Fitness to Practise Forum: 12th September 2007

Paper title: Case Report

Executive summary and recommendations

Introduction

This paper provides the forum with an update on the cases that have been heard by the panels of the Conduct and Competence Committee, Health Committee and Investigating Committee (in cases concerning incorrect or fraudulent entry).

Between 10th April 2007 and 24th August 2007, there have been 68 cases where a final disposal decision has been reached. In the same period 8 cases were either adjourned or part heard and in a further 7 cases the allegations were not well found.

There were also 20 Article 30 review hearings.

The notice of decision and orders for the well founded cases are attached.

Decision

This paper is for information only. No decision is required.

Resource implications

There are 4 hearings officers within the fitness to practise team that are responsible for fixing and clerking all fitness to practise hearings.

Financial implications

The panel costs for a one day hearing are approximately £1700. Room hire is approximately £1100 per day. The shorthand writer costs are approximately £600.

Appendices

List of cases considered
Notices of Decision and Order in the cases listed in appendix one are provided.

Date of paper

24th August 2007

Registrant	Profession	Type of Complainant	Type of Allegation	Days of Hearing	Outcome of Hearing	Represented/Attended
Andrew Read	Paramedic	22(6)	Failure to Provide Appropriate Care	1	Caution	Represented
Christopher Warren	Operating Department Practitioner	Employer	Under the Influence of Alcohol at work	1	Caution	No
Edward C Davis	Chiropodist/Podiatrist	Employer	Use of Inappropriate Websites	1	Caution	Represented Self
Gary Deuchar	Radiograpger	Employer	Inappropriate Behaviour Towards Colleagues	5 (Darlington)	Caution	No
James Pitt	Paramedic	Employer	Failure to Provide Appropriate Care	1	Caution	Represented
Michael Bamidele	Radiographer	Employer	Behaviour Towards Colleague	1	Caution	Represented
Michael Watson	Paramedic	Employer	Failed to provide appropriate Care	1	Caution	Represented
Paul Fryer	Paramedic	Employer	Misuse of Controlled Drugs	1	Caution	No
Philip Langridge	Paramedic	Employer	Misuse of Entonox	1	Caution	No
Robert A'tambo	Occupational Therapist	Police	Common Assault and Driving with Excess Alcohol	1	Caution	Represented
Shelly Tse	Radiographer	Employer	Theft of Computer from Employer	1	Caution	Represented
Tamora Heath	Biomedical Scientist	Employer	Damaged equipment that led to incorrect test results	2	Caution	Represented
David Carradine	Radiographer	Police	Conviction for Common Assault and Driving with excess alcohol	1	Caution	Represented
Sarah Rees	Occupational Therapist	Police	Conviction -Possession of Class A Drug		Caution	Represented Self
Emiline Langley	Biomedical Scientist	Other Registrant	Falsified Information on CV	2	Caution	Represented

George Baldwin	Chiropodist	Public	Infection Control	2(1 day adjourned in February)	Conditions of Practice	Represented
Peter Cozens	Paramedic	Public	Fell below Standards o Proficiency	1	Conditions of Practice	Represented
Royden Harril	Parameic	Employer	Poor Treatment of a Patient	1	Conditions of Practice	Represented
Brian Beber	Physiotherapist	Public	ineffective communication, failure to provide adequate privacy, inadequate record keeping, failure to gain informed consent	1	Conditions of Practice	Represented
Andrew Wilkinson	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Clare Smith	Physiotherapist	Employer	Removed patient notes and deceived and misled colleagues	1	No Further Action	Represented
Neil Rushton	Paramedic	Employer	Misled Employer about Medical Condition	1	No Further Action	Represented
Sarah Adam	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Lindsey J Peacock	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Jonathan Whitaker	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Adam Richardson	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Alan Peacham	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Julie A Anderton	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Ruth Stewart	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Abi Kubiak	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented

Sally D Lark	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
William R Stockdale	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Philip Tranter	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Martin Ogden	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Adam Naylor	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	No
Andrew S Hosgood	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Rebecca D Hodgkiss	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Fionnuala Geoghegan	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	No
Matthew Kinal	Physiotherapist	22(6)	Incorrect Entry	3(joined with 18 other cases)	No Further Action	Represented
Linda Love	Paramedic	Employer	Treatment of Patient	2	No Further Action	Represented
Penny Crossland	Operating Deparment Practitioner	Professional Body	Health	1	Referred to Health	No
Glynmore Evans	Paramedic	Employer	Misuse of Drugs and Alcohol at Work	1	Struck Off	No
Helen Taylor	Operating Department Practitioner	Employer	Self Administered Drugs at Work	1(Mold)	Struck Off	No
Steven Driver	Paramedic	Employer	Driving under the influence of alcohol whilst on duty	1	Struck Off	No
Paul Bennett	Biomedical Scientist	Employer	Fraudulent use of trust property for own business purposes	1	Struck Off	Represented Self
Alethea Foster	Chiropodist/Podiatrist	Police	Conviction for Grevious Bodily Harm	1	Struck Off	Represented Self

Janice Rhodes	Paramedic	22(6)	Failure to undertake adequate clinical assessment	2(Glasgow)	Struck Off	No
David Fleming	Paramedic	22(6)	Self Administered Entonox	1	Struck Off	No
Gavin Hall	Radiographer	Employer	Conviction for Murder	1	Struck Off	No
Derek Dredge	Paramedic	22(6)	Conviction – Child Pornography	1	Struck Off	No
Christopher Walsh	Radiographer	Employer	Misuse of Drugs at work	1	Struck Off	No
Wai-Ling Wong	Biomedical Scientist	Employer	issued incompatible blood and attempted to destroy evidence of doing so	1	Struck Off	No
Keith Butcher	Paramedic	Employer	Conviction – Child Pornography	1	Struck Off	No
Stanley Muscat	Radiographer	Employer	Inappropriate Treatment of Patients	4	Struck Off (Appeal received)	Represented
Alloysius Ogoke	Radiographer	Employer	Failure to Meet Standards of Proficiency	1	Suspension	No
Ann Bickerstaff	Occupational Therapist	Employer	Poor documentation and Record Keeping	2	Suspension	No
Frances Leahy	Occupational Therapist	Employer	Health	2(Stoke)	Suspension	Represented
Karl Thorne	Paramedic	22(6)		1	Suspension	Represented
Kes Outhwaite	Physiotherapist	Police	Conviction -failure to provide speciman for analysis	1	Suspension	No
Mark Sneddon	Biomedical Scientist	Employer	Health	1	Suspension	No
Paul Flack	Paramedic	22(6)	Failure to complete assessment, failure to recognise duty of care, failure to transport patient with an appropriate clinical assessment	1	Suspension	No

Paul Johnstone	Biomedical Scientist	22(6)	Conviction for downloading Child Pornography	1	Suspension	No
Shinu Joseph	Occupational Therapist	Employer	Lack of Competence		Suspension	No
Justin Corden Bowen	Operating Department Practitioner	Employer	Health	1	Suspension	No
Niall Salmon	Occupational Therapist	Employer	Accessed websites of a sexually inappropriate nature in the workplace	1	Suspension	No
Philip Arkwright	Paramedic	22(6)	Left a patient at home who should have been transported to hospital	1	Suspension	Represented
Kathryn Bell	Occupational Therapist	Employer	Lack of Competence	4(Belfast)	Suspension	Represented
Duncan Nixon	Operating Deparment Practitioner	Employer	Convictions for theft of property and false accounting	1	Suspension	No

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INVESTIGATING COMMITTEE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	14th – 16th May 2007
Name of Registrant:	Sarah Adam
Registration No.:	PH72407
Panel:	Ian Griffiths – Panel Chair Ian Davidson - Physiotherapist Roy Norris – Lay Partner
Legal Assessor:	Simon Russen
Hearing Officer:	Anaru Smiler
Representation:	The Council was represented by John Harding of Kingsley Napley Solicitors The registrant was represented by Sue Sleeman, Counsel instructed by Thompsons Solicitors

ALLEGATION:

An entry on the register in your name has been incorrectly made.

DECISION:

For the reasons set out in the attached Schedule entitled "Re: Salford Sports Rehabilitations Physiotherapists" the Panel finds that:

1. The entry on the register was incorrectly made.

2. It is not necessary to make any direction to the Registrar with regard to that entry.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you. Such an appeal is to the County Court under Article 38 (1)(b) of the Health Professions Order 2001.

Chairman

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INVESTIGATING COMMITTEE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	14th – 16th May 2007
Name of Registrant:	Julie Anderton
Registration No.:	PH73065
Panel:	Ian Griffiths – Panel Chair Ian Davidson - Physiotherapist Roy Norris – Lay Partner
Legal Assessor:	Simon Russen
Hearing Officer:	Anaru Smiler
Representation:	The Council was represented by John Harding of Kingsley Napley Solicitors The registrant was represented by Sue Sleeman, Counsel instructed by Thompsons Solicitors

ALLEGATION:

An entry on the register in your name has been incorrectly made.

DECISION:

For the reasons set out in the attached Schedule entitled "Re: Salford Sports Rehabilitations Physiotherapists" the Panel finds that:

1. The entry on the register was incorrectly made.
2. It is not necessary to make any direction to the Registrar with regard to that entry.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you. Such an appeal is to the County Court under Article 38 (1)(b) of the Health Professions Order 2001.

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CONDUCT & COMPETENCE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	25 June 2007
Name of Registrant:	Philip James Arkwright
Registration No.:	PA14626
Panel:	Ian Griffiths – Chair
	Stephen Wilkinson – Paramedic
	John Matharu – Lay Partner
Legal Assessor:	Andrew Glennie
Hearing Officer:	Anaru Smiler
Representation:	The Council was represented by Ella Blackburn of Kingsley Napley Solicitors.
	The Registrant was present and represented by Peter Rollin Solicitor.

ALLEGATION(S)

That your fitness to practise as a registered health professional is impaired by reason of your misconduct and/or lack of competence in that you failed to provide patient RO with the level of care as required under London Ambulance Service NHS Trust guidelines and HPC standards at the time.

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DECISION:

This allegation arises from events that occurred on 24th December 2004 when an emergency call was made to the London Ambulance Service to attend a Mr O, a man aged about 69. The call was logged showing that Mr O was suffering chest pain and breathing difficulties.

Two units were sent, a Fast Response Unit (FRT) consisting of John Greenall, a paramedic of some 18 years standing, and an ambulance crew consisting of Mr Arkwright and an Emergency Medical Technician (EMT) Nina Villa. At this time Mr Arkwright had been a paramedic for around 3 months, having previously worked as an EMT for around 3 years. Nina Villa had been an EMT for some 4 years. Mr Arkwright drove the ambulance.

Mr Greenall arrived first and was at the house when the ambulance crew arrived. There had been initial confusion about who was the patient but when the ambulance crew reached Mr O's room he was being attended by Mr Greenall.

The outcome of the attendance was that Mr O was not taken to hospital. Mr Arkwright, Mr Greenall and Ms Villa all left at around 10.35am. Mr O's family took him to a nearby healthcare centre, where his condition deteriorated and another ambulance was called at 11.30am. Mr O suffered a cardiac arrest and died a little later that morning.

The Panel heard evidence from Joseph Kane, who investigated the matter for the London Ambulance Service, and from Mr Arkwright. The Panel also read the documents produced by Mr Kane, which included statements made by Mr Arkwright, Mr Greenall, Ms Villa and members of Mr O's family.

Mr Kane stated that there were six omissions on Mr Arkwright's part, by which he meant that there were things that either he should have done himself or that he should have ensured were done. It is not disputed that these steps were not taken, whether by Mr Arkwright, Mr Greenall or Ms Villa. The steps were as follows:

1) The patient should have been given oxygen.

