
19 indecently assaulting a female patient. He appeared at  
20 Lincoln Crown Court. He denied the allegations against him,  
21 but he was convicted on 28th June 1996. In relation to these  
22 offences, he was sentenced in reality to nine months'  
23 imprisonment.

24           The position then is, sir, that disciplinary  
25 proceedings occurred before the Disciplinary Committee of the

1           Physiotherapists Board, as it then was, in November 1996 and  
2           they concluded, having found the matters proved, that  
3           Mr. Jellet's name should be removed from the register. Those  
4           are the brief facts as they appeared then and unless there  
5           are any other matters I can assist you or other members of  
6           the panel with.

7           THE CHAIRMAN: Thank you very much.

8           MR. CORDINGLEY: Sir, I did not act for Mr. Jellet in connection  
9           with the criminal proceedings, but I have had considerable  
10          involvement subsequent to his conviction. Sir, I think it is  
11          reasonable for me to say that I have a good working knowledge  
12          of these matters even though I did not deal with them first  
13          hand. Bearing that in mind, can I say that Mr. Caplan, on my  
14          understanding of these matters, has given a very fair summary  
15          of the evidence which was presented against Mr. Jellet.

16                 It is in my submission an irrelevance that Mr. Jellet  
17          pleaded not guilty and it is an irrelevance that if he was  
18          asked today whether he did these things and whether he was  
19          guilty or not that you would get a reply which would not be  
20          consistent with the jury's verdict.

21                 The reason it is an irrelevance is that my  
22          understanding of the position is simply this. You are bound  
23          by the decision of the jury. You may not look behind that  
24          decision and I would not invite you, or dream of inviting  
25          you, to do so and nor would Mr. Jellet.



1           I put that issue at the front of what I wish to say to  
2           you for I would suspect very good reasons. It is at the  
3           heart at Mr. Jellet's application for restoration that  
4           patients should be protected. It is at the heart of his  
5           practice that he himself should be protected. There is a  
6           mutuality of interest there, which is a question of  
7           protection, and the way of the protection of Mr. Jellet and  
8           the way of the protection of patients is achieved is through  
9           chaperoning, and I will turn to that in some more detail  
10          later.

11           Can I just digress and deal with a couple of  
12          housekeeping matters. When I submitted Mr. Jellet's  
13          documents I submitted them in two bundles. I rather suspect  
14          that you have them as a single bundle which may explain the  
15          little hesitation when Mr. Caplan invited you look at page 3.  
16          It is simply this. There is a statutory declaration which  
17          was a separate document and which has pagination at the  
18          bottom right-hand corner by the computer's printer. The  
19          separate document is then the exhibit and the exhibit starts,  
20          first of all, with a formal page identifying it and then with  
21          a two-page index and then you go to the handwritten numbers.  
22          When we refer to page numbers of the exhibit, it is the  
23          handwritten pages we need to be looking at. I hope from the  
24          point of view of housekeeping that will just explain why  
25          these papers may appear more confusing than I intended them

1 to appear.

2 Can I deal with the second housekeeping point because  
3 much to my chagrin I see that in paragraph 7 there is a  
4 typing error. That is paragraph 7 of the statutory  
5 declaration. If you were to glance at paragraph 6 of the  
6 declaration and the last sentence, you will see the words "I  
7 was unable to be present at their meeting because I was  
8 serving my prison sentence." I regret that those words have  
9 also been tagged on the end of paragraph 7 and that is my  
10 mistake. I wonder if you would like to disregard those  
11 words.

12 THE CHAIRMAN: We did note that item 10 says "8th November".

13 Mr. Caplan, are you happy to delete that sentence in  
14 paragraph 7?

15 MR. CAPLAN: Yes, certainly.

16 THE CHAIRMAN: Thank you. We will delete that sentence.

17 MR. CORDINGLEY: I infer from all of that pretty much as I would  
18 have expected that you have studied these papers with  
19 considerable care. I would not like to be tedious today, but  
20 the way in which I would normally deal with this is to  
21 invite Mr. Jellet to take the oath, if you wish to hear his  
22 evidence of oath, and to invite him to read this declaration  
23 and I would ask him to refer you to the various documents as  
24 they appear. I say I do not wish to be tedious. If you have  
25 studied the documents with care that may indeed be tedious.

1 I am entirely in your hands as to how you would prefer me to  
2 deal with it.

3 THE CHAIRMAN: We have certainly all read the documents in  
4 detail, but perhaps I could ask our legal adviser for advice.  
5 Do we need to hear this evidence under oath or can we accept  
6 the evidence.

7 MR. CORDINGLEY: If I may say so, sir, the declaration was made  
8 under the Statutory Declarations Act. It has the effect of  
9 being given on oath.

10 THE LEGAL ASSESSOR: There is power to put the applicant on oath  
11 if you wish to do so, but it is not a requirement. If you  
12 are satisfied and the applicant is satisfied that his  
13 evidence has been made in the form of a statutory declaration  
14 as it has been read, it is acceptable on that basis.

