Stefan v. The General Medical Council (Medical Act 1983) [1999] UKPC 10 (8th March, 1999)

Privy Council Appeal No. 16 of 1998

Dr. Marta Stefan *Appellant*

v.

The General Medical Council *Respondent*

FROM

THE HEALTH COMMITTEE

OF THE GENERAL MEDICAL COUNCIL

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JUDGMENT OF THE LORDS OF THE JUDICIAL

COMMITTEE OF THE PRIVY COUNCIL,

Delivered the 8th March 1999

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Present at the hearing:-

Lord Browne-Wilkinson

Lord Steyn

Lord Clyde

Lord Hutton

Lord Hobhouse of Woodborough

*[Delivered by **Lord Clyde**]*

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1. Dr. Marta Stefan appeals to Her Majesty in Council from a decision of the Health Committee of the General Medical Council given on 23rd February 1998 under section 37 of the Medical Act 1983. The decision as recorded in the transcript of the proceedings was in the following terms:-

"Dr. Stefan, the Committee have carefully considered all the information presented to them and continue to be deeply concerned about your medical condition. The Committee have again judged your fitness to practise to be seriously impaired and have directed that your registration be suspended indefinitely."

2. Dr. Stefan's case had been before the Health Committee on six occasions before the hearing on 23rd February 1998 which terminated in the decision now under appeal. Initially, in February 1993, the hearing was adjourned for the obtaining of medical reports. Thereafter on each of the following occasions the Committee held her fitness to practise was seriously impaired. In June 1993 and in June 1994 the Committee granted a conditional registration for periods of eight months. In February 1995, February 1996 and February 1997 the Committee suspended her registration for periods respectively of 8 months, 12 months and 12 months. Appeal to Her Majesty in Council from a decision of the Health Committee under section 37 of the Act of 1983 is expressly permitted under section 40, but section 40(5) provides that no appeal shall lie from a decision of the Health Committee except upon a question of law. Dr. Stefan appealed unsuccessfully to Her Majesty in Council from the decision given in June 1993, the decision given in February 1995 and the decision given in February 1997. She also applied for redress from the European Commission of Human Rights (Application no. 29419/95) following on the decision of the Committee given in June 1993 and her unsuccessful appeal to Her Majesty in Council from that decision. The Commission however declared her application to be inadmissible.

3. The Health Committee are a statutory committee of the General Medical Council established under section 1(3) of, and paragraph 22 of Schedule 1 to, the Medical Act 1983. Section 37(1) of that Act concerns the situation where "the fitness to practise of a fully registered person is judged by the Health Committee to be seriously impaired by reason of his physical or mental condition". The section provides that the Committee may, if they think fit, either direct a suspension of the person's registration for a period not exceeding twelve months, or impose conditions on his registration for a period not exceeding three years. By section 4 of the Medical

(Professional Performance) Act 1995 there was inserted a new subsection 37(3A) to the Act of 1983 whereby the Health Committee might, where a suspension had lasted for at least two years, give a direction extending the period of suspension indefinitely. Such a direction requires to be given not more than two months before the period of suspension would otherwise expire. The hearing in February 1998 was the first occasion in the case of Dr. Stefan when the imposition of an indefinite suspension was available to the Committee. Section 37(3B) makes provision for a review by the Committee of an indefinite suspension at the request of the person suspended but permits such review only at intervals of two years.

4. When the present appeal first came for hearing before their Lordships' Board a question arose as to the reasons for the decision of the Committee, and in particular a question whether there was any duty on the Committee to state their reasons. There were no other grounds of law advanced which were identified as possibly supporting the appeal. Dr. Stefan was appearing on her own behalf and in order that the point might be more fully explored it was arranged that the appeal should be put out again for hearing before a larger Board, as was duly done. This hearing was attended not only by Dr. Stefan in person and counsel for the General Medical Council but also by Mr. Havers, Q.C. as *amicus curiae*. Their Lordships record their particular gratitude to Mr. Havers for the assistance which he provided in that capacity.