2) There should have been undertaken a proper assessment of the patient, which would have included using a stethoscope to listen to the patient's heart and lung sounds.

3) There should have been carried out an ECG.

4) There should have been undertaken a full set of observations.

5) Consideration should have been given to using a diuretic given the patient's bubbly breathing.

6) The patient should have been given rapid transportation to the hospital.

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Mr. Arkwright's evidence, which the Panel accepts, is that when he and Ms. Villa arrived at the house, Mr Greenall was treating the patient, and that Ms. Villa joined him while Mr. Arkwright remained outside the room ready to give assistance if required. He took no active part in the treatment of Mr. O or in the decision as to whether or not he should go to hospital. So far as that decision is concerned, the panel accepts Mr. Arkwright's evidence that he was told that a decision had been made to take Mr. O to Barnet General Hospital, that there was then some discussion with the family members about whether he could go to Edgware Community Hospital, and that Mr. Arkwright was then told that Mr. O was not to be taken to hospital in the ambulance but would be taken to Edgware by his family.

Mr. Arkwright agreed that, given the oxygen saturation reading obtained, number 1 of the points identified by Mr. Kane should have been done. His evidence was that he was told that number 2 had been done. He did not consider that number 3 was necessary given that Mr Greenall told him that Mr. O was not in fact suffering chest pain. His evidence was that he believed that number 4 had been carried out as he had no reason to believe that his colleagues Mr Greenall and Ms. Villa had not carried out full sets of observations. He said that, with regard to number 5, he had not heard any bubbly breathing although he agreed that Mr Greenall had observed this, according to his statement. On point 6, Mr. Arkwright agreed that the patient should have gone to hospital, but said that he had been informed that the family had decided to go to Edgware, which was not a destination that he could have been taken to in the ambulance.

The Panel has reminded itself that it has to consider whether Mr Arkwright personally should be regarded as having committed misconduct or as having shown a lack of competence, rather than whether this could be said of the team as a whole.

Mr. Rollins contended on Mr. Arkwright's behalf that it was not incumbent on him to assume that a much more experienced colleague, namely Mr Greenall, had not carried out the tests and observations that he should have carried out, and that it was not for him to supervise what Mr Greenall and Ms. Villa were doing. The Panel is prepared to accept that it would not have been necessary or appropriate for Mr. Arkwright to have intervened on arrival at the house and to have either started all the relevant observations from the beginning, or to have quizzed Mr Greenall about what he had done up to that point. Equally, the Panel accepts that in the absence of any indication that anything was going wrong, there was no obligation on Mr. Arkwright to intervene in what Mr Greenall and Ms. Villa were doing.

However, the Panel is satisfied that the circumstances surrounding the decision not to take Mr. O to hospital should have caused Mr. Arkwright to take steps to check that everything that should have been done had been done. The situation was one where a man of around 69 had been reported as suffering chest pain and breathing difficulties. A decision had apparently been taken that he should be conveyed to hospital and had then been reversed. The Panel is satisfied that, before leaving the patient without any medical care, each of the professionals attending him (including Mr. Arkwright) should have

satisfied themselves that all the steps necessary for his proper assessment and care had been taken.

The Panel considers that the need for this can be seen from the London Ambulance Service's requirement that when a patient is not conveyed to hospital, a copy of the Patient Report Form should be left with him. This form gives details of the observations made and any comments recorded. A copy of the form was not left with Mr. O and Mr. Arkwright agreed that he was aware of this, but he did not raise this with Ms. Villa, who had completed the form.

The Panel is satisfied that, although it may be the case that Mr. Arkwright is not to be criticised for failing to take the steps 1 to 5 set out above on arrival at the house or during the course of the attendance, he should have satisfied himself that they had been carried out before leaving the house, or that there was a valid reason for not carrying out each of them given that Mr. O was not being taken to hospital. He did not do this. In relation to step 6, he should have ensured that the patient and his family fully understood the factors involved in the decision. He did not do this. Each of the professionals present was, in the Panel's judgment, under a duty to do these things. Mr. Arkwright is not able to say that he did not have a responsibility in that regard by reason of being less experienced than Mr Greenall.

The Panel believes that Mr. Arkwright did not adhere to the correct standards at the time because of his relative inexperience compared to Mr. Greenall and that he made assumptions that observations and procedures had been carried out correctly as a more experienced colleague remained on the scene. In the view of the Panel this was not a wilful act but amounted to lack of competence.

The Panel considers that Mr. Arkwright has breached standards (1) (act in the best interests of the patient) and (7) (maintain proper communication with patients and other professionals) of the HPC Standards.

The Panel has then considered the separate question of whether Mr. Arkwright's fitness to practise is impaired by reason of these matters, and has reminded itself that this is a question that must be answered as at today's date. The Panel had regard to the need to maintain public confidence in the profession and in the regulatory process as well as to the nature of the particular events of 24th December 2004. The Panel is satisfied that Mr. Arkwright's fitness to practise is impaired.

The Panel is therefore satisfied that the allegation that Mr. Arkwright's fitness to practise is impaired by reason of lack of competence is well founded.

On the question of sanction, the Panel had regard to Article 29 of the Health Professions Order and to the Indicative Sanctions Policy. The Panel had in mind the need to protect the public and the considerations of deterrence and public confidence in the profession.

The Panel heard that Mr. Arkwright has not worked as a paramedic since the events with which this hearing was concerned but that he would wish to return to work as a paramedic in the future.

The Panel took into account the fact that Mr. Arkwright was inexperienced at the time of the incident and that a more experienced colleague was present. However, the Panel was also concerned at the apparent lack of insight shown by Mr. Arkwright, in that he maintained in the hearing that he had done nothing wrong.

The Panel considered that it would be inappropriate to take no further action or to make a caution order given the relative seriousness of the matter. The Panel did not consider that a conditions of practice order was appropriate or workable given the present lack of insight shown by Mr. Arkwright. The Panel has concluded that the appropriate sanction is a suspension order for a period of one year.

Although the Panel cannot bind any future Panel considering this matter, it is likely that such a Panel would wish to see evidence of awareness on Mr. Arkwright's part of his shortcomings, of reflective evaluation of those shortcomings and that he has updated his relevant knowledge and skills. It is of course open to Mr. Arkwright to apply for a review of the order during its currency if he considers that he is able to satisfy a Panel that he has addressed the matters that he needs to address and can show that the safety of the public can be assured if he returns to practice.

The HPC applied for an interim order under Article 31 of the Health Professions Order to cover the appeal period. The Panel was satisfied that it was necessary for the protection of the public and in the public interest that such an order should be made.

ORDER: **That the Registrar be directed to suspend the registration of Philip Arkwright for a period of 1 year**

INTERIM ORDER: **That the Registrar be directed to suspend the registration of Philip Arkwright on an interim basis as follows:**

(a) If there is no appeal against the order, until the period for appealing expires;

(b) If there is an appeal against the order, when the appeal is withdrawn or otherwise finally disposed of.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

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Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED

25/6/07

Chairman.

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HEARING

Notice of Decision and Order

Date of Hearing:	30.05.2007
Name of Registrant:	Robert Ong'Era Atambo
Registration No.:	OT37787
Panel:	Sandy Yule - Chair
	Roy Norris - Lay Partner
	Susan Lloyd - Occupational Therapist
Legal Assessor:	Audrey Watson
Hearing Officer:	Anaru Smiler and Jonathan Dillon

Representation:

The Council was represented by Nicola Hill of Kingsley Napley Solicitors

The Registrant was present and represented by Philippa Clark of Unison.

ALLEGATION(S)

1. **Your fitness to practise as a registered health professional is impaired by reason of your conviction on 7th September 2004 at Northampton Magistrates Court for failing to provide a specimen for analysis.**

2. **Your fitness to practise as a registered health professional is impaired by reason of your caution on 27th April 2006 for common assault.**

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DECISION:

Mr Atambo was present at the hearing and was represented by Philippa Clark of Unison. The Panel is therefore satisfied that, in accordance with the Health Professions Council (Conduct & Competence Committee) (Procedure) Rules 2003, notice of these proceedings was correctly served on Mr Atambo.

The Panel considered the statements of the two witnesses for HPC and had regard to the documentary evidence contained in the Registrant's bundle and to the advice of the Legal Assessor.

The Panel considered the undisputed statement of PC Ian Ross in relation to Mr Atambo's arrest on 3rd July 2004 and subsequent conviction on 7th September 2004 at Northampton Magistrates Court of failing to provide a breath specimen for analysis contrary to section 7 (6) of the Road Traffic Act 1988. Mr Atambo was fined £100 and ordered to pay costs and disqualified from driving for 12 months.

In addition, the Panel heard undisputed evidence that Mr Atambo received a Caution on 27th April 2006 for common assault involving his wife. The Panel noted that the information received from the Police indicated that the complainant stated that her husband had punched her on the forehead causing a small lump and bruise, and marks to her neck.

Mr Atambo accepts that he was convicted in 2004 and received the caution in 2006; however, he does not accept that his fitness to practice is impaired as a result.

Although neither the breach of the Road Traffic Act nor the assault were committed whilst Mr Atambo was on duty members of the public place their trust in health professionals and are entitled to expect that such professionals will conduct themselves in a professional manner. Offences of both of these kinds undermine public confidence in the health professions. The Panel noted that Mr Atambo failed to co-operate in any way with the Police in the investigation of the Road Traffic offence. The Panel considers that Mr Atambo's conviction and caution demonstrate that he fell short of the standards of personal conduct expected of a registered health professional in particular the HPC's Standards of Conduct, Performance and Ethics numbers 3,4,14 and 16. The Panel therefore find this allegation well founded and that Mr Atambo's fitness to practice is impaired as a result.

The Panel has had regard to the HPC's Indicative Sanction Policy as guidance. In addition, the Panel has exercised the principle of proportionality and has addressed the issue of sanction in ascending order commencing with the least severe sanction. In view of the serious nature of the allegation the Panel considers that to take no further action would not adequately protect the reputation of the profession nor maintain the confidence of the public in the regulatory process. The Panel note that Mr Atambo's representative

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expressed remorse on his behalf and feel that there is a low risk of recurrence. The Panel therefore finds that a caution order is the appropriate sanction.

ORDER:

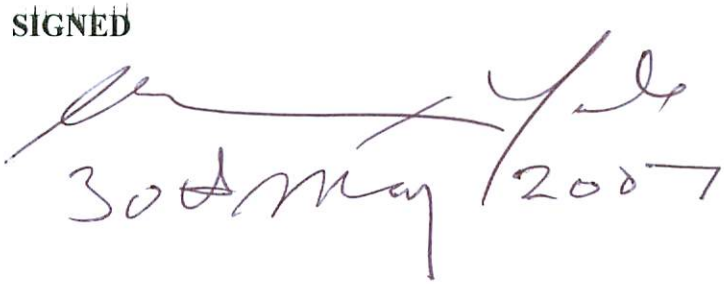
The Registrar be directed to annotate the register entry of Robert Ong'era Atambo with a caution which is to remain on the register for a period of three years.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED



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CONDUCT AND COMPETENCY HEARING

Notice of Decision and Order

Date of Hearing:	29 June 2007
Name of Registrant:	George J Baldwin
Registration No.:	CH17476
Panel:	Panel Chair – Derek Adrian-Harris
	Lay Partner – Susan Maddocks
	Chiropodist / Podiatrist – John Burrow
Legal Assessor:	Simon Russen
Hearing Officer:	Jonathan Dillon

Representation:

The Council was represented by Julie Norris of Kingsley Napley Solicitors

The Registrant was present and represented by Mark Whitcombe of Old Square Chambers.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your misconduct and/or lack of competence in that you:

(i) Failed to deal safely with the risks of infection

(ii) Failed to establish and maintain a safe practise environment

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DECISION:

1. The Panel is considering allegations of misconduct and lack of competence against Mr Baldwin. The particulars of each are identical – namely that Mr Baldwin failed to deal safely with the risks of infection and failed to establish and maintain a safe practise environment.

