

Siobhan Goodrich- Chair
Richard Stokes-Professional Member
Valerie Barducci-Member

BETWEEN:

COSTCO WHOLESALE UK LIMITED

Appellant

And

MILTON KEYNES PRIMARY CARE TRUST

Respondent

DECISION

1. By its decision dated 4th August 2008 this panel directed that the issue of the potential national disqualification of Costco Wholesale UK Limited (hereafter "Costco") be stayed upon terms. The panel refers to the full decision which is appended hereto as "Appendix A" and the directions given therein.
2. In compliance with the directions, the panel was informed by letter dated 29th August 2008 that Costco had served a copy of the decision of 4th August 2008 upon each PCT upon whose list it had appeared. Costco also lodged a schedule together with supporting evidence establishing that its name had been withdrawn from the list of each PCT upon whose list its name appeared.
3. The panel confirms that in these circumstances it is not necessary to make an order for national disqualification against Costco. It follows that Costco is free to make a fresh application for inclusion to any PCT, including those from which it has withdrawn. A considered decision can then be made at local level as to whether or not any changes effected to the business model and premises by and in which Costco seeks to provide GOS fully complies with the National Health Service (General Ophthalmic Services) Regulations 1986 as explained and interpreted in the decision of Mr Justice Newman.

4. If Costco apply for inclusion in the future to the list of any PCT it is, of course, obliged under the regulations to disclose the fact that it was removed from the list of Milton Keynes PCT and explain why. Any risk to the public interest with regard to potential applications to *new* PCTs is thereby sufficiently safeguarded. It would be eminently sensible for Costco to provide the decision of Mr Justice Newman and this decision (including its Appendix) to each new PCT to which it applies.
5. We further 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 and The Northern Ireland Executive.
6. The attention of both parties is drawn to the provisions of Rule 43 of the Rules.

**Siobhan Goodrich
Chair**

Either party to these proceedings has the right to appeal this decision under and by virtue of Section 11 Tribunals and Inquiries Act 1992. Any appeal should be made by lodging a notice of appeal in the Royal Courts of Justice , The Strand , London WC2A 2LL within 28 days .

APPENDIX A : The Panels' decision dated 4TH August 2008