

**IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY**

**Case No: FHS/14109**

**MR P KELLY – CHAIRMAN**

**DR S SHARMA – PROFESSIONAL MEMBER**

**MRS M FRANKEL – MEMBER**

**BETWEEN**

**DR MURUGESU VINAYAGAMOORTHY**  
GMC No. 2334848

**Appellant**

**and**

**ENFIELD PRIMARY CARE TRUST**

**Respondent**

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**DECISION WITH REASONS**

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1. This is an appeal by Dr. Murugesu Vinayagamoorthy against a decision of Enfield Primary Care Trust (PCT) effective from 1<sup>st</sup> November 2007 to remove him from its Performers List under National Health Service (Performers List) Regulations 2004 Reg. 10(6) (not performed services within the area for 12 months).

2. There is no doubt the Appellant has not performed the services which those included in the relevant performers list perform within the 12 months leading up to the decision to remove. The reasons are set out in the appeal papers and need not particularly detain us save for us to say the Appellant is prevented from performing services either within the PCT's area or indeed throughout England & Wales for reasons outside his control. That position is unlikely to change in the near future.

3. Concomitant with registration of a performer on a list is an administrative and regulatory obligation of the PCT in relation to that performer which, amongst other things becomes responsible for appraisal matters. Naturally a PCT will periodically review its list in order to reduce the administrative burden for those who are no longer performing services within its area. This is a perfectly reasonable, rational and proportionate exercise. Regulations prevent removal from the list of those who, for example are serving in HM Forces and therefore prevented from performing services and advice suggests those who are medically unwell should not be removed – otherwise the decision to remove under Reg.10(6) is within the discretion of the PCT to be exercised fairly.

4. We have a measure of sympathy for the Appellant who is prevented from performing medical services in this country. There is absolutely no allegation before us of improper practice or suggestion of unfitness to perform services but the fact remains the PCT should be able to manage its list as it thinks fit – subject to the obligation of fairness. It has considered the circumstances of this Appellant (as indeed have we) and despite his unusual circumstances have decided to remove him from the list.

5. We have looked afresh at the decision of the PCT and find the removal from the list in the circumstances of the case was reasonable, proportionate and fair and confirm that decision. Nothing in our decision prevents the Appellant from re-applying to join this, or indeed any other performers list, when he is able to do so.

6. Finally, in accordance with Rule 42 (5) of the Rules we hereby notify that a party to these proceedings can appeal this decision under Sec 11 Tribunals & 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 24<sup>th</sup> January 2008

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Paul Kelly, Chairman