2. The HPC advances the case against Mr Baldwin on the basis of the evidence of Mrs Forber, a former patient of Mr Baldwin.

3. The Panel does not propose to deal extensively with the evidence of Mrs Forber. The Panel is entirely satisfied that Mrs Forber was a truthful witness. However, there were a number of areas in relation to which the Panel could not feel sufficiently satisfied that her evidence was accurate.

4. Nevertheless, in the evidence given to the Panel today Mr Baldwin has himself described his normal practice and the Panel feels that the practice he has described falls significantly short of an acceptable standard. In particular, the way in which he undertakes infection control and the decontamination process falls well below current standards because:

   (i) he does not use the appropriate quality of water in his autoclave;

   (ii) his method of disposal of contaminated waste water from both the autoclave and the ultrasonic cleaner is inappropriate;

   (iii) he does not take accurate readings from his autoclave on a daily basis to ensure that it is operating effectively;

   (iv) he has a lack of understanding of the techniques and standards of sterilisation;

   (v) repeatedly moving the autoclave from the floor to a chair runs the risk of upsetting the calibration of it;

   (vi) while accepting that at the relevant time there was the laminate flooring described by Mr Baldwin, the Panel considers that a minimum acceptable standard would require a continuous, impermeable and washable surface which extends up the wall at the edges of the floor to include the level of the skirting board;

   (vii) at the time relevant to the allegation it is acknowledged by Mr Baldwin that he was using a hand towel. The Panel does not feel that that met acceptable hygiene standards. However, the Panel notes and records the fact that he has since changed his practice and is using appropriate paper towels.

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5. The Panel does not find that these facts amount to misconduct, but being issues that demonstrate practise that falls well below an acceptable standard, it does amount to a lack of competence.

6. Paragraph 11 of the standards of conduct, performance and ethics makes clear that appropriate precautions must be taken to protect patients and others (including the health professional). The facts found by the Panel demonstrate a breach of this standard.

7. The Panel finds that Mr Baldwin's fitness to practice is currently impaired by reason of the lack of competence demonstrated.

8. Since announcing the decision set out above the Panel has heard further submissions as to the appropriate sanction. The Panel reminds itself that the purpose of a sanction is not to be punitive, but rather to protect the public and to maintain public confidence.

9. It is submitted on behalf of Mr Baldwin that a caution order would meet the circumstances of this case. The Panel does not agree, primarily because it is not satisfied that Mr Baldwin has a sufficient understanding of the underlying principles in the areas of the identified shortcomings. In order for him to continue to practice it is necessary that he should acquire that understanding. Accordingly a conditions of practice order is both appropriate and proportionate.

10. The conditions are that within 12 months of the commencement of the order Mr Baldwin should:

    (i) Undertake self-directed learning relating to infection control, decontamination and sterilisation.

    (ii) Before the review of the Order, submit a portfolio demonstrating both what has he has studied and its effect upon his practice.

    (iii) Keep and maintain a daily log relating to decontamination of instruments, and before the review of this Order submit a copy of the log to the HPC.

    (iv) To the extent that physical changes are made to his premises before the review of this Order, submit photographic evidence of the changes to the HPC (indicating the date on which the photographs were taken).

11. The Conditions of Practice Order will be reviewed before it expires, and the Panel reviewing it will have available to it all the sanction options currently available.

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ORDER:

That the Registrar be directed to annotate the register entry of George J Baldwin to show that, from the date this order takes effect ("the operative date") and for a period of 12 months, George J Baldwin must comply with the following conditions of practice:

(i) Undertake self-directed learning relating to infection control, decontamination and sterilisation.

(ii) Before the review of the Order, submit a portfolio demonstrating both what has he has studied and its effect upon his practice.

(iii) Keep and maintain a daily log relating to decontamination of instruments, and before the review of this Order submit a copy of the log to the HPC.

(iv) To the extent that physical changes are made to his premises before the review of this Order, submit photographic evidence of the changes to the HPC (indicating the date on which the photographs were taken).

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing:	13th April 2007
Name of Registrant:	Michael Bamidele
Registration No.:	RA46963
Panel:	Martin Ryder – Panel Chair
	Kathryn Burgess – Radiographer
	Hazel Davis – Lay Partner
Legal Assessor:	Christopher Smith
Hearing Officer:	James Bryant
Representation:	The Council was represented by Emily Carter of Kingsley Napley Solicitors.
	The Registrant was present and was represented by Mr Adewole of Christchurch Solicitors.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of misconduct in that, whilst employed by Mercury Health at St Mary's NHS Treatment Centre between the 1st December 2005 and the 6th January 2006 you:

1. **Acted in an inappropriate manner towards Ms A;**
2. **On 6th January 2006 you grabbed Ms A by the arm causing her injury**

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DECISION:

The Panel decided that the hearing should be held in public in terms of Rule 10 of the Health Professions Council (Conduct and Competence Committee)(Procedure) Rules 2003 and that the complainer should be referred to as "Ms A" throughout the proceedings.

The registrant, Mr. Michael M. Bamidele, attended the hearing and was represented by Mr. Adewole of Christchurch, Solicitors. The allegations were put to the registrant and in response, he denied that he had (1) acted in an inappropriate manner towards Ms. A and (2) on 6 January 2006 that he had grabbed Ms. A by the arm.

The Panel noted that both the registrant and Ms. A were employed by Mercury Health at St. Mary's NHS Treatment Centre, Portsmouth.

The Panel considered the witness statement of Paula Atkins regarding the incident and also concerning an incident the previous day when the registrant had entered the staff coffee room and had started touching and pulling her arms, and persisted in doing so even after Ms. A had told him to leave her alone until Ms. A left the room. The Panel also noted her evidence that, on 6th January 2006, she had been approached by Ms. A who had explained that the registrant had grabbed her arm in the x-ray room shortly beforehand. Paula Atkins noted the red marks on Ms. A's arm and also Ms. A's comments that the registrant had persistently asked her if she liked him and had left presents and notes for her. Paula Atkins had drafted a statement of these events on behalf of Ms. A which was signed by Ms. A and by Paula Atkins. Ms. Atkins had also given a statement of her own evidence on the matter.

The Panel also heard the statement of Mr Adewole on behalf of the registrant who declined to give evidence. He noted that the working environment was generally a happy one and that all staff had a good relationship. He drew attention to the fact that everything happened within the x-ray room with only two persons present: the registrant and Ms. A. He also pointed out that Ms. A had not sought medical attention for any injury.

From the evidence available from the witness statements, the Panel concluded that the registrant had been attracted to Ms. A but that his interest had not been reciprocated. The evidence indicated that not only had the registrant been given no encouragement by Ms. A but she had tried to make it plain that she was not interested in him. The Panel

considered that the registrant had failed to accept that Ms. A was not interested in him and had persisted in his endeavour to a degree which was entirely inappropriate and had caused distress to Ms. A.

The Panel noted that the registrant had lodged as a document in his bundle, the report of the Disciplinary Procedure held on 13 January 2006. That Disciplinary Hearing had determined that the registrant was guilty of gross misconduct and was dismissed from his employment.

The Panel found that there were a number of inconsistencies in the registrant's evidence which were not adequately explained. In particular the Panel was concerned that the registrant had stated that the complaint had been made by Ms A in revenge against the registrant whereas he had stated in his written submission that she had a friendly relationship with him. Another instance was his insistence that no one had ever spoken to him about his conduct towards females. The Panel noted that it is specifically stated in the record of the Disciplinary Hearing that he had been advised about this type of conduct on two earlier occasions.

The Panel considered that the registrant's conduct had fallen below the Standards of Conduct expected of a registered radiographer. In regard to the allegations, the Panel concluded on the balance of probability, that the first allegation, namely that the registrant had acted in an inappropriate way towards Ms. A, was well founded. In regard to the second allegation, the use of physical force in such circumstances is never acceptable. However, the Panel was unable to conclude on the evidence that the registrant had done more than hold Ms. A's arm and had not caused injury to her. He had nevertheless caused her distress. Accordingly the Panel decided that the second allegation was not well founded.

In relation to allegation 1 the Panel finds that this amounts to misconduct and that such misconduct amounts to an impairment of the registrants fitness to practise.

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The Panel considered all the sanctions available to it under article 29 of the Health Professions Order 2001, including mediation, a caution order, conditions of practice order, a suspension order and a striking off order. The Panel took into account whether this may possibly be an isolated incident and whether there was a risk of recurrence. Nevertheless, the Panel wished to emphasise to the registrant that his conduct fell well short of the standards of personal conduct expected of a registered health professional under the Standards of Conduct, Performance and Ethics of the Health Professions Council and in particular paragraphs 3 (keeping high standards of personal conduct), 13 (carrying out duties in a professional and ethical way), 14 (behaving with integrity and honesty), and 16 (ensuring that behaviour does not damage the profession's reputation).

The Panel had regard to the Indicative Sanctions Policy of the Health Professions Council in which it was stated that the primary function of any sanction is to address public safety but that panels must also give appropriate weight to the wider public interest considerations, including the deterrent effect to other health professionals, the reputation of the profession concerned, and public confidence in the regulatory process. The Panel considered that taking no action, mediation, or a conditions of practise order would not be appropriate in this case.

The Panel considered that the registrant had shown little insight into his conduct. The Panel could not be certain that there was no likelihood of any repetition. The Panel therefore decided to impose a caution order for the period of two years.

ORDER:

The Panel directs the Registrar to annotate the registration of Michael M. Bamidele with a caution order for a period of two years.

RIGHT OF APPEAL:

You may appeal against the Panel's decision and the order it has made against you. Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales.

13. April 2007.

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CONDUCT & COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing:	29 May 2007
Name of Registrant:	Mr Brian Beber
Registration No.:	PH66313
Panel:	Christine Mills - Panel Chair
	David Caplin - Lay Partner
	Lesley Droney - Physiotherapist
Legal Assessor:	John McMahon
Hearing Officer:	Victoria Adams
Representation:	The Council was represented by Julie Norris of Kingsley Napley Solicitors.
	The Registrant was in attendance and was represented by Elizabeth Melville of Counsel.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of your misconduct and/or lack of competence in relation to your inappropriate behaviour and treatment of patient CD on the 2nd August 2006 at the Crown Treatment Centre.

DECISION:

1. Mr Beber attended the hearing represented by Ms Melville. The Panel heard evidence from Ms Drewitt and from Mr Beber and received submissions from both of the representatives.

2. Background

2.1 Mr Beber is registered as a Physiotherapist and in August 2006 practised at the Crown Treatment Centre, Littleport, Ely, Cambridgeshire. He is qualified in the disciplines of Chiropody/Podiatry, Psychotherapy and Physiotherapy. On 2nd August 2006 he provided treatment to Ms Candy Drewitt, aged 39, in respect of neck and shoulder pain. During the treatment Ms Drewitt became concerned that Mr Beber was treating her inappropriately in asking her, as she maintains, to remove her bra whilst he stood in front of her and in giving her what she has described as a bear hug whilst she had a towel at the front of her body.

