

THE BRISTOL INQUIRY

Statement of Professor Peter M. Dunn, June 1999

1.0 This Statement

- 1.1 This statement has been prepared in response to a request from the solicitor to the Bristol Inquiry.
- 1.2 It is based in part on information already in the public domain; other parts are based on hearsay evidence, on information given in confidence, and/or on my interpretation of events.
- 1.3 It is true to the best of my information, knowledge and belief.

2.0 My Background

- 2.1 I qualified as a medical practitioner in 1953 and after initial training posts in hospital, the army and as a family doctor, specialised from 1958 in perinatal medicine.
- 2.2 I have worked in Bristol since 1963. In 1969 I was made responsible for the University of Bristol's neonatal service with honorary consultant appointments at Southmead and St. Michael's Hospitals.
- 2.3 In 1988 I retired from clinical practice in order to have more time for research. Among my continuing special interests are clinical audit and ethics in medicine. I hold the titles of emeritus professor and senior research fellow and still attend the hospital on a daily basis.
- 2.4 A brief CV is appended (**Appendix A**).

3.0 The Bristol Paediatric Cardiac Surgeons

- 3.1 My relationship with the surgeons was a straight forward professional one as a referring paediatrician. It has been incorrectly alleged by Dr. Bolsin that I was a close friend of James Wisheart. I restate that I was not on social terms with either Mr. Wisheart, Mr. Dhasmana or with Dr. Roylance.
- 3.2 All newborn infants in my care with congenital heart malformations (perhaps one per month) were referred by me to the paediatric cardiological team based at the Royal Hospital for Sick Children.
- 3.3 My first line of contact was with the paediatric cardiologists, Dr. Steven Jordan, Dr. Hyam Joffe and Dr. Rob Martin; my contact with the surgeons was less direct.

- 3.4 During the 20 years following Mr. Wisheart's appointment in 1975 until the so-called "Bristol scandal" broke in April 1995 I was not aware of any criticism whatsoever of either of the paediatric cardiac surgeons or, for that matter, of the paediatric cardiologists.
- 3.5 Mr. Wisheart's reputation, both from my own knowledge and from discussion with many colleagues in Bristol and throughout the south west, was of a doctor of the very highest calibre, intelligent, skillful, well organised, hardworking, caring and compassionate, always accessible to his patients, and of absolute integrity. Mr. Dhasmana I knew less well as he was only appointed in 1985, but he too had a fine reputation for straightforward clinical and surgical competence.
- 3.6 I was conscious of the struggle that the paediatric cardiological team had had, and continued to have until October 1995, to establish a first rate service in Bristol against a background of seriously inadequate funding, a problem that I too had experienced while attempting to create a neonatal intensive care service in Bristol in the 1970s and 1980s. I was aware of the lack of a dedicated cardiac surgical theatre and team at the Royal Hospital for Sick Children, the problems of the split-site that resulted, and of the need for the appointment of a full-time paediatric cardiac surgeon in order to share the rapidly increasing workload.
- 3.7 It is appropriate to emphasise at this point that the mortality among infants with severe malformations of the heart remains very high in spite of the recent and remarkable achievements of cardiac surgery. For example, in a study reported in 1998, only 27% of fetuses detected by ultrasound as having such malformations half way through pregnancy were alive at the age of 1 year (**Appendix C1**). It is also relevant to note that many of these infants have basic chromosomal abnormalities and/or neurological defects (**Appendix C2**).

