FAMILY HEALTH SERVICES APPEAL AUTHORITY
IN THE MATTER OF AN APPLICATION FOR NATIONAL DISQUALIFICATION (DENTAL)
Case No: 14125

BETWEEN

PORTSMOUTH CITY TEACHING PRIMARY CARE TRUST

Applicant

and

DR MOHAMMED-JAFFER DATTU
(GDC Registration No 68940)

Respondent

Heard on: 23rd July 2008 at Aeonian training Centre Ltd, Shropshire House, London WC1

Appeal Panel:	**Mrs D Shaw**	**Chairman**
	Dr D Kooner	**Professional Member**
	Mrs L Jacobs	**Member**

Persons present:	**Dr Mohammed-Jaffer Dattu**	**Appellant**
	Mr Jonathan Holl-Allen	**Counsel for Appellant**
	Ms Vicki Swanton	**Berrymans Lace Mawer**
	Mr Mark Ashley	**Beachcrofts (for Respondent)**
	Dr Paul Edmondson-Jones	**Portsmouth City Teaching PCT**

1. This is our decision upon the issue of national disqualification. On 2nd August 2007 an FHSAA appeal panel upheld the PCT's decision dated 9th February 2007 to remove Dr Dattu from the PCT's Performers List having found him to be in breach of 5 of the 6 conditions attached to his inclusion on the said List on 24th October 2005.

Legal Framework

2. Section 159 of the National Health Service Act 2006 gives the FHSAA power to impose a national disqualification on a practitioner it has removed, which disqualifies such practitioner from being upon the Performers List of any PCT.

   2.1 Section 159(1) gives the FHSAA power to remove a practitioner from the Performers List at the conclusion of a case in which it has concluded that the practitioner should be removed from the PCT Performers List.

   2.2 Sections 159(4) and (5) give a PCT power to apply to the FHSAA within three months of the date of the removal for a national disqualification to be imposed on the practitioner following removal from its Performers List.

   2.3 Section 159(6) provides that no PCT may include a practitioner on its Performers List or, if he is included, must remove him, if the FHSAA imposes a national disqualification upon him.

   2.4 Sections 159(7) - (8) provide for the FHSAA to review a national disqualification at the practitioner's request either two years after the national disqualification was imposed or one year after the FHSAA's decision after the last such review.

Oral hearing

Preliminary issue – Amendment to Application

3. Counsel for Dr Dattu submitted that the PCT had incorporated a new issue into its skeleton argument, namely that of Dr Dattu's failure to disclose the police caution he accepted in March 2007. He adduced good character evidence from Dr Kalsi, a fellow dentist, and made no reference whatsoever to the caution either at the FHSAA appeal hearing or to the PCT until 30th May 2008. Counsel submitted that this was the incorrect approach because it expanded the case and should not have been included.

4. He submitted section 16(2)(c) of the Family Health Services Appeal Authority (Procedure) Rules 2001 ("the Procedure Rules") requires an application to state a concise statement of the grounds on which the application is made. Further, section 18(2) only permits the applicant to amend the application with the leave of the Panel at any time after being notified of the date of the hearing, or at the hearing itself, on such terms as the Panel thinks fit.

5. Counsel noted the PCT had referred the police caution to the General Dental Council ("the GDC"), which would consider it as a new case and contended that therefore the Panel should exercise its discretion to refuse the amendment of the application. Furthermore, although Dr Dattu informed the PCT belatedly of the caution, the PCT was well aware he had received a caution and of the general nature of the caution by summer 2007. If the PCT wished it to form part of the their case for national disqualification, it should have included it in its original application in November 2007. It was very late and prejudicial to Dr Dattu to introduce this new matter without explanation and it was irrelevant to the application, which was based on patient safety and the efficient use of NHS resources and related to last year's FHSAA material.