5. It was not seriously contended that the Committee had given a sufficient statement of the reasons for their decision. From the record of the proceedings it can be seen that in the first sentence the chairman narrated that the Committee had carefully considered all the information presented to them. That information included reports and records going back several years. But it is not indicated that this consideration had any relevance beyond what is then stated, that the Committee "continue to be deeply concerned about your mental condition". What then follows is a statement of the conclusion in the terms of the statute and the direction for indefinite suspension. No reason is given to support the conclusion that there is still a serious impairment of fitness due to a mental condition nor why an indefinite suspension is appropriate.

6. The concern about the need for reasons which was raised at the first hearing of the present appeal was in part prompted by the view expressed by the Board in *Libman v. General Medical Council* [1972] A.C. 217, 221, where the Lord Chancellor, Lord Hailsham of St. Marylebone, observed:-

"Beyond a bare statement of its findings of fact, the Disciplinary Committee does not in general give reasons for its decision as in the case of a trial in the High Court by judge alone from which an appeal by way of rehearing lies to the Court of Appeal."

7. The Board has certainly in the past recognised the practice of the Discipline Committee and their successor, the Professional Conduct Committee, not to give reasons. That practice of the Professional Practice Committee was described by Lord Scarman in *Rai v. The General Medical Council* (14th May 1984) as "usual and accepted" and "well established". His Lordship added the observation:-

"Though there is no obligation, the Committee has the power to give reasons: and their Lordships suggest that giving reasons can be beneficial, and assist justice:- (1) in a complex case to enable the doctor to understand the Committee's reasons for finding against him; (2) where guidance can usefully be provided to the profession, especially in difficult fields of practice such as the treatment of drug addicts; and (3) because a reasoned finding can improve and strengthen the appeal process."

8. These observations were subsequently recognised as related to the giving of reasons for a finding of serious professional misconduct and not to the imposition of a particular penalty, the reasons for which would usually be apparent from the transcript of the evidence (*Rodgers v. The General Medical Council* (19th November 1984)) and the giving of which have been said to be neither necessary or desirable (*Evans v. The General Medical Council* (19th November 1984)).

9. Counsel for the respondent in the present appeal was concerned to draw distinctions between the Professional Conduct Committee and the Health Committee and their Lordships accept that there are some points of difference between them. One of these is that the appeal permitted under section 40 of the Act against a decision of the Professional Conduct Committee is at large, while an appeal against a decision of the Health Committee is, by virtue of section 40(5) limited to a point of law. In the present case their Lordships are concerned solely with the existence of an obligation on the Health Committee to give reasons for their decisions and not with the position regarding the giving of reasons by the Professional Conduct Committee. They expressly refrain from expressing any view on that matter.

10. There is no express statutory duty on the Health Committee to state reasons for its decisions. The procedure which it is required to follow is prescribed in The General Medical Council Health Committee (Procedure) Rules Order of Council 1987-1997 (S.I. 1987 No. 2174, as amended by S.I. 1996 No. 1219 and S.I. 1997 No. 1529). But neither in the Act of 1983 nor in the Rules is any such express obligation to be found. In such a situation an obligation to give reasons may nevertheless be found to exist. This may arise through construction of the statutory provisions as a matter of implied intention. Alternatively it may be held to exist by operation of the common law as a matter of fairness. In the latter case account may require to be taken of the statutory provisions so that some overlapping of the material may occur in the pursuit of these two approaches. Furthermore, particularly in connection with the approach at common

law the question arises whether, if there is an obligation to give reasons, it is one which arises in the special circumstances of the particular case or whether it is of application to all decisions made by the body in question, that is, in the present case, the Health Committee.