4.0 **The Bristol Affair**

- 4.1 In April 1995 information on the "Bristol scandal" was first reported on television and in the press. The attack on the two surgeons (and manager) was vitriolic and often biased, inaccurate and misleading. Furthermore, the onslaught was sustained month after month and year after year. The media showed no interest in publishing evidence or arguments in support of the surgeons.
- 4.2 In the face of this attack the surgeons maintained a dignified silence. Their medical defence organisation had advised them that any public defense would almost inevitably lead to loss of patient confidentiality and that a wrangle in public was unlikely to help matters.
- 4.3 The undefended "trial by media" over a prolonged period had various outcomes:

- One was that the public incorrectly assumed that the surgeons were guilty of surgical incompetence, of misleading parents, of arrogantly ignoring repeated warnings, and of causing many unnecessary deaths.
- Another outcome was that some parents, many of whom had previously been satisfied with the treatment their children had received, became progressively critical of the surgeons. This attitude may have been strengthened subsequently by the extraordinary offer by the United Bristol Hospitals Trust to compensate the parents of any children who had died following cardiac surgery.
- Yet a third possible outcome was the decision of the GMC to charge the Bristol doctors with **serious professional misconduct because of alleged poor clinical performance (outcome)**, an unprecedented departure from previous GMC practice.

5.0 My own involvement in the Bristol affair

- 5.1 During the GMC Inquiry I became increasingly concerned at the way in which the hearing was being conducted, as well as the way it was being reported by the media.
- 5.2 It became apparent that many potential witnesses to the truth of the affair had either not been called by the GMC to give evidence or had been effectively “muzzled”. Others close to the scene may have preferred or were advised to keep their heads down.
- 5.3 A long-term interest in clinical audit and in ethics, encouraged me to make enquiries in Bristol as to what had actually happened. Although I did not myself attend the GMC hearing which took place before the Professional Conduct Committee (PCC), I spoke to many who had done so. I also read many of the GMC transcripts.
- 5.4 The PCC’s determination in June 1998, delayed for two weeks after publication of the finding of facts, persuaded me that there had indeed been a serious miscarriage of justice. Meanwhile the media continued to attack the “disgraced” doctors. Hardly a word was written in their defense. In August 1998 I decided, though with some misgivings, to do my best to try to redress the balance.
- 5.5 In some ways I was well placed in that, while still active in the medical field in Bristol, I had been retired from clinical practice throughout the period under scrutiny, 1990-95. In addition I was not influenced by any obligation to the defendants.
- 5.6 There remained a problem. While I believed that the GMC leadership had made serious errors, I felt, like the majority of doctors, that the Professional Conduct Committee, after due reform of its process and with stronger legal safeguards, was best placed to regulate the profession. My problem was how best to criticise the PCC’s verdict

without doing further damage to that which the GMC had already inflicted on the profession.

- 5.7 For this reason I took advice from several senior medical colleagues in Bristol whose knowledge, wisdom, experience and integrity I valued. They were:

Dr. Timothy Chambers (Consultant Paediatrician and Censor of the Royal College of Physicians (London)).

Professor John Farndon (Head of the University Division of Surgery).

Professor Martin Mott (Consultant Paediatric Oncologist and Dean of Clinical Medicine and Dentistry).

Mr. Jonathan Hutter (Consultant Cardiac Surgeon, Bristol Royal Infirmary).

Professor Rhys Davies (Past President of the Royal College of Radiologists).

Professor Gordon Stirrat (Head of the University Division of Obstetrics and Gynaecology, past Dean of the Medical Faculty and Pro-Vice-Chancellor of the University).

In addition, **Professor Sir Alexander Macara**, though constrained by his membership of the GMC and his office as Chairman of the BMA Council, was kept fully informed of all the discussions that took place.

6.0 Publication in the British Medical Journal

- 6.1 On 24th October 1998 the BMJ published my article entitled: **The Wisheart affair: paediatric cardiological services in Bristol, 1990-95**. This article (BMJ 1998; 317, 1144-1145) is appended (**Appendix B1**). It posed a number of questions that still require answering.
- 6.2 While I take full responsibility for the contents of this article, it was seen and endorsed by all the colleagues named in section 5.7 above, prior to its submission to the journal.
- 6.3 A great many letters and telephone calls were received in response to this article, **all without exception** supportive of the view that the surgeons had been treated unjustly. There was also a follow-up correspondence in the BMJ, some articles and letters being supportive and some critical. To the latter I responded as follows:

Dunn, PM. The Bristol affair: surgeons were treated unjustly. BMJ 1998; 317, 1659-1660, (12th December).

