

Evolving attitudes to UK doctors facing allegations of child pornography in the period 1986 to the present

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## **Abstract**

Since 1987, when the Court of Appeal minimised the seriousness of child pornography suggesting it was a form of childish behaviour akin to collecting cigarette cards, there has been the development of much greater understanding of what is now understood to be a form of child abuse. Legal changes have resulted in a much more robust approach to doctors involved in child pornography in the UK. The advantages of having a single regulator for all doctors in the UK are in striking contrast to the inconsistency of having multiple regulators, such as the 64 operating in the USA.

## **1. The case of Professor Oliver Gilbert Brooke**

Until 1986, Brooke was Professor of Paediatrics and Consultant Paediatrician at St George's Hospital in Tooting, South London, a leading international authority on infant nutrition and author of a book on child care and development.

A large collection of sexually explicit photographs was found in his office by his secretary. The police raided his office and found that he had compiled a huge number of explicit pornographic photographs of children, comprising an organised collection of 23 albums. He had sought out pictures of children in sexual acts – explicit pictures of men having sexual intercourse with very young girls and indecent photographs concentrating on the genitalia. He had also commissioned a Blackpool photographer to take photographs of an under-age girl in sexual poses, and when he received them he would make detailed notes on the pose or position. Sometimes he would send them back to his supplier telling him to spread the girl's legs wider so her vulva could be seen, with comments such as "Very nice, but not quite enough crotch" and "Nice, but I think this would be ideal if she was dressed in the schoolgirl

costume and if she placed her hands beneath her thighs as if to help to hold them apart”<sup>1</sup>.

He made buying trips to Copenhagen and Amsterdam, building up contacts with producers and dealers who continued to supply him through the 1970s until his arrest in 1986. He corresponded with a Danish and other dealers to supply magazines, videos and explicit child pornography. A dealer in Torremolinos in the Costa del Sol operated a pornography dealership which supplied Brooke with substantial quantities of child pornography. In return, aside from large cash payments, Brooke began funnelling other explicit material back to Spain, and thence to a Dutch dealer. He placed advertisements in a soft-core men’s magazines seeking “schoolgirl photos”. Statements from responders to the advertisements documented that Brooke had ordered multiple bundles of child pornography photographs, and recorded details of multiple overseas trips Brooke made to buy and sell the material. By the time of his arrest he had been buying and selling child pornography for at least a decade.

On 18 December 1986, at Kingston Crown Court, Brooke who pleaded guilty to six counts of procuring and distributing child pornography, received a prison sentence of one year. Sentencing Brooke, Mr Justice McCowan noted “This is a trade disgusting in itself, but the court also has to bear in mind that anyone playing a part in it is contributing to the corruption of children, and may well be causing adults to commit serious offences against children”.

## **2. Court of Appeal, Criminal Division, No 7698/G/86, 11 May 1987**

Brooke appealed against the Crown Court sentence. The three judges who heard the case were The Lord Chief Justice of England (Lord Lane), Mr Justice Caulfield and Mr Justice Stuart-Smith. The text of the judgment came from Lord Lane.

Lord Lane pointed out that Brooke was a man of the highest reputation in the medical world as a Consultant Paediatrician, a reputation that had been hard won. He referred to testimonials indicating an “unusually fine man of humanity, generosity, skill and compassion”. Lane outlined the financial and professional suffering which Brooke had endure while in prison, including the publicity, and the stripping of his professorship resulting in financial loss in addition to his public humiliation. Lane pointed out that Brooke had elected to be on rule 43 while in prison, protecting him from contact with other prisoners, and he had not been allowed to carry on his academic studies in prison.

Lane pointed out that the charges fell under three heads in ascending order of gravity; first of all, the possessions of this type of photograph; secondly, the distribution or intended distribution of the photographs, and thirdly, and most gravely, the incitement of others to take such photographs for his benefit. It emerged that Brooke had amassed a huge and minutely documented and indexed collection. Lane greatly minimised the seriousness of Brooke’s actions, and described

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<sup>1</sup> For further details see Tate T. Child Pornography. An Investigation. 1990. London, Methuen. Pages 113-114 and 255-262.

them as “puerile” behaviour (the term was used four times in the judgement) and likened it to a school boy collecting cigarette cards. Brooke’s sentence was reduced from 12 to 6 months, and since he had already been in prison he was promptly freed.