2.2 When Ms Drewitt attended for treatment it was a non-clinic day. Only Ms Drewitt and Mr Beber were in the clinic. The clinic is comprised of a reception area, surgery and treatment room. Ms Drewitt and Mr Beber went into the treatment room. Ms Drewitt agreed to remove her top. Mr Beber palpated her. He detected tension and concluded the tension arose from an emotional rather than physical cause. He thought it appropriate to treat Ms Drewitt in accordance with Creative Healing practices rather than conventional physiotherapy practices. But he did not give to Ms Drewitt an explicit explanation that he was going to do so. He said that was because of a lack of time and because the overriding purpose was to remove her immediate pain. He asked her to remove her bra. He said that was necessary because he was going to apply olive oil.

2.3 The Health Professions Council maintains that the conduct of Mr Beber may be criticised as amounting to inadequate explanation as to the modality of treatment, the provision of inadequate privacy and inappropriate physical contact by giving a bear hug.

3. Findings of fact

The Panel made the following findings of fact:

3.1 Effective communication:

Mr Beber did not give an explanation nor encourage the active participation of the patient in the treatment, in that he did not explain he would use Creative Healing rather than conventional physiotherapy. It is the registrant's responsibility to make plain to the patient what type of treatment is to be provided. Indeed whilst Mr Beber was providing the Creative Healing treatment he confirmed to Ms Drewitt that he was acting as a physiotherapist.

3.2 Inadequate privacy

There has been a clear conflict between Ms Drewitt and Mr Beber regarding arrangements for her to undress and dress. It is very clear to the panel that Ms Drewitt left

the session with grave concern and upset as to how she had been treated. Whilst both witnesses have their respective versions as to who stood where and at what time, the Panel are satisfied that although there was no malign intent on the part of Mr Beber he gave inadequate consideration to her privacy and dignity. They both agree that he remained in the room whilst she undressed. In the view of the Panel, he should have left the room whilst she did so or have had a screen available. In addition the panel find this is a further example of failing to provide effective communication.

The panel noted the practice did not have a chaperone policy.

3.3 Inappropriate form of physical contact: In regard to the allegation of a bear hug again the witnesses have been in direct conflict as to the nature of the touching but the Panel find that any such contact that did take place was within Step 4 of the Stephenson method of Creative Healing which anticipates the patient will be held firmly by the therapist using both arms.

3.4 Adequate record keeping and informed consent: Mr Beber, whilst at the outset of the examination and when he remained acting as a Physiotherapist, did not keep a proper record of his initial assessment before deciding to proceed to Creative Healing. He did not record any clinical reasoning for his choice of approach.

In addition, there is no evidence that he discussed his findings or a treatment programme with Ms Drewitt and therefore she was not able to give her informed consent.

4. The Panel find there have been breaches of paragraphs 7,9 & 10 of Standards of Conduct Performance and Ethics and paragraphs 1 a 1, 1b 4 & 1 b 5 Standards of Proficiency for Physiotherapists.

5. The Panel has had to consider allegations of both conduct and competence. The Panel find the allegation of misconduct to be not founded. However, the allegation that the fitness to practice of Mr Beber is impaired on the ground of lack of competence is well-founded.

ORDER:

The Panel has taken into account the Indicative Sanctions Policy. Sanctions are not meant to be punitive. The primary function is the protection of the public. The Panel first considered taking no further action and mediation but thought them not to be appropriate. The Panel then considered a caution but the lapse was not minor and nor has it been corrected. The Panel believe the shortcomings can be remedied and therefore impose a conditions of practice order for a period of one year.

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The Panel orders that the Registrar be directed to annotate the register entry of Brian Beber to show that from the date that this order takes effect ("the operative date") and for a period of one year Mr Beber must comply with the following conditions of practice:

(i) Within 6 months of the operative date he shall review and/or implement his procedures, policies and guidelines relevant to his treatment of patients in the light of the above findings of the Panel.

(ii) Maintain patient records in accordance with HPC standards.

(iii) Effectively utilise the Continuing Professional Development (CPD) process to address the above findings of the Panel.

This Conditions of Practice order will be reviewed prior to its expiry. The reviewing panel will require evidence of compliance with the 3 conditions, for example, policies, a sample of anonymised patient records covering the one year period, a production of CPD diary.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

The Panel orders that the Registrar be directed to annotate the register entry of Brian Beber to show an interim conditions of practice order for a period of 18 months with conditions of practice as set out above.

SIGNED: Caroline Mills

DATED: 29th May 2007

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Health Professions Council

CONDUCT & COMPETENCE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	21 August 2007
Name of Registrant:	Kathryn R A Bell
Registration No.:	OT40949
Panel:	Sandy Yule – Chair
	Cait Duthie – Lay Partner
	Susan Lloyd – Occupational Therapist
Legal Assessor:	Alain Goggarty
Hearing Officer:	Anaru Smiler
Representation:	The Council was represented by John Harding of Kingsley Napley Solicitors
	The Registrant was present and represented by David Murray of UNISON.

ALLEGATION(S)

That your fitness to practise as a registered health professional is impaired by reason of your misconduct and/or lack of competence, in that you are performing below the standards required of a Basic Grade Occupational Therapist whilst employed at Homefirst Trust between August 2004 and April 2006. In particular, but not limited to:

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(i) **Inability to provide clear and concise written and verbal communication, including note keeping, report writing and verbal communication, both formally and informally to relatives, patients and other professionals**

(ii) **Inability or difficulty in problem solving and treatment planning for cases**

(iii) **Inability to manage a caseload, having difficulty coping with a full caseload**

(iv) **Inability or difficulty in general time management**

(v) **Lack of moving and handling skills with patients and safe use of moving and handling equipment**

(vi) **Driving skills on home assessments**

FINDINGS:

The Panel noted that the burden was on the Council to prove its case on the balance of probabilities. The Panel considered all the oral and written evidence and the respective submissions made by the parties.

The Panel finds the facts of particular (i) proven and that it constitutes a lack of competence but not misconduct. These failures were not isolated incidents but reflected a general pattern in Miss Bell's practise.

The Panel reached this finding after considering all the evidence and in particular the oral evidence of Ms Patricia McLlwaine. She gave evidence that Miss Bell joined the Homefirst Community Trust as a Basic Grade Occupational Therapist based at Whiteabby Hospital. She was Miss Bell's line manager and Paula Toner was her supervisor for clinical work. Ms McLiwain placed Miss Bell in the elderly ward because this was a less pressurised environment. From August 2004 to July 2005 she stayed working within the Care of the Elderly Ward. She underwent a six month probationary review, after which her probationary period was extended. This extension in September 2005 was further extended in

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December 2005. A further probationary review took place in February 2006. It was clear that these reviews identified Miss Bell's lack of competency in key areas of performance. Appendix 12 of Ms McLlwain's report notes recurring issues with Miss Bell's inability to write clear and concise notes together with difficulty in verbal communication with patients, relatives, and/or other professionals. The Panel note that this was occurring when the Miss Bell's caseload was well below that that would have been expected of a Basic Grade Occupational Therapist. She also required support by a Senior Occupational Therapist to check her case notes and report writing.

This evidence is supported by the independent report of Mr Mark O'Hara Consultant Occupational Psychologist who made an assessment of Miss Bell's strengths and weaknesses in relation to her functional capabilities. He concluded, inter alia that "Kathryn should continue to work on a restricted caseload with any increase based on proven capacity to professionally and safely manage the current workload".

Further, Lara McCartney Vocational Project Manager confirmed that Miss Bell requires supervision and support at the upper limit. Therefore the oral evidence of Ms McLlwaine was supported by two witnesses independent of the Trust.

These deficits occurred notwithstanding the considerable efforts made on behalf of the Trust to provide Miss Bell supervision and support.

(ii) Having considered all the evidence both oral and written the Panel finds the facts of this particular of the allegation proven, and that it constitutes a lack of competence but not misconduct. In reaching this finding the Panel also had regard in the concession made by Miss Bell that she experienced problem solving difficulties and that she needed extra time to think things through. By way of example the Panel noted the numerous examples set out on page 131 of the bundle that Miss Bell subjected a patient to 25 "transfer procedures unnecessarily". Further Miss Bell conceded she had difficulty with numbers and dates.

(iii) Having considered all the evidence the Panel finds the facts of this particular proven and that it constitutes a lack of competence but not misconduct. The totality of the evidence clearly establishes that from the commencement of her employment Miss Bell had a small caseload which was finally reduced to two

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patients. Miss Bell accepted that she could not undertake a full caseload because of her necessity to re-write her records sometimes two to three times for each patient. The Trust was not aware initially that Miss Bell could not cope with a full caseload expected of a newly qualified Occupational Therapist and had to restrict her rotation between departments and reduce her caseload.

(iv) Having considered all the evidence in relation to this particular the Panel is not satisfied that the facts are proven. The only evidence was to the effect Miss Bell stayed late in work to re-write her notes.

(v) Having considered all the evidence the Panel finds the facts of this particular proven, that it constitutes a lack of competence but not misconduct. The Panel accepted the evidence of Ms McLlwaine that the Trust had concerns about Miss Bell's being physically able to move and handle patients safely and effectively. Miss Bell had difficulty using a hoist and some difficulty distinguishing between left and right. Indeed Technical Instructors were having to take the lead in transfers when they ought to have followed the instructions of Miss Bell.

(vi) Having considered all the evidence the Panel finds the fact of this particular was not proven, driving skills are not required for a Basic Grade Occupational Therapist. Further the evidence established that Miss Bell had in fact competent driving skills.

DECISION:

Having regard to the findings set out above the Panel is satisfied that Miss Bell's fitness to practise is impaired by reason of a lack of competence across a range of the Standards of Proficiency for Occupational Therapists including 1a (4),(5) and (6), 1b (2), (3), (4) and (5), 2a (2) and (4), 2b (1), (3), (4) and (5), 2c (1) and (2), and 3a (2) and (3).

The Panel therefore concludes that the allegation is well founded.

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ORDER:

The Panel considered the submissions of Mr Harding in relation to sanction. It noted that there had been no prior complaints against Miss Bell. The Panel further considered the submissions of Mr Murray.

The panel has considered each of the sanctions available to it and has decided that, given the severity of the case, to refer the matter to Screeners or to take no further action would not adequately protect the public. The Panel next considered whether to make a Caution Order but concluded that given the seriousness of the case it would not adequately protect the public. The Panel next considered the imposition of a Conditions of Practise Order but concluded that this would not be practical in the circumstances. The Panel noted that Miss Bell is not currently working as an Occupational Therapist. Accordingly the Panel has decided to suspend the registration of Miss Bell for a period of one year.

ORDER: That the Registrar be directed to suspend the registration of Miss Kathryn R A Bell for a period of one year.

RIGHT OF APPEAL

You may appeal against the Panel's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in Northern Ireland. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

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INTERIM ORDER

The Panel considered the application for an interim order pursuant to Article 31 of the Health Professions Order 2001. The Panel is satisfied that it is necessary for protection of members of the public or is otherwise in the public interest for the registration of Miss Bell to be suspended for a period of 18 months or until such time as any appeal against the above is withdrawn or finally disposed of, whichever be the sooner.

SIGNED

22nd August 2007

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing:	Monday 21st May 2007
Name of Registrant:	Paul Bennett
Registration No.:	B37251
Panel:	Martin Ryder – Chair
	Cynthia Mendelsohn - Lay Partner
	Ian Stephenson – Biomedical Scientist
Legal Assessor:	Angela Hughes
Hearing Officer:	Simon Thompson
Representation:	The Council was represented by Ella Blackburn of Kingsley Napley Solicitors
	The registrant was present and was not represented

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your misconduct in that;

1. Between April 2003 and June 2005 you made fraudulent use of the Sherwood Hospitals NHS Trust ("The Trust") postal system, misused Trust property and used employed time for your own business, particularly;

    a) you sent packages through the Trusts postal system relating to your selling of car parts, on at least five occasions:

    b) in relation to your selling of car parts and microscope slides, you sent approximately 250 emails from your work computer.