Dunn, PM. The Bristol affair: advice of the legal assessor. eBMJ 1998; 317 (29th December).

Dunn, PM. The Wisheart affair: reply to Dr. Bolsin. eBMJ 1998; 317. (www.bmj.com/cgi/eletters/317/7166/1144#EL12 [23rd December]).

Dunn, PM. More on the Bristol affair. The affair has had several serious negative outcomes. BMJ 1999; 318; 1009-1010 (10th April).

6.4 These letters are appended (Appendices B2-B5).

In order to spare repetition, the contents of Appendix B should be considered as part of my statement and read at this point.

6.5 It was surprising that following the publication of my article in favour of the surgeons there was not a single enquiry from the news media or comment from the press. Later the Surgeons Support Group informed me that they had sent copies of my article to all the national newspapers and TV networks. Even this did not, to the best of my knowledge, elicit any response to balance the thousands of adverse reports. Letters written by Professor Stirrat and myself to the national newspapers about the deplorable standard of reporting of the 'Bristol affair' remained unpublished.

7.0 Information from a GMC source

7.1 One month after the publication of my article in the BMJ (24th October 1998) I received an unsolicited telephone call from someone who I had never met but whose name was known to me as a person having direct knowledge of events concerning the GMC's hearing between October 1997 and June 1998. During this and three further conversations I received information in confidence that heightened my concern as to the PCC's procedural integrity.

7.2 My informant wholeheartedly agreed with the views expressed in my article in the BMJ (Appendix B3)

The remainder of paragraph 7.2 and paragraph 7.3 have been deleted on the advice of the Solicitor to the Bristol Inquiry on the basis of the judgment in *Roylance-v-GMC (1999) PC139* because the sections contain hearsay evidence relating to the GMC's *in camera* deliberations.

8.0 Private Eye and Dr. Bolsin

- 8.1 Commencing in May 1992 there were a series of articles in *Private Eye* signed "MD" that repeatedly declaimed on the poor outcome of paediatric cardiac surgery in Bristol.
- 8.2 The impact of these articles on the reputation of paediatric cardiac surgery in Bristol can be readily imagined. They must also have had a major impact on the morale and confidence of the paediatric cardiological team who had to work in the knowledge that one of their members was collecting audit information that was then leaking to *Private Eye*.
- 8.3 Three year's later in May 1995 "MD" wrote: "*A secret audit kept by consultant anaesthetist Dr. Stephen Bolsin and first published in the Eye was the start of the unit's undoing.*" "MD" also praised Dr. Bolsin as "*a courageous whistle-blower*".
- 8.4 In that same month, May 1995, the two Bristol surgeons saw Dr. Bolsin's audit of their work for the first time. It was found to be seriously flawed, though this was only made public by Bolsin in his evidence to the GMC 2½ year's later.
- 8.5 During the GMC hearing Dr. Bolsin was questioned closely and repeatedly as to the origin of the audit figures in the *Private Eye* articles. He categorically denied on a number of occasions that he had been responsible for the information in these articles (GMC transcripts for day 6, pp 81-6 and day 7, pp 16-20,24). He explained more than once that his own audit had not even started in May 1992. Yet there is evidence in the transcripts that he had shown audit figures to the head of his department, Professor Prys-Roberts, early in 1992 (GMC transcripts, day 11, pp 81-84). In addition, in an article to the BMJ (1998; 317, 1579-80), Bolsin wrote: "*... it had been agreed as early as 1991, by a meeting of all cardiac anaesthetists, that I should 'keep my head down', as my audit activities were already attracting adverse criticism from the department of cardiac surgery.*"
- 8.6 In December 1998, I learnt from Professor Gordon Stirrat that Dr. Phil Hammond had informed him that he was the "MD" who wrote for *Private Eye*. On 14th December we met Dr. Hammond in Professor

Stirrat's office in St. Michael's Hospital to discuss this further. He told us that in 1992 he was working as a junior hospital doctor in the casualty department of the Musgrove Park Hospital, Taunton.

