

**In the Family Health Services Appeal Authority** case no: 15048

**Heard at Harrogate**

**On 26 March 2009**

**Before**

**Mr J D Atkinson (Chairman)  
Dr E Walsh-Heggie  
Mr M Rayner**

**Between**

**Leeds Primary Care Trust**

**Applicant**

**and**

**Dr E Heinzman  
(GMC No: 6074341)**

**Respondent**

**Representation:**

For the Applicant: Mr Lovel, Hempsons Solicitors

For the Respondent: None

**DECISION AND REASONS**

**The Application**

1. This is the decision in respect of an application for the national disqualification of Dr Emily Heinzman following her removal from the Leeds Primary Care Trust's performers list under the Health Services Act 1977 (as amended) and associated regulations.

**The Background to the Proceedings**

2. This determination arises from the decision of the FHSAA, following a hearing on 15 December 2008, to reject Dr Heinzman's appeal against the PCT's decision to remove her from the performers list on the grounds of prejudice to

the efficiency of services. The present determination must be read in conjunction with that earlier determination.

3. It is not necessary to set out the full findings of the earlier determination. The Panel's findings on that occasion may be summarized as follows. Dr Heinzman has
  - i. On 20 or more occasions, over a period of 13 months, prescribed for herself, by impersonation, or for her associates, drugs for non-clinical or recreational use
  - ii. That in so doing, she engaged in deception either by misrepresenting her identity or falsifying records
  - iii. Failed, at appropriate times to disclose, and misled a number of colleagues about, the events relating to her obtaining and use of prescription drugs
  - iv. Taken cocaine on a number of occasions, including at such times when she was under investigation by the police and subject to proceedings brought by the PCT and in breach of conditions imposed by the GMC
4. The FHSAA's judgment on the last occasion was that there were no viable conditions that could be imposed on Dr Heinzman with a view to removing any prejudice to the efficiency of the services in question. Her appeal was accordingly dismissed and arrangements made for a national disqualification hearing.

### **The Law**

5. The relevant law is to be found in the 1977 Health Services Act as amended together with associated regulations. Applications for national disqualification are to the FHSAA as a primary decision maker.

### **Preliminary Matters**

6. The application for national disqualification was originally set down for hearing on 20 January 2009 but was adjourned to 26 March 2009 for reasons unconnected with the parties.
7. Dr Heinzman was given due notice of the new listing arrangements; however on 20 February 2009 Dr Heinzman requested an adjournment because she was due to appear before a magistrates court on 26 March 2009.
8. The Panel refused the adjournment application and steps were taken to bring

the present proceedings to the attention of the magistrates court, with a view to the proceedings before the magistrates being adjourned. The proceedings before the magistrates court were re-listed for hearing on 1 April 2009

9. Dr Heinzman failed to attend the hearing before the present Panel on 26 March 2009. The FHSAA clerk telephoned Dr Heinzman on 2 occasions in the course of the morning, but was unable to speak to her. There were no messages from Dr Heinzman explaining her absence. The hearing was due to start at 11.00; however the Panel waited until 11.30 by which time Dr Heinzman had still made no appearance.
10. The Panel was satisfied that it could dispose of the application justly on 26 March 2009 without adjournment and in the absence of Dr Heinzman. Dr Heinzman, knowing the date of the hearing before the Panel showed no good cause requiring that the application be adjourned. Her original concern had been met by the re-listing of the matters in the magistrates; and there was a real prospect that an adjournment would not result in Dr Heinzman's attendance on a future occasion. Accordingly, the Panel decided in the interests of justice to proceed.

#### **The documents and evidence considered**

11. No additional evidence was filed by or on behalf of Dr Heinzman.
12. Mr Lovel, on behalf of the PCT filed a written submission on which he elaborated orally, together with extracts from the guidance, 'Delivering Quality in Primary Care'.

#### **Submissions on behalf of the PCT**

13. Mr Lovel on behalf the PCT relied on his written and oral submissions which may be summarized as follows. Since the determination of the Panel on removal on efficiency grounds there had two significant developments. First, Dr Heinzman had been charged with 16 counts of fraud. It was not known whether a plea had been entered. Second, the GMC's interim orders panel had varied its original order which had allowed Dr Heinzman to practice subject to conditions, so that she was now suspended from practice.
14. It was submitted that the circumstances in Dr Heinzman's case was sufficiently serious that a national disqualification should be imposed. Dr Heinzman had engaged in activity, including dishonesty which made such an order an appropriate response. In the present case there were no factors that would suggest that the concerns are an essentially local matter, relating only to Leeds PCT. Dr Heinzman had admitted her fraud and misconduct, and there was a likelihood that there would be further recurrences.

## **Decision and Reasons**

15. In the light of the Panel's previous determination, the submissions and on consideration of the relevant guidance, the Panel imposes a national disqualification on Dr Heinzman for the reasons set out below.
16. The Panel finds that the circumstances of Dr Heinzman's case are serious. The findings of fact show a pattern of behaviour involving dishonesty on many occasions over a number of months. Dr Heinzman has used and provided prescription drugs to others outside any regime of clinical governance and has put her safety and the safety of patients at risk. Dr Heinzman has used street drugs on a number of occasions including during the period of investigation into her activities. Dr Heinzman has consistently failed both to engage with colleagues and to show insight into these matters.
17. The Panel finds that there is no evidence before it showing that the concerns arising from these circumstances can reasonably be ascribed to local matters. The Panel finds that there is no local nexus between the prejudice to efficiency as found by the previous Panel and the Leeds PCT. The concerns relating to Dr Heinzman would continue no matter where she practiced as a general practitioner.
18. In determining that a national disqualification is necessary the Panel have considered the issue of proportionality. The Panel is of the view that the facts as found show there are serious concerns, that they are of a nature inherent to Dr Heinzman and that there is no evidence to show amelioration of those the concerns. In addition, the Panel notes that the GMC Interim Orders Panel have now decided that Dr Heinzman be suspended and that Dr Heinzman is the subject of continuing criminal proceedings. In all the circumstances the Panel finds that national disqualification is a necessary and proportionate response in order to protect the interests of patients and for saving NHS resources.

## **Summary**

The FHSAA hereby decides that a national disqualification order be imposed on Dr Heinzman.

In accordance with Rule 42 (5) of the Rules the Panel hereby gives notice that a party to these proceedings can appeal this decision under Sec 11 Tribunals & Inquiries Act 1992 by lodging notice of appeal in the Royal Courts of Justice, The Strand, London WC2A 2LL within 28 days of receipt of this decision.

Signed Mr J D Atkinson, Chairman

Date 26 March 2009