6. Mr Ashley on behalf of the PCT submitted it was not an amendment but an expansion of paragraph 33 of the PCT's application, which went beyond the limited remit identified by Counsel for Dr Dattu and looked at the historical picture of both lack of insight and willingness to engage. The PCT had been aware of the caution since summer 2007 through other sources but it was not until 30th May 2008 that Dr Dattu saw fit to notify the PCT, some 14 months after he received it.
7. Mr Ashley considered the caution was directly and clearly covered by the original application. However, if the Panel considered it was necessary to amend the application, section 18(2) of the Procedure Rules gave it discretion to give leave to amend the application on such terms as it thought fit. He submitted the Panel should allow the PCT to raise the related grave issue of whether Dr Dattu misled the previous FHSAA Appeal Panel when considering this application for national disqualification.

8. Counsel for Dr Dattu responded that the PCT had failed to explain why the PCT had only raised the matter two or three weeks ago and strenuously denied Dr Dattu had intended to mislead the previous FHSAA Appeal Panel. He asked whether it was fair for Dr Dattu to be placed in a worse position than a practitioner who failed to disclose at all.

9. We ruled as follows:

    9.1 We did not consider the issue of the police caution was covered by paragraph 33 of the PCT's application for national disqualification.

    9.2 By failing to inform the PCT within 7 days that he had accepted a police caution we noted Dr Dattu was in breach of his undertaking pursuant to section 4(3)(b) of The National Health Service (Performers Lists) Regulations 2004 ("the Performers Lists Regulations") to inform the PCT within 7 days of any material changes in the information he provided in his application for inclusion in the Performers List.

9.3 If Dr Dattu had been unaware of a new issue, then the Panel might have considered it unfair for the PCT to introduce it at this late stage. However, he had known about it for over a year and had had at least two weeks' notice that the PCT's solicitors intended to raise it.

9.4 In an application for national disqualification, we should have all the relevant information before us to assist us in reaching our decision.

9.5 Accordingly, we granted the PCT leave to amend its application on the basis Dr Dattu's failure to disclose the caution could be included in its application. As this was an application for national disqualification as opposed to an appeal, we did not consider it was necessary for the underlying reasons for the caution to be included in the application.

Summary of submissions at the Hearing

10. Neither Dr Dattu nor Dr Edmonson-Jones gave evidence.

11. Mr Ashley for the PCT submitted national disqualification is a serious matter to be considered where the circumstances of the case are so serious they merit this final sanction, which was the only appropriate outcome here. Whilst the protection of patient safety and the preservation of NHS resources were the two obvious grounds for the PCT's application, he invited the Panel to consider the overall context of a dentist who had repeatedly failed to make the grade. His consistent lack of insight into his failings had impaired his ability to improve despite being given structured opportunities to do so. He had been shown to be dishonest in the past and had possibly misled the FHSAA Appeal Panel last year.

12. There were three areas of concern:
    (i) clinical care
    (ii) preservation of resources
    (iii) overriding concerns relating to lack of insight , ability to improve and potential dishonesty.

13. There were longstanding concerns about clinical care going back to the decision of the Dorset and Somerset Health Authority Dental Discipline Committee ("DDC") in 2002 in which Dr Dattu's record keeping was criticised. In 2005 the GDC Professional Conduct Committee ("PCC") indicated its dismay at and disapproval of his record keeping leading to his suspension for 4 months. His subsequent reinstatement to the PCT's Performers List was subject to 6 agreed conditions as set out in the PCT's letter dated 17th October 2005 *(at pages 16-17*). The FHSAA Appeal Panel upheld the PCT's decision that Dr Dattu was in clear breach of 5 of the 6 conditions.

14. Mr Ashley submitted this indicated a clear pattern of significant failings in the quality of clinical care provided by Dr Dattu, and a failure to take the opportunity to improve or show the necessary insight or impetus with which to improve.

15. Similarly, there were longstanding concerns relating to the preservation of resources, with the DDC making a number of findings in 2002 relating to either inadequately coded, ill advised or fraudulent claims for payment, leading to a substantial financial withholding. In 2005 the PCC also made findings of dishonesty through the submission of claims for payment which it concluded were intentionally misleading. In 2007 the PCT and the FHSAA Appeal Panel concluded Dr Dattu was in clear breach of the Business Management condition which had been imposed to protect against erroneous charges being made against the NHS or individual patients.