- 8.7 Within an hour of the discussion ending I made brief notes as an *aide memoire*. In brief, Dr. Hammond again confirmed that he was "MD" writing for *Private Eye*. He informed us that he first heard of Bolsin's audit early in 1992 and went round to Dr. Bolsin's home to ask about it. He checked his facts during three to four telephone calls to Bolsin before writing his May 1992 article. He categorically assured us that Bolsin knew that he was writing for *Private Eye* and expressed amazement to us that Bolsin had denied this at the GMC Inquiry.
- 8.8 On December 15th, the following morning, Professor Stirrat received a fax from Dr. Hammond which read as follows:

"Dear Gordon,

I have spoken to Steve Bolsin today at 1 AM GST. He accepts that he spoke to me at home and by phone on several occasions, and discussed information from his log book and tracking of cases (which was not official audit, but rather pre-audit). He accepts that this information - as well as information from other sources which I checked with him - appeared in *Private Eye* in 1992 but states, quite categorically, that he was speaking to me as a concerned fellow doctor and at no stage was he aware that I was writing for *Private Eye*, nor that the material would appear in *Private Eye*. As MD was at that time a private pseudonym, he states he had no idea, nor could he have had any idea, that I was anyone other than one of the many people in the medical community he shared his concerns with.

I have no proof that I told Steve Bolsin I was MD and no direct recollection of it. There is nothing in writing to state that he intended any information to reach *Private Eye*. He is adamant that he did not know, and that any letter claiming that he did will be construed as libellous.

In view of this, I cannot give my clearance to your letter and have decided to make no further comments other than those I might give direct to the inquiry.

Yours sincerely,
Dr. Phil Hammond".

- 8.9 Professor Stirrat read this letter to me over the phone the same day (December 15th) and I responded by reading to him the notes I had made the day before following our meeting with Dr. Hammond. He agreed that they were an accurate record of our discussion.

9.0 Whistle-blowing in Bristol

- 9.1 Two close colleagues of the Bristol defendants, Dr. Steven Bolsin and Professor Gianni Angelini have been credited, and indeed have

themselves claimed credit, for exposing the "Bristol scandal".

- 9.2 Though I have never met either Dr. Bolsin or Professor Angelini I have read their evidence to the GMC hearing and also the transcripts of their evidence when cross-questioned at the GMC. I have also seen them perform on a number of TV programmes. In addition, I have read three articles by Dr. Bolsin written from Australia in which he continues his criticism of the surgeons, justifies his actions and takes credit for exposing the "Bristol scandal".
(Bolsin, SN. Professional misconduct: the Bristol case. *Med J. Aust.* 1998; 169, 369-72; Bolsin, SN. The Bristol cardiac disaster. *BMJ* 1998; 317: 1579-80; Bolsin, SN. Audit was not secret. *BMJ* 1999; 318: 1010-11.)
- 9.3 Dr. Steven Bolsin was appointed a consultant anaesthetist in Bristol in 1988. He was evidently keen to be recognised as someone interested in clinical audit. As an important member of the paediatric cardiac surgical team he gave anaesthetics on a regular basis for both paediatric cardiac surgeons and was, he claimed, on cordial terms with both of them.
Dr. Bolsin undertook a clinical audit of the two surgeons' paediatric work between 1990 and 1992. They were not informed that this audit was taking place. It was completed in 1993.
- 9.4 This secret audit was seen in an incomplete state by selected colleagues as early as the beginning of 1992 and was used by "MD" in *Private Eye* from May 1992 onwards; after completion it was eventually released to the Department of Health in July 1994; it was given to Mr. M. de Leval and Dr. S. Hunter (independent experts in paediatric cardiac surgery and cardiology, that had been requested by the UBHT administration to report on the Bristol paediatric cardiac services) in February 1995; it formed the basis of newspaper and television programmes about the "Bristol scandal" in early April 1995. **It was first seen by the two paediatric cardiac surgeons in May 1995.** They found it to be seriously flawed. Although Bolsin admitted the errors, they remained uncorrected in the public domain for 2½ years.
- 9.5 In April 1995, following the publication of an article in the Daily Telegraph and a BBC TV programme to which Dr. Bolsin had contributed or participated, the two paediatric cardiac surgeons declined to work with him further.
- 9.6 A sustained attempt by the paediatric cardiac team, commencing in 1989/90, to recruit a paediatric cardiac surgeon of international distinction to a new chair of cardiac surgery in Bristol failed, mainly because the UBH Trust was unable to commit itself at that time to the unification of the paediatric cardiological service at the Children's Hospital. Following this Mr. Gianni Angelini was appointed professor

