

IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

Case No: 13597

**Mrs Judith Crisp
Dr Elizabeth Walsh Heggie
Mr Mark Rayner**

**Chair
Professional
Lay Member**

APPEAL HEARD ON

BETWEEN:

**Dr J Newman
(GMC No: 0580441)**

Appellant

and

Swansea Local Health Board

Respondent

DECISION AND REASONS

Appeal by the Appellant pursuant to Paragraph 15 the National Health Service (Performers List) Regulations 2004 against the decision made by Swansea Local Health Board to refuse admittance to their List under Section 6(1)(a)(b) of the said Regulations.

Appeal Dismissed.

DECISION AND REASONS

Preliminary Matters

1. The Appeal was heard by Mrs J Crisp (Chairman); Dr E Walsh-Heggie (Professional); and Mr M Rayner (Lay Member)
2. Prior to the Hearing all three Panel Members confirmed that they had no prior involvement or knowledge of the case.
3. The Parties were not present and agreed that the matter proceed on papers only pursuant to Paragraph 38 of the Family Health Services Appeal Authority (Procedure) Rules 2001. Both Parties having so agreed in writing that the matter be determined without an oral Hearing.

History

1. The Appellant applied for inclusion in the Respondent's Local Health Board by way of an Application dated 5th December 2006.
2. On 2nd March 2007 the Respondent Local Health Board refused the Application under Paragraph 6 (1)(a) of the said Regulations where, having considered the declaration required by Regulation 4(4), and (if applicable) Regulation 4(5) and any other information or documents in its possession relating to the Performer, it considers that the Performer is unsuitable to be included in its Performers' Lists.

3. In reaching its decision the Respondent have noted that the Appellant has not provided primary medical services as a General Practitioner in the National Health Service for over three years. In addition, neither of the references provided by the Appellant were considered to be satisfactory.
4. The matter was initially considered by the Panel on 10th August 2007 when insufficient information was before the Panel at that date to make a final Decision and Directions were given as follows:
5. The Appellant was to produce the following documents on or before 25th April 2007:
 - a CV giving details of all work and positions held from 2000 to date;
 - details of which medical lists the Appellant had been on since 2000 to date.
6. The Respondent was to provide the following documents on or before 25th April 2007:
 - A copy of the application form of the Applicant.
 - A copy of all references provided together with any correspondence between the Respondent and the Referees.
7. Following those Directions the Panel reconvened and considered the matter further on 19th June 2007.
8. The references which were provided were provided by the Appellant. The Appellant did not provide names and addresses but chose to supply references which he had obtained and such references were then attached to his application form.

The first reference was dated 16th December 2003. It is a clinical reference from Dr A Schogger.

The second reference was from Cornell. This was not a clinical reference. This was dated 21st July 2003.

The third reference provided was a clinical reference dated 2nd October 2004.

Findings

1. The most recent reference provided by the Appellant is two years and two months prior to the date of the application. The Panel do not consider that references, either individually or in totality, can be stated to be recent.
2. The Panel accept that the third reference is a clinical reference as it was provided by an employer and not a Locum as suggested by the Respondent.
3. The Respondent has complied with the requirement under the Regulations to provide names and addresses of two referees who are willing to provide clinical references relating to two recent posts (which may include any current post) as a Performer, which lasted at least three months without a significant break.
4. The Panel can find no evidence, despite having requested details of work undertaken pursuant to the directions, that the Appellant had provided any GMS since 2004.
5. The Panel directed that a CV should be provided, giving details of the work and positions from 2000 to date together with details of medical lists from 2000 to date.
6. The only information which has been provided by the Appellant is an undated list of Practices and Prisons where the Appellant states that he has worked. No dates are provided on that list as to times when the Appellant has worked in the Practices and therefore the Panel are unable to establish whether the Appellant has provided any GMS work in recent years
7. The Panel find that the Appellant has not been included on any Primary Care Trust list since 2000 as the Appellant confirmed this by correspondence.
8. The Panel find that there has not been any evidence provided by the Appellant as to why he has been unable to comply with the requirement to provide two recent clinical references i.e. ill health or otherwise.
9. The Panel further find that the Appellant had been refused admission to another PCT and/or LHB.

Conclusions

The Panel find for the purposes of Section 6(1)(b) of the said Regulations that the Appellant has failed to provide the names and addresses of two referees who are willing to provide clinical references relating to recent posts (which may include any current post) as a Doctor, which lasted at least three months without a significant break, and where this is not possible a full explanation and alternative referees.

The Panel find that the Respondent was justified in refusing the Appellant's application on the grounds of unsuitability.

Accordingly the Panel uphold the Respondent's decision and refuse the Appellant's appeal.

Appeal

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 day of 2007.

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Judith R Crisp
Chairman