2. On 28th February 2007 at Mansfield Magistrates Court, you were found guilty of dishonestly using the Trust post franking machine, and were given a 12 month Conditional Discharge.

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DECISION:

Mr Bennett was present at the hearing and admitted the facts of particular 1(a) and denied the facts of particular 1(b). Mr Bennett also admitted the facts of particular 2 and that his fitness to practise was impaired as a result of the Conditional Discharge

The background to this matter is that Mr Bennett was employed by Sherwood Forest NHS Trust as a Biomedical Scientist. In July 2005 the Trust were informed by the Counter Fraud services that they had received information suggesting that Mr Bennett had abused the Trusts postal service by despatching personal packages of motor car parts for personal gain and possible breaches of the Trusts internet and e-mail policy. Following an internal investigation, a disciplinary hearing was held on the 6th October 2005, subsequently Mr Bennett was dismissed on the grounds of Gross Misconduct. After the Counter Fraud service investigation, on the 28th February 2007, Mr Bennett pleaded guilty to dishonestly using the Trusts post franking machine and was given a twelve month conditional discharge.

The Panel has considered all the written documentation, including the 204 page bundle and Mr Bennett's written evidence. The Panel heard evidence from Ms Elaine Torr, (at the relevant time Divisional Manager for Sherwood Forest NHS Trust) on behalf of the Health Professions Council and from Mr Bennett who elected to give evidence on his own behalf. The Panel found Ms Torr, who conducted the disciplinary hearing in October 2005, to be a credible witness. Having considered all of the evidence, the Panel finds on the balance of probability, the fact of the allegation in regards to 1(b) have been proved.

In reaching this conclusion the Panel relied on Exhibit AP/1 which was a report based on the investigation conducted by Alan Pease, investigating officer for the Trust. The Panel noted Mr Bennett's position was that e-mails were often generated automatically from his e-mail account, the timing of which was determined by the ebay website. However, the Panel noted Mr Pease's report stated that at least 20 incidents were presented to Mr Bennett and accepted by him, when he sent e-mails via the Trusts e-mail system. Mr Pease's report further stated that there were a further 294 e-mails which were sent from a Trust computer in the period April 2003 to July 2005. The Panel accept that these e-mails were sent by Mr Bennett from his work computer.

The Panel did not accept Mr Bennett's explanation in relation to this matter and did not find him a credible witness. In particular the Panel noted that Mr Bennett addressed three packages sent through the Trust mailroom to two individuals whom he addressed as Doctors when in fact these titles were incorrect. Mr Bennett could not provide a satisfactory explanation in regards to these actions.

In relation to allegation one, the panel were satisfied that by his own admission Mr Bennett had made fraudulent use of the NHS trust postal system and that he had misused Trust property. In relation to the allegation of use of employed time for his own business, the Panel found that the scale of Mr Bennett's ebay activities together with the evidence from Mr Pease's report (exhibit AP/1) in addition to the ebay printout obtained by the

Counter Fraud investigator, confirmed that Mr Bennett was conducting business activity for his personal gain during the time he was employed.

Having found all the facts proved, the Panel is satisfied that Mr Bennett's actions were a deliberate course of conduct for personal gain and as such amount to misconduct. The Panel is of the view that Mr Bennett's behaviour falls well below the standards of a registered health professional, in particular standards 3,13,14 & 16 of the HPC standards of conduct performance and ethics; and by his own admission Mr Bennett has breached 3, 14 and 16. The Panel concludes that this amounts to an impairment of his fitness to practise.

Having heard further submissions as to sanction, the Panel has considered each sanction in turn in ascending order of severity. The Panel has also had regard to the principles contained in the Indicative Sanctions Policy and has given appropriate weight to the wider public interest considerations, including the deterrent effect on other health professionals; the reputation of the profession concerned and public confidence in the regulatory process.

The Panel considered that to take no action, order mediation or a caution order was not appropriate having regard to the gravity of Mr Bennett's misconduct. Next the Panel considered a conditions of practise order but decided that conditions were neither appropriate nor practical. The Panel then considered a suspension order. In coming to a view on the sanction, the Panel were concerned by the nature of Mr Bennett's dishonesty, but had regard to the fact that no patient suffered by his action and no complaint had been made about the quality of his work as a Biomedical Scientist. However, the Panel took the view that the level of his dishonesty and deception and his lack of insight into his behaviour means that a suspension order is not a sufficient penalty and would not be a proportionate sanction.

The Panel therefore considered that in order to protect the public, to protect the reputation of the profession and to protect the public confidence in the regulatory process, Mr Bennett's name should be struck from the register because of his deliberate acts of dishonesty and abuse of Trust.

The HPC applied for an Interim Suspension Order to cover the appeal period. Having considered Article 31(2) of the Health Professions Order, and heard from Mr Bennett, the Panel was satisfied that it was in the public interest for an Interim Order to be made.

ORDER:

That the registrar be directed to strike off Mr Bennett's name from the register.

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APPEAL:

You may appeal against the Committee's decision and the Order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The Order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER:

That the registrar be directed to suspend the registration of Mr Paul Bennett on an interim basis:

(a) if there is no appeal against the Order set out above, until the period for appealing expires;

(b) if there is an appeal against the Order set out above, until the appeal is withdrawn or otherwise finally disposed of;

(such Interim Suspension Order not to exceed the period of 18 months in any event).

RIGHT TO APPLY TO THE COURT:

You may apply to the Court under Article 31(12) of the Health Professions Order 2001 in respect of the Interim Order set out above. In this case the appropriate Court is the High Court of England and Wales.

Signed: 

Dated: 21. May 2007.

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Chief Executive and Registrar Marc Seale

Health Professions Council

INVESTIGATING COMMITTEE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	Tuesday 10th April 2007
Name of Registrant:	Hiral Bhavin
Registration No.:	PH71746
Panel:	Derek Adrian Harris – Chair
	Judith Chappell – Physiotherapist
	Trevor Rothwell – Lay Partner
Legal Assessor:	Simon Russen
Hearing Officer:	Gemma Lee

Representation:

The Council was represented by Nicola Hill of Kingsley Napley Solicitors

The registrant was present but unrepresented

ALLEGATION

Your entry to the register has been incorrectly made, in that you were registered on 21st April 2005 in error, as your application for registration had not been approved by the Registration Assessors. Further verification was requested by the Assessors on 12th April 2005, however this was not sought by the Registration Department.

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DECISION:

Mrs Soni's original entry onto the register was erroneous. The error was attributable to the HPC's process rather than any fault with Mrs Soni. The error was that HPC did not request the case studies sought by the assessors.

The Panel today has considered the two case studies Mrs Soni has supplied and has heard her oral explanation thereof. In light of this we feel that Mrs Soni meets the Standards of Proficiency and her registration should continue, but amended to reflect her correct name of Hiral Soni.

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CONDUCT & COMPETENCE COMMITTEE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	Thursday 26th April 2007
Name of Registrant:	Ann Bickerstaff
Registration No.:	OT21182
Panel:	Sandy Yule – Panel Chair
	Elizabeth Richards – Occupational Therapist
	David Caplin - Lay Partner
Legal Assessor:	Simon Russen
Hearing Officer:	Victoria Adams
Representation:	The Council was represented by John Harding of Kingsley Napley Solicitors.
	The Registrant was neither present nor represented.

ALLEGATION(S)

Your fitness to practise as a Registered Health Professional is impaired by reason of your misconduct and/or lack of competence whilst employed by Ashton, Leigh and Wigan NHS Primary Care Trust between 4th January 2005 and 3rd May 2006, in that you:

(1)

(a) Were responsible for poor documentation, including falsely amending a patient's notes between April 2005 and May 2006.

(b) Were responsible for poor record keeping, including falsely amending a patient's notes between April 2005 and May 2006.

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(2) Falsified a document on 9th December 2005, creating a letter which was purported to have been sent to a patient's family.

(3) Failed in your duty of care to a child between November and December 2005.

(4) Breached policy on confidentiality and security of information by storing and carrying confidential patient and staff information found on a pen (datastick) on 21st December 2005.

DECISION:

1. Mrs Bickerstaff has not attended this hearing. The Panel is satisfied that there has been good service of notice of this hearing and that accordingly the Panel has jurisdiction to proceed in her absence. Mrs Bickerstaff has written a long letter to the Health Professions Council dated 13th April 2007 both explaining her absence and advancing information she has requested the Panel to have regard to in relation to the allegations. Having carefully considered this letter the Panel is satisfied that it is appropriate that it should proceed with the hearing today.

2. At this stage of the proceedings the Panel is deciding whether the allegation is well founded. This task requires the Panel to consider the issues in the following order:

    a. Whether the facts have been proved.

    b. If (and only if) the facts have been proved whether misconduct and/or lack of competence is established.

    c. If (and only if) misconduct and/or lack of competence is established, whether the misconduct and/or lack of competence proved impairs Mrs Bickerstaff's fitness to practise.

3. In approaching this exercise the Panel has reminded itself:

    a. That it is for the HPC to prove the allegation, the appropriate standard of proof being the balance of probabilities. It is not for Mrs Bickerstaff to disprove the allegation.

    b. That although the evidence it has heard has been evidence that was tendered at, and in part investigated for the purposes of, a disciplinary process conducted by the Trust by which she was employed at the relevant

time, it is for this Panel to form its own view on the evidence. In other words, this Panel has not adopted the view of the Trust.

4. As stated above, Mrs Bickerstaff has written a long letter providing information particularly concerning the inter-personal relationships within the Occupational Therapy Paediatric team. To the extent that the Panel has found this evidence relevant in resolving the issues it needs to decide, reference will be made to her statement below.

5. In relation to the first allegation the Panel is unable to distinguish between "documentation" and "record keeping". In the view of the Panel they are one and the same. The Panel finds that:

    a. The records were poor in that entries in clinical notes were not always signed and dated (as demonstrated by the entries on page 41 of the bundle and by the absence of an entry on the staff signature sheet at page 24 of the bundle). The Panel noted that Mrs Bickerstaff suggested that she had a very heavy workload at the material time, but the Panel finds that this cannot excuse the failure to keep an adequate note.

    b. The Panel finds that the entry in the clinical notes purporting to be an entry either relating to or made on 14th November 2005 was an entry in fact entered in the notes on or after 9th December 2005. The reasons for this finding are that the letter referred to as having been "sent" was not created until 9th December 2005 (see paragraph 6 below). The Panel has been unable to find anything in Mrs Bickerstaff's letter relating to this specific issue. The Panel finds that this entry was created with an intention to mislead.

6. The Panel accepts the evidence of the interrogation of Mrs Bickerstaff's F drive and therefore accepts that the letter bearing the date 14th November 2005 addressed to the family of S.C. was created on 9th December 2005. The Panel notes that it was on the very same day that the clinical notes were sent to Mrs Taylor, Mrs Bickerstaff's line manager, as a result of a compliant made by the patients of S.C (see page 41).

7. In relation to child S.C. Mrs Bickerstaff failed to provide the level of care she should have extended to him by failing to action the provision of a special bed to him. The letter bearing the date 14th November 2005 clearly involved an acceptance by Mrs Bickerstaff that at the latest by that date she should personally have taken active measures in relation to the provision of the bed. The Panel noted that on page 11 of Mrs Bickerstaff's letter of 13th April 2007 she referred to

this case but gave an account of her involvement which contradicted the account she gave in her letter bearing the date 14th November 2005.

