

IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

CASE NO: 13625

ROBIN CHAUDHURI – Chairman

DR. R. RATHI – Professional Member

MRS. L. THURLOW – Lay Member

BETWEEN

**DR. I. M. QUANCE
(GMC 3184721)**

APPELLANT

-and-

WOLVERHAMPTON PRIMARY CARE TRUST

RESPONDENT

DECISION

**ROBIN CHAUDHURI
CHAIRMAN**

30th May 2007

1. This is an appeal by Dr. Quance against the decision of the Wolverhampton Primary Care Trust (hereinafter referred to as the 'PCT') to remove him from their Performers List contrary to **Regulation 10 (4) (c) NHS (Performers Lists) Regulations 2004.**

THE BACKGROUND

2. Dr. Quance has had difficulties with alcohol for some twenty years. In **1987** he was convicted of a drink/driving offence and given a one year driving ban. Dr. Quance was

convicted again in **November 1997** and given a three year driving ban by the Bridlington Magistrates.

It appears that the GMC had imposed conditions upon his registration since **August 1998** (see paragraph 2 of Dr. Ruth White's report dated **18th February 2007**). Those conditions were finally removed on the **18th March 2005**.

Between **1st May 2001 and 30th September 2003** Dr. Quance was employed as a salaried GP by Wolverhampton PCT. Initially he worked in a part time capacity, but after **March 2002** commenced in a full time capacity.

In **October 2002** Dr. Quance admitted to heavy drinking due to work-related stress and an unmanageable workload. He returned to work on **4th November 2002** with a support package in place.

Dr. Quance left the employment of the PCT on **30th September 2003** to take an appointment as a full time partner with Drs. Wilkinson and Pickavance at Newbridge Surgery.

3. On the **6th October 2006** the PCT were contacted by Dr. Wilkinson (Newbridge Surgery). Dr. Wilkinson informed Lynne Allen (Director of Primary Care and Rehabilitation) that Dr. Quance had been charged with a drink/driving offence arising from an incident on **28th September 2006** and was due to appear in court on **9th October 2006** (subsequently adjourned to **23rd October 2006**).

The PCT maintain that Dr. Quance had failed to notify them of the criminal charge, in breach of the Performers List Regulations and the GMS contract.

On **9th October 2006** the partners at Newbridge Surgery wrote to the GMC informing them of the drink-related charge and of various difficulties experienced by Dr. Quance prior to the incident.

On **10th October 2006** Dr. Quance's contract was terminated by the Partners at Newbridge Surgery.

In a subsequent interview with the PCT Dr. Quance blamed his problems as being stress related due to relationship/domestic problems but not work related.

On **23rd October 2006** the Wolverhampton Magistrates imposed a ten week custodial sentence upon Dr. Quance, suspended for two years. He was disqualified from driving for three years.

On **15th November 2006** the PCT wrote to Dr. Quance's solicitors indicating their intention to remove him from the Performers List. Dr. Quance declined an oral hearing but sent written representations.

On **18th December 2006** the GMC Interim Orders Panel suspended Dr. Quance's registration for a period of 18 months. The order is to be reviewed by June 2007. Dr. Quance informed the Panel that a Review Hearing had been set for a date in July 2007..

On **9th February 2007** the PCT's Professional Panel determined that Dr. Quance should be removed from the PCT's Performers List contrary to Regulation 10(3)(4)(c) ie an "unsuitability case".

4. The Panel convened on the **23rd May 2007** to determine Dr. Quance's Appeal. Dr. Quance was represented by Miss Watson, Counsel. The PCT were represented by Miss Khalique, Solicitor.

The Panel:

- (i) heard oral evidence from Dr. Quance and closing submissions from Miss Watson;
- (ii) also received reports from Dr. Ruth White, Consultant Psychiatrist, dated **18th February 2007** and Dr. Keron Fletcher, Consultant Psychiatrist, dated **26th February 2007**;
- (iii) were provided with a copy letter from Dr. Quance's solicitor to the GMC dated **10th May 2007**;
- (iv) heard oral evidence from Lynne Allen, Director of Primary Care and Rehabilitation; Dr. Sally Wilkinson of Newbridge Surgery and Dr Adrian Phillips, PCT Executive Director;
- (v) also received a Certificate of Conviction relating to the "*being in charge*" of a motor vehicle after consuming excess alcohol.

The Panel also considered all the papers provided in our bundle of documents.

DR. QUANCE'S CASE

5. Miss Watson submitted that the original decision by the PCT's Panel to remove Dr. Quance from their Performers List was disproportionate, unnecessary and premature. The offence of "*being in charge*" was serious, however, she urged the Panel to note that Dr. Quance's previous conviction for an alcohol related offence was over ten years ago, i.e. **November 1997**.

