IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

Case No: 13703

Mrs Judith Crisp	**Chair**
Dr Elizabeth Walsh Heggie	**Professional**
Mr Mark Rayner	**Lay Member**

APPEAL HEARD ON

BETWEEN:

Hartlepool Primary Care Trust

Appellant

and

Dr George Adams
(GMC No. 0021933)

Respondent

DECISION AND REASONS

Application by Hartlepool Primary Care Trust for National disqualification against the Respondent.

Application Granted.

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 Panel considered the following documents included in the Case papers:
   i) A report from Dr Welsh Consultant Neuro-psychologist;
   ii) A report from Dr Harrison dated 26.09.2006.
   iii) A report from Dr English Consultant Occupational Health;
   iv) A letter from Mike Newton NCAS Advisor dated 06.12.2005;
   v) Minutes of various reports;
   vi) Correspondence from Dr Adams.

2. The matter had come before the Panel previously when the Respondent applied by way of an Appeal against removal from the Performers' List. That Hearing was listed on 10th April 2007. The matter was withdrawn by Dr Adams prior to the 10th April.

3. The Respondent is 81 years of age and was conditionally included on the PCT's list in June/July 2002. The Respondent qualified in 1951 and held various Hospital posts until 1961 since when he worked in various GP posts. Recently the Respondent has worked as a Locum in the Teesside and Hartlepool area. The Respondent is currently working one day per week as a Locum.

4. The original conditions were imposed following concerns about his consultation and note taking skills together with the Respondent's inability to use a computer effectively. The concerns were confirmed following an assessment of the Respondent's consultation skills by a Deanery assessor. The conditions required him to:
   (i) undergo refresher training in improving consultation skills;
   (ii) participate in peer review;
   (iii) advise the H.A. on changes on circumstances.

5. The Respondent confirmed a peer review had taken place initially but felt that the sessions were unrewarding and were discontinued as it did not alter his practice in any discernible way. There were continuing concerns about the Respondent's apparent inability to follow the protocols, particularly around prescribing. There had been several patient complaints.

6. In late 2004 the Respondent asked that the conditions be removed. The Applicant considered the request but on 12th May 2005, because of the continuing concerns, confirmed and extended the conditions.

7. In October 2005 the Applicant received a telephone call followed by a letter from Dr Hilton-Dixon of Darlington PCT. Dr Hilton-Dixon is a Medical Director at the PCT and an Examiner for the RCGP. He was a member of a Panel who had interviewed the Respondent for a salaried doctor post in Darlington.

8. Dr Hilton-Dixon concluded that the responses following interview suggested that the Respondent had significant educational needs and raised questions about his performance. He suggested that the Respondent's skills should be further assessed. He stated that he was not made aware of the restrictions on the Respondent's practice which the Respondent had failed to disclose during the course of the interview.

9. A report was received from Mike Newton the NCAS Advisor, who advised following the above that without further investigation and assessment it was not possible to confirm that the Respondent was fit to practice. The Applicants were advised therefore to consider suspension whilst consideration was given to removal on the ground of efficiency.

10. The Applicant suspended the Respondent on 22nd November 2005, such suspension being extended to 25th October 2006. A further period of extension was granted by the FHSAA to 31st December 2006.

11. The Applicant sought an assessment from Dr C J English who is a Consultant in Occupational Health. Dr English confirmed that the Respondent's physical health

was not significantly impaired and that he was physically capable of working in a surgery environment and examining patients.

12. The Respondent was not psychiatrically ill. It was clear that he was motivated to remain in an active employment role, continuing to work both actively on his farm and a desire to continue work as a general practitioner.

13. There was demonstrable impairment of his short term memory on simple testing.

14. In considering the responsibility to continue to be registered on the Performers' List of the Applicant, the conclusion was that an independent assessment of his current clinical knowledge and skills would be required when considering the Respondent's ability to safely practice medicine in the 21st Century.

15. The consultation had identified significant concerns with reference to the Respondent's memory and ability to think calmly and sensibly under pressure, which could have an adverse impact on his ability to function safely and effectively as a general practitioner.

16. The Applicants were advised that the opinion should not be considered in isolation and that the Applicants would need to consider other objective evidence in reaching any decision.

17. A report was then sought by the Applicants from Dr Welsh, a Consultant Neuro-psychologist; such report being made available to them on 10th March 2006. The Neuro-psychological assessment confirmed that in itself the assessment would not be sufficient to state that the Respondent should continue to be suspended from the G.P list. It confirmed that the Respondent was at an appropriate level of cognitive functioning which would allow him to do this type of work. However the true test of competence was whether the Respondent was capable of making appropriate medical decisions in individual cases and this could only be assessed by peer review.

18. The Respondent was lucid and clear thinking in conversation, did not have any specific anomalies in relation to intellect or memory and functioned in the high average range.