15 THE CHAIRMAN: We are certainly satisfied unless Mr. Caplan  
16 wishes to put questions to the applicant?

17 MR. CAPLAN: The Council's position is we are content for  
18 Mr. Cordingley and the panel to proceed in whatever way you  
19 wish to.

20 THE CHAIRMAN: We are happy to accept the statutory declaration.

21 MR. CORDINGLEY: It is a matter of tedium I said, but it is a  
22 matter of presentation in a sense how you wish to hear this  
23 evidence. I still propose to invite Mr. Jellet to take the  
24 oath and without going through this in detail I propose to  
25 ask him to confirm that its contents are true. That is



1 the nature of your practice as a Chartered Physiotherapist?

2 A. I am now self-employed. I work from home. I have two  
3 surgeries, two rooms side by side. I treat mainly soft  
4 tissue and skeletal injuries, working in the afternoons and  
5 evenings from home, leaving the mornings free for any home  
6 visits that I may pick up. I also do a local football club  
7 now only at the weekends.

8 Q. You are a sole practitioner rather than in a partnership?

9 A. Yes.

10 Q. Would you just explain your chaperoning arrangements?

11 A. All ladies now have to bring a chaperon, preferably their  
12 own. If they are unable to bring a chaperon and I can fit in  
13 with my wife's work, my wife is more than prepared to sit in  
14 and chaperon or if my mother is stopping then she will  
15 chaperon if the patient is happy with that arrangement. If  
16 they are not happy with that and they cannot bring a chaperon  
17 of their own, I am unable to see them. This is made quite  
18 clear to them when they ring up to make the booking.

19 Q. That is made clear orally on the telephone, is it?

20 A. Yes.

21 Q. Let me ask you this, having made those chaperoning  
22 arrangements, have there ever been occasions when anybody has  
23 presented themselves for treatment, any female has presented  
24 themselves for treatment, when a chaperon has not been  
25 present?

1 A. No.

2 Q. What would you do if those circumstances arose?

3 A. If my wife or my mother was not available in the house, I  
4 would have to send them away.

5 Q. Do you have any written material, in particular, any written  
6 material displayed in your treatment rooms concerning the  
7 need for a chaperon?

8 A. Yes. I have a typed notice in the hallway and one in each  
9 treatment room regarding the need for a chaperon.

10 Q. Have your requirements for a chaperon ever caused any  
11 difficulty to you?

12 A. I have lost some patients because they have been unable to  
13 bring a chaperon.

14 Q. Have any of your patients ever objected to the requirement  
15 for a chaperon?

16 A. Not to bringing one, no, other than the fact, as I say,  
17 several patients stated they do not have a chaperon and so  
18 they will have to look elsewhere.

19 Q. In principle nobody has said, "I do not want a chaperon?"

20 A. No.

21 Q. You describe the nature of your practice, but could you  
22 explain to the Committee how busy you are?

23 A. That does vary. It is not as busy as it used to be, but that  
24 is because there are other practitioners in town. It varies  
25 from approximately 30 to 40 patients per week.

1 Q. Do you have any other source of income?  
2 A. No.  
3 Q. Save for your physiotherapy practice?  
4 A. No.  
5 Q. But you do have a working wife?  
6 A. I do, yes.  
7 Q. You are a member of the Chartered Society of  
8 Physiotherapists?  
9 A. Yes.  
10 Q. You were originally struck off their membership roll as a  
11 consequence of the matters which Mr. Caplan has outlined?  
12 A. That is correct.  
13 Q. It is correct, as it is clear from the papers, that you were  
14 restored to membership originally subject to conditions?  
15 A. Yes.  
16 Q. And subsequently the conditions were fulfilled and you were a  
17 member of good standing and repute?  
18 A. Yes.  
19 Q. You gave an undertaking to the Chartered Society, did you  
20 not?  
21 A. Yes.  
22 Q. In connection with the provision of chaperons for female  
23 patients?  
24 A. That is correct, yes.  
25 Q. You have explained your chaperoning arrangements, are they

1           pursuant to that undertaking?

2       A. Pardon?

3       Q. You have explained to the Committee the chaperoning

4           arrangements that you have in place. Are they chaperoning

5           arrangements as a result of the undertaking that you gave to

6           the Chartered Society?

7       A. Partly, although I was already doing it, but now it is in

8           writing and signed.

9       Q. Is it your wish and intention that you will always fulfil

10           that undertaking?

11      A. Yes.

12      Q. If this Committee was prepared to accept an undertaking from

13           you, would you give the same undertaking to this Committee?

