
NHS TRIBUNAL

Summary of Decision Following an Inquiry

Parties

Complainers: Ayrshire and Arran Health Board

Practitioner: Dr Adrian Andruszko

Hearing

Tribunal members: Mr J Michael D Graham (Chairman);
Mr Graham McKirdy (Specialist Member);
Mr Allan Watson (Lay Member).

Hearing held on: 9th and 10th February 2009

Decision issued on: 7th April 2009

Grounds for Complaint

That Dr Andruszko's inclusion on the Complainer's Dental List would be prejudicial to the efficiency of the provision of dental services.

Findings by the Tribunal

1. Dr Andruszko practises as a dentist in Birmingham and was listed on the Performer's List of Birmingham East and North Primary Care Trust.
2. Dr Andruszko applied to the Complainers to be included on their dental list in connection with dental practice at 5 East Netherton Street, Kilmarnock, which was owned and operated by Prestige Dental Services Limited. ("Prestige")
3. A Mr Ikhaq Hussain was involved in the management of Prestige. Mr Hussain had been found guilty of professional misconduct by the Professional Conduct Committee of the General Dental Council.
4. Prestige owned and managed a number of practices in Scotland.
5. No proceedings had been taken in the past by any Health Board to have any dentist engaged at a practice owned by Prestige removed from the dental lists of any Health Board in Scotland.
6. The Complainers had no objections to Dr Andruszko practising dentistry in their area other than as an employee of Prestige.

Determination by Tribunal

The Tribunal determined that the complaint was not relevant, that any proposed conditional disqualification was inappropriate and did not render the complaint relevant.

In any event an efficiency case against Dr Andruszko had not been made out.

The Tribunal found the Complainers liable to the Respondent in the expenses of the Inquiry as the same may be taxed on the party / party basis in accordance with the Sheriff Court Ordinary Cause scale, and sanctioned the employment of junior counsel in relation to the preparation of answers for the Respondent. .

Explanatory Notes

1. The NHS Tribunal is constituted under the National Health Services (Scotland) Act 1978. The Tribunal hears formal complaints against family health service practitioners in Scotland. The Tribunal is independent both from Scottish Ministers and from professional disciplinary bodies such as the GMC.
2. Cases are normally referred to the Tribunal by health boards although anyone may make a reference.
3. There are three possible grounds for making a reference to the Tribunal:
 - i. an "efficiency case" – that it would be prejudicial to the efficiency of the relevant NHS service to allow the practitioner to continue to provide it
 - ii. a "fraud case" – that the practitioner has caused detriment to any health scheme by securing or trying to secure financial or other benefit.
 - iii. an "unsuitability case" – that the practitioner is unsuitable, because of professional or personal conduct, to be allowed to provide the NHS service.
4. If the Tribunal finds that any of these grounds is made out, it has powers to disqualify the practitioner from working anywhere in the NHS's family health services.
5. Disqualification may be unconditional or conditional. A practitioner who is conditionally disqualified may continue to provide NHS services but must keep to any conditions set by the Tribunal.
6. The Tribunal has power to undertake further enquiry at a later date and can remove a disqualification or vary its terms.
7. The Tribunal hears cases in private in order to protect the interest of patients.
8. All decisions are published in summary form on the Tribunal's website at www.nhstribunal.scot.nhs.uk.