16. The third area of concern was Dr Dattu's lack of insight, ability to improve and potential dishonesty as evidenced by his consistent failure to attempt to comply with the PCT conditions imposed in October 2005, and the FHSAA Appeal Panel's observations and findings in its decision dated 2nd August 2007. The PCC had also

commented on this lack of insight, finding Dr Dattu at times evasive and unconvincing and making a finding of dishonesty when it suspended him in 2005. It was also clear from the DDC decision in 2002 that Dr Dattu had made dishonest claims for payment for services he had not provided.

17. Furthermore, at the FHSAA appeal hearing Dr Dattu had adduced evidence of good character from Dr Kalsi, his employer at the time, without disclosing his police caution to either Dr Kalsi or the PCT.

18. It was submitted all this indicated Dr Dattu had approached his dealings with the regulatory bodies in an evasive or even dishonest manner. In the light of this, together with his historic lack of insight into his shortcomings and his failure to take the opportunity to improve even when given the clear structured opportunity to do so, he was unsuitable to practise NHS dentistry and national disqualification was warranted

19. Counsel for Dr Dattu asked the Panel to take into account the recent testimonials submitted on behalf of Dr Dattu *(pages R9-25)* together with the GDC Standards for Dental Professionals and advice on police cautions in the GDC Gazette, which he submitted at the hearing.

20. He agreed with Mr Ashley's submission that national disqualification was a very serious final sanction which it was only appropriate to impose in exceptional circumstances. Its purpose was not to punish a practitioner for past misdeeds but to protect the public and the effective use of NHS resources. He referred to a previous FHSAA decision on national disqualification which listed the factors which it was appropriate to take into account for national disqualification as:
    (i) the seriousness of the deficiencies or conduct identified;
    (ii) the range of those deficiencies;
    (iii) the explanations offered by the practitioner;
    (iv) the likelihood of those deficiencies or conduct being remedied in the near to medium term;
    (iv) patient welfare and the efficient use of NHS resources; but balancing those against
    (vi) the proper interests of the practitioner in preserving the opportunity to work within the NHS (which includes both pursuing his professional interests and earning money).

    Counsel agreed these criteria provided it was accepted they were not exhaustive and criterion (vi) was included.

21. Counsel submitted there was no evidence here of substandard treatment of any patient. He also contended it was relevant that the FHSAA Appeal Panel did not invite submissions on national disqualification nor did the PCT raise the issue at the time. If this were truly an exceptional case justifying national disqualification it would have been in the mind of the earlier Appeal Panel, which would have invited appropriate submissions at the time. The issue was now having to be determined by a Panel which (save for Dr Kooner) had not heard the evidence at the appeal. Furthermore, almost a year had elapsed since that decision and Dr Dattu would potentially suffer the prejudice of the delay in the imposition of a national disqualification extending the time before he could apply for review and in which he could not carry out NHS dentistry for another two years.

22. The PCT was now relying on all matters of a disciplinary nature affecting Dr Dattu's practice since 2002. Mr Ashley had failed to point out that many of the matters considered by the PCC in 2005 were the self-same matters which had come before the DDC in 2002 and it was important that the Panel should not double-count those matters for the purposes of this application. Dr Dattu wished to make it clear that as a result of the findings of the DDC in 2002 he had made efforts to improve the quality of his note keeping and there was no evidence of deficiencies in note keeping thereafter.

23. There were positive aspects of the PCC's determination in 2005; it recorded that none of the allegations arose from patient complaints and there were no findings of failure in treatment. It remained the case that there was no evidence that the treatment provided by Dr Dattu to any patient fell below an appropriate standard and it was therefore alarming that the PCT was calling for national disqualification on the ground of patient safety.