14      A. Yes.

15      Q. Unhesitatingly?

16      A. Yes.

17      Q. As a permanent undertaking?

18      A. Yes.

19      Q. One which you would always do your very best to comply with?

20      A. Yes, no question.

21      Q. Without exception?

22      A. Yes.

23      Q. The Committee may have some more detailed questions in

24           respect of your competence and professional development and

25           matters of that sort, but just in outline would you explain



1           how you keep yourself up-to-date and how you have kept  
2           yourself up-to-date, particularly since you were struck off?

3           A. The Chartered Society when I was being monitored implied that  
4           they would like me to go on line with a computer so that I  
5           can, as a sole practitioner, keep up-to-date with any  
6           articles and, more readily, be able to do article searches.  
7           I have gone on line. I have been on line for two and a half  
8           years.

9                        I am also a member of the Organisation of Chartered  
10           Physiotherapists in Private Practice which request, as part  
11           of the membership, 25 hours a year continuing professional  
12           development, which I have been maintaining. That is ongoing  
13           to maintain the membership. I try to gear it obviously  
14           towards my practice.

15          Q. Mr. Jellet, the fact of your conviction, indeed, the fact of  
16           your arrest and the fact you were charged, is it fair to say  
17           that they received a deal of local publicity?

18          A. Yes. Not long after I went self-employed, I was three years  
19           with Grimsby Town Football Club on a fairly full-time basis,  
20           although they still allowed me to run my practice in the  
21           evening. I got very good coverage in the Grimsby Evening  
22           Telegraph over a sustained period plus in my local town  
23           papers.

24          Q. We cannot expect the members of the Committee to have any  
25           real knowledge of Louth, but can you just explain what sort

1 of town Louth is and how large it is?

2 A. I think the population is about 15,000 to 16,000. It is a

3 small market town north of Lincolnshire.

4 Q. A fairly close community?

5 A. Yes, a very close-knit community.

6 Q. About how far from Grimsby?

7 A. 16 miles.

8 Q. The Grimsby Evening Telegraph....?

9 A. Is circulated in Louth.

10 Q. At the time there were two weekly Louth newspapers as well?

11 A. Yes, there is one on a Wednesday and one on a Friday.

12 Q. For the record, they would have been the Louth Standard and

13 the Louth Leader.

14 Q. Did it provide a lot of publicity for your case?

15 A. Yes, it did.

16 Q. Is it fair to say that the effect of that publicity is that

17 the circumstances of your conviction was very widely known in

18 Louth?

19 A. Very widely known.

20 Q. Presumably still known?

21 A. Yes.

22 Q. When you came out of prison, and I am not going to go through

23 matters in great detail, did you expect to be able to rebuild

24 any sort of a practice as a physiotherapist?

25 A. No.

1 Q. How is it then that you did rebuild a practice? When did it  
2 start?

3 A. People still contacted me wanting treatment.

4 Q. Males and females?

5 A. Yes.

6 Q. Did you agree to treat them?

7 A. After taking advice, yes.

8 Q. After taking legal advice?

9 A. Yes.

10 Q. Was it at that stage that you first put in place your  
11 chaperoning arrangements?

12 A. I had been doing chaperon arrangements as soon as I was  
13 arrested and I carried on working. It became more formal  
14 later.

15 Q. The Committee will have seen in the exhibits the letters of  
16 support from those of some standing in your local community?

17 A. Yes.

18 Q. Did it come as a surprise to you that you had that degree of  
19 support?

20 A. Yes, it was a pleasant surprise, but a surprise.

21 Q. Also the Committee will have seen in these papers a survey  
22 which was conducted by Jenny Archer, a physiotherapist from  
23 Northern Ireland?

24 A. Yes.

25 Q. Can you just explain to the Committee how you first became

1 acquainted with Jenny Archer?

2 A. It was suggested by another physiotherapist that Jenny Archer  
3 may be able to help me as an expert witness in the initial  
4 trial, which she duly did.

5 Q. Just pausing there for a moment, had you ever met her before  
6 that?

7 A. No.

8 Q. Have you had anything other than professional dealings with  
9 her?

10 A. No.

11 Q. She did a similar survey which was presented to the Chartered  
12 Society when you applied for restoration, did she not?

13 A. Yes.

14 Q. You will have read the documents and in particular the letter  
15 from Jenny Archer (this is page 6 of the exhibits) in which  
16 she explains her methodology in conducting this survey?

17 A. Yes.

18 Q. Is that to your knowledge correct?

19 A. Yes.

20 Q. You will have read the replies from the patients who she  
21 contacted?

22 A. Yes.

23 Q. Did you take any steps to influence those patients at all?

24 A. No, not at all. I did not know who she was sending to. I  
25 did, but, no, I did not. Jenny picked the names off the list



1 MR. CAPLAN: Have you read the letters now, sir?

2 THE CHAIRMAN: Yes, thank you.

3 MR. CORDINGLEY: I apologise for that omission from the bundle  
4 and I am grateful for the assistance we have had from the HPC  
5 and yourselves. I had just said to Mr. Jellet that he  
6 should stay there to answer questions and I think that is  
7 where we rest.