of cardiac surgery (adult) in October 1992 with funding raised on Mr. Wisheart's initiative from the British Heart Foundation.

- 9.7 Within a few months of taking up his appointment it has been reported that tensions were rising within the department, in part no doubt because of the *Private Eye* articles, and in part because, it was alleged, Professor Angelini was unhappy with the recognition Mr. Wisheart enjoyed as leader of the cardiac surgery team. Professor Angelini was asked about this at the GMC hearing but denied that it was so (GMC transcript, day 4, pp 41 & 90).
- 9.8 It has to be said that the veracity of much of Professor Angelini's evidence to the PCC was questioned on numerous occasions by all three barristers for the defendants. Miss Nicola Davies QC stated in no uncertain terms that he "*was not a witness to the truth*" and later was even more forthright (GMC transcript, day 24, p 96).
- 9.9 The evidence of Dr. Bolsin and Professor Angelini to the GMC hearing was fairly crucial to the GMC's determination. Both doctors gave evidence to the fact that they had criticised the surgeons' work within and without Bristol over a considerable period prior to January, 1995 (GMC transcripts: day 3, p 23; day 4, pp 12, 28, 29; day 6, pp 26, 85, 96, 103; day 7, pp 45, 82; day 8, pp 1-35). Most of this criticism, along with Bolsin's secret audit, appears to have been conducted behind the surgeons' backs. Even after the Bristol affair became a matter of public discussion and formal investigation these close colleagues of the two surgeons continued to criticise them vigorously in public (TV, newspapers, medical journal articles and in evidence to the GMC). Nor did their criticism cease following the GMC's harsh verdict in June 1998.
- 9.10 Time and again evidence to the GMC as to "who said what to whom and when" was challenged by the defendants and their barristers and indeed much of it was found wanting. During the hearing many of the most significant initial charges against the defendants were dropped.
- 9.11 Critical to an understanding of the Bristol affair is an appreciation as to where the truth lay when evidence to the PCC conflicted. The reliance that was placed on the evidence of Dr. Bolsin and Professor Angelini throughout must be judged against the matters discussed in this section.

10.0 **The Bristol affair - how did it arise?**

- 10.1 Was there a "Bristol scandal"? I believe there was but one very different from that perceived by those basing their information on the news media and the GMC's determination. Indeed the unjust treatment received by the Bristol defendants represents in my view the greatest miscarriage of justice of which I have been aware during some 45 years

of practice.