19. The Applicants were advised that they must decide if there was any aspect of medical practice which would be fundamentally compromised by the cognitive defects normally found in an 82 year old person.

20. The Applicants then sought an assessment which was conducted by Dr J H Harrison who is the Associate Director of Post Graduate G.P. Education at the University of Newcastle. Dr Harrison conducted a simulated surgery and MCQ test. The MCQ test resulted in a figure of 32% set against a figure of 65% as a pass rate.

21. Dr Harrison advised that he had significant cause for concern regarding the Respondent's clinical activity. The Respondent fell significantly short of the level of competency required for a G.P. in the current medical practice world.

22. The MCQ result of 32% suggested that the Respondent's knowledge base was significantly lower than would be expected in today's world. Whilst it was appreciated that the Respondent had not done an exam for over 50 years and that MCQ tests were new to him, he had been given an opportunity before the exam on the day to understand how to fill in the form and also there was no negative marking.

23. In view of the results from the MCQ and simulated surgery, Dr Harrison advised that either the Respondent should agree to give up clinical practice and voluntary removal from the list, together with erasure from the GMC, should be considered.

24. In the simulated surgery the observers' comments were that the Respondent clearly welcomed the patient and sought to make him feel at home. He had a doctor centred approach to the consultation and did not always fully explore the presenting complaints with the patients. In many ways he made an early decision in the consultation about what he felt the diagnosis might be and then to some degree tested that out during the rest of the consultation process. This would be typical manifestation of a consulting style that may be expected from a person of the Respondent's background and experience.

25. Some of the drugs were unfamiliar to the Respondent. There was an inappropriate use of Diazapam. There was no real sense of engagement with more contemporary neuropathic therapies such as Carbamazepine. The Respondent could have elicited from the patient that she was actually taking Amitriptyline and Carbamazepine at the time.

26. A series of paper tasks were offered to the Respondent. The first was a set of five written clinical scenarios requiring comment. These were answered in a reasonable fashion and scored 12 out of 25 and on further questioning it was clear that the Respondent did have significant understanding of some of the newer drugs used for the treatment of diabetes. The other paper task which functioned as an OSCE produced more problems for the Respondent. In particular the Respondent did not suggest the use of statins and ace-inhibitors post MI, nor was he able to interpret the ECG which showed atrial fibrillation. His comment was that "he did not do ECGs".

27. The view of Dr Harrison was that the Respondent displayed some significantly concerning behaviours and approaches which would make it difficult for him to function in today's modern General Practice setting as a primary care specialist. Equally Dr Harrison felt that his clinical behaviour patterns would prove extremely difficult to change as they had become established as part of his consulting doctor centred model. There were concerns about prescribing, particularly on Diazapam over 2 -3 weeks for a woman with an unclear history where there was no real evidence of current anxiety and where the presenting problem was not fully explored.

28. In view of this Dr Harrison was not able to recommend Dr Adams for a re-training programme within the Deanery.

29. Following a meeting on 5th December 2006 the Respondent was asked to consider voluntary erasure but was unwilling to do so.

30. Following that report which was received on 26th September 2006 the Applicants, having met, removed the Respondent from their list pursuant to a letter dated 6th December 2006 to take effect from 4th January 2007.

31. The Reference Committee removed the Respondent from the PCT list and subsequently applied for National disqualification.

32. The correspondence which the Panel read from the Respondent did not deal with any reflective learning on his part, nor did it deal with the relevant concerns which had been raised over a period of years by peers and assessors alike. The onus is on the Respondent to demonstrate that he is fit to practice.

Findings

1. The Panel accept the report from Dr Harrison. The findings resulting from the simulated surgery, written tasks, observer comments and the MCQ test, provide evidence that the Respondent's performance falls significantly short of the level of competence required.

2. The Panel accept the evidence of Dr Harrison that the Respondent would not benefit from re-training, nor would any further assessment be appropriate.

3. The Panel find that the Respondent has been subject to conditions since July 2002. A considerable amount of support and assistance has been offered to the Respondent over this period.

4. The Panel accept the evidence of Mike Newton that a referral to NCAS for an assessment would not be useful.

5. The Panel accept the Respondent's functioning at a level appropriate for his age, education and background; further he is neither physically or psychiatrically ill.

6. The Panel find that there are aspects of the medical practice which are fundamentally compromised which are evidenced by the failings in the assessment, short term memory problems, inability to change to enable the Respondent to function in a modern general practice.

7. As such the Panel accept the Application for National Disqualification.

Conclusions

The Panel find that pursuant to paragraph 18(a) of the National Health Service (Performers' List) Regulations 2004 that a National Disqualification should be imposed upon the Respondent.

The Panel find that the Applicant should impose a National Disqualification upon the Respondent.

The Panel further extend the period of review under paragraph 19(a) of the said Regulations to five years in place of the reference of two years.

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