8 THE CHAIRMAN: Yes, it was. I am sorry to interrupt you. I  
9 thought it would be nice to have the letters.

10 MR. CORDINGLEY: I am very grateful for that assistance, sir.

11 THE CHAIRMAN: Mr. Caplan, do you have any questions?

12 MR. CAPLAN: The Council has no questions. We take the view that  
13 it is, of course, a matter for Mr. Jellet to satisfy you that  
14 he is a fit and proper person.

15 QUESTIONED BY THE PANEL

16 MS. KLOET: Just a couple of points of clarification. Can you  
17 give us some more detail about the training you are and have  
18 been undertaking. Can you give us some detail of what  
19 constitutes the CPD detail to satisfy their 25 hour  
20 requirement?

21 A. What courses I go on?

22 Q. Yes.

23 A. I try to get to the FA conference every year, which is in  
24 conjunction with the Royal College of Surgeons of Edinburgh.  
25 Also this year I renewed my touchline first-aid certificate

1 with the NSMI. Unfortunately, after I took the exam it went  
2 into receivership I believe.

3 THE CHAIRMAN: What is the NSMI?

4 A. It is the National Sports Medicine Institute. It holds  
5 regulated courses. It is an every-two-year course. I was  
6 doing it because I am involved with football. I do not have  
7 a certificate to show you, I am afraid, because they did not  
8 issue any. Certainly, I try to go on the FA course every  
9 year, which are very high profile lectures. The first-aid  
10 was examinable this year. I had to do a lot of background  
11 reading. That is ongoing. The courses are very difficult  
12 geographically because the Lincolnshire branch Chartered  
13 Society is now disbanded and the Trent Board do not seem to  
14 be putting on any lectures. If they are, it is often a long  
15 way away even though it is within the Trent region. I have  
16 brought my previous year's CPD if you would like to look at  
17 them.

18 THE CHAIRMAN: We could do that when we retire.

19 A. Last year I did not make the 25 years, but they do give you  
20 two years to do 50 hours.

21 MS. KLOET: The second point. Following your release from prison  
22 you said that a local consultant contacted you. Is that  
23 correct?

24 A. No, patients contacted me and said, "Now that you are out,  
25 are you still working?" It went on from there. I just had

1 to take advice as to what I could call myself.

2 Q. There was no pro-active action from local family doctors,  
3 consultants or orthopedic surgeons contacting you with  
4 regards to their patients?

5 A. They did subsequently refer people because I asked where they  
6 had come from and they said their GP had mentioned me.

7 Q. It was by word of mouth?

8 A. Yes, as far as I can remember. Certainly old patients rang  
9 me up to ask me if I was still working. I had to be careful  
10 what I called myself.

11 MR. NORRIS: You have 30 or 40 patients on a regular basis. How  
12 many are female?

13 A. That varies. My diary does show that three weeks ago I saw  
14 39 patients and 18 were female. I think this week it will be  
15 about 10 out of perhaps 24, but it does vary.

16 Q. Of that patient list -- I know it is going back a bit now --  
17 at the time what was the balance between male and female?

18 A. When I first came out of prison or before?

19 Q. This was after Jenny Archer produced the questionnaire, she  
20 wrote to 20 patients.

21 A. Yes, 10 of each.

22 Q. She took this off your list?

23 A. Yes.

24 Q. What was the size of the list in relation to female patients?

25 A. I cannot answer that.



1 THE CHAIRMAN: With respect to chaperoning, you say that your  
2 wife or your mother sometimes fill in if the patient does not  
3 have a chaperon?  
4 A. Yes.  
5 Q. You also said that the patients phone up and if they cannot  
6 provide one and you cannot provide one, you cannot take them  
7 as a patient. How do you decide when you can take a patient  
8 who has said they cannot provide a chaperon?  
9 A. My mother is only there if she is on holiday. A patient will  
10 ring and I say, "You do appreciate that you need a chaperon,  
11 but my mother is stopping at the moment. Are you happy for  
12 her to sit?" That often means if it is more convenient they  
13 can come there and then instead of waiting for someone to  
14 become available. We just discuss it on the phone at the  
15 time of them booking the appointment.  
16 Q. I am a radiographer, we certainly feel that male and female  
17 patients require chaperoning regardless of the sex of the  
18 radiographer/radiologist. Do you think that males may  
19 require chaperoning as well?  
20 A. It has not been talked about, no.  
21 Q. You are quite happy you only have a chaperon for female  
22 patients?  
23 A. Yes.  
24 Q. One leading question. Why do you want to be reinstated? I  
25 think I know the answer, but I would like to hear what you



1 position, please?

2 A. "Also I found with pleasure that local orthopedic consultants  
3 who knew of my criminal conviction and non-professional  
4 status were prepared to continue to support me."