She also reminded the Panel that:

- (i) Dr. Quance had recently attended a de-toxification programme and had been "*alcohol free*" since **March 2007**;
- (ii) Dr. Quance's personal life was considerably more settled than at the time of the commission of the offence in **September 2006**;
- (iii) Dr. Quance's improved health had allowed him to work in a part time capacity for a printing firm.

It was further submitted that Dr. Quance's failure to inform the PCT of his criminal charge in **September 2006** ought to be placed into its proper context. Dr Quance was in a state of heightened anxiety at the time of his arrest and subsequent charge. No prejudice was caused since Dr. Williamson informed the PCT of the charge on the **6th October 2006**.

Further, Miss Watson invited the Panel to dismiss any allegations of drinking alcohol whilst on duty at the Newbridge Surgery. Miss Watson submitted that the PCT Panel could have suspended Dr. Quance from their Performers List instead of simply removing him. Alternatively, it was suggested that Dr. Quance could have remained on the list but be bound by a number of stringent conditions.

THE PCT'S CASE

6. Miss Khaliq submitted that:
- (i) Dr. Quance should have contacted the PCT upon his arrest and subsequent charge. She acknowledged that, in the totality of the case, Dr. Quance's failure to notify the PCT of his arrest and charge was not the most serious of

issues. Nevertheless, his failure to do so highlighted his own lack of insight, especially in light of the history of this case;

- (ii) The PCT Panel acted appropriately in removing Dr. Quance from their Performers List. The PCT Panel sought to eliminate the risk to the public. Miss Khalique reminded the Panel that the previous acknowledged lapse of excess alcohol consumption by Dr. Quance was only in **October 2002**. She referred to the two reports presented on behalf of Dr. Quance, notably that up until early **February 2007**, he was consuming half a bottle of vodka daily (see second page of Dr. Fletcher's report) and paragraph 11.3 of Dr. White's report:

"I did not, however, feel that he had developed an appreciation of the current severity of his drinking and would need support and counselling about this".

Miss Khalique further submitted that the two expert reports relied upon by Dr. Quance both suggested that he was (at the time of preparation of the reports) unfit to practice due to alcohol dependence.

THE PANEL'S DECISION

- 7. The appeal is by way of re-determination. It is the unanimous decision of the Panel that Dr. Quance's appeal should be dismissed.

REASONS

- 8. (i) The Panel viewed the "*being in charge*" conviction as extremely serious. The Magistrates imposed a custodial sentence, albeit suspended. It was clear that they viewed the matter as extremely serious;
- (ii) The conviction could not be looked at in isolation. The Panel acknowledged the submissions of Miss Watson, in that prior to this conviction, Dr. Quance's last court appearance was in **1997**. Nevertheless, there had been a previous alcohol related lapse in **October 2002**. The GMC conditions had only been removed on the **18th March 2005**. Dr. Quance must have been aware that any future lapse would seriously prejudice his career. The present offence

was committed only some eighteen months after the relaxation of the GMC conditions;

- (iii) Whilst giving evidence, the Panel were struck by Dr. Quance's lack of insight into his alcohol dependence. By his own admission, he had been consuming half a bottle of vodka until **mid-February 2007**. His evidence was that he had been "*alcohol free*" since **March/April 2007**. At no time during the course of his evidence did he acknowledge that the process of rehabilitation could take many years, as opposed to a few months. Dr. Quance suggested that his personal life was considerably more stable than at **September 2006**. If that was so, why was he still consuming large quantities of alcohol until relatively recently?
- (iv) The PCT Panel's decision to remove Dr. Quance from their Performers List was a proportionate and measured response to the facts of this particular case. In his evidence, Dr. Phillips confirmed that the PCT Panel had considered all the representations made on behalf of Dr. Quance and the various options available, including suspension. The Panel accept that the decision to remove Dr. Quance was necessary and not premature. The seriousness of the offence merited an immediate removal.
- (v) The Panel felt that there was no excuse in Dr. Quance failing to inform the PCT of his arrest and charge at the earliest opportunity. Dr. Quance would have been only too aware of the significance of being arrested on the **28th September 2006** and the implications it would have had upon his career. The Panel agreed with the observations of Miss Khalique that this "*lapse*" highlighted Dr. Quance's lack of insight.

In reaching its decision the Panel have carefully considered:

- (i) **Regulation 11(1) (a) – (c) of The NHS(Performers Lists) Regulations 2004** and
- (ii) those matters set out in **Regulation 11(2) (a) – (h) of the said Regulations.**

9. Any party to these proceedings has the right to appeal this Decision under and by virtue of **S.11 Tribunals and Inquiries Act 1992**, by lodging a Notice of Appeal in the

Royal Courts of Justice, The Strand, London WC2A 2LL within 21 days from receipt of this Decision.

ROBIN CHAUDHURI

Chairman

30th May 2007