11. Their Lordships turn first to consider whether there is an obligation implied in the statutory provisions. This requires consideration of the Act and, more particularly, of the Rules Order to which reference has already been made. It can be seen at once that they set out in considerable detail the procedures to be followed when information has been given or a complaint has been made which raises a question about the fitness of a practitioner to practise. The Rules cover the initial processes, the preparatory arrangements for hearings, and the management of hearings and of resumed hearings. Under Rule 22 the Committee may at the conclusion of the proceedings adjourn the case for further information. Under Rule 23 they may postpone their findings. Failing either of these courses Rule 24(1) obliges them to "consider and determine whether they judge the fitness to practise of the practitioner to be seriously impaired by reason of his physical or mental condition". Rule 24(2) entitles the Committee to regard as current serious impairment either the practitioner's current condition, or a continuing and episodic condition, or a condition which is currently in remission but which may be expected to cause recurrence of serious impairment. Under Rule 24(3) where the practitioner has failed or refused to submit to medical examination the Committee may find a serious impairment of fitness to practise on the basis of the information before them and the refusal or failure to submit to examination. Rule 24(4) provides that if the Committee judge the practitioner's fitness to be impaired they shall next consider and determine whether it shall be sufficient to impose conditions on his registration. Under Rule 25, if the Committee decide that a conditional registration is not sufficient they shall direct that the registration shall be suspended. There are provisions for the notification of the decision to the practitioner and for the obtaining by him of a transcript of the proceedings at which he was entitled to be present.

12. Despite the detailed directions on how the Committee is to proceed there is, as has already been observed, no express obligation to state reasons. Rule 26 provides:-

"The Chairman shall announce the determination or determinations of the Committee under the foregoing rules in such terms as the Committee may approve."

13. Their Lordships are unable to spell out of that an implied obligation to state reasons. Detailed as the procedural provisions are it cannot be concluded that there is an implied statutory duty to give reasons. But correspondingly their Lordships are not persuaded that the Act or the Rules are to be read as excluding an obligation to give reasons where the common law would require reasons to be given. The scope of the terms of the announcement in Rule 26 seems to be left to the discretion of the

Committee. It is certainly within the power of the Committee to state their reasons even although Rule 26 does not itself imply an obligation to do so.

14. It was pointed out that in two sections of the Act an express provision was made for the giving of reasons, sections 29(1) and 44(4), but the context of those provisions is very different from that in the present case. In the case of each of the two sections in question the provision appears in relation to what appears to be a procedure for administrative redress, with no evident provision for a hearing and nothing comparable with the elaborate procedure set out in the rules relative to proceedings before the Health Committee which have something of a judicial character about them. In any event their Lordships adopt the observation of Lord Donaldson of Lymington M.R. in *Reg. v. Civil Service Appeal Board, Ex parte Cunningham* [1992] I.C.R. 816, 826 that "I do not accept that, just because Parliament has ruled that some tribunals should be required to give reasons for their decisions, it follows that the common law is unable to impose a similar requirement upon other tribunals, if justice so requires".

15. Two other provisions of the Rules deserve consideration. Rule 36 provides a formal procedure for the taking of the votes of the Committee on any question to be determined by them. But it should not be inferred from the provision of such a procedure that the reasons of the Committee are not or cannot be formulated and disclosed. While it may be superficially tempting to see the Committee as intended to act as a jury which does not usually give reasons for its decision, it is not reasonable to draw from a provision designed only to regulate the procedure for decision-making an inference that there is not to be any obligation to give reasons. Secondly, it is to be noted that under paragraph 7 of Schedule 4 of the Act provision is made for the disclosure to the parties of any advice which the legal assessor may tender to the Committee and for parties to be informed if the Committee do not accept that advice. But while that goes some way towards enabling parties to understand the legal propositions so put before the Committee, it will remain unclear in the absence of reasons how that advice has been applied by the Committee to the particular facts.

16. One further provision of the Act requires consideration at this stage and that is the provision in section 40 of a right of appeal. This factor may operate in different directions. Lord Donaldson of Lymington M.R. accepted in *Reg. v. Civil Service Appeal Board, Ex parte Cunningham* [1991] 4 All E.R. 310, 318, some judicial decisions, such as those of justices, do not call for reasons and that is because there is a right of appeal to the Crown Court which hears the matter de novo and also a right to have a case stated for the opinion of the High Court on a point of law. The same point can be found in the quotation earlier made from *Libman* in relation to a trial in the High Court by judge alone. In *Cunningham*, although there was no provision for appeal from the decision of the body in question it was susceptible to judicial review,