8. Mrs Bickerstaff had a pen/flash data disc. The Panel finds that on no fewer than three occasions she took it home and the Panel also accepts the evidence given that she left it at home on occasions when she was at work. The data on the drive included confidential information relating to both patients and staff who were readily identifiable. The Trust policy was that confidential information had to be kept secure at all times. On page 11 of her letter Mrs Bickerstaff admits taking the pen drive home. She contends that she did so to work at home and states that confidentiality was not breached. There is no evidence that any confidential information relating to patients or colleagues was in fact seen by any third party. However, the policy clearly exists to protect against the risk of such disclosure and the breach cannot be excused by the fact that that risk did not materialise.

9. In relation to these findings the Panel finds:

    a. That the false entry in the notes dated 14th November 2005, the creation of the letter dated 14th November 2005 and the taking of the pen drive home are findings that were deliberate acts done in the knowledge that she should not have done them. As such they amount to misconduct.

    b. The failure always to sign and date entries in clinical notes and the failure to provide an adequate duty of care to S.C. at the time they occurred are issues of lack of competence.

10. These are serious issues of misconduct and lack of competence. They clearly impair Mrs Bickerstaff's fitness to practise.

11. Since announcing the decision set out in paragraphs 1 to 10 above the Panel has convened again in public session and heard further submissions as to the appropriate sanction to impose. Mr Harding on behalf of the HPC has confirmed that there are no previous findings against Mrs Bickerstaff.

12. The Panel has reminded itself of the fact that the purpose of a sanction is not to be punitive, but rather to protect the public and to maintain public confidence in the HPC's regulatory role and in the profession. As misconduct has been found the full range of sanctions, up to and including striking-off are available.

13. The breaches found by the Panel are far too serious to result in no further action, mediation or a caution order. A conditions of practise order allowing Mrs Bickerstaff to practise subject to a condition that she should not falsify documents is not a sensible option. It follows that the real choice for the Panel has been

between suspension and striking-off. The findings made by the Panel are clearly sufficiently serious to justify striking-off. However, it is apparent from Mrs Bickerstaff's letter dated 13th April 2007 that her personal circumstances have been difficult. Consequently, the Panel would wish Mrs Bickerstaff to have an opportunity, if she chooses to take it, of demonstrating that she wishes to put her career back on track. For these reasons it has decided not to strike her off, but rather to suspend her for a period of 12 months. The consequence of the making of a Suspension Order is that it will be reviewed by a Panel before it expires. Mrs Bickerstaff will therefore have an opportunity on the occasion of that review to present a case to that Panel that she wishes to resume her career.

ORDER:

That the Registrar be directed to suspend the registration of Ann Bickerstaff for a period 12 months.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM SUSPENSION ORDER

The Panel makes an interim suspension order which will expire upon the earlier of (i) the appeal period expiring without an appeal being made, or (ii) if an appeal is made, the final determination of that appeal, subject to an overall maximum period of 18 months.

SIGNED:

DATED: 26th April 2007

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CONDUCT AND COMPETENCE HEARING

President: Dr Anna van der Gaag
Chief Executive and Registrar: Marc Seale

Notice of Decision and Order

Date of Hearing: 20 August 2007

Name of Registrant: Keith Butcher

Registration No.: PA07985

Panel: Colin Allies – Panel Chair

Gilbert Cox – Lay Partner

Claire Emms

Legal Assessor: Audrey Watson

Hearing Officer: Gemma Lee

Representation:

The Council was represented by Michael Caplan of Kingsley Napley Solicitors

The Registrant was not present and was not represented

ALLEGATION: Your fitness to practise as a registered health professional is impaired by reason of your conviction in that:

1. On 11th September 2006 at Chelmsford Crown Court you were upon your own confession convicted of:
   (a) 10 counts of making indecent photograph or pseudo-photograph of a child
   (b) 2 counts of taking indecent photograph or pseudo-photograph of a child
   (c) 1 count of having indecent photograph or pseudo-photograph of a child.

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2. On 31st October 2006 at the same court, you were sentenced to:
   (a) 28 weeks imprisonment suspended for 2 years
   (b) participation in Thames Valley Community Sex Offender Groupwork
   (c) disqualified from working with children for life
   (d) forfeiture of computer equipment and all images.

Mr Butcher was not present at the hearing nor was he represented. The panel noted from the Health Professions Council's (HPC) bundle that notice of today's hearing was sent to Mr Butcher at his address as specified in the HPC's register. The panel noted that there has been no response received from Mr Butcher. The panel is satisfied that, in accordance with Rule 11 of the Health Professions Council (Conduct & Competence Committee) (Procedure) Rules 2003, notice of these proceedings was correctly served on Mr Butcher. In the circumstances the panel decided it is competent in terms of the said Rules and appropriate to proceed with the case without Mr Butcher being present or represented.

It was established that Mr Butcher has been a registered paramedic on the HPC register since 1st September 2000. The panel considered the certificate of conviction from Chelmsford Crown Court which stated that Mr Butcher tendered pleas of guilty to the above-mentioned offences. The panel noted the details of the sentence imposed and the fact that the images concerned ranged from level 1 to level 4 on the Oliver scale. The panel also had regard to the witness statement of DC Crane, to the other documentary evidence contained in the HPC's bundle and to the advice of the Legal Assessor.

DECISION:

Members of the public place their trust in health professionals and are entitled to expect that such professionals will conduct themselves in a professional manner. Offences of this kind undermine public confidence in the health professions. The panel considers that Mr Butcher's conviction demonstrates that he fell far short of the standards of personal conduct expected of a registered health professional in particular the HPC's Standards of Conduct, Performance and Ethics numbers 3 and 16. The panel therefore find this allegation well founded and that Mr Butcher's fitness to practice is impaired as a result.

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The panel has had regard to the HPC's indicative sanction policy as guidance. In addition, the panel has exercised the principle of proportionality and has addressed the issue of sanction in ascending order commencing with the least severe sanction. In view of the very serious nature of the allegation and the potential for risk to the public the panel considers that to take no further action, refer to mediation or to impose a caution would not adequately protect the public. In addition, the panel considers that conditions of practice are entirely inappropriate and also would not be sufficient to protect the public. The panel next considered whether suspension would be an appropriate sanction. The panel noted that the Court disqualified Mr Butcher from working with children for life and therefore considers that a suspension would not be an appropriate sanction. The panel therefore considers it is necessary for the protection of the public and in the public interest that Mr Butcher's name should be struck from the register.

ORDER:

That the Registrar be directed to strike Keith Butcher off the register.

RIGHT OF APPEAL

Mr Butcher may appeal against the Committee's decision and the order it has made against him.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that he has 28 days from the date that this notice was served on Mr Butcher to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of Justice in England and Wales. The order set out above will not take effect until that appeal period has expired or, if Mr Butcher appeals during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER:

That, in accordance with Article 31 (2)(a) of the Health Professions Order 2001 the Registrar be directed to suspend the registration of Keith Butcher with immediate effect, such suspension to continue until the appeal period commenced by this notice has expired or, if an appeal is made during that period, until that appeal is withdrawn or disposed of.

Co Collins (Chair)
10th August 2007

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Health Professions Council

CONDUCT AND COMPETENCY HEARING

Notice of Decision and Order

Date of Hearing:	05 July 2007
Name of Registrant:	David Carradine
Registration No.:	RA29161
Panel:	Panel Chair – Clare Reggiori
	Lay Partner – Colin Clark
	Radiographer – Hazel Colyer
Legal Assessor:	Simon Russen
Hearing Officer:	Jonathan Dillon

Representation:

The Council was represented by Nicola Hill of Kingsley

Napley Solicitors

The Registrant was present and represented by Marie Bullough from the Society of Radiographers.

ALLEGATION(S)

Your fitness to practise as a registered health professional is impaired by reason of;

1. Your convictions for:-

    a) Driving a motor vehicle with excess alcohol at Bristol Magistrates court on 18th November 2004,

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b) Driving a motor vehicle with excess alcohol at Bristol magistrates court on 28th March 2006, and

2. Your misconduct, in that on 28th September 2005, at Bristol Magistrates court, you received a conditional discharge for common assault.

DECISION

1. The Panel is considering allegations that Mr Carradine's fitness to practise is impaired by reason of three separate court appearances made by him relating to incidents occurring in the period between November 2004 and March 2006. Two of those incidents (driving with excess alcohol on 14 November 2004 and 5 March 2006) are advanced as "conviction" allegations. The other (common assault on 11 June 2005) is not advanced as a "conviction" allegation because the sentence of the court was a conditional discharge which does not amount to a "conviction" for these purposes. That incident is therefore said to constitute misconduct impairing his fitness to practise.

2. The issues the Panel has been required to deal with at this stage of the proceedings are as follows:

   (i) Whether the assault incident amounts to misconduct.

   (ii) Whether the excess alcohol convictions, taken together with the assault if found to amount to misconduct, currently impair Mr Carradine's fitness to practise.

3. The Panel reminds itself that it is for the HPC to prove the allegations made against Mr Carradine – it is not for him to disprove them or any element of them. The standard to which the HPC is required to prove matters is the balance of probabilities – namely that something is more likely than not.

4. The Panel has had careful regard to all the documents, including the documents introduced on Mr Carradine's behalf. It has also heard the oral evidence of Mr Carradine given today. It is submitted on behalf of Mr Carradine that the assault does not constitute misconduct, and that none of the matters impairs his fitness to practise because the incidents were in no way related to his work as a radiographer. In this regard the Panel accepts that none of the incidents occurred at work, while travelling to or from work, or that there is any evidence that the alcohol consumption that underpinned each incident adversely affected his performance when he next presented himself at work.

President Dr. Anna van der Gaag
Chief Executive and Registrar Marc Seale

5. Nevertheless the Panel finds that the assault does amount to misconduct. The Panel is prepared to accept that it was not a premeditated attack. But the fact remains that on Mr Carradine's own admission it was a drink-fuelled incident and that injury resulted. He has also accepted that his behaviour was reckless. Any registered health professional is under an obligation to maintain high standards of conduct in his or her personal life well away from work. If he or she does not do so public confidence is inevitably weakened in the individual professional and in the profession. Standard 3 of the Standards of conduct, performance and ethics reflects this fact.

6. For the same reasons relating to public confidence in the profession the Panel finds that all three incidents currently impair Mr Carradine's fitness to practise. It is true that the last of these drink-related incidents was more than a year ago and there is evidence that he is taking steps to modify his alcohol consumption. That much is confirmed by his General Practitioner, but that same evidence also demonstrates that the problems have not been completely resolved.

7. It follows from these findings that the allegations are well founded.

8. Since announcing the decision set out above the Panel has heard further submissions relating to the appropriate sanction. All the sanction options are available in this case. The Panel reminds itself that the purpose of a sanction is not to be punitive, but rather to protect the public and to maintain confidence in the profession and in the HPC's regulatory process.

9. The Panel repeats what has already been recorded, namely that none of these incidents occurred in the context of the workplace, and there is no evidence that either the incidents or the excessive drinking that gave rise to them, resulted in a risk to patient safety. Nevertheless, they are serious incidents that cannot be overlooked by no further action being taken. This is not a case in which conditions of practice would be appropriate. Suspension and striking-off are neither required nor would they be proportionate. It follows that the Panel has arrived at the conclusion that a caution order is required. Not only is this sanction dictated by a process of elimination, but it is also the sanction the Panel considers to be appropriate to serve as a reminder to Mr Carradine that he must maintain high standards of behaviour at all times. The Panel considers the appropriate length of that caution order to be 2 years.

ORDER:

That the Registrar be directed to annotate the register entry of David Carradine with a caution which is to remain on the register for a period of 2 years.

