

Determination of the Application of the Mid Hampshire Primary Care Trust (the Applicant) for National Disqualification of Dr G. Grant (the Respondent).

Case No:- PHL 15275

Chair:- Miss KMJ Rea

Professional Member:- Dr S Aruyanayagam

Lay Member:- Mrs MJ Frankel

The hearing was held at Pocock Street, London on 20<sup>th</sup> September 2010. The Panel made its determination on the papers, the decision having been made on 13<sup>th</sup> September 2010 to do so.

Preliminary matters.

1. The Chair had issued a Direction on 6<sup>th</sup> September 2010 that unless the Respondent informed the Tribunal Service (TS) whether or not she consented to the hearing being on the papers by 10<sup>th</sup> September 2010, the hearing would be on the papers only. The Applicant had already indicated its consent to that method of disposal on 23<sup>rd</sup> August 2010. The Respondent responded, late, on 15<sup>th</sup> September 2010 by email, but did not deal with the matter of the method of hearing. The Chair had determined on 13<sup>th</sup> September 2010 that the hearing was to be on the papers only, in accordance with the Direction of 6<sup>th</sup> September 2010.
2. Additional papers were received before the hearing and after the main bundle had been sent out; the Respondent's email of 15<sup>th</sup> September and the Applicant's comments on that in a letter dated 17<sup>th</sup> September. The Panel paginated the former pages R 3 and 4 and the latter page A175.
3. The Panel reminded itself of the need to ensure that good service of the hearing had been made. It determined that it was good service, as the Respondent had received notice of the hearing date, time and venue in a letter from the TS dated 14<sup>th</sup> July 2010 and the bundle had been sent to her on 13<sup>th</sup> August 2010. Thus, the Panel determined that service had been effected in accordance with Rule 25(2) of the Tribunal Procedure (First Tier) (Health, Education and Social Care) Rules 2008 (the Rules).
4. The application is brought under S. 49(N)(4)(a) and (b) of the Health and Social Care Act 2001 (the Act) and is a free standing application to nationally disqualify the Respondent. Under S. 49(5) of the Act and Regulations 18A (3) and (4) of the NHS (Performers Lists) Amendment Regulations 2005 (the Amendment Regulations), in order to be eligible to make such an application, the Applicant is required to have made its application no later than three months after its removal of the Respondent from its PL. The Respondent was informed of the Applicant's decision to remove her on the grounds of prejudicing the efficiency of the provision of medical services under Regulation 10 (4) (a) of the NHS (Performers List) Regulations 2004 (the Regulations) on 9<sup>th</sup> March 2010 ("efficiency" grounds). The application for National Disqualification by the Applicant is dated 9<sup>th</sup> June 2010. Thus, the Panel determined that the application was made in time and that the Applicant is eligible to bring this application for National Disqualification.

This is an application by the Applicant for the National Disqualification of the Respondent. The Panel read all the papers, which are paginated A 1 to 175 and R 1 to 4. The Panel reminded itself of its burden and standard of proof and that it is for the Applicant to prove the case on the balance of probabilities. It also reminded itself that it must exercise the principle of proportionality at all times, balancing the protection of the public and the wider public interest, which is public confidence in the profession and in the regulatory process and the upholding and maintaining of standards of the profession, against the interests of the Respondent in being able to practise in her chosen profession whether restricted or unrestricted. The Panel exercised the principle of proportionality at all times.