and that appears to have been a factor pointing to the conclusion that reasons were required. In *Reg. v. Secretary of State for the Home Department, Ex parte Doody* [1994] 1 A.C. 531, 565, Lord Mustill regarded it as necessary for reasons to be disclosed where it was important for there to be an effective means of detecting the kind of error which would enable the court to intervene by way of judicial review. On the other hand the existence of a right of appeal has also been taken as a factor pointing towards a requirement for the giving of reasons. In *Norton Tool Co. Ltd v. Tewson* [1972] I.C.R. 505 a requirement to give reasons was identified on the ground that otherwise the parties would in effect be deprived of their right of appeal on a question of law. So also in *Hadjianastassiou v. Greece* (1992) 16 E.H.R.R. 219, 237 it was observed that the grounds of a decision must be stated with sufficient clarity as that is one of the factors which makes it possible for an accused to exercise usefully the right of appeal open to him.

17. Reference to that case prompts consideration of the significance of a right of appeal in the context of Article 6(1) of the European Convention on Human Rights. It is established that that Article imposes a duty on a court to give reasons for its decision (*Van de Hurk v. The Netherlands* (1994) 18 E.H.R.R. 481, 501). In the context of Article 6(1) the duty is seen as an ingredient implied in the requirement for a fair trial in the resolution of a person's civil rights and obligations. But, as was recognised in *Bryan v. U.K.* (1995) 21 E.H.R.R. 342, even where there has been a failure in compliance with Article 6(1) no violation of the Convention can be found if the proceedings are subject to subsequent control by a judicial body that has full jurisdiction and does provide the guarantees of Article 6 para 1.

18. In the application of *Wickramsinghe v. U.K.* (Application No. 31503/96) the European Commission of Human Rights took the view that the scope of the appeal to the Privy Council in that case was sufficient to comply with Article 6(1) and held the application to the Commission against a decision of the Professional Practice Committee to be inadmissible. No reasons had been given for the decision but the Commission noted that a full transcript of the hearing had been given to the applicant and it must have been apparent that, as the Privy Council had later held, the Committee had accepted the evidence adverse to the applicant and rejected the evidence of the applicant. The scope of the appeal in that context was not limited.

19. A like approach has been taken in relation to the situation where the appeal is limited to a ground of law, as is the case in an appeal from the Health Committee. Indeed in Dr. Stefan's own application (No. 29419/95) the Commission noted that the challenge to the Committee's decision was a challenge to what were ultimately medical questions which a Health Committee was particularly well qualified to determine. But they also noted that the Privy Council were empowered to intervene on appeal where a factual finding was not supported by the evidence or was perverse or

irrational. In declaring the application inadmissible the Commission held that the fact that the Privy Council did not re-determine the facts did not conflict with the requirements of Article 6(1). So also in the earlier case of *Bryan v. U.K.* (1995) 21 E.H.R.R. 342, to which reference has already been made, the availability of appeal on a point of law was sufficient to achieve a compliance with Article 6(1) where the grounds of appeal pleaded and maintained by the appellant all fell within the jurisdiction of the High Court as points of law. It would thus appear that the existence of a right of appeal may, if it be sufficient for the purpose, enable the requirement of fairness embodied in Article 6(1) to be met. The obligation on the court may remain to state reasons but a breach of the requirement of fairness embodied in Article 6(1) may be obviated by the sufficiency of a right of appeal. On this approach a failure to give reasons may not be fatal to the validity of the decision.

20. These considerations may mean that the existence of a right of appeal may not present so compelling a necessity for the stating of reasons as that which is presented by the absence of a right of appeal. But the consideration that the reasons are useful to enable the prosecution of the right of appeal still remains valid and the presence of the right in the present case is at least one indication from the statutory provisions pointing to the existence of such an obligation.