24. When notified of the findings of the PCT and the FHSAA Appeal Panel, the GDC had chosen to deal with these concerns by way of its warning letter dated 17th July 2007 *(pages 52-53)* rather than forwarding the matter to a PCC for consideration and the Panel might wonder why the GDC felt a warning was sufficient when the PCT was claiming the self-same matters were so serious that only the imposition of a national disqualification would suffice.

25. The Panel was not precluded from taking into account Dr Dattu's disciplinary history as a whole but it should have regard to the amount of time which had passed since the earlier DDC and PCC hearings and how he had been dealt with by the GDC.

26. Counsel submitted the police caution was not in any event relevant to the issues the Panel had to consider. When Dr Dattu accepted the caution in March 2007 he had declined legal advice; the police had informed him it was not a criminal conviction and he was only obliged to disclose it if specifically asked; he was not aware of the obligation to disclose it under the Performers Lists Regulations. When Dr Dattu began employment with Dr Kalsi he was not asked about the caution and he categorically denied he misled the FHSAA in any way; he was not directly asked about it at the appeal hearing.

27. The GDC Standards for Dental Professionals and advice on police cautions in the GDC Gazette indicated it was not clear whether the dental (as opposed to medical) profession was obliged to notify its regulatory body of a police caution. It was clear Dr Dattu was under an obligation to inform the PCT, but he was ignorant of that obligation at the time and there was no evidence he failed to disclose wilfully or intentionally.

28. Counsel was concerned the basis for this application should be the findings made by the FHSAA Appeal Panel in 2007 but there had been a late widening of the case which was unfair to Dr Dattu who had come here prepared to address the deficiencies found against him.

29. Dr Dattu had not been found in breach of all the conditions; he had complied with the condition relating to personal development, which indicated he did have some insight. The professional difficulties he got into stemmed from him taking on a practice in 1999 and the additional administrative and managerial responsibilities he had as a single-handed principal at that time. If a national disqualification was imposed it would preclude Dr Dattu from working in the NHS in any capacity and this ignored his intention now to focus on his clinical strengths rather than working as a single-handed practitioner.

30. Counsel asked for Dr Dattu's mitigating circumstances to be taken into account and for the Panel to give due weight to them and the level of culpability properly to be attached to him. He drew attention to the testimonials for Dr Dattu, which countered the submission that he was wholly lacking in insight. Several of those referees were aware of the police caution at the time.

31. He submitted in Dr Dattu's current situation it would be a matter of considerable difficulty to obtain admission to any PCT's Performers List as he would have to disclose matters currently against his name, but he should be given the chance to do so, which national disqualification would prevent.

32. In response to questions Counsel for Dr Dattu confirmed it was only when the caution came to the attention of his Instructing Solicitors during a conference with him that Dr Dattu understood it needed to be disclosed. He had only taken informal legal advice from a family friend when he accepted the caution and the issue of disclosure to the PCT was not raised.

33. Since his removal Dr Dattu had not worked within or outside the NHS so it had been practically impossible for him to do anything further to address the deficiencies which were the basis of his conditional inclusion.

34. Following the FHSAA Appeal hearing on 8th June 2007 Dr Dattu's mother suffered a major stroke on 17th June and Dr Dattu had to take several weeks off from Dr Kalsi's practice. He returned to Dr Kalsi's practice to complete some courses of treatment he had started but became his mother's principal carer after her discharge from hospital in August 2007. Since then he had been unable to find a carer for his mother but Social Services had now agreed to provide care as from 1st July 2008. Dr Dattu's father had been in hospital from March 2008 but would be discharged at some time in the future.

35. Dr Dattu completed 50 hours of CPD for 2007 and last saw a patient in 2007. He had to write to his private patients in December 2007 saying he could not provide continuity of care. In the light of his commitments to his parents, he had been unable to undertake any further CPD. He could not attempt to address the conditions imposed upon him as he was no longer working as a single-handed principal.

