

**IN THE FAMILY HEALTH SERVICES APPEAL  
AUTHORITY**

**CASE 13743**

**Professor M Mildred - Chairman**  
**Dr J Lorimer - Professional Member**  
**Mr M Cann - Member**

**BETWEEN**

**DR MARGOT NELSON-OWEN  
(Registration Number 3018857)**

**Appellant**

**and**

**CARDIFF LOCAL HEALTH BOARD  
Respondent**

**DECISION WITH REASONS**

Background

1. In the second half of 2006 Dr Margot Nelson-Owen ("Dr Nelson-Owen") applied to be included in the Medical Performers List ("the List") of Cardiff Local Health Board ("the LHB"). By letter dated 28 November 2006 the LHB notified Dr Nelson-Owen that her application had been refused and she was advised of her right to appeal to the FHSAA.

2. The letter refers to a meeting of the Primary Care Panel ("the PCP") at which her application was considered on 14 March 2007. It must therefore follow that the date of the letter (28 November 2006) is wrong.

3. A further letter dated 20 March 2007 from Dr Brendan Lloyd, the Medical Director of the LHB to Dr Nelson-Owen explaining the reasons for the decision lends support to the proposition that the date upon which the refusal letter was sent was between 14 and 19 or 20 March 2007.

The LHB's Decision

4. The LHB based its decision to refuse Dr Nelson-Owen's application on Regulation 6(1)(a) of the National Health Service (Performers Lists) (Wales) Regulations 2004. That provides that a LHB may refuse to include a performer in its performers list where, having considered the declaration required by regulation 4(4) and (if applicable) 4(5) and any other information or documents in its possession relating to the performer that the performer is unsuitable to be included in its performers list. Regulation 4(5) deals with directors of corporate bodies and has no application in this case.

5. The reason for the refusal set out in the letter of 20 March was that the clear advice from the Postgraduate Deanery was that, since Dr Nelson-Owen had not worked "in mainstream UK general practice since her registrar period ended in February 1990", she should attend "a substantial returner programme in order to recap on general medical services as currently practised in the UK".

The Appeal

6. By letter dated 9 April 2007 Dr Nelson-Owen appealed against the refusal. Her grounds were (a) she was an experienced doctor as evidenced by her attached curriculum vitae and had worked in general practice in the UK, Canada and Saudi Arabia ; (b) she had not had any proceedings taken against her; (c) she had recently been refused a position at HM Prison Cardiff

despite being told informally that she was the best candidate; (d) she had left general practice at HM Prison Cardiff in 2002 just as performers lists were coming into being; (e) she left general practice in order to develop an interest in psychiatry so saw no point in going onto a performers list at that stage but had applied to go on the list as soon as she left her last position in psychiatry to go back into general practice and (f) in her last position as an Associate Specialist in Psychiatry at Llanarth Court Medium Secure Hospital she had covered the absences of the GP and was currently working as a private GP at BUPA Cardiff Hospital.

7. Dr Nelson-Owen provided us with a letter dated 14 June 2007 from Ros Mullins, Head of Healthcare at HM Prison Cardiff. This dealt with the period September 1996 to January 2003 during which Dr Nelson-Owen had worked at the prison. Ms Mullins stated that she found Dr Nelson-Owen an experienced doctor with excellent communication skills and skills in assessment and caring for prisoners with complex needs. She worked well within a close multi-disciplinary team and was open to change. In addition Dr Nelson-Owen had chaired and participated in various prison healthcare committees and had continued her professional development by completing a degree in Medical Law.

#### The hearing

8. Both parties asked that the appeal be held on the papers alone. The appeal was dealt with on 28 June 2007. All Panel members confirmed that they had no conflict of interest in hearing the appeal.

#### Discussion

9. The power to remove a practitioner under Regulation 4(4) of the NHS (Performers Lists) (Wales) Regulations 2004 is discretionary, rather than mandatory. The appeal is by way of a re-hearing and we must therefore exercise our own discretion in deciding whether Dr Nelson-Owen should be removed from the List.

10. It is apparent from Dr Nelson-Owen's CV that she is a person of many accomplishments and skills. She is also an experienced and doubtless expert doctor in her specialist fields. It is, however, also apparent that she has never worked as a principal in general practice. The year spent in 1989-90 was as a registrar, that is a trainee. The CV differs from Dr Mullins' letter in that it describes the prison work as ending in January 2002 (not 2003) and we accept that 2002 is the correct year.

11. Dr Nelson-Owen describes her position in her period at HM Prison Cardiff as "GP (S[pecial] I[nterest] Psychiatry). It seems to us from Dr Mullins' letter that this really means a doctor working primarily as a psychiatrist but also more generally when the occasion demanded.

12. The difficulty is that Dr Nelson-Owen has not worked in true general practice since 1990. In the prison the population will necessarily have excluded any work in paediatrics, care of the elderly, obstetrics and gynaecology and very possibly chronic disease management as it appears in conventional general practice. It is well-known that general practice has changed out of all recognition since 1990 and very substantially since January 2002 for those aspects in which Dr Nelson-Owen practised in the prison.

13. In these circumstances it seems to us indisputably right that Dr Nelson-Owen should undergo a returner's course to learn new skills and refresh her old ones before being admitted to a List. After that we believe she will be able to make a substantial contribution to working in NHS primary care.

#### Decision

14. For the reasons set out above we are of the view that the appeal should be dismissed and Dr Nelson-Owen should be refused admission to the LHB's Performers List.

15. We direct, pursuant to Rule 47(1) of the Family Health Services Appeal Authority (Procedure) Rules 2001 that a copy of this decision is sent to the Secretary of State, The National Assembly of Wales, the Scottish Executive, The Northern Ireland Executive and the Registrar of the General Medical Council.

16. Any party to these proceedings has the right to appeal this decision under and by virtue of Section 11 of the Tribunals and Inquiries Act 1992 by lodging notice in the Royal Courts of Justice, Strand, London WC2A 2LL within 28 days from the date of this decision. Under Rule 43 of The Family Health Services Appeal Authority (Procedure) Rules 2001 a party may also apply for a review of this decision no later than 14 days after the date on which this decision is sent.

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Mark Mildred  
Chair of Appeal Panel  
29 June 2007