

LONDON SOUTH

B E T W E E N :-

Dr CHRISTOPHER DAY

Claimant

-and-

HILL DICKINSON LLP

Defendant

**Supplementary Witness Statement of Claimant
in support of application for wasted costs**

I, **Dr Christopher Day** of [REDACTED] make this statement and say as follows:

1. I am very surprised that Michael Wright is still attempting to contest the relevance of the 2014 LDA in determining the terms at which I was engaged.
2. It was made clear to Michael Wright and Rachel Spink by my letter dated 5 April 2019 [**page 420-423**]; that HEE's own senior manager witness, Angela Fletcher, conceded the following about LDAs in her statement for the May 2018 hearing [**page 1553**]

"Together these documents set out the terms on which Post Graduate trainees were trained and employed at by the First Respondent"

3. My letter of 5 April 2019 also sets out specific examples of this in practise at [**page 421/2**] and paragraphs (a) to (g) inclusive.
4. It was therefore made clear to Michael Wright that on HEE's own evidence that the 2014 LDA between HEE and Lewisham and Greenwich NHS trust demonstrates HEE imposing the

terms at which I and other doctors were employed and trained at Lewisham and Greenwich NHS Trust at the material time of my whistleblowing dispute, and to be employed and trained in employment with subsequent trusts.

5. Another letter was sent by me to Rachel Spink and Michael Wright on the same date challenging false and misleading pleadings had been filed by HD in this case on behalf of HEE [page 424-427]. The significance of these pleadings to this wasted cost application are set out in paragraph 24-30 of my main statement.
6. Instead of providing an explanation in response to these serious issues Michael Wright wrote back to me by email dated 24 April 2019 [page 433] stating;

“The issues set out within your letters dated 5 April 2019 to us were subject to employment tribunal proceedings that have been resolved. Therefore, we consider that these matters are closed and have no further comment to make.”

7. Sir Norman Lamb challenged this failure to respond in substance to these serious issues by letter dated 13 May 2019 to the HEE CEO [page 907/8] and in a speech in the House of Commons [Page 942].

The LDAs disclosed to Philip Farrar and Michael Wright in June 2016

8. Mr Wright states at paragraph 29 of his witness statement that on 27 June 2016, before my Court of Appeal hearing that he “became aware of an LDA in another region”. Mr Wright has been careful not to name the Trust or the date in which the LDA was signed or awarded or whether by then he had become aware that his firm had drafted these agreements.
9. I have provided evidence in the bundle of 16 LDAs being awarded to NHS Trusts by HEE on 30 March 2014 [page 685-716]. The evidence also points to these 16 examples of LDAs being signed off from Mr Plummer’s office in Stewart House in London.
10. The Journalist Tommy Greene has established that Mr Plummer (the HEE Director that investigated my case) signed a 2014 LDA with the Royal Free Hospital on 1 April 2014 which was the same day the Lewisham and Greenwich specific LDA was signed. The value of the Royal Free LDA contract was £9.6 million.

11. At paragraph 31, after describing how he became aware of LDAs in June 2016, Mr Wright confirms “at around this time” his superior and HD’s head of NHS Employment, Mr Ferrar was “provided with copies of similar LDAs” when giving advice with counsel on another matter.
12. I have requested disclosure of the signed LDAs referred to above that were provided to Mr Ferrar and Mr Wright in June 2016 and also their evidence of when these LDA were awarded.
13. I note rather than provide specific details of the LDAs provided to Mr Wright and Mr Ferrar before our Court of Appeal case in June 2016, Mr Wright jumps to a reference to a model version of the LDA that includes the date 2015 on its face.
14. I have provided the metadata for a model version of the generic LDA that I was provided with by a former BMA committee member Dr Tim Yates which also has 2015 on its face. The metadata revealed that particular version of the document had been edited by the Hill Dickinson Corporate lawyer, Stephen Landsdown as early as 14 March 2014 **[page 881-2)**. This is consistent with this document being used to form the 2014 LDA between the Respondents in this case being signed in April 2014 and the other examples of LDA that were all awarded in April 2014 **[page 685-716]**.

Lewisham and Greenwich NHS Trust

15. At paragraph 23, Mr Wright confirms that on 19 February 2015 he requested any relevant documents from the Lewisham and Greenwich NHS Trust. Despite signing an LDA on the 1 April 2014 the Trust did not disclose it. I have requested disclosure of the exchanges about this.
16. In May 2018, Lewisham and Greenwich failed to disclose the relevant 2014 LDA for a second time. The skeleton argument of Lewisham and Greenwich NHS to the May 2018 preliminary hearing submitted;

*“R1 adopts a neutral position in respect of the status of R2.. On that basis, R1 has not tendered any evidence and does not envisage playing an active role in the open preliminary hearing.” **[see page 1616]***
17. Both HEE and Lewisham and Greenwich claim to have lost the signed version of the LDA contract between the Respondents effective from 1 April 2014 , and like Hill Dickinson, the solicitors for the Trust (Capsticks) say they have no copy available either

I confirm that this statement is true to the best of my knowledge and belief.

Signed 

Name **DR CHRIS DAY**

Dated 11 October 2024