

IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

Case No:

15199

Panel

Mrs D Shaw	-	Chairman
Dr H Freeman	-	Professional Member
Mrs V Lee	-	Member

BETWEEN

DR WALTER STICCH

GMC NO: 6119406

Appellant

and

HASTINGS & ROTHER PRIMARY CARE TRUST

Respondent

Appeal by Dr Walter Sticchi against his removal from the PCT's Performers List

DETERMINATION

The Appeal

1. This is an appeal by Dr Walter Sticchi ("the Appellant") against his removal by Hastings & Rother Primary Care Trust ("the PCT") from its Performers List under sections 10(4)(a) and (c) of the National Health Service (Performers Lists) Regulations 2004 (as amended) and associated regulations ("the Regulations").

History

2. The Appellant joined the PCT's Performers List from the list of West Norfolk in 2006.
3. There was a history of a number of complaints about the Appellant which later came to the PCT's attention. Following an initial investigation of the Appellant's history by the General Practitioner Professional Support Group ("PSG"), the PSG met with the Appellant in April 2008 to discuss the concerns. At that meeting the Appellant satisfied the PSG by acknowledging his shortcomings and advising that he was undertaking remedial action and further training. The PSG were also made aware that the General Medical Council ("GMC") was conducting its own investigations into those complaints and that they had been referred to the Ombudsman.
4. In October 2008 the PCT received a complaint from Dr Brian Higson, the Appellant's employer and Senior Partner, citing areas of concern, both clinical

and matters of probity. These concerns were referred to the PSG, which as part of their investigation met further with the Appellant on 12th November 2008. As a result of the Appellant's responses at that meeting and advice from the National Clinical Assessment Service ("NCAS"), the PCT's Performance Panel met on 12th December 2008 and decided to suspend the Appellant for six months to allow sufficient time for the PCT to investigate further, for a referral to NCAS for assessment to take place, and any identified remedial action to be put in place. The Appellant chose not to attend and was not represented.

5. Despite many attempts to make progress over a number of months, the Appellant failed to engage in the assessment process either with the PCT or NCAS. On 21st May 2009 the PCT applied to the Family Health Services Appeal Authority ("FHSAA") for an extension to the suspension period which was due to expire on 12th June 2009. At the same time and on advice from NCAS it informed the Appellant that unless he engaged with the process by 30th June 2009, the PCT would have no alternative but to consider action to remove his name from its Performers List. The Appellant failed to respond to that correspondence.
6. On 2nd July 2009 the PCT wrote to advise the Appellant that it was considering removing his name from its Performers List, indicating his statutory right to request an oral hearing or submit information for consideration within 28 days. However, the Appellant failed to respond and on 4th August 2009 the PCT wrote to inform him that it had decided to remove his name from its Performers List and advising him of his right of appeal to the FHSAA.
7. On 20th August 2009 the FHSAA agreed to extend the Appellant's suspension until the date of his removal from the list on 4th August 2009.
8. On 30th July 2009 the PCT was advised by the GMC that the Appellant had applied for voluntary erasure from the Register and on 13th August 2009 it was further advised that his application had been rejected.
9. The Appellant appealed against the PCT's decision in a letter to the FHSAA dated 15th August 2009. He failed to particularise his grounds of appeal other than to state "*These things still need to be sorted out and investigated*" and the basis of his appeal was not clear.

PCT's response to appeal application

10. In its Response dated 17th September 2009 the PCT submitted that as the Appellant steadfastly refused to engage with either itself or NCAS in any assessment process, rendering the identification and implementation of remedial measures impossible, the original concerns remained unaddressed, and had left the PCT with no choice but to remove the Appellant's name from its Performers List. Nothing the PCT had seen since had changed its view and the PCT therefore submitted that the appeal should be rejected.

Directions issued to the Appellant

11. On 16th October 2009 the Appeal Panel chair issued preliminary directions to the Appellant to provide particularised grounds of appeal and to confirm whether he wished to attend the hearing. The Appellant failed to respond
12. On 9th November 2009 the Appeal Panel chair issued further directions to the Appellant to, inter alia, comply with outstanding preliminary directions previously issued to him. The Appellant failed to respond
13. On 20th November 2009 the Appeal Panel chair issued a further direction to the Appellant that if, by 23rd November 2009, he continued to fail to respond to directions, the Appeal Panel would assume that he did not intend to attend the hearing scheduled for 27th November 2009 and would determine the appeal in his absence. The Appellant failed to respond.

Appeal

14. Given the Appellant's continued failure to respond to Directions, the PCT had confirmed in writing that if the Appellant failed to attend, it would have no objection to the appeal being determined on the papers alone without an oral hearing on 27th November 2009

Consideration of the Evidence

15. The Appeal Panel noted that having submitted Notice of Appeal, the Appellant had thereafter failed to engage in any way in the appeal process; he had not responded to any directions or particularised his grounds of appeal or submitted any evidence in support of his appeal.

16. They further noted that there was very little evidence available detailing the PCT's areas of concern.

Determination

16. In the absence of the Appellant engaging in the appeal process or submitting any evidence in support of his appeal, the Appeal Panel noted that the PCT's original concerns remained unaddressed and accordingly, they considered the only decision they could make was to uphold the PCT's decision and to dismiss the Appellant's appeal.

Supplementary matters

18 We direct that a copy of this decision be sent to the persons and bodies referred to in section 47 of the FHSAA (Procedure) Rules 2001 (the Rules).

19. In accordance with Rule 42(5) of the Rules, we hereby notify the parties that they have the right to appeal this decision under and by virtue of section 11 of the Tribunals and Inquiries Act 1992 by lodging notice of appeal in the Royal Courts of Justice, The Strand, London WC2A 2LL within 28 days from receipt of this decision.

Dated this 1st day of December 2009

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Debra R Shaw
Chairman of the Appeal Panel