#### Chronology and Background.

1. From her application for inclusion onto the Applicant's PL dated 10<sup>th</sup> August 2004 (pp A169 to A174 of the bundle), the Respondent states that she qualified as a medical practitioner in July 1979 in Dublin and became fully registered on 1<sup>st</sup> August 1980. She received her Diploma in Child Health in Ireland in April 1989 and obtained a Diploma in Obstetrics in 1990. From 1988 to 1990 she completed her GP training and by January 1990 was a salaried GP assistant. However, the practice was dissolved because of insignificant patient numbers. From 1992 to 1993 the Respondent was a clinical medical officer in Armagh, having been involved in a serious road traffic accident in 1991 and she states that she took 2 years off, although the dates do not quite fit. Moreover, the form does not show any of her professional work between 1993 to 1998. In 1999, after a year as a staff grade paediatrics clinical medical officer, she states that she took a career break until her 2004 application and, thus, had no medical referees in 2004. She was to confirm the identity of her GP trainer and that section of the form is still not completed (p A173). At this time in 2004, the Respondent wished to join the Returners' Scheme and was looking for a practice in which to do so.
2. After confirming that the Respondent had a clear CRB and Fraud check and that she obtained indemnity cover from the MDU, she obtained her Certificate from the Joint Committee on Post Graduate Training for GP Practice (JCPTGP). However, the only reference that the Respondent could produce was from a Cab company where she had been the owner/driver (p A152).
3. Therefore, the Applicant allowed the Respondent to be Conditionally Included in its PL from 21<sup>st</sup> December 2004 for a period of her Return to Work Scheme post. If she wanted to work as an independent non-principal and be included on the Medical PL, she would have to submit documentation from her supervisor to confirm that she had satisfactorily completed her training programme (p A148). On 16<sup>th</sup> June 2005, the Respondent had completed her Return to Work programme (p A147).
4. On 12<sup>th</sup> July 2005, the Applicant wrote to the Respondent stating that it was allowing her to be admitted as a GP Locum to its Medical Performers' List from 11<sup>th</sup> July 2005 to 10<sup>th</sup> July 2006, conditional upon the Respondent undergoing an appraisal within that period (p A144). The Applicant further renewed the Respondent's status as a locum GP on its PL, conditional upon the annual appraisal, to 10<sup>th</sup> July 2007 (on 14<sup>th</sup> July 2006), renewed it again to 10<sup>th</sup> July 2008 (on 27<sup>th</sup> July 2007) and renewed it once again to 10<sup>th</sup> July 2009 (on 21<sup>st</sup> July 2008).

5. On 2<sup>nd</sup> January 2007, the Respondent, through AM Locums, commenced a locum GP post with a Dr K. Rajah at the Jacksdale Medical Practice, Jacksdale, Nottinghamshire. However, by a short period after her commencement there from January 2007, a number of complaints (pp A 124 to 141) had arisen describing the Respondent's abruptness, rudeness, a patronising attitude, impatience, lack of care and unprofessionalism. One example involved an insensitive conversation with a patient who had undergone a miscarriage, giving the impression to the patient that the miscarriage had been her fault.
6. There then followed GMC involvement by, respectively, the Respondent and the surgery principal Dr Rajah. Each reported the other to the GMC; the Respondent first in March 2007 (pp A121 to A123), and Dr Rajah on 22 July 2007 (pp A95 to A98). The detail in pages A95 to A98 of the bundle in Dr Rajah's letter describes the Respondent's behaviour; for example, what seemed like an obsession with part writing prescriptions and other forms, leaving them uncompleted and around the surgery, thus causing extra work and resources to be used to rectify the incomplete work and also being a potential security risk. He also describes in his letter to the GMC that the Respondent's interpersonal skills and communication with staff, patients and other health care professionals was of a poor standard and she left patients in tears on occasion. The examples he sent to the GMC of patient complaints are those seen at pages A124 to 141 of the bundle referred to above. In addition, he complained that the Respondent's computer use made her words unreadable with "non-sensible" information and incorrect spellings. In addition, Dr Rajah also states that the Respondent was not forthcoming about her gaps in career. He also stated that her references were non-committal or even negative, that she had been abrasive and manipulative with Dr Rajah's manager and that patients had described her on their questionnaires in a survey as "cold, rude, frightening and patronising". Dr Rajah himself found her behaviour "strange and uncontrollable". In addition, he states that her appearance lacked professionalism; she had dirty stained clothing and her personal hygiene was poor; she would discard soiled materials on to the floor, including syringes, samples, gloves and towels and would disregard the "sharps" box and other disposal bins. She would discard her lunch wrappings on the floor after eating and if they were tidied, the Respondent would put take them out of the receptacle and put them back onto the surgery floor. On being asked to leave the practice, the Respondent threw the contents of her waste bin around the consulting room, filled the sink with wet paper towels and threw blood and urine sample forms around the floor with patient leaflets and notes.
7. The Applicant attempted to set up a meeting with the Respondent but she was unavailable in February 2009 and her email dated 26<sup>th</sup> February 2009 to the Applicant refers to Dr Rajah having been suspended for 6 months to a year in 2003-4 for unacceptable behaviour.
8. On 2<sup>nd</sup> March 2009 the Respondent wrote to a Dr Websdale in Birmingham about the Medical advisor in Stockton On Tees, Dr Summers, where she had been working. She stated that he had complained of her illegible writing and poor patient care and she then complained of Dr Summers' substandard performance and being denied access to the computer system at that surgery. She threatened to report him to the GMC for his

“negligent action” towards her and his “vexatious action and deception” in attempting to damage her professionally as a result of his negligent and substandard performance.