21. Their Lordships now turn to the alternative approach, that of the common law. In its most general form the argument proposes that there should be a general obligation on all decision-makers to give reasons for their decisions. The advantages of the provision of reasons have been often rehearsed. They relate to the decision-making process, in strengthening that process itself, in increasing the public confidence in it, and in the desirability of the disclosure of error where error exists. They relate also to the parties immediately affected by the decision, in enabling them to know the strengths and weaknesses of their respective cases, and to facilitate appeal where that course is appropriate. But there are also dangers and disadvantages in a universal requirement for reasons. It may impose an undesirable legalism into areas where a high degree of informality is appropriate and add to delay and expense. The arguments for and against the giving of reasons were explored in the Justice-All Souls Report (Administrative Justice: Some Necessary Reforms, 1988). Another summary can be found in *Reg. v. Higher Education Funding Council, Ex parte Institute of Dental Surgery* [1994] 1 W.L.R. 242, 256.

22. The trend of the law has been towards an increased recognition of the duty upon decision-makers of many kinds to give reasons. This trend is consistent with current developments towards an increased openness in matters of government and administration. But the trend is proceeding on a case by case basis (*Reg. v. Royal Borough of Kensington and Chelsea, Ex parte Grillo* (1996) 28 H.L.R. 94), and has not lost sight of the established position of the common law that there is no general

duty, universally imposed on all decision-makers. It was reaffirmed in *Reg v. Secretary of State for the Home Department, Ex parte Doody* [1994] 1 A.C. 531, 564, that the law does not at present recognise a general duty to give reasons for administrative decisions. But it is well established that there are exceptions where the giving of reasons will be required as a matter of fairness and openness. These may occur through the particular circumstances of a particular case. Or, as was recognised in *Reg. v. Higher Education Funding Council, Ex parte Institute of Dental Surgery* [1994] 1 W.L.R. 242, 263, there may be classes of cases where the duty to give reasons may exist in all cases of that class. Those classes may be defined by factors relating to the particular character or quality of the decisions, as where they appear aberrant, or to factors relating to the particular character or particular jurisdiction of a decision-making body, as where it is concerned with matters of special importance, such as personal liberty. There is certainly a strong argument for the view that what were once seen as exceptions to a rule may now be becoming examples of the norm, and the cases where reasons are not required may be taking on the appearance of exceptions. But the general rule has not been departed from and their Lordships do not consider that the present case provides an appropriate opportunity to explore the possibility of such a departure. They are conscious of the possible re-appraisal of the whole position which the passing of the Human Rights Act 1998 may bring about. The provisions of Article 6(1) of the Convention on Human Rights, which are now about to become directly accessible in national courts, will require closer attention to be paid to the duty to give reasons, at least in relation to those cases where a person's civil rights and obligations are being determined. But it is in the context of the application of that Act that any wide-reaching review of the position at common law should take place.

23. An important distinction should be noticed at this stage, namely the distinction which has to be made between the obligation to state reasons and the separate but related matter of the substance of those reasons. The Court of Human Rights has stated that:-

"while Article 6(1) obliges the courts to give reasons for their judgments, it cannot be understood as requiring a detailed answer to every argument adduced by a litigant. The extent to which the duty to give reasons applies may vary according to the nature of the decision at issue. It is moreover necessary to take into account, inter alia, the diversity of the submissions that a litigant may bring before the courts and the differences existing in the Contracting States with regard to statutory provisions, customary rules, legal opinion and the presentation and drafting of judgments. That is why the question whether a court has failed to fulfil the obligation to state reasons, deriving from Article 6 of the Convention, can only be determined in the light of the circumstances of the case." (*Helle v. Finland* (1997) 26 E.H.R.R. 159, 183)

24. What will suffice to constitute the reasons is a matter distinct from the obligation to give reasons, and there can clearly be circumstances where a quite minimal explanation will legitimately suffice.