36. Once the care situation with his parents was resolved, it was Dr Dattu 's intention to sell his premises in Portsmouth and to work as an associate without the managerial and administrative responsibilities of a sole practitioner. He would then be in an environment where audit and review would be easier to perform.

37. When asked why the reasons for Dr Dattu's removal from this PCT's Performers List should not also apply to Lists in other areas, Counsel submitted there was a distinction between local and national disqualification and the latter would be disproportionate, there being a significantly higher threshold in relation to national disqualification. If Dr Dattu were successful in applying to join another PCT's List it could include him conditionally.

38. Although it was acknowledged the FHSAA Appeal Panel had made a finding that it had no confidence Dr Dattu would comply with future conditions, Counsel questioned whether this was a case in which it was appropriate to exclude this practitioner from carrying out any NHS dentistry for at least two years where there had been no finding of any deficiencies in clinical care. He submitted Dr Dattu should be given the chance to prove himself to another PCT.

39.Dr Dattu had not undertaken any home-based CPD, such as on-line CPD or reading journals; his personal life had been dominated by his round the clock responsibilities to his parents.

40. The state of play with the GDC's investigation into Dr Dattu's caution was that he had heard nothing further from the GDC since its letter of 25th July 2007, but that did not mean the case was closed.

41.Closing submissions for the PCT. Mr Ashley pointed out that it had not been possible to conclude the FHSAA Appeal on the day when the Appeal Panel might have sought oral submissions on national disqualification and final submissions had to be made in writing thereafter.

42. It had been suggested on behalf of Dr Dattu that the conditions imposed upon him in October 2005 were geared towards, if not entirely related to, his practice as a sole practitioner, with the inference that many, if not all, of the conditions were not relevant

to practice as an associate. However, it was quite clear from the FHSAA Appeal Panel's decision that Dr Dattu failed to understand the requirement for audit or for working with a practice nurse. Mr Ashley submitted that the need to comply with conditions transcended the capacity in which Dr Dattu would be working.

43. Mr Ashley did not wish to downplay Dr Dattu's difficult personal circumstances but the Panel needed to take into account that mitigating factors had been raised several times in the past (eg. before the DDC in 2002 and the PCC in 2005). The FHSAA Appeal Panel's decision had concluded Dr Dattu had overplayed the effect of his parents' ill health. If weight was to be given to mitigating circumstances, it had to be counter-balanced by them having been raised several times in the past and at least on one occasion having been assessed as being overplayed.

44. Given Dr Dattu's consistent failings in patient care and patient management, his lack of insight and need to improve, together with his failure to demonstrate any real need to engage with PCT requirements, national disqualification was the only appropriate option.

45. Closing submissions for Dr Dattu. Counsel questioned again why, if there was no time to hear oral submissions on national disqualification, the FHSAA Appeal Panel had not requested written submissions on this issue.

46. The nature of the conditions imposed on Dr Dattu were very much tailored to Dr Dattu's practice as a single-handed practitioner.

47. Counsel appreciated the mitigating circumstances had already been raised but asked the Panel to take into account the circumstances of the last year. Although the FHSAA Appeal Panel had not considered the mitigating circumstances between October 2005 and April 2006 to be sufficient to deflect it from the course of removal from the local PCT's List, this Panel could still consider all of the mitigating circumstances in terms of national disqualification.

48. The PCC of the GDC had not found any item of treatment provided by Dr Dattu to be of a sub-standard level and it was therefore disproportionate to wholly exclude him by national disqualification for the next two years.

Consideration and conclusions

49. We have carefully considered the written and oral submissions for both parties. We consider the issue of national disqualification by reference to those submissions and by reference to the findings of the FHSAA Appeal Panel as recorded within its written decision dated 2nd August 2007.

50. We are guided by the Primary Medical Performers List Guidance issued by the Department of Health in 2004 and in particular to *[emphasis added]:*

(i) paragraph 40.2 which expresses the view that the FHSAA can itself decide to impose a national disqualification if, having rejected an appeal, it considers that the facts that gave rise to the removal decision are *so serious that they warrant disqualification*; and

(ii) paragraph 40.4 which suggests PCTs should *recognise the benefits of a national disqualification both for protecting the interests of patients and for saving the NHS resources*. It says further that *"unless the grounds for removal … were essentially local, it would be normal to give serious consideration to such an application"*.