9. The Applicant was able to hold the meeting with the Respondent on 9<sup>th</sup> March 2009, in which she was asked in detail about the allegations of her behaviour from the survey forms of January to March 2007. The Respondent denied all the allegations and stated that they were slanderous and untrue. In relation to the case of the patient who had miscarried the Respondent stated that the patient was depressed and heard only what she wanted to hear. She also raised concerns about the practice manager listening at a keyhole of the consultation room, and Dr Rajah having mental health issues. She also stated that she had been working in Fareham and in Bitterne and had been interviewed for a job in Liverpool. In addition, the Respondent referred to being interviewed for a job in Liverpool and having worked in Stockton on Tees, where she repeated that she had been denied access to a computer. During the meeting the Applicant invited the Respondent to undergo a health screening process – a neutral act - and the Respondent stated that she accepted that but felt it was unnecessary and that “the practice was malpractising and very devious” (p A103). The Applicant also sought to probe the Respondent’s possible paranoid thought-processes and from her answers to questions put to her. The Respondent had raised a matter relating to another doctor at the Nottingham practice (a Dr Das) who had also been reported to the GMC by Dr Rajah and where a GP Appraiser for Notts County PCT, Dr Loudon, had written an undated email confirming this (P A68). Dr Das also wrote in support of the Respondent (pp A70 to 72) dated 15<sup>th</sup> March 2009. As a result, on 16<sup>th</sup> March 2009, the Applicant’s Associate Clinical Director, Dr Keith Ollerhead, liaised with Dr Dean Temple, Deputy Medical Director at Notts County NHS, who stated that it had been decided that the matters from Dr Rajah had been hearsay and the Notts PCT took no action on it. However, Dr Temple admitted that his PCT had not contacted the Applicant when concerns about the Respondent were raised and should have done so, when Dr Ollerhead reminded him that it was the Hampshire List on which the Respondent was included. Dr Rajah was confirmed to be a PCT GP Appraiser and Dr Temple promised to review the behaviour of Dr Rajah and his Practice Manager.
10. On 9<sup>th</sup> March 2009 Dr Ollerhead rang the GMC, informing it of the Applicant’s concerns about the Respondent, and the position with Notts County PCT. The GMC confirmed that Dr Rajah had never been suspended in the past, as suggested by the Respondent, and that the Respondent’s complaint against him had been investigated and the case had been closed in June 2008. By contrast the GMC were keeping the Respondent’s case open for further investigation.
11. On 7<sup>th</sup> May 2009, the Applicant then tried to organise a health screening for the Respondent but she failed to attend on 18<sup>th</sup> May 2009. Another appointment was attempted to be organised but before that could take place, the Applicant received another complaint from a Yorkshire surgery through the locum company Maxim dated 2<sup>nd</sup> June 2009. It is alleged the Respondent refused to honour an obligation to provide GP services with less than one week’s notice, leaving patients potentially without GP cover. When the Respondent was challenged about her behaviour by Maxim, she accused it of harassment. In addition, the Applicant received information from the GMC in a letter dated 13<sup>th</sup> August 2009 that on 12<sup>th</sup> August 2009 at a hearing it had imposed

an 18 month Interim Conditions of Practice Order on the Respondent, who attended the hearing and was legally represented. The Conditions (pp A61 to 62) included that the Respondent must only work in the NHS in General Practice posts under the supervision of a named GP principal, who must provide a report for the review panel of the GMC. In addition, she was not to undertake any locum posts of less than one months' duration and she must cooperate with the Applicant in its investigation of her, including undertaking a National Clinical Assessment Service (NCAS) assessment.

