

*Ruling by Advocate Joan Adams for the Health Professions Council of South Africa's Professional Conduct . Four out of the five committee members, Adams, Dr Janet Giddy, Dr Haroon Saloojee and Mr J Vogel said:*

"The majority of this committee find the following on the facts:

1. The pro forma complainant has not proven, on a balance of probabilities, that the respondent was acting in his capacity as a medical practitioner or in any dual or multiple capacity, which included the capacity of a medical practitioner, when he tweeted Ms Leenstra on 5 February 2014.
2. On the probabilities, the respondent was acting as an author and proponent of the LCHF diet.
3. The pro forma complainant has not proven, on a balance of probabilities, that the respondent gave medical and/or clinical and/or medical nutritional advice and/or medical nutrition therapy when he tweeted Ms Leenstra on 5 February 2014.
4. On the probabilities, the respondent provided information to Ms Leenstra as an author and proponent of the LCHF diet. At best, his response was ambiguous and not a direct response to her query. At worse, the response, without clarification, may be interpreted as confusing or unclear. To understand the response properly and in the context of the LCHF diet there would have had to have been meaningful dialogue between Ms Leenstra and the respondent. It is common cause there simply was none.
5. The pro forma complainant has not proven the existence of a doctor/patient relationship, on a balance of probabilities.
6. On the facts and probabilities, there was indeed no doctor/patient relationship.
7. The pro forma complainant has not proven, on a balance of probabilities, that the respondent contravened any law, regulation or ethical rule. It has certainly not proven, on a balance of probabilities, a contravention of regulation R237 of 6 March 2009 ,in that this committee could not find on the facts that the respondent advised or diagnosed anyone or any baby on his or her physical health status.
8. The pro forma complainant has not proven, on a balance of probabilities, that the respondent gave unconventional advice or advice which is not evidence-based.
9. On the facts, this committee finds that no actual or potential harm was proven, neither that any information provided on Twitter by the respondent, whether unsolicited or not, was dangerous or life-threatening.
10. The pro forma complainant has thus not proven, on a balance of probabilities, that the respondent as a medical practitioner acted unprofessionally and in a manner that is not in accordance with the standards and norms of the medical profession.

Adams ended by saying: "Prof Noakes, on the charge of unprofessional conduct, the majority of this committee find you not guilty." The hearing erupted with cheers and applause.

The fifth committee member, Dr AS Liddle dissented. He said, inter alia, that he believed that Noakes was unprofessional because the advice he gave is "unconventional in the extreme".

He also said that the absence of any recorded harm was "a fortunate consequence" and not an indication of innocence. It does not exclude "unreported and presently unknown evidence of harm".