

IN THE FAMILY HEALTH SERVICES APPEAL AUTHORITY

Case Number: 14149

**Mr T Jones
Dr Chope
Ms Everitt**

**Chairman
Professional Member
Member**

BETWEEN

NORFOLK PRIMARY CARE TRUST ("The PCT")

Applicant

and

MR S L CRAMP

(Professional Registration Number: 46886)

Respondent

DECISION WITH REASONS

The Application

1. On the 16TH November 2007 the Applicant PCT ("The PCT") informed the Respondent ("Mr Cramp") in a letter of that date of their decision made following a meeting on 9th November 2007 to remove his name from its Dental Performers List on the ground that he was unsuitable for inclusion having given him an earlier opportunity to make representations. He did not attend the PCT hearing but a representative did appear on his behalf. He was notified of the removal and of his right of appeal. He did not appeal. Subsequently, the PCT made an application to the FHSAA requesting the National Disqualification of the Respondent pursuant to Regulation 10 of the NHS (Performers List) Regulations 2004.

Background

2. The background of the matters are that Mr Cramp had been the subject of earlier concerns as a result of the collation of a pattern of complaints as to his clinical performance, the provision of private treatment, and charging of private fees to the NHS patients without their consent; and his attitude and manner towards patients. There was a period of suspension, a neutral act to protect the interest of patients and the practitioner between 23rd February 2004 and 23rd April 2004. The forerunner of the PCT considered such matters in 2004 and commissioned a report by the Norfolk Assessment Support Panel dated 22nd September 2004. Mr Cramp co operated with the team undertaking the assessment. The assessment team found that there had been 19 complaints over

a period of 7 years; this is well in excess of what would usually be expected. The assessment recommended that Mr Cramp's professional development needed to be targeted; this should include amongst other things, inter personal relationship skills, awareness of sexual harassment and confidentiality issues. There was a recommendation for the appointment of a mentor for a period of time. There was no formal appointment of a mentor, this was a disappointment to Mr Cramp, though we note Mr Cramp in his own statement of 8th November 2007 addressed to the PCT hearing of the following day, states he had liaised with a personal mentor and local dental practitioner and attended a course at Cromer Hospital on communication skills that he had found helpful. The date of the course was not given in his letter; he said his personal mentor has assisted with any problems in this area as and when they have arisen.

3. Regrettably, further complaints continued to be made. They are summarised at pages 66 and 67 of the PCT bundle that has been provided to Mr Cramp, and there are patient complaint letters annexed in the following pages of that bundle. The complaints commence in December 2004 and that last one of the nine complaints summarised was received in March 2007. They relate to his manner and attitude towards patients and the way in which he presents private/NHS treatment options to patients, and are similar to those considered in 2004 by the PCT. Some were outside the remit of the PCT and have been referred to the General Dental Council (GDC). It was submitted by the PCT that the pattern of complaints is of concern, it would have been expected that a practitioner would have shown exemplary behaviour and learnt from the past.
4. Mr Cramp, having been given timely notice of this hearing did not appear or make any representations to counter the allegations - save and except as made in his letter of 8th November 2007 addressed to the PCT, and the representations made on his behalf, as noted by the PCT in respect of the meeting of 9th November 2007. In light of this we resolved to deal with the matter on the papers before us.

Our Conclusions

5. The power to make a national disqualification is contained in Section 49N of the Health and Social Care Act 2001. In August 2004 the Department of Health provided guidance on national disqualifications and delivering quality primary care: PCT Management of Primary Care Practitioners Lists. These principles whilst they in their wording expressly refer to medical practitioners, are nonetheless, we find, equally applicable to dentists providing contractual services to the NHS.
6. The guidance contains two relevant propositions: "where the facts of the case are serious it would wrong to allow the doctor to offer his services to every (PCT) in turn in the hope that he will find one willing to accept him". Further, "unless the grounds for their decision were essentially local it would be normal to give serious consideration ... to an application for national disqualification". Therein, we refer to paragraphs 8.1.2 and 8.1.5 of the guidance notes referred to above.
7. In determining the application made by the PCT herein, we have considered fully the PCT bundle supplied to Mr Cramp, any comments made by Mr Cramp as contained therein and his letter to the PCT of 8th November 2007. Having done so, we find that the Grounds of Application are well made out. We find that the PCT was empowered and quite right to remove Mr Cramp from their Dental Performer's List; and, in light of the Department of Health guidance as noted above have quite properly, and we find quite rightly, made an application for national disqualification. The PCT's action we find was entirely proper and the current application well made out and proportionate for the reasons expressed by the PCT summarised above. We say this because; there can be no doubt on any reading of the current case papers and Mr Cramp's last letter to the PCT, that there is an ongoing pattern of complaints despite Mr Cramp having undergone detailed assessment following a period of earlier suspension. Whilst we note Mr Cramp's disappointment at

the lack of a mentor being appointed and that he feels stressed, we note he concedes that issues as to attitudinal behaviour problems continued, notwithstanding his calling his mentor as and when they arose. Whilst Mr Cramp has given notice to the PCT of his wish to leave NHS practice, we are unable to rely on this, and proceed to make an order for national disqualification.

Decision

8. Our order is that pursuant to Section 49N(3) of the National Health Service Act as amended by the Health and Social Care Act 2001, the Respondent Mr SL Cramp be disqualified from inclusion in all Performer's Lists prepared by all Primary Care Trusts, all lists deemed to succeed or replace such lists by virtue of Regulations made there under. In so doing, proportionately, we have weighed the effects of this Order upon the Appellant, against the risk to patients if a national disqualification is not made.
9. We direct that a copy of this decision be sent to the bodies referred to in Regulation 47 of the Family Health Services Appeal Authority (Procedure) Rules 2001. Finally, either party to this appeal may exercise a right of appeal against this decision by virtue of section 11 of the Tribunal and Inquiries Act 1992, by lodging an appeal with the Royal Courts of Justice, The Strand, London, WC2A 2LL, within 28 days of receipt of this decision.

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Mr T Jones, Chairman.