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RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

SIGNED Clare Reggiori

CLARE REGGIORI

5 July 2007

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Chief Executive and Registrar Marc Seale

Health Professions Council

CONDUCT & COMPETENCE HEARING

Notice of Decision and Order

Date of Hearing:	22nd & 23rd May 2007
Name of Registrant:	Susan Codd
Registration No.:	OT20995
Panel:	Clare Reggiori – Panel Chair
	Julie Blake – Occupational Therapist
	Cynthia Mendelsohn – Lay Partner
Legal Assessor:	Sarah Breach
Hearing Officer:	Victoria Adams
Representation:	The Council was represented by Emily Carter of Kingsley Napley Solicitors.
	The Registrant was in attendance and was represented by Nadia Miszczanyn from Unison.

ALLEGATION(S)

Your fitness to practise as a Registered Health Professional is impaired by reason of your misconduct whilst employed by Lincolnshire Partnership NHS Trust between January 2004 and October 2004 where you gained and used privileged and confidential information to launch a counter bid against your employer to set up a 'Local Multi Disciplinary Team' which was aggressively pursued.

DETERMINATION:

You were employed by South Lincolnshire Community and Mental Health Trust as a Senior 1 Grade Occupational Therapist (OT) in the South Lincolnshire Occupational Therapy Services from May 1998. You were based in Skegness Community Mental

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Health Team (CMHT) working with adult patients in the CMHT for 22.5 hours over three days a week.

In May 2003, the Minister for Health announced a central revenue budget of £8.5 million to develop services specially designed for people with Chronic Fatigue Syndrome (CFS) and/or with Myalgic Encephalomyelitis (M.E). The Department of Health invited bids nationwide for access to these funds to provide services in the form of clinical network coordinating centres or in local multi-disciplinary teams (MDT). The bidding process consisted of two stages: 1) The submission of an Expression of Interest by 12th September 2003 and 2) The submission of an investment proposal by the 1st April 2004.

The NHS within Lincolnshire decided to put together a bid and Mr Pearce, Consultant Psychologist submitted an Expression of Interest prior to the deadline. The bid required the explicit support of all stakeholders, including the Primary Care Trusts (PCT) in the area. There are three PCTs in Lincolnshire.

You were invited to an open meeting in January 2004 to discuss the NHS bid and you volunteered to be a member of a working group. You intimated to a member of the working group that you were considering putting in an independent bid to the Department of Health. You were told that it was inappropriate for you to continue to be a member of the NHS working party.

You contacted members of the group and told them that you were considering various options but that you had not come to a clear decision about whether to put in a bid and if you had done so you would have declared this before the next meeting.

You contacted Mrs Blackbourn, Head OT at Pilgrim Hospital, at home on the 20th February 2004 and told her you wanted to put in an alternative bid and that you already had a Physiotherapist, Psychologist and G.P on board. Mrs Blackbourne understood that you were asking her views on the proposed bid and looking for her support as an OT.

You also contacted Mr Rix, the then Performance and Commissioning Manager for East Lincolnshire PCT, around the 24th February 2004 and told him you were submitting a bid to the Department of Health independently of the NHS bid. He understood you to be attempting to secure the support of the PCTs in the region.

On the 28th February 2004 you wrote to the Department of Health expressing your interest in submitting a bid for the service.

At the end of February 2004, Ms Abey, Consultant Neuropsychologist with the Lincolnshire Partnership NHS Trust, contacted the Commissioners from the local PCTs and found that you had also been contacting them. On the 27th February 2004 she spoke to Mr Rix who was concerned that there was a splintered bid from the Lincolnshire

region and people were confused. On the 31st March 2004 Ms Abey again spoke with Mr Rix who told her that you had been in contact again wanting to know whether the East Lincolnshire PCT would support your bid. Mr Rix was satisfied with the bid put together by the Lincolnshire NHS Group and he wrote on behalf of the three PCTs supporting it.

You were suspended on the 11th March 2004 and, following a disciplinary investigation, you were dismissed for gross misconduct at the disciplinary hearing on the 7th October 2004.

The Panel heard evidence from the following witnesses called by the Health Professions Council:

- Jane Tuxworth, Trust Lead OT for the Lincolnshire Partnership NHS Trust
- Sarah Blackbourn, Head OT at Pilgrim Hospital
- Lisa Bridge, Clinical Psychologist in the Children, Adolescent and Family Service.
- Andrew Rix, the then Performance and Commissioning Manager for East Lincolnshire PCT, now Lead Manager for Specialised Commissioning Services.
- Mike Pearce, Head of Neuropsychology and Medical Psychology with Lincolnshire Partnership NHS Trust.
- Anne Abey, Consultant Neuropsychologist employed by the Lincolnshire Partnership NHS Trust.

At the end of the case for the Health Professions Council, Ms Miszczanyn made a submission of no case to answer. The Panel considered the submissions and the evidence it had heard and read. It also took account of the advice on the law from the Legal Assessor on when a submission of no case to answer should be allowed.

DECISION:

The Panel considered the allegation as it is framed in the official notice of these proceedings. The Panel noted that, although consisting of three separate components, it is written as one all embracing allegation.

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The Panel noted that you were invited to and attended an open meeting to discuss the NHS Lincolnshire Partnership bid on the 27th January 2004. From the evidence available, the Panel heard that no confidential information was discussed at that meeting, although the information might have been privileged. There are no minutes available. Furthermore, Ms Abey specifically stated that she did not give you any confidential information.The Panel also heard that Dr Hoffman did not supply you with a copy of the Amber Valley bid when you asked for it. The information that was given to you subsequent to the meeting on the 27th January 2004 was information which was not confidential and was probably freely available on the Department of Health website.

There is evidence that you launched a counter bid against your employer to the extent that you started the bid process. However, there is no evidence that you actually submitted a bid.

The Panel heard evidence that, although people were irritated by your persistence in pursuing relevant support, there is no evidence that you acted aggressively.

Accordingly, the Panel determines that there is no evidence that you gained or used confidential information, nor that you pursued your bid aggressively. In the light of this finding, the Panel accedes to your representative's submission that there is no case to answer.

That concludes the case.

SIGNED: Clare Reggiani
CLARE REGGIANI

DATED: 23 May 2004

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Health Professions Council

CONDUCT AND COMPETENCE

HEARING

Notice of Decision and Order

Date of Hearing:	3 July 2007
Name of Registrant:	Justin Corden-Bowen
Registration No.:	ODP15079
Panel:	Panel Chair – Gordon Sutehall
	Lay Partner – Hazel Davis
	Operating Department Practitioner – Stephen McConnell
	Doctor – Franklyn Baker
Legal Assessor:	Simon Russen
Hearing Officer:	Jonathan Dillon

Representation:

The Council was represented by Emily Harding of Kingsley Napley Solicitors

The Registrant was neither present nor represented.

ALLEGATION(S)

Your fitness to practice as a registered health professional is impaired by reason of your physical and/or mental health.

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DECISION:

1. Mr Corden-Bowen has not attended the hearing today. The Panel is satisfied that proper notice of the hearing has been given and that there is both jurisdiction to proceed in his absence and that it is proper that it should do so.

2. The Panel noted that the terms of rule 10 of the Health Professions Council (Health Committee) (Procedure) Rules 2003 provide that, absent an order to the contrary, the proceedings are held in public. However, having regard to the sensitive health issues arising in this case the Panel is satisfied that in Mr Corden-Bowen's interests the hearing should be held in private.

3. The issue for the Panel is to decide whether Mr Corden-Bowen's fitness to practise is currently impaired by reason of his physical and/or mental health.

4. The Panel has received both the written and oral evidence of Mrs Tasewych who was Mr Corden-Bowen's line manager while he was employed at the Birmingham Children's Hospital. It is quite clear from her evidence that during the period from late 2005 to May 2006 Mr Corden-Bowen was abusing alcohol. During this period he failed to engage with Occupational Health measures. An attempt at detoxification in March 2006 resulted in relapse very soon thereafter. In the opinion of the Panel that is a situation which impacted on both Mr Corden-Bowen's physical and mental health, and clearly impaired his fitness to practise at that time.

5. It is of course current impairment of fitness to practise with which the panel is concerned. Not only is there no evidence of positive improvement in Mr Corden-Bowen's condition during the last year since he was dismissed from his employment, but the oral evidence of Mrs Tasewych today is that she has recently seen him in public areas frequented by what Mrs Tasewych referred to as "the alcoholic community". These factors, coupled with the failure to engage with Occupational Health and a failed detoxification programme result in the Panel concluding that there is little likelihood of his condition having improved with the passage of time, and that on a balance of probabilities he is still abusing alcohol with the consequence his fitness to practise is currently impaired.

6. Since announcing the decision set out above the Panel has heard further submissions relating to sanction. The Panel reminds itself that it has available all the sanction options save striking-off and has carefully considered each of them in ascending order of seriousness. For the reasons set out above in relation to the finding on the allegation, the Panel finds that were Mr Corden-Bowen able to practise he would put patients at risk. The failure of attempts to help him with his problem means that no sanction other than suspension is appropriate in order to protect the public. The conclusion of the Panel is that a suspension order for a period of 12 months should be made.

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ORDER:

That the Registrar be directed to suspend the registration of Justin Corden-Bowen for a period of 12 months.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court of England and ales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

There be an interim suspension order pending the period during which Mr Corden-Bowen can bring an appeal against the Order made by the Panel today, or (if an appeal is made) until the final disposal of that appeal (subject to an overall maximum period of 18 months).

SIGNED

3rd July 2007.

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE HEARING

Notice of Decision and Order

Date of Hearing:	23rd April 2007
Name of Registrant:	Peter Cozens
Registration No.:	PA07405
Panel:	Clare Reggiori – Panel Chair
	Thomas Bingham – Lay Partner
	Claire Emms - Paramedic
Legal Assessor:	Sarah Breach
Hearing Officer:	Gemma Lee

Representation:

The Council was represented by John Harding of Kingsley Napley Solicitors

The Registrant was present and represented by Ken Pearson of UNISON

ALLEGATION:

Your fitness to practise as a registered health professional is impaired by reason of your misconduct and/or lack of competence whilst employed by Westcountry Ambulance Services NHS Trust in that you fell below the HPC's Standards of Proficiency for Paramedics, in particular:

1. On the 24th November 2005 you failed to adequately assess a patient's injuries and your subsequent treatment of the patient's injuries were inadequate and led to further complications and distress

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2. On the 5th January 2006 you failed to adequately assess the medical condition of Mrs Shirley Champion (SC) and your subsequent actions were inadequate and inappropriate, leading to further complications, deterioration in the patient's condition and increased distress for both the patient and her family.

DECISION:

You joined Glastonbury Ambulance Station in 2001 as a paramedic having transferred from London.

On 24th November 2005, you attended a call to an elderly female who had fallen and sustained two skin flap lacerations to her left arm and a small laceration to her right shin. You incorrectly used an adherent dressing on the patient's arm wound which resulted in the wound re-opening when the dressing was removed. You failed to follow the guidance as you failed to ensure the wound was closed within 6 hours by checking whether an Emergency Care Practitioner (ECP) was available to attend the patient within that time. Furthermore, you failed to take the patient to the Minor Injuries Unit (MIU) and failed to ensure that a patient refusal form had been completed and signed by the patient.

On 5th January 2006, you were called to attend to patient C who was suffering from diarrhea and vomiting. You failed to take equipment into the house, contrary to Protocol 10 of the Joint Royal Colleges Ambulance Service Liaison Committee guidelines. You failed to take adequate clinical observations from the patient, which is a failure to comply with the Ambulance Service Basic Training Manual. In the light of patient C's condition, it was vital that you took the patient's blood pressure and blood sugars. You sought the opinion of the Out of Hours (OOH) Doctor and told him that the patient's basic observations were all normal. In the interview with Mr Partlow, Assistant Divisional Officer (ADO), you confirmed that you should have taken more observations of the patient and you acknowledged your failure to take the patient's blood pressure.