12. As a result of this, the Applicant's Contractor Performance Panel met on 13<sup>th</sup> August 2009. It determined that it was appropriate to contingently remove the Respondent from its Performer List on the grounds of "efficiency" with conditions that included that the Respondent must co-operate fully with the NCAS assessment process and that she must inform the Applicant of any GP appointments she accepts and provide details of the employer to the Applicant. The conditions would be reviewed upon completion of the NCAS assessment process.
13. The Applicant attempted to obtain the Respondent's signature and co-operation for the NCAS assessment but the form signed by the Applicant dated 23<sup>rd</sup> October 2009 was not signed by the Respondent (and still is not – p A57). The Applicant wrote to the Respondent on 25<sup>th</sup> November 2009 to remind her of her obligations and the conditions of her contingent removal and to highlight that in her 9<sup>th</sup> November email to the Applicant (pp A41 to 42) the Respondent had indicated that she was working in Feltham and Hounslow. She had also advised the Applicant that she had made a Dr Rahman, the Feltham practice's lead GP, aware of the PCT/NCAS assessment and that Dr Rahman must prepare a report.
14. On 1 December 2009, the Respondent's advisers wrote to the Applicant to indicate that she was too unwell to engage in the process of assessment. On 11<sup>th</sup> December 2009, the Applicant spoke to a Nick Mattick who appeared to have been engaging the Respondent in various placements across the UK through his agency, Fresh Medical. She had been on their books since January 2008 and her last work with them was in July 2009. The Respondent had not informed him of the GMC or PCT conditions or of any NCAS assessment; she had only stated that she had to work for a month. On page A34 of the bundle, it emerged that the Respondent had stated to him that the PCT "was trying to remove her". He also stated that the Respondent had displayed odd behaviour, talking to herself, returning to the wrong building and there were issues over her paperwork. She had advised him that she was taking two months sick leave due to a previous injury. He stated that she had some complaints against her but also had some good feedback. He stated that Fresh Medical has no Clinical Lead GP called Dr Rahman.
15. On 11<sup>th</sup> December 2009, the Applicant spoke to an HR Manager in Buckinghamshire, who liaised with the Practice Manager of the Feltham practice, part of The Practice plc, where the Respondent had stated she was going to be working. She stated that the Respondent had been "let go" by reason of patients' complaints. These centred around the Respondent's personal behaviour; for example, she rolled her eyes when dealing with patients who felt that they were not being listened to, she did not make eye contact, she was talking to herself a lot and she kept wearing a surgical mask which unnerved patients. It also later emerged that The Practice plc practice also had not heard of a Clinical Lead by the name of a Dr Rahman (p A34). Moreover, this practice

had no knowledge of the Respondent's GMC or PCT conditions, nor was it aware of the NCAS assessment. As neither the Agency nor the practice knew of the conditions, they did not check the GMC register.

16. On 17 December 2009, the Applicant reviewed the situation and determined that the Respondent had knowingly breached her conditions. For all the reasons outlined, the Applicant decided that there was no doubt that the Respondent should not be practising and that there were concerns about her as an individual. The Applicant discussed that the Respondent had breached her conditions and the Applicant could not be sure that patients would not be compromised. It was also felt that there were underlying health concerns for the Respondent, such as talking to herself and wearing a surgical mask during consultation. The Applicant had to be mindful of patient safety and also an individual with health issues which had been the initial driver for the NCAS assessment. The Applicant stated that it had to assure itself of the reasonableness of removal for someone who might be unwell. The Applicant would go on to organise an oral hearing and if the Respondent attended, then she could sign the NCAS assessment. The Applicant felt that a mental health assessment was required but that the practitioner needs to want to help herself. The Applicant felt it had done all it could in this case to help the practitioner and that any further inaction would be the Applicant's responsibility. It was emphasised that the Applicant's prime responsibility was to its patients (pp A33 to 35).
17. The Applicant wrote to the Respondent on 18<sup>th</sup> December 2009 setting out the considerations set out in Paragraph 16 above and informing the Respondent that it would be having a hearing to consider suspending her from its List, under Regulation 13 (1) (a) of the Regulations, whilst it decided whether to remove her from that List under Regulation 10 of the Regulations (pp A30 to 32). It informed her that the hearing for that would take place on 21<sup>st</sup> December 2009. Her advisers responded on 21<sup>st</sup> December 2009 that she was signed off sick by her GP, could not attend the hearing that day and was unable to address the matters relating to her engagement in the NCAS process.
18. On 21<sup>st</sup> December 2009, the Applicant proceeded in the Respondent's absence as it was concerned that if it did not patient safety could have been compromised. The Applicant then determined to suspend the Respondent from its Performers' List for 6 months, under Regulation 13 (1) (a) of the Regulations on the grounds that her continued inclusion on the Applicant's List would be prejudicial to the efficiency of the services, which those included in the relevant lists perform. The Applicant stated that the reasons were that the concerns raised were serious and that it was in the interests of patient safety that the Respondent should be suspended immediately from its Performers List. It also stated that her behaviour had become bizarre and that she was clearly unwell. She had not engaged in the NCAS process and to discuss with the local Deanery to set it up. The Respondent had breached her conditions imposed upon her by the Applicant by not informing the agency or practice in which she had recently attempted to work of the totality of her PCT and GMC conditions. Furthermore, the Applicant's Panel was particularly concerned that the Respondent had appeared to breach the GMC condition that required her to work under the supervision of a named GP (pp A26 to 28). The Suspension Order was to be reviewed on 2<sup>nd</sup> February 2010.