5 Q. In what form did that support take?

6 A. I can only assume that they were happy to send patients back  
7 to me.

8 Q. Did you, for instance, find that patients had come to you  
9 with a recommendation or suggestion?

10 A. Often it would be that I would send the patient to the  
11 consultant and then the consultant would send them back after  
12 procedure.

13 Q. I see, support in that sense?

14 A. Yes.

15 MR. CORDINGLEY: I think that is the end of your evidence. You  
16 can return to your seat, if you like.

17 THE CHAIRMAN: Would you like to say anything else, Mr. Jellet?

18 A. I would just like to thank you for listening.

19 (The witness withdrew)

20 MR. CORDINGLEY: I would like to say a bit more about this  
21 application, but I am not entirely sure about the procedure.  
22 I do not know if Mr. Caplan goes next or, indeed, whether he  
23 wishes to.

24 MR. CAPLAN: I think, if I may say so, there is no laid down  
25 framework procedure, but commonsense and fairness would

1 dictate. I would suggest you certainly hear from  
2 Mr. Cordingley on behalf of the applicant. There is nothing  
3 further that I, on behalf of the Council, can add. The only  
4 matter is referring you to the order, but it is a matter for  
5 Mr. Jellet to satisfy you that he is a fit and proper person  
6 and if you come to that decision you can impose certain, in a  
7 general sense, conditions. Those are matters for you, sir.

8 THE CHAIRMAN: We will also take advice from the legal assessor  
9 before we retire on any matters that need to be considered.  
10 Yes, feel free to say anything you wish.

11 MR. CORDINGLEY: Yes, and briefly, First of all, Mr. Jellet has,  
12 in my submission, paid his debt to society as a whole. He  
13 has certainly served a term of imprisonment. He has  
14 certainly learnt lessons and it has caused changes to his  
15 practice.

16 He has no longer been a state registered  
17 physiotherapist for well in excess of five years, since he  
18 was struck off, so that time period has obviously elapsed.  
19 Historically, I suppose he would only have wished to be a  
20 stated registered physiotherapist if he wished to work in the  
21 public domain, but there are changes afoot, to which he has  
22 alluded to, and which you know quite a lot about, why it  
23 would now be important to him to become restored as a Health  
24 Professions Council endorsed physiotherapist, if I can put it  
25 to you in that rather informal way.

1           Certainly, as you know, he has an established practice  
2 as a physiotherapist and it is one which he has carried on  
3 for some years since he was restored to membership of the  
4 Chartered Society. The Chartered Society is, of course, a  
5 body entirely independent of the health Professions Council,  
6 but it is a society of considerable repute and importance.  
7 Their own assessment of the situation, the decisions which  
8 they have made, for the monitoring of Mr. Jellet's practice  
9 which they undertook and their ultimate decision to restore  
10 him as a member of good repute, are matters which I  
11 anticipate you would wish to take proper notice of and place  
12 considerable weight upon.

13           In terms of Mr. Jellet's standing, he is a chartered  
14 physiotherapist and has been in that position now for some  
15 time and conducting a practice as such. That is important  
16 and cannot be overlooked.

17           You will have seen in the bundle of documents that he  
18 has support from a range of people in and around Louth. You  
19 have seen letters from other healthcare professions. You  
20 have seen letters from those who have used his service. It  
21 is fair to say that these letters were solicited. I wrote  
22 and asked for them in other words. You will have seen the  
23 survey which was conducted from a randomly selected sample of  
24 his patients. The questions which were asked and the answers  
25 which were given, if I may say, all go considerably to

1 Mr. Jellet's credit.

2 You will have seen that some of those who were surveyed  
3 saw fit to write their own letters of support. They were not  
4 asked to do so. They were asked to respond to a  
5 questionnaire and I would have given you all those replies  
6 warts and all, to quote Oliver Cromwell, but in fact they all  
7 go to Mr. Jellet's credit.

8 You can see I think from that survey that the  
9 chaperoning system works and I can tell you that Mr. Jellet,  
10 who regards the chaperoning system being for his benefit as  
11 well as his patients, has confidence in it and it would seem  
12 to me that you can conclude from the survey that patients  
13 also find it satisfactory, albeit that some of them may think  
14 that it is an unnecessary nuisance. They live with it.

15 You can see how Mr. Jellet operates it and he has told  
16 you that he turns patients away if chaperoning arrangements  
17 cannot be made. These are all matters which can give you  
18 some confidence in favourably looking at this application and  
19 many of these matters reflect upon his fitness to practise,  
20 which is, of course, the all important point.

21 Mr. Jellet has told you something of his CPD  
22 arrangements. I have here ready to hand to you his CPD  
23 records.

24 In summary, in my submission, Mr. Jellet is  
25 rehabilitated and you can safely make a decision to restore

1 him. You know that Mr. Jellet has given an undertaking to  
2 the Chartered Society. You know that he is prepared to give  
3 you an undertaking in the identical terms effectively, a  
4 permanent undertaking just as he gave the Chartered Society.  
5 There is no direct power in the rules which apply here which  
6 says that an undertaking can be given. Nor that says that an  
7 undertaking may not be given. In my submission the position  
8 is this. If an undertaking of this sort is offered, which is  
9 relevant to the issue in question, you are entitled to take  
10 that undertaking.