- 10.2 However there was a problem in Bristol, one resulting from a failure at all levels of NHS management to properly fund paediatric cardiac surgery over a long period. In addition, the UBHT budget was overspent, especially in 1990-91, and as a result the Trust was unable to introduce the improvements initially requested in 1990 by the paediatric cardiac team, namely the creation of a dedicated team and surgical theatre at the Children's Hospital, with the additional appointment of a full-time paediatric cardiac surgeon. The need for this appointment was made all the more urgent because of the significantly increased workload that followed Bristol's recognition as a supra-regional centre in 1984. Open paediatric cardiac operations had doubled while those for infants under one year had increased three-fold during the five year period, 1984 to 1989.
- 10.3 Both surgeons were hardworking and committed to doing their best in the circumstances. The pressure of work must have made it very difficult to find time to hone their surgical skills if and when this was necessary, though Mr. Dhasmana twice visited Mr. Brawn in Birmingham, an acknowledged leader in the field, in order to obtain advice on the Switch operation. Both surgeons carefully audited their results. Mr. Wisheart was aware that there had been an exceptional number of additional abnormalities and pre-existing complications among the 15 children he had operated on for AVSD, some only being discovered at operation or at necropsy.
- 10.4 By mid-1994 the UBHT had at last agreed to introduce the requested improvements to the service, though these were not fully implemented until October 1995.
- 10.5 News of the "Bristol scandal" was launched in the press and media in March/April 1995 but had been preceded by a whispering campaign within and beyond Bristol over a period of at least three years, stimulated no doubt in part by the *Private Eye* articles. As has been said, from April 1995 the news media were exceptionally critical of the defendants, partly I suspect because criticising senior doctors makes good news and in part I believe because the media were being continuously fed with further information that was often misleading or inaccurate. For 2½ years the public were bombarded with headlines such as "botched operations", "half the surgeons' patients died", "arrogant doctors lie to parents", "the killing fields of Bristol". The refusal of the surgeons to defend themselves publicly no doubt encouraged the media to continue to denigrate the three defendants and appeared to support the notion that they must be guilty.
- 10.6 At the GMC hearing many of the most serious charges against the surgeons were dropped with little publicity and indeed **the President of the GMC praised both surgeons for their operating skill, their**

hard work and their best of intentions towards their patients. Yet at the end of the day, the Committee found the surgeons guilty, though I believe by the narrowest of margins, of serious professional misconduct. How can one explain this paradox? As I have previously stated (Appendix B1) the GMC was, I suspect, under political pressure to show that it was capable of regulating the profession. There was too, I believe, a failure by the PCC to give sufficient consideration to the case mix and risk stratification when judging the surgical outcome, particularly in respect to the AVSD operations. There also appears to have been an assumption that the surgeons alone were responsible for any disappointing outcomes. But perhaps most of all the balance was tipped I think by reliance on critical evidence of “who said what to whom and when” from certain witnesses who were either unreliable or perhaps had come to believe the adverse publicity the case had received over the previous three years. Most of those who had the best information about what actually happened were either not called to give evidence to the GMC or were issued with warning letters. It remains important that the manner in which this came about is fully explored.

- 10.7 By the end of the GMC hearing the most serious charges against the surgeons had been dropped. The remaining disputed charges were tenuous and insubstantial. For example, how could it be possible to find Wisheart guilty of failing to stop the AVSD operations three patients earlier than he did, and advising parents incorrectly on their prognoses (his two remaining most serious charges), without taking into account the very unusual run of complicated cases in his series? This was a matter for fine judgment. How could the members of the PCC, none of them specialists in cardiac surgery, be sure of their facts as the Legal Assessor instructed them to be on day 72. Based on hearsay evidence from what I believe to be a reliable and authoritative source, it is to the great credit of three members of the PCC that they indeed refused to find the surgeons guilty of serious professional misconduct.
- 10.8 One of the most worrying aspects of the Bristol affair has been the power of the news media to influence events. The two surgeons are still even now being inaccurately abused for failings, such as for example surgical incompetence, that were dismissed from the charges originally brought by the GMC. Surely the GMC had and has a moral responsibility to correct the many defamatory reports and misrepresentations that have appeared and are still appearing in the news media. Has it ever done so, and if not, why not? Similarly one would have hoped that the GMC might have supported Mr. Dhasmana (who was not “struck off”), when he was quite shamefully sacked from his job by the UBHT.
- 10.9 Great harm has been done to the medical profession and to the service

that doctors are able to provide for the public by the Bristol affair (**Appendix B5**). History reveals many examples of injustices that were subsequently corrected, sometimes years after the event. Sooner or later I believe the truth of the Bristol affair will emerge. That two skillful, hard-working and caring doctors have been treated in the way they have is indeed a disgrace. I most sincerely hope and trust that the Bristol Inquiry will be able to set the record straight.

Peter M. Dunn
(Rev. 02.07.99,
amended 16.10.00)