Definitions of the term puerility include:

- The quality of being silly in a way that a child would enjoy, not an adult
- The quality or condition of being childish, immature or foolish
- A noun that mean childishness, immaturity, or frivolity

Tate reported in his book (at page 261) that the police officers dealing with the case had not been informed that the appeal was being heard, and could not believe the decision, and there was an outcry in the press.

Lane was from a different age. Whilst what he did and said was totally at odds with what should have been done and with the sentencing remarks made after Brooke’s conviction, it probably reflected the generally very low level of understanding of child pornography in those days.

### **3. GMC Professional Conduct Committee meeting minutes 20-24 July 1987**

The criminal convictions were admitted by Brooke. It was decided to erase his name from the Medical Register.

### **4. “Dispatches” TV programme broadcast on channel 4 on 12 March 1998**

Sexually motivated misconduct by doctors, and the way that these cases are handled by the GMC, had been of public concern for many years, and a major landmark was the channel 4 TV programme “Dispatches”, broadcast on 12 March 1998.

Most of the programme concerned a series of women who had been sexually abused by their doctor, and who described in detail the horror of their experiences.

A major concern expressed by affected patients was that the guilty doctors, all male, were not more heavily punished. Most had been erased from the Medical Register but then allowed to return to practice after only a short interval.

### **5. British Medical Journal 21 March 1998 Editorial by Dr Richard Smith**

This was an editorial by Dr Richard Smith, the then BMJ editor, published under the heading “Medicine & The Media – GMC Under The Cosh”.

The editorial reported that the recent programme Dispatches (Channel 4, 12 March) had used “a series of highly charged cases plus a smattering of statistics to condemn the GMC and question self regulation. The programme used the power of the medium to devastating effect. The patients were shocked that the guilty doctors, all male, were not more heavily punished”.

“The cases presented had been intercut with a defensive Sir Donald Irvine (GMC President) seeming to be trying to defend the indefensible”.

The piece concluded "A few more programmes like this, and self regulation may be finished".

## **6. Published study of 49 UK-registered doctors involved in child pornography, dealt with by the GMC 2012–2020**

In 47/49 (96%) cases the regulatory outcome was robust, including erasure from the GMC's Medical Register, in marked contrast to the well documented relative regulatory inaction in other countries<sup>2</sup>. In 33/49 (67%) cases the indecent images of children included one or more video recordings. Some of these were of children (including very young infants) being raped, sometimes for prolonged periods, the video recordings sometimes indicating that the child could be seen to be in extreme pain.

### **Reflection and potential learning points**

#### *A. Legal matters that have changed since 1998*

On 3 August 2000, new legislation meant erasure for doctors was for a minimum of 5 years, with a big impact on likelihood of success of applications for restoration.

The legal change had been accompanied by cases that have made very clear the required "test" for restoration, which had never really been scrutinised in the 1990s.

This was accompanied by detailed advice from the GMC on the handling of restoration applications, coupled with advice in the regularly updated GMC/MPTS indicative sanctions guidance.

In addition, the standard of proof was changed from the criminal standard to the civil standard. This change to "more likely than not" applied to whether the facts (such as unjustified touching) could be found proved, which then could result in erasure.

#### *B. IT-related changes*

IT-related changes such as the internet and better devices for the storage of images are believed to have greatly increased the number of such offences.

#### *C. New police methodology*

The police in the UK and other countries (sometimes aided by the input of vigilante groups) have developed new methods that are better able to detect the transmission of child pornography on the internet.

#### *D. Evolution of still images to video recordings*

A major change has been from the images being still photographs to video recordings, many depicting sexual abuse of children, including young infants and children displaying obvious distress.