51. Accordingly, although there is no statutory guidance as to the principles to be applied in such context, we consider it is appropriate to consider national disqualification in those cases where the findings against the practitioner are serious, and not by their

nature essentially local in the sense of being objectively unlikely to have arisen had the practitioner been practising in a different area of the country.

52. We agree with Counsel for Dr Dattu the factors which it is appropriate for us to take into account as listed in paragraph 20 above.

53. It is said on behalf of the PCT that we should make an order for national disqualification because Dr Dattu had repeatedly failed to make the grade. He had shown a consistent lack of insight into his failings, which impaired his ability to improve despite being given structured opportunities to do so. He had been shown to be dishonest in the past and had also possibly misled the FHSAA Appeal Panel in 2007. It was submitted there were longstanding concerns relating to the preservation of resources, with Dr Dattu having a history of making fraudulent claims for payment, findings of dishonesty against him and the FHSAA Appeal Panel finding Dr Dattu in clear breach of the Business Management condition which had been imposed by the PCT to protect against him making erroneous charges. The FHSAA Appeal Panel also found Dr Dattu had consistently failed to attempt to comply with the other PCT conditions imposed in October 2005. All this indicated Dr Dattu was unsuitable to practise NHS dentistry and national disqualification was warranted.

54. On behalf of Dr Dattu it is said that national disqualification would be disproportionate and that it is only appropriate to impose it in exceptional circumstances. There was no evidence of substandard treatment of any patient or any patient complaints. If this was truly an exceptional case justifying national disqualification, it would have been in the mind of the FHSAA Appeal Panel which would have invited appropriate submissions at the time. As almost a year had elapsed since that decision, Dr Dattu would potentially suffer prejudice from the delay, which would extend the time in which he could not carry out NHS dentistry for another two years. The GDC had chosen to deal with the findings of the PCT and the FHSAA Appeal Panel by way of warning letter, which brought into question why the PCT was claiming the self-same matters were so serious that only the imposition of a national disqualification would suffice. The police caution was not relevant to the issues the Panel had to consider. Dr Dattu had not been aware of the obligation to disclose it under the Performers Lists Regulations and he had not intended to mislead the FHSAA Appeal Panel. Dr Dattu's intention now was to focus on his clinical strengths and to work as an associate without the managerial and administrative responsibilities of a sole practitioner. In the light of his commitments to his parents, Dr Dattu had been unable to undertake any further CPD but his mitigating circumstances should be taken into account. Moreover, his testimonials countered the submission that he was wholly lacking in insight and Dr Dattu should be given the chance to prove himself to another PCT.

55. We have carefully considered all of the further submissions in the light of the FHSAA Appeal Panel's findings. In particular, we consider the following to be relevant:

    55.1 The deficiencies in Dr Dattu's conduct were wide-ranging and serious. We acknowledge there was no evidence that the treatment he provided to any patient fell below an appropriate standard and there were no patient complaints, but the FHSAA Appeal Panel found there were numerous administrative and managerial deficiencies as evidenced by Dr Dattu's breach of the conditions; - for inspection of the surgery premises; practicing without the professional support of appropriate ancillary staff; failure to put in place a plan for audit and peer review; failure to put in place an appropriate business management plan and failure to undergo appropriate personality management.