11 What then is the status of that undertaking? I do not  
12 wish you to misunderstand me. I am not suggesting that  
13 Mr. Jellet would breach that undertaking, but let us say that  
14 he did breach the undertaking that of itself must be a very  
15 serious disciplinary matter, one which very likely, given all  
16 the background, would entitle a decision to strike him off  
17 again. There is importance for such an undertaking. There  
18 is a sanction for such an undertaking and I put the offer of  
19 the undertaking to you in that sense.

20 I can tell you that I discussed this point with  
21 Mr. Caplan a few days ago and that, as a result of that  
22 discussion, I forwarded to Mr. Caplan a letter which he  
23 forwarded to Kelly Johnson and which ultimately should have  
24 found its way to your legal adviser.

25 THE CHAIRMAN: I cannot answer that, I am sorry.

1 MR. CORDINGLEY: I am looking at your legal adviser for guidance  
2 here. The letter canvassed this issue so that your legal  
3 adviser would have pre-knowledge of it.

4 THE CHAIRMAN: This is with respect to the condition of  
5 chaperoning?

6 MR. CORDINGLEY: The status of an undertaking.

7 THE CHAIRMAN: I do not think we can apply an undertaking as a  
8 condition of practice. I am sure the legal assessor will  
9 advise us.

10 MR. CORDINGLEY: The position with regard to a condition of  
11 practice is, yes. You can apply a condition of practice, but  
12 initially for only three years. It does not have the  
13 permanency of the undertaking. Mr. Jellet and I are entirely  
14 happy for you to apply the relevant condition of practice,  
15 but we would prefer to go further and say that in addition  
16 there is the undertaking which is permanent and that the  
17 undertaking has teeth.

18 THE CHAIRMAN: We will be asking advice from the legal assessor  
19 anyway.

20 MR. CORDINGLEY: I had hoped she had been pre-warned of this  
21 point. That should be clear, I hope. We are suggesting a  
22 condition of practice and in addition a permanent undertaking  
23 and for at least three years the two will be to the same  
24 effect, but the undertaking will be permanent. As I say, if  
25 the undertaking is broken we would see that as a very serious



1 disciplinary matter. Do not misunderstand me. We are not  
2 offering to break the undertaking. With all that in mind, I  
3 would ask you to look favourably upon this application.

4 THE LEGAL ASSESSOR: I think Mr. Caplan has summarised the  
5 position quite clearly. The provisions are in article 33(5)  
6 of the Health Professions Order. The issue before the  
7 Committee is it has to be satisfied, having regard in  
8 particular to the circumstances which led to the making of  
9 the order, that the applicant is a fit and proper person to  
10 practise his own profession.

11 You also have to take into account the requirements of  
12 training and you have to be satisfied that applicant has  
13 complied with the appropriate requirements. If the Committee  
14 were minded to grant the application, it could impose a  
15 requirement that the applicant satisfy the training  
16 requirement and also make a conditions of practice order with  
17 respect to the applicant.

18 Article 29 deals with a conditions of practice order  
19 and it confirms that the order can be for the maximum period  
20 of three years. It would be open to the applicant to apply  
21 to have that order reviewed or revoked and the Committee can  
22 be specific that no such application should be made for a  
23 maximum period of two years. If such an order were made it  
24 would be reviewed yearly by the Committee with whom that  
25 order originated.



1 would like further information from both parties as to how a  
2 condition of practice order could be implemented with respect  
3 to chaperoning and how this could be formulated and verified.  
4 As I have said, we would appreciate the opinions of both  
5 parties and following that we will retire and further  
6 consider our decision.

7 MR. CAPLAN: Sir, the Council's dilemma is in reality how we  
8 could verify a condition. That is our dilemma. We welcome  
9 any suggestions, in particular from Mr. Jellet, as to how we  
10 could properly verify or in reality police any such  
11 condition. That would be the difficulty that we would see on  
12 behalf of the Council.

13 MR. CORDINGLEY: You will perhaps appreciate that I am thinking  
14 on my feet. Can I say, first of all, that Mr. Jellet sees no  
15 difficulty in complying with such a condition because it is  
16 what he does any way.

17 So far as evidence that he has complied is concerned,  
18 it seems to me that this is actually quite straightforward.  
19 I am broadly familiar with the records which Mr. Jellet has  
20 in the course of his practice and there is a treatment sheet  
21 for each session. Those sheets already name the chaperon  
22 used on the occasion and they contain the patient's consent  
23 to the presence of the chaperon, so there already is in  
24 existence documentary evidence that the chaperoning  
25 arrangements exist and are complied with. If it was thought

1 necessary, anything appropriate can be added by way of  
2 amendment to those sheets. It is then, it seems to me, a  
3 matter of confirming compliance.