19. On 14<sup>th</sup> January 2010, the GMC reviewed the Interim Conditions of Practice Order and determined that it should be replaced by a Suspension Order for the remainder of the duration of the original Order. The Respondent was not present or represented. The reasons were that she had breached the conditions of practice with regard to complying with the NCAS assessment and co-operating with the Applicant. It was also established that there appeared to have been a complaint in 1999 from Southampton about the Respondent and she responded by asking for voluntary removal from 21<sup>st</sup> June 1999 to 1<sup>st</sup> December 2003. On 26<sup>th</sup> January 2010, the Respondent's advisers informed the Applicant that they were no longer instructed.
20. On 2<sup>nd</sup> February 2010, the Applicant reviewed the Suspension Order it had made on 21<sup>st</sup> December 2009 to allow the Respondent to attend. She indicated by email that morning, having been reminded in the intervening period of the date of the hearing, that she could not attend the review hearing. The Applicant's Panel determined to continue the Suspension Order and proposed that the Respondent should be removed from its Performers List. The Suspension Order would remain in force whilst the Applicant put onto place a hearing date for the proposed removal of the Respondent from its List. The Applicant confirmed that its reasons were because the Respondent had not engaged in providing any evidence of her present ill health and that there was no evidence that she was seeking help to remedy her ill health, or that she would do so in the future. In addition, she had not returned her signed consent form for the NCAS assessment, had failed to inform her employers of the GMC and PCT conditions, had not worked under the supervision of a GP principal, did not engage in her Regulatory Body's process and had also removed her representatives from advising her and engaging in c the process on her behalf. The Applicant confirmed that patient safety was of paramount concern. (pp A19 to 21).
21. The Applicant's Contract Performance Panel met on 4<sup>th</sup> March 2010 and for all the reasons referred to in Paragraph 20 above, it determined to remove the Respondent from its Performers List under Regulation 10 (4) (a) of the Regulations on the grounds of "efficiency". The Applicant informed the Respondent of that decision in a letter dated 9<sup>th</sup> March 2010 (pp A14 to 16). The Respondent did not appeal that decision.
22. The Applicant wrote to the TS on 28<sup>th</sup> May 2010 seeking that the Respondent should be Nationally Disqualified under Regulation 18(a)(sic) of the Regulations, as amended, on the grounds that she had failed to engage in the process and that there were serious concerns regarding her conduct, performance, health and well being, and the breach of the GMC conditions.
23. On 24<sup>th</sup> June 2010 the Respondent wrote to the TS (pp R1 to 2). She alleged a breach of her Human Rights by the Applicant and all involved personnel, as well as the GMC. The Respondent repeated her contentions in her email of 15<sup>th</sup> September 2010 and also revisited the allegations she had made against Dr Rajah (pp R3to 4). The Applicant replied to that in a letter dated 17<sup>th</sup> September 2010 and stated that the processes of the Applicant in the Respondent's case have been open and transparent and in strict accordance with Regulations. It also stated that the Applicant had learnt from the GMC that the Respondent has refused to co-operate with the requirements of the GMC Performance Assessment Team and that the Respondent has now been referred to Fitness to Practise at the GMC.