    55.2 Dr Dattu did not give evidence to us but we noted the FHSAA Appeal Panel were less than impressed with his evidence at the appeal on numerous occasions, finding it "unconvincing and evasive" *(page 39)*, "inconsistent"

(page 40) and finding that he showed "a reluctance to accept responsibility and blames other circumstances for his own failures" *(page 49).*

55.3 The FHSAA Appeal Panel found Dr Dattu either delayed complying with the conditions for a considerable period, did not fully or properly comply with them, or failed to comply with them at all. It was not impressed by his explanations and excuses, felt he overplayed the effect of his parents' ill health *(page 34*) and considered "the cumulative effect of the breaches gave the Panel no confidence at all that there would be compliance in the future" It was "very concerned at Dr Dattu's lack of insight into the need for the conditions to be met by him in a timely and meaningful way and stated that "imposition of further conditions would not safeguard the efficient delivery of dental services" *(page 49)*.

55.4 We were asked to take into account Dr Dattu's difficult personal circumstances over the past year and the many supportive testimonials he submitted *(pages R 11-25)*. We noted these attested in the main to his personal rather than professional qualities. Furthermore, whilst we have taken full account of Dr Dattu's difficult personal circumstances we note he has not even attempted to keep up with CPD in any shape or form. We do accept that the absence of evidence of Dr Dattu having taken any positive or remedial steps since August 2007 is irrelevant in the context of national disqualification and more pertinent to a subsequent application for review.

55.5 We were also asked to consider the fact that the FHSAA Appeal Panel did not itself consider national disqualification and invite appropriate submissions when it was entitled to. We do not accept the interpretation placed upon this by Counsel for Dr Dattu that if this were truly an exceptional case justifying national disqualification, it would have been in the mind of the earlier Panel. Appeal panels treat this issue differently and as they consider appropriate at the time; some invite the parties to extend their closing submissions to national disqualification in the event a decision is made to remove the practitioner; others consider it should only be dealt with after the initial decision has been made and issued.

55.6 We considered the submission that Dr Dattu would potentially suffer the prejudice of a delay in the imposition of a national disqualification since almost a year had elapsed since the Appeal Panel's original decision was issued. While this is unfortunate, we do not consider, in the light of all of the other evidence before us, that this of itself should outweigh the other factors leading to out decision.

55.7 Although Mr Ashley made submissions relating to Dr Dattu's historical deficiencies and his failure to disclose the police caution, the determining factors in this application are the serious nature of the facts giving rise to the PCT's original decision, as upheld by the FHSAA, and the fact that none of the breaches of condition taken into account in deciding that his removal from the list was justified, were essentially local to this PCT.

55.8 Without evidence of Dr Dattu demonstrating greater insight into his deficiencies than is currently the case and taking appropriate steps to enable him to comply with the conditions which were imposed upon him, we do not consider the efficiency of the service and the welfare of patients would be any less prejudiced if Dr Dattu were to practise in a different area of the country, whether as a sole practitioner or as an associate.

56. We acknowledge the submission on behalf of Dr Dattu that there is a distinction between local and national disqualification. However, taking into account all of the above, we consider the seriousness of the breaches giving rise to the PCT's original decision coupled with the fact that they were not essentially local to this PCT and are

equally relevant to any other List, renders it reasonable, necessary and proportionate to impose national disqualification upon Dr Dattu.

57. We are aware of the likely effect of such an Order upon Dr Dattu and the practical effect of preventing him from pursuing his career as a dental practitioner within the NHS. We weigh such considerations against the risk to patient safety and the prejudice to the efficiency of services, thereby also presenting a risk to NHS resources if such an Order is not made.

58. Accordingly, we order national disqualification from inclusion in all lists referred to in section 159(1) of the National Health Service Act 2006 and we direct that a copy of this decision be sent to the persons and bodies referred to in Rule 47(1) of the Procedure Rules. In the case of sub-rule 47(1)(e) the relevant professional body is the General Dental Council.

Supplementary matters

59. In accordance with Rule 42(5) of the FHSAA (Procedure) Rules 2001 we hereby notify the parties that they have the right to appeal this decision under 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 the date of this decision.

60. Under Rule 43 of the FHSAA (Procedure) Rules 2001 a party may also apply for review or variation of this decision no later than 14 days after the date on which this decision is sent.

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Dated the day of 2008

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Debra R Shaw
Chairman of the Panel