4 It seems to me that there are a range of ways in which  
5 this might possibly be done. Effectively, it is an audit  
6 procedure. It is a condition which is limited to a term of  
7 three years in any event so we are not looking at some audit  
8 arrangement which has to be indefinite. I would suggest that  
9 the better way of dealing with this is for a suitable nominee  
10 to be appointed in order to provide an audit certificate.

11 There are three individuals who I would suggest might  
12 be appropriate to give that certificate. This is a  
13 non-exhaustive list, if I can put it that way. First of all,  
14 you have seen the involvement of Jenny Archer already. I  
15 obviously have not been able to discuss this point with her,  
16 but I feel sure that she would in principle be willing to  
17 undertake this task.

18 Secondly, and I use the word "audit", Mr. Jellet has an  
19 accountant who is an auditor. If it was felt necessary to  
20 audit his records in this sense, I imagine his accountant  
21 could be instructed to do that and would be able to provide a  
22 audit certificate to that effect.

23 Thirdly, in principle I would be willing to do that.  
24 All I would be doing is looking through each of those sheets  
25 and ensuring that they contain the confirmation required and

1 carrying out a sampling test to ensure that the sheets  
2 corresponded to the diary. Normally audit principles would  
3 require a sample to be undertaken. If that sample was  
4 satisfactory, it would be assumed that it was representative  
5 of the whole. In other words, I would not be looking at 40  
6 appointments for 50 weeks of the year. Those are the  
7 verification procedures which, as I say, occur to me thinking  
8 on my feet as a non-exhaustive list.

9 It might in principle be possible for these records to  
10 be produced to the Council. I think that is objectionable  
11 for two reasons. There is the question of patient  
12 confidentiality involved and it is a task which I did not  
13 think the Council would be equipped to undertake.

14 MR. CAPLAN: Can I, in order to assist the Committee, first say  
15 that I am quite sure the Council would not want to see any  
16 matters which touch on patient confidentiality. Secondly, I  
17 am quite sure that neither the Council or the Fitness to  
18 Practise Directorate here would necessarily want to see the  
19 records.

20 It is not a question of the auditing of records because  
21 all the auditing would do is audit the record and not that  
22 the condition had been complied with. I am not for one  
23 moment suggesting that Mr. Jellet would not comply with the  
24 condition. The difficulty is in reality policing the  
25 condition. That is a difficulty we foresee. It is a matter

1 entirely for the panel, but imposing any kind of condition  
2 which can be easily policed is the dilemma which we have. It  
3 is not a question of an audit certificate. It is a question  
4 of whether what is being suggested, what is being offered,  
5 can be confirmed to be being carried out and we have some  
6 real concerns that could be properly policed, or policed at  
7 all, by the Fitness to Practise Directorate.

8 MR. CORDINGLEY: Up until now I have agreed with everything  
9 Mr. Caplan has said, but here I am afraid I am going to have  
10 to take issue.

11 Mr. Jellet has explained to you the nature of his  
12 practice. We are not talking about a very large practice.  
13 He has told you about the number of patients he sees in a  
14 week. A good running average appears to be 40, sometimes a  
15 few more, sometimes a few less. He has with him his current  
16 professional diary and he would happily let you glance at it  
17 so you can see the way in which it is filled in.

18 He has an appointment pre-booked for each patient. The  
19 details of those patients therefore are in his diary. The  
20 fact that there has been treatment is recorded in the diary.

21 An audit certificate, as I see it, would arise from a  
22 comparison of the diary and the records. If I was  
23 undertaking this task I would simply take a random sample of  
24 appointments from the diary and then I would consult the  
25 treatment sheets and I would look for the corresponding

1 treatment sheet for each of those selected appointments. I  
2 would then look to see that there was written evidence on  
3 that sheet which proved that there had been chaperoning. We  
4 are talking here about chaperoning in respect of female  
5 patients, so we are talking broadly speaking of half the  
6 entries in the diary and it is a case of finding a  
7 representative sample for the period of time which is being  
8 looked at.

9 These are normal verification procedures. These are  
10 the sort of procedures which are used for ISN 5000 procedures  
11 and so forth. They are the sort of procedures which are used  
12 for other compliance mark labels and these things are used  
13 commonly throughout industry and commerce in my experience.  
14 They are not actually unlike the financial audits which are  
15 carried out for accounts, but that is taking the analogy  
16 perhaps too far. This is a non-financial audit. It is an  
17 audit looking for evidence that a stipulated procedure has  
18 been followed and I would see no difficulty at all in being  
19 able to test the use of the procedure to ensure that there  
20 had been compliance. Assuming that the evidence is there, an  
21 audit certificate would result. That certificate could be  
22 provided to the Council as frequently as you thought  
23 appropriate in order to establish verification.