The Panel heard evidence from Mr C, the complainant, Mr David Partlow, ADO, Claire Davies, Ambulance Technician, and yourself.

Mr C stated in evidence that he was with his wife all the time and recalled no examinations or tests being performed by you. He disputed that the OOH Doctor was given the necessary information to be able to provide informed advice. Mr C explained that his wife was unconscious when he woke in the morning and so he called the ambulance service a second time. Following full assessment by a paramedic, Mr C's wife was admitted to hospital where she was in intensive care for 4 days and her total stay in hospital was 3 weeks.

Mr Partlow explained that baseline observations must be recorded on the Patient Report Form (PRF). Failure to carry out these tests results in an inability to make a

proper clinical judgment. A paramedic should take into the home a defibrillator, oxygen, and a fully equipped response bag.

The results of Mr Partlow's investigation demonstrated that on 24th November 2005 you used adherent dressings. You also failed to check whether an ECP was available and you did not transfer the patient to MIU. The result of your actions / inactions is that the patient suffered additional distress when her dressings had to be changed. This could have been avoided had the correct dressings been applied and the correct procedure followed. Mr Partlow gave evidence that, if the proper clinical observations had been carried out on 5th January 2006, the OOH Doctor would have been better informed as would any decision to take the patient to hospital.

Ms Davies agreed that she had seen you take the patient's radial pulse on 5th January 2006 and look into her eyes with a torch. You also looked into her mouth. She did not notice you bring in to the house any equipment from the ambulance. She recalled a discussion taking place about hospital admission. It was decided not to transport the patient to hospital as admission could not be guaranteed and the OOH Doctor had advised it was not necessary from what he had been told. Mr C agreed for the patient to stay at home and to phone the GP the following morning if there were ongoing concerns.

You stated in evidence in relation to the incident on 24th November 2005, that you used the wrong dressing and should have checked when the ECP would be attending. In relation to the incident on 5th January 2006, you accepted that you did not take the first response bag into the house and did not take the patient to hospital. You also stated you should have taken a blood pressure reading. You denied that you told the OOH Doctor you had taken her blood pressure, but you were satisfied that she was safe to be left at home from the observation you had carried out. You did not accept that the distress caused to the family was a result of your failure to carry out all relevant baseline observations. You acknowledged that you should have done more. Since these incidents you have accessed information on a website to improve your performance and have had your practice supervised.

The Panel finds the allegation of misconduct in relation to particular 1 well founded.

The Panel finds the allegation of misconduct in relation to particular 2 well founded.

The Panel finds the allegation of lack of competence in relation to particular 1 not well founded.

The Panel finds the allegation of lack of competence in relation to particular 2 well founded.

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Breaches in the following Standards of Conduct, Performance and Ethics have been identified: 1, 5, 7, 10, 13 and 16.

Breaches in the following Standards of Proficiency have been identified: 1a.4, 1a.5, 1a.8, 1b.4, 2a.1-4, 2b.4, 2c.2, 3a.1.

In reaching its decision, the Panel considered all the evidence presented to it today. It was not influenced by the disciplinary hearing findings. The Panel found Mr C and Mr Partlow to be credible witnesses. Consequently, the particulars of the allegations were found proved on a balance of probability.

In relation to particular 1, you admitted that you had applied the wrong dressing, that you had not contacted the MIU, and that you demonstrated weak medical assessment skills. You were able to identify what the injuries were, thereby demonstrating competence but you failed to identify an adequate or appropriate care pathway which led to further complications and distress for the patient. As you failed to check when the ECP would attend, you should have taken the patient to the MIU. By applying an adherent dressing, you directly caused the patient further distress.

In relation to particular 2, you admitted that you could have done more. You did not take the necessary equipment into the house. You admitted that you performed insufficient baseline observations and gave the OOH Doctor misleading information which prevented him from making an informed decision. The result was that patient C was not admitted to hospital that evening and continued to deteriorate to a critical state when she was admitted the following day.

The Panel consider that your fitness to practise is impaired following your responses to questions from the panel. You demonstrated a lack of insight and was still unable to give an adequate explanation for your actions. The Panel took account of the supervision and training you have had since these events, but it considered that it had not addressed all your deficiencies.

In determining what, if any sanction to impose, the Panel has taken account of the submissions made on your behalf.

The Panel considered each of the sanctions in turn, starting with the least restrictive. It considered that to take no further action or to impose a caution in this case would not adequately protect the public or mark the gravity of the misconduct.

The Panel notes that, both before and since these events, you have not been the subject of any other disciplinary proceedings and that you have continued working as a paramedic. It notes the statement of Mr Partlow that there have been no further problems arising with respect to your clinical assessment or treatment of wounds.

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Consequently, the Panel determines that a conditions of practice order is appropriate and proportionate.

ORDER: That from the date that this order takes effect Peter Cozens shall comply with the following conditions of practice for a period of 18 months:

1. **You shall not work alone or with anyone less qualified than a paramedic when undertaking paramedic duties.**

2. **You shall provide demonstrable evidence of patient assessment skills including primary and secondary survey and all associated clinical observations; a working knowledge of the associated anatomy, physiology and patho-physiology of the case; and a copy of the associated Patient Report Form ensuring anonimisation. This evidence is to be sent to HPC in the form of 14 case studies at monthly intervals, each of which should demonstrate progressive understanding of these processes and should be of a reflective nature.**

3. **You shall provide the Panel on the next occasion with evidence that you have informed your employer of the conditions.**

4. **You shall also provide the Panel on the next occasion with a reference from your employer on your performance whilst undertaking your paramedic duties.**

5. **You must inform all employers, whether current or future, in full-time or part-time employment, of these conditions of practice.**

The Panel will review your case at a further hearing which will be held before your conditions of practice order ends. At that hearing, it will consider whether any further action needs to be taken in relation to your registration. You will be informed of the date and venue of that hearing and will be entitled to attend and put your case.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

INTERIM ORDER

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The Panel makes an Interim Conditions of Practice Order under Article 31(2)(a) of the Health Professions Order 2001 until (i) the expiry of the period for an appeal against the conditions of practice order passing without such an appeal being made, or (ii) if such an appeal is made, the disposal of that appeal (subject to a maximum of 18 months). The panel is satisfied that such an order is necessary to give proper protection to the public.

Clare Reggiori

CLARE REGGIORI

25/04/2007

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Health Professions Council

CONDUCT AND COMPETENCE COMMITTEE PANEL HEARING

Notice of Decision and Order

Date of Hearing:	11th April 2007
Name of Registrant:	Edward C S Davis
Registration No.:	CH05081
Panel:	Clare Reggiori – Panel Chair
	Peter Graham – Chiropodist / Podiatrist
	Donald Watson – Lay Partner
Legal Assessor:	Simon Russen
Hearing Officer:	Gemma Lee
Representation:	The Council was represented by Nicola Hill of Kingsley Napley Solicitors.
	The Registrant was present but was not represented.

ALLEGATION

Your fitness to practise as a registered health professional is impaired by reason of your misconduct whilst employed at the South Stoke NHS Teaching Primary Care Trust in that between 1st April 2005 and 12th August 2005 you:

1) accessed inappropriate and offensive websites;
2) downloaded pornographic images

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DECISION:

1. The Panel is considering an allegation that the fitness of Mr Davis to practice is impaired by reason of his misconduct. The misconduct alleged is that between 1st April 2005 and 15th August 2005 he accessed inappropriate and offensive websites and downloaded pornographic images.

2. At this stage of the hearing the Panel is concerned only with the issue of whether the allegation is well founded or not. In order to make a decision on this issue it is necessary for the Panel to approach the matter in the following way:

   a. First, to decide if the factual foundation of the allegation is proved or not.
   b. If (and only if) the factual foundation of the allegation is proved, then to consider whether those facts amounted to misconduct.
   c. If (and only if) misconduct is proved, then to consider whether that misconduct currently impairs Mr Davis' fitness to practice.

3. It is for the HPC to prove the allegation on the balance of probabilities – in other words that something is more likely than not. It is not required that a higher standard of proof is met. It is not for Mr Davis to disprove the allegation or any element of it. It is necessary to add a word or two about the relevance of the disciplinary process undertaken by the Trust by which Mr Davis was employed when he is alleged to have committed these defaults. The evidence advanced by the HPC has been the evidence gathered by the Trust for its internal disciplinary process, and the Panel has been told the outcome of that process. However, it is very important to stress that the Panel has reached its own decision on the underlying facts – it has not been in any way influenced by the view taken by the Trust in the disciplinary process.

4. The images were inappropriate, offensive and pornographic. However, none of the images depicted unlawful acts and it is not suggested that any criminality was involved in accessing them. There is no evidence that any patient, colleague or other person ever saw any relevant image. Given the nature of the images the Panel is confident that had they been seen by any such person complaint would have followed.

5. Mr Davis has never disputed that computers under his log-in accessed inappropriate and offensive websites. His case has always been that the images appeared as a result of computer virus or other malfunction following

which he took steps (including minimising the screen) to ensure that they were not seen. However, the thrust of the allegation is that they were deliberately accessed, and this is the factual issue the Panel is required to resolve. The key to the resolution of this issue is to be found in the Google searches. Numerous Google searches were made over the relevant period and the searches demonstrated an interest in websites with explicit sexual content. The Panel finds that these searches were initiated by Mr Davis and were not self-generated by the computer or any defect with it. It follows that the Panel finds the factual basis of the allegation to be well founded.

6. During his oral evidence Mr Davis admitted that were the factual allegation to be established that this would amount to misconduct. Notwithstanding this concession the Panel has an obligation to form its own view on the matter. The Panel finds that this was misconduct, breaching as it did standards 3, 13, 14 and 16 of the HPC's Standards of Conduct, Performance and Ethics.

7. The issue whether Mr Davis' fitness to practice is currently impaired must therefore be addressed. The findings that the accessing of these sites was deliberate and that it extended over a significant period of time are sufficient to answer this issue in the affirmative.

8. It follows that the allegation is well founded.

9. Since announcing the decision set out in paragraphs 1 to 8 above the Panel has heard further submissions on the appropriate sanction to be imposed. The Panel reminds itself that the purpose of a sanction is not punitive. Rather, a sanction should only be imposed to ensure the safety of patients and to protect the public, including the public interest in maintaining public confidence in the profession and in the HPC's regulatory role.

10. It has already been stated that the images, whilst offensive and inappropriate, were not illegal and that it can be assumed that they were never seen by anyone other than Mr Davis. The Panel does not consider that the matter can be overlooked by no further action being taken. However, the Panel has had the opportunity to see Mr Davis and make an assessment of his character. He is a man with an unblemished record of service in his profession. Notwithstanding the fact that he has not admitted the deliberate accessing of these sites, the Panel is satisfied that the whole experience of his dismissal from his employment and the HPC disciplinary process has had a most profound effect on him. The Panel considers that the risk of Mr Davis repeating behaviour of the type complained of is negligible. In these circumstances the Panel is satisfied that no more draconian sanction than a caution order is required.

11. It follows that a caution order for a period of 2 years is imposed.

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ORDER:

That the Registrar be directed to annotate the register entry of Edward C.S. Davis with a caution which is to remain on the register for a period of 2 years.

RIGHT OF APPEAL

You may appeal against the Committee's decision and the order it has made against you.

Articles 29(9), (10) and 38 of the Health Professions Order 2001 provide that you have 28 days from the date that this notice was served on you to make such an appeal to the appropriate court. In this case the appropriate court is the High Court in England and Wales. The order set out above will not take effect until that appeal period has expired or, if you appeal during that period, until that appeal is withdrawn or disposed of.

Clare Reggiori

CLARE REGGIORI

12 April 2007

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