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<sup>2</sup> Khalid H, David TJ, Ellson S. Extreme medical misconduct: 49 UK-registered doctors involved in child pornography, dealt with by the General Medical Council 2012-2020. *Medico-Legal Journal* 2023; 91(3): 148-152.

#### *E. Professional interest in children as a possible risk factor*

There is insufficient evidence to indicate that a professional interest in children (e.g. paediatrics as a specialty, child protection as a special interest, childrens nursing, teaching children) is a risk factor for child pornography and child sexual abuse, but there are a small number of cases in which it was evident doctors had chosen a paediatric career in order to facilitate access to children for illegal purposes.

#### *F. Protecting the public from health professionals involved in child pornography*

To protect the public, the first lines of defence are the police, the criminal justice system, the UK regulatory system, and the UK Barring List system. The UK Disclosure and Barring Service has two barred list offence databases on which someone's name can be placed, the Children's and Adult's. If one's name is on a Barred List, it is against the law to seek to be engaged in a role that includes a Regulated Activity with the concerned group. A person's name can be reported to the Disclosure and Barring Service by members of the public, employers and other bodies, but automatic barring can occur when someone has been cautioned or convicted of a relevant offence, or has been issued with a Sexual Harm Prevention Order. Examples of offences that can lead to being added to a Barring List include rape, murder, sexual assault, cruelty to persons under 16, sexual intercourse with someone under 16, and possession or distribution of indecent images of children. Most of the sexual offences referred to in this presentation would result in automatic barring.

#### *G. Regulatory inaction and undue leniency in many countries*

As referred to in the study by Khalid et al, a study of 1039 USA physicians reported for sexual misconduct between 2003 and 2013 found that more than two-thirds of the doctors had not been disciplined by any state medical board, and a further study in the USA reported that a substantial proportion of physicians disciplined for sexual offences were allowed to either continue to practise or return to practice. Similar concerns have been published regarding a failure of medical regulators in the USA to take steps to protect the public from 3,500 doctors involved in sexual misconduct in the period 1999 to 2016. A failure of regulators to act to protect the public from harm by offending doctors has also been reported in Australia. A contributory problem is that doctors in Australia who have had their licence to practise removed for serious sexual misconduct were in a number of cases able to return to practice through a process that often did not enter the public domain.

#### *H. Artificial intelligence (AI)*

It is too early to know to what extent the use of AI will facilitate the generation of still or moving child pornography images.

#### *I. Association with extreme pornography*

The term "extreme pornography" is applied to offences such as a person performing sex with a live animal, or an act which involves sexual interference with a corpse, or (for example) images which portrayed, in an explicit and realistic way, an act which resulted, or was likely to result, in serious injury to a person's private parts and which was grossly offensive, disgusting or otherwise of an obscene character. In the published study of 49 UK-registered doctors involved in child pornography, dealt with

by the GMC 2012–2020 referred to above, in 12 out of 49 (24.5%) cases there was reference to the finding that the doctor had also been in possession of so called “extreme” pornographic images.

## Conclusions

The possession of a single robust regulator for all medical practitioners (the GMC) in the UK is a major advantage when compared with systems elsewhere, such as, for example, the existence of the 64 different medical regulators in the USA with a wide variation in serious disciplinary actions<sup>3</sup>. Notwithstanding the bizarre and ill-informed decision by the Court of Appeal back in 1987, even back then the GMC was able to protect the public from the action of a paedophile doctor heavily involved in the international trade of indecent images of children. The firm response of the GMC/MPTS to child pornography offences in the UK is in striking contrast to the haphazard regulatory arrangements in other countries. In the UK the other health and care professions are mostly regulated by single regulators, such as the General Dental Council (GDC) and the Nursing and Midwifery Council (NMC), an arrangement that is likely to be associated with similar regulatory advantages.

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<sup>3</sup> Oshel RE, Steinbrook R. Ranking of the rate of State Medical Boards’ serious disciplinary actions, 2021-2023. <https://www.citizen.org/article/ranking-of-the-rate-of-state-medical-boards-serious-disciplinary-actions-2021-2023/> Accessed 18 January 2025