24 I suppose, looking at this from an extreme example, it  
25 would never be possible to prove on any and every occasion

1           that there had been full compliance with this condition. You  
2           could say, "What happens to somebody whose appointment is not  
3           in the diary?" If you were to think about any other  
4           conditions of practice which might be imposed in the  
5           circumstances, is that not the same? Verification seems to  
6           me to be reasonable and appropriate verification in the  
7           circumstances. Never absolute verification.

8           THE CHAIRMAN: I was going to ask Mr. Caplan if the condition of  
9           practice is applied in other cases and is the HPC able to  
10          monitor those conditions of practice?

11          MR. CAPLAN: The difficulty is this, with the very greatest of  
12          respect, I am not so sure an audit certificate takes the  
13          matter any further at all because all an audit certificate  
14          actually does, with the greatest will in the world, is  
15          confirm what may be written in a diary or on a sheet. It  
16          does not actually confirm beyond that the actual conditions  
17          complied with. I am not in any way attacking any one's  
18          credibility here. I am simply saying, I do not think an  
19          audit certificate saying that there appears in a record that  
20          it has been carried out actually answers the problem. The  
21          problem here is whether we can properly police this and we  
22          have some considerable difficulty. The matter is entirely  
23          one for the panel.

24          MR. NORRIS: Does the chaperon sign the treatment form?

25          THE APPLICANT: They do, yes. It states their name and their



1 relationship to the patient.

2 THE CHAIRMAN: Nothing further to add, Mr. Caplan?

3 MR. CAPLAN: No, sir. As I have said, my last words were, it is  
4 a matter entirely for the panel to decide whatever conditions  
5 you want to impose. If you wish to impose a condition, I can  
6 tell you that the Fitness to Practise Directorate would do  
7 their very best to ensure it is complied with, but the phrase  
8 which comes to mind is "Easily verifiable".

9 THE CHAIRMAN: The CPS did say that one of their conditions was  
10 -- I am not saying the HPC would do this -- they would  
11 inspect the premises unannounced. Have they done this yet?

12 THE APPLICANT: Not unannounced or not to the best of my  
13 knowledge. They have not been to the practice, but I have  
14 had phone calls from patients saying they have no chaperon.  
15 Whether that is someone testing me, I do not know.

16 THE CHAIRMAN: You do not know how the CSP monitors their  
17 conditions?

18 THE APPLICANT: The three years are up and I am back in good  
19 standing, but in that letter of good standing it was pointed  
20 out that they still had the right to come unannounced.

21 MR. CAPLAN: Sir, I cannot add anything further. Except I am  
22 driven to making the comment, which I think is a realistic  
23 comment, on behalf of the Council that the mere fact we are  
24 debating this issue shows the difficulties that could lie  
25 ahead for the Fitness to Practise Directorate in



1 Committee today.

2 During the past six years Mr. Jellet has continued to  
3 work in his profession and, according to his references, has  
4 enjoyed support from former colleagues and other health  
5 professionals who are aware of his convictions.

6 Mr. Jellet had also been removed from membership of the  
7 Chartered Society of Physiotherapists. However, in July 1999  
8 he was restored as a member of the CSP with a condition that  
9 he agreed not to treat female patients without the presence  
10 of a chaperon. Having fulfilled these conditions, Mr. Jellet  
11 was restored to a member of good standing in 2002.

12 The Chartered Society of Physiotherapists at that time  
13 wished that Mr. Jellet continue with the chaperon process and  
14 also stated that they may choose unspecified dates to inspect  
15 his practice to ensure that the undertakings and chaperoning  
16 were in place.

17 The Committee also reviewed the continued professional  
18 development undertaken by Mr. Jellet during the past five  
19 years and consider this to be satisfactory.

20 Having satisfied ourselves as to the professional  
21 competence of Mr. Jellet, the Committee then considered the  
22 question as to whether Mr. Jellet is a fit and proper person  
23 to practise as a physiotherapist.

24 The Committee took the view that it is possible for  
25 individuals to rehabilitate themselves and noted the measures

1 already in place to ensure the safety of the public. We took  
2 into account the findings and decisions of the Chartered  
3 Society of Physiotherapists and therefore the Committee were  
4 reassured that this was adequate protection for the public  
5 provided that the recommendations of the Chartered Society of  
6 Physiotherapists remain in place as outlined in the letter of  
7 12th July 2002 from the CSP.

8 We therefore direct the Registrar to register the  
9 applicant in the relevant part of the register, subject to  
10 the satisfactory completion of the appropriate forms and  
11 payment of the prescribed fee.

12 I should have asked the legal assessor to state the  
13 advice she gave to us before I gave our decision.

14 THE LEGAL ASSESSOR: I was asked to check the wording of the  
15 panel's decision when they retired, their decision having  
16 been made before I attended.

17 THE CHAIRMAN: Thank you. The hearing is now closed.

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