25. Turning to the particular circumstances of the present case their Lordships are persuaded that there was a duty at common law upon the Committee in the present case to state the reasons for their decision. In the first place there is the consideration that the decision was one which was open to appeal under the statute. The appeal was only on a ground of law but, as has already been mentioned, the existence of such a provision points to the view that as matter of fairness in deciding whether there are grounds for appeal, and as matter of assistance in the presentation and determination of any appeal, the reasons for the decision should be given. Secondly, a consideration of the whole procedure and function of the Committee prompts the conclusion that the procedures which it follows and the function which it performs are akin to those of a court where the giving of reasons would be expected. The distinction between administrative and judicial decisions as a factor in the susceptibility of a decision to review was destroyed by *Ridge v. Baldwin* [1964] A.C. 40. Thus the fact that an administrative function is being performed does not exclude the possibility that reasons may require to be given for a decision (*Reg. v. Higher Education Funding Council, Ex parte Institute of Dental Surgery*[1994] 1 W.L.R. 242, 258). But the carrying out of a judicial function remains, as was recognised by McCowan L.J. in *Reg. v. Civil Service Appeal Board, Ex parte Cunningham* [1991] 4 All E.R. 310 and accepted by Hooper J. in *Reg. v. Ministry of Defence, Ex parte Murray* [1998] C.O.D. 134, 136, "a consideration in favour of a requirement to give reasons".

26. Thirdly, the issue was one of considerable importance for the practitioner. Their Lordships were referred to the reference to the right to work embodied in Article 23 of the Universal Declaration of Human Rights 1948, a Declaration which is itself referred to in the preamble to the European Convention on Human Rights, and in Article 6(1) of the International Covenant on Economic, Social and Cultural Rights, 1966. But without necessarily founding upon those expressions, it can readily be accepted that the suspension causes Dr. Stefan considerable hardship, not only in financial terms through her inability to work as a registered practitioner, but also in respect of her own natural desire to spend the remaining years of her professional career in some fulfilling and satisfying capacity in the medical service. What she sought was to be allowed to do work as a clinical assistant in ophthalmology at a relatively humble level. The importance of the issue may not closely equate with the importance of personal liberty, but the matter is of very real significance in her own eyes and deserves to be respected. In *Reg v. City of London Corporation, Ex parte Matson* (1995) 94 L.G.R. 443, 457 the effect on the reputation of the complainer of a

rejection from office without the disclosure of reasons was one factor in requiring an explanation to be given. It is not obvious why it was considered that Dr. Stefan's fitness for the work which she sought to do was not only impaired but seriously impaired.

27. Fourthly, Dr. Stefan has repeatedly asked for an explanation of the Committee's view and for the diagnosis which they have reached of her condition. At the hearing in February 1998 she again stated that she could not understand the past decisions and was never given the diagnosis. The evidence given at the hearing by Dr. Adams was that she was suffering from a paranoid personality, but the analysis was not made more specific. In light of her express requests for an explanation of the Committee's decision in relation to the course which they had adopted in the past it was more evidently fair to state explicit reasons in February 1998. The Committee stated that they were deeply concerned about her mental condition, but they do not explain precisely what the nature of that concern was, nor how it impaired her fitness to practise. In this connection it may be noted that she was appearing before the Committee on her own behalf without the assistance of a representative, and while the Committee plainly managed the hearing with some consideration for her difficulties, she herself expressed the disadvantage under which she was labouring in not having legal assistance and the particular request which she had may not have been sufficiently clearly presented.

28. Fifthly, the only expert witness who had examined Dr. Stefan and appeared to give evidence before the Committee, Dr. Adams, stated in his written report that she was now well able to control the expression of her attitudes to race and gender, which had been matter of earlier concern, and that the passage of time had reduced the intensity of her distress and anger. He stated that her "paranoid ideas have less emotional drive behind them and are less expressed" and that she "is at present fit to practice on a limited basis as a Clinical Assistant in Ophthalmology or in the pharmaceutical industry". In cross-examination and in response to questions from members of the Committee he modified his view, but still appeared to be saying that she was fit to practise albeit under stringent conditions of supervision. The risk appeared to be one of paranoid behaviour under stress. But it is not evident that he was retracting his view that her condition had improved and it is not clear why in the light of his evidence the Committee reached the decision which they did.