### Powers of the Panel on National Disqualification

Under Section 49 N (4) (a) and (b) the Applicant PCT may only apply for a National Disqualification of the Respondent if it had removed him from its Medical Performers List and/or any supplemental list(s) or refused to include him in such Lists. Any such application must be within 3 months of the date of the removal or refusal. The Panel has already determined that the Applicant has applied in time (see above).

Regulation 18A (1) of the Amendment Regulations "national disqualification" is defined as the disqualification of the performer from inclusion in, inter alia,:-

- (a) a performer's list,
- (b) all performers lists under S. 49N(1) of the Act,
- (c) a supplementary list of a PCT,

or only from inclusion in one or more descriptions of such list prepared by a PCT or an equivalent list, the description being that specified by the FHSAA in its decision.

### Decision and reasons.

In reaching its decision, the Panel reminded itself of, and exercised the principle of proportionality at all times, balancing protection of the public and the wider public interest, being public confidence in the profession and the upholding and maintaining of standards of the profession with the Respondent's own interests in continuing to practise in her chosen profession, whether restricted or unrestricted.

The Panel was concerned at the considerable number of pointers from the evidence of the Respondent's ill health and the effect that has had, and continues to have, on her ability to provide safe and competent medical services. Examples are her attitude to patients in consultation, where they have been shown to be vulnerable and where the Respondent has been highly insensitive to their conditions; her attitude to fellow professionals which has been bizarre, mercurial and quixotic, resulting in false accusations against fellow professionals and threats on her part to report various of them to the GMC, with no basis. The Panel determined that this type of behaviour impacts directly on patient care and puts the Respondent's patients at risk, and it also undermines public confidence in the medical profession.

Furthermore, in the Panel's opinion, the evidence also reveals a certain element of deliberate behaviour on the Respondent's part. This consisted of behaviour to deviate the relevant authorities away from her own conduct. On a number of occasions she failed to engage with the relevant PCT and used displacement actions of, for example, reporting another practitioner to the GMC, or threatening to do so, so as to distract further enquiries progressing into her own deficiencies. In the Panel's opinion, this aspect of the Respondent's behaviour demonstrates either a deliberate act to cover her own recognised deficiencies, or a clear example of her illness impacting on her clinical practice, making her unsafe, unreliable, highly unpredictable, and, thus, a danger to the public, her patients. The Respondent's failure to engage with the Applicant in the health procedure it set up to help her and her failure to engage in the application before this Panel demonstrates, in the Panel's view, a profound lack of insight into her own condition. In absence of her compliance with health procedures, the Panel must consider the need to protect the public from the risks that the Respondent exposes them to when she practises as a medical practitioner.

Furthermore, the Respondent has worked in many UK locations since attempting to fully join the Applicant's Performers List, without any of the other PCTs or the Applicant knowing of her work elsewhere. The Panel is extremely concerned about this aspect of her practice and her conduct, as it exposes a much larger proportion of the population of the UK to the Respondent's dangerous and unpredictable behaviour.

Therefore, for all these reasons, the Panel has determined that in order to protect the public and in the wider public interest, the proportionate and fair outcome is that the Applicant's application is granted.

Thus, the Panel imposes a National Disqualification on the Respondent under S. 49N(4) and Regulation 18A(1) of the Amendment Regulations 2005 in relation to all PCT lists in the United Kingdom (UK); namely, that the Respondent is disqualified from all UK Primary Care Trust lists, that no Primary Care Trust in the United Kingdom may include the Respondent in any list from which she has been so disqualified and that if the Respondent is included in any such list, she shall be removed forthwith from that list or lists.

Review.

The Respondent may seek a review of this decision at her request under Regulation 18A (6) of the Amendment Regulations, but may not do so before the end of two years beginning with the date on which this National Disqualification is imposed, being the date of this Order. (Regulation 18A (8)(a) of the Amendment Regulations). On any review, the TS review Panel may confirm or revoke this national disqualification (Regulation 18A (7) of the Amendment Regulations).

Miss KMJ Rea Chair  
Signed

And for Dr S Ariyanayagam Professional Member  
And for Mrs MJ Frankel Lay Member

11<sup>th</sup> October 2010