

IN THE FIRST TIER TRIBUNAL

Case No: PHL15265

**MRS J R CRISP TRIBUNAL JUDGE
DR A ARIYANAYAGAN PROFESSIONAL
MRS ISOBEL DALE MEMBER**

B E T W E E N:

BRIGHTON & HOVE CITY TEACHING PRIMARY CARE TRUST

Applicant

And

**DR LINDA MARGARET ALLENBY
Registration No: 2315674**

Respondent

DECISIONS AND REASONS

**Tribunal Primary Health Lists 29th July
2010**

1. This is an application by a letter dated the 7th May 2010 by Brighton and Hove City Teaching Primary Care Trust (“The PCT”) for an extension of the period of suspension imposed upon Dr Linda Margaret Allenby (“Dr Allenby”) under the terms of regulation 13 of the National Health Service (Performers List) Regulations 2004 (“The Regulations”). The PCT’s application is for an extension for 6 months from the 10th May 2010.

Preliminary Matters – consideration without a Oral Hearing.

1. By an application dated the 6th May 2010 The PCT asked for the matter to be considered on the papers without an Oral Hearing. By letter dated the 4th May 2010 from Solicitors representing the Respondent no confirmation is given in respect of a papers only Hearing however, the letter implicitly confirms that Dr Allenby would support an application by The PCT for an extension of the suspension. The Tribunal procedure (First – Tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008 confirm under rule 23 that a Hearing must be held unless each party has consented to the matter being decided without a Hearing. The matter was considered on the 29th July 2010 at Nottingham Magistrates' Court.

Factual Background

1. Pursuant to a Hearing on the 10th November 2009 Dr Allenby was suspended from The PCT's medical performance list, due to a significant risk to patient safety. The Panel considered the allegations which were made were sufficiently serious. There was sufficient evidence to substantiate the allegations for the Panel to take a decision that suspension was appropriate in order to protect the public while a full investigation was undertaken.
2. Dr Allenby through her Solicitors intimated that she intended to seek voluntary erasure from the GMC, as she was due to retire from the NHS in August 2010, and suffered from significant health problems. Dr Allenby accepted some short comings in her Practice at the original Suspension Hearing on the 10th November 2009 and although she did not accept all of the allegations made against her, she did not wish to contest a case which would take her past her proposed retirement date.

3. By correspondence between the parties, the original Panel Hearing listed for the 6th May 2010, was adjourned in the event that Dr Allenby did not seek voluntary erasure from the GMC.
4. Pursuant to oral evidence given by telephone on the day of the Hearing from Robyn Johnson, the Solicitor from the PCT, it was confirmed that Dr Allenby was removed from the Performers List following a Hearing which took place on the 6th and 7th July 2010. That decision had not been appealed although it is accepted that Dr Allenby was due in any event to retire at the beginning of September. The PCT confirmed that the application could be dismissed.

The Law

1. Under regulation 13(1)(a) of the regulation, (if a “PCT” is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a performed from its performers list in accordance with the provision of this regulation: -
 - a. While it decides whether or not exercise its powers to remove him under regulation 10 or contingently remove him under regulation 12.
 - b. By regulation 13(4) the period of suspension under paragraph 1(a) or (b) may extend beyond 6 months if: -
 - i. On the application of The PCT, the FHSAA (now First-Tier Tribunal) so ordered or
 - ii. The PCT applied under sub – paragraph (a) before the expiry of the period of suspension, that the FHSAA has not made an Order by the time it expires, in which case it continues until the FHSAA makes an Order
 - iii. By regulation 13(5) if the (First – Tier Tribunal) does make an Order under 13(4). It shall specify –

- a. The date on which the date of suspension is to end;
- b. An event beyond which it is not to continue; or
- c. Both a date upon which it is to end and in an event beyond which it is not to continue, in which case it shall end on the earlier on that date or the event as the case may be.

Decision

1. In light of the Hearing which took place on the 6th and 7th July 2010 which removed Dr Allenby from the Performers List we dismiss the application to extend the period of suspension accordingly