29. Sixthly, this was the first time that an indefinite suspension was decided upon. The departure from the periodic suspensions which had been imposed before was certainly a legitimate course under the amended legislation but, particularly in light of an apparently less serious condition, the selection of it called for an explanation. Rule 33A provides in mandatory terms that the Committee "shall" direct an indefinite suspension, but for that mandatory provision to apply two conditions are set out, of

which the second is that the Committee shall have determined that it is not sufficient to direct a further extension of the suspension for a period of up to twelve months. Presumably, although it is not so stated, the Committee did make such a determination. If they did not consider that question they were in error. If they did, then in the circumstances of this case some explanation of the departure from a limited period of suspension was required. It may be that they conceived that the mental condition from which they believed Dr. Stefan to be suffering was a permanent one, but in light of her own request for the diagnosis that quality of the condition should have been explained. Furthermore at the hearing Dr. Stefan made it clear that she was prepared to see Dr. Adams regularly and accept his advice, if that was required as a condition of employment. It is not clear why that was rejected by the Committee, as presumably it was.

30. Their Lordships should also mention one other matter of concern. Certain questions were put to Dr. Stefan by the Committee about her qualifications to undertake ophthalmic work. Consideration of her qualifications was irrelevant to the issue before the Committee. That issue was whether her fitness to practise was seriously impaired by reason of her physical or mental condition. It may be that these questions and the answers were not regarded as of any moment by the Committee, but the anxiety arises that they may have played a part in the decision, and without any reasons being given it is not possible to lay that anxiety at rest.

31. In addition, however, to that narrow approach their Lordships are also persuaded that in all cases heard by the Health Committee there will be a common law obligation to give at least some brief statement of the reasons which form the basis for their decision. Plainly the Health Committee are bound to carry out their functions with due regard to fairness. The first two of the grounds already mentioned will apply to any case coming before the Committee: the provision of a right of appeal and the judicial character of the body point to an obligation to give reasons. Furthermore in every case the subject matter will be the future right of the doctor to work as a registered practitioner, and while there may be differences between individual cases as to the significance of that from the point of view of the particular practitioner, the general consideration will remain that the Committee are adjudicating upon the right of a person to work as a registered practitioner. There is nothing in the Act nor the Rules requiring reasons not to be given and no grounds of policy or public interest justifying such restraint. In the light of the character of the Committee and the framework in which they operate, it seems to their Lordships that there is an obligation on the Committee to give at least a short statement of the reasons for their decisions.

32. The extent and substance of the reasons must depend upon the circumstances. They need not be elaborate nor lengthy. But they should be such as to tell the parties in broad terms why the decision was reached. In many cases, as has already been indicated in the context of Article 6(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, a very few sentences should suffice to give such explanation as is appropriate to the particular situation. Their Lordships do not anticipate that the recording of a generally agreed statement of their reasoning would add to the burden of the decision-making process. While the decision involves the application of some medical expertise in the assessment of fitness, the articulation of the reasons for a value judgment should not give rise to difficulty (*Reg v. City of London Corporation, Ex parte Matson* (1995) 94 L.G.R. 443, 465). Their Lordships have observed that in certain other appeals from the Health Committee which have come before them succinct but adequate reasons have been stated in the decision. Unfortunately such a course was not adopted in the present case.

33. The remaining question relates to the relief now to be given. Two courses were canvassed at the hearing, a quashing of the decision under section 40(7)(b) of the Medical Act 1983 or a remit to the Committee under section 40(7)(d). Neither course is without some practical problems. Subsequent to the hearing counsel for the respondent and the *amicus curiae* were able to agree a formula for a remit, if that course were to be taken. Dr. Stefan has written stating that she does not accept this solution but their Lordships, considering the alternatives, agree that it is the most practicable and appropriate course to take. The Committee rehearing the case will require to be freshly constituted.

34. Their Lordships will accordingly for the foregoing reasons humbly advise Her Majesty that the appeal should be allowed and that the case be remitted to the Health Committee of the General Medical Council freshly constituted for this purpose with the following directions:-

(1) to rehear and reconsider the appellant’s case in the light of the circumstances then current,

(2) to give the reasons for their decision following such rehearing and reconsideration, and

(3) to substitute their fresh decision for the decision reached on 23rd February 1998.