

THE PRIMARY HEALTH LISTS TRIBUNAL

CASE NUMBER 15365

DR G SCHWANNER

Appellant

and

LUTON PRIMARY CARE TRUST

Respondent

REASONS

1. The appellant (Dr Schwanner) is a fully registered medical practitioner included in the medical register.
2. On 19.10.10 Dr Schwanner applied to be included in the medical performer's list of the Luton Primary Care Trust (the PCT). On 24.1.11 he was notified in writing that his application had been refused. The reasons given were: 'you have no experience of working within the NHS and should not be allowed to work unsupervised in General Practice.' The PCT relied upon Regulation 6(1)(a) and (b) of the National Health Services (Performers List) Regulations 2004.
3. Dr Schwanner appealed against the decision and submitted a written appeal to the Primary Lists Tribunal dated 24.2.11. At a telephone case management directions hearing held on 14.4.11 he agreed, as did the PCT, that a paper hearing was acceptable.
4. A panel of members of the Primary Lists Tribunal (the panel) considered his appeal on 24.6.11 and refused his appeal. This decision was communicated to the parties and these are the reasons for that decision.
5. Dr Schwanner accepted that he had not worked as a general practitioner in a NHS setting. He maintained however that he

worked as a general practitioner between 1996 and 2002 as a GP specialising in 'occupational health' and subsequently engaged in what he referred to as 'general practice' whilst working as a psychiatrist. He provided two clinical references which both referred to his substantive employment as a 'psychotherapist and rehabilitation psychiatrist.'

6. Dr Sim (associate medical director of the PCT) and Dr Bone (assessor of general medical practitioner clinical references) concluded that his very limited general practice experience and his lack of experience of working in the NHS made him unsuitable to be included on the PCT's performers list.
7. The panel consider that the PCT, in fulfilling its statutory functions to manage the lists of its performers, must be entitled to require information as to the applicant's familiarity with primary care in the NHS and also experience of working in health care systems where he has had exposure to the generality of patients and conditions routinely managed by GPs in the NHS.
8. Dr Schwanner was not able to provide this information and neither were his referees. The panel noted that Dr Schwanner's general practice experience since 2002 appears to have been as an adjunct to his work as a psychiatrist and this means that in the context in which he wished to work as a GP in the NHS he is unlikely to have either up to date or relevant experience of particular groups of patients (for example children) and their treatment.
9. The panel therefore had no difficulty in concluding that Dr Schwanner's references were unsatisfactory insofar as they clearly demonstrated that he was not suitably experienced. This means that the ground outlined in Regulation 6(1)(b), that is the PCT not being satisfied with Dr Schwanner's references, was met. The PCT also relied on Regulation 6(1)(a) which deals with the performer's suitability. The panel were unable to accept that this was a suitability case and therefore do not make a decision on that ground. If the PCT had made their original decision on the basis of efficiency (Regulation

6(1)(e)) then the panel would have readily concluded that to have been the case however that was not the basis for the PCT's original decision and the panel do not consider it fair to Dr Schwanner to introduce a fresh ground.

A Harbour Tribunal Judge

H Freeman Professional Member

J Purkis Member

Dated 24 June 2011

