

14 August 2015

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Re: Siddiqui v General Medical Council [2015] EWHC 1996 (Admin)

Abstract

Dr Siddiqui appealed against the MPTS' decision to erase his name from the medical register.

The appeal, heard by Mr Justice Hickinbottom, was dismissed on all grounds.

Background

Dr Siddiqui was employed as a Clinical Fellow in Paediatric Surgery at the University Hospital Southampton NHS Foundation Trust between June 2012 and November 2013. During the same period of time Dr Siddiqui operated a private Mobile Children's Circumcision Service, in which he carried out circumcisions on babies in their homes for patents who wished their sons to undergo the procedure for religious or cultural reasons. The allegations considered by the Fitness to Practise Panel relate to this private practise.

The complaints related to Dr Siddiqui's treatment of 4 patients (A, B, C and D) and culminated in 47 separate charges. In brief these charges included:

- Performing circumcisions without insurance or being registered with the Care Quality Commission (CQC);
- Failing to obtain informed consent from the parents of the patients;
- Failing to obtain adequate medical history or carry out a full medical examination of the patient(s);

The MPTS makes impartial decisions in doctors' fitness to practise hearings. The MPTS is part of the General Medical Council, but it is operationally separate and it is accountable to Parliament.

- Failing to provide adequate antiseptic conditions in which to carry out the circumcision(s); and,
- Failing to ensure immediate access to proper resuscitation facilities.

The case was heard before a Fitness to Practise Panel between 2 and 24 February 2015. Dr Siddiqui was present, but not represented. At the outset of the hearing, there were a number of preliminary matters (which are relevant to the grounds of appeal set out below):

- i. The GMC made an application to amend the charges, which was agreed.
- ii. Dr Siddiqui applied for an adjournment to allow him further time to obtain legal advice, particularly in relation to the amended charges, but also due to issues around disclosure. This application was refused by the Panel.
- iii. Dr Siddiqui requested to attend the hearing on certain days by means of videolink or telephone due to his responsibility to care for a family member. This was agreed.

On day 16 of the hearing the Panel handed down its factual determination. As this was a day where Dr Siddiqui was participating via telephone, the determination was emailed to him and it was agreed via telephone that he would have a few hours to digest it before the hearing resumed in the afternoon. During that same call the Legal Assessor and the GMC representative discussed the next stage with Dr Siddiqui, including whether he would wish to submit further evidence at the impairment and sanction stages. At this point Dr Siddiqui confirmed that the only additional information he wanted to provide was a further testimonial, which was subsequently provided to the Panel.

Later that afternoon a number of steps were made to contact Dr Siddiqui, including via telephone and email. The GMC representative submitted that Dr Siddiqui had voluntarily absented himself from the proceedings. Following advice from the Legal assessor and consideration in camera, the Panel determined to proceed in Dr Siddiqui's absence.

During the impairment stage the testimonial provided by Dr Siddiqui was considered by the Panel. The determination on impairment was emailed to Dr Siddiqui, again with the intention of allowing him to comment or attend.

The Panel resumed the following day to hear submissions on sanction. Dr Siddiqui was still not present. The Panel's decision on sanction was that Dr Siddiqui's name should be erased from the register.

Appeal

In spite of the application by the GMC to strike the appeal out due to being out of time, Justice Hickinbottom decided to consider the 10 grounds drawn out of the original notice

of appeal and Dr Siddiqui's skeleton argument. The grounds of appeal, which were all refused, are detailed between paragraphs 36 and 92 of the judgment. This circular will only address those that correlate to the salient points below.

Ground 1: The refusal of Dr Siddiqui's application to adjourn (paragraphs 36-44)

Dr Siddiqui submitted that the Panel was unfair to refuse his application on the basis that he needed legal representation to consider the amended charges, and to be able to respond to the late disclosure of additional expert evidence.

In rejecting this ground, Justice Hickinbottom confirmed that the amendments made to the charges were modest, and that Dr Siddiqui was not prejudiced by the disclosure of the GMC's expert evidence. He goes on to state (paragraph 43):

In a model determination, the Panel set out more than adequately its reasons for concluding that [Dr Siddiqui] would not be prejudiced by being required to proceed, and why, in all the circumstances, it was just and appropriate to refuse his adjournment. The decision of the Panel to refuse to adjourn was a legitimate and proper exercise of its own discretion.

Ground 5: The decision to proceed in Dr Siddiqui's absence (paragraphs 57-62)

Dr Siddiqui submitted that the Panel should not have proceeded in his absence following the handing down of the factual determination.

At paragraph 60 Justice Hickinbottom details the submission made to him by the GMC's representative, which he later describes as "overwhelming". In summary they included the following factors:

- i. Dr Siddiqui had been given proper notice of the hearing and had previously been in attendance;
- ii. Following the provision of the factual determination, Dr Siddiqui did not request an adjournment, and did not indicate that he would not attend;
- iii. Dr Siddiqui was not contactable, despite multiple efforts being made;
- iv. The Panel provided Dr Siddiqui with a copy of the impairment determination, and before proceeding to sanction stage provided a short adjournment to allow Dr Siddiqui to attend;
- v. Dr Siddiqui had indicated that he wanted to provide the panel with a testimonial at the impairment and sanction stage, and this was done; and finally,

- vi. The Panel in its determination balanced the interests of Dr Siddiqui and the public interest in the timely conclusion of the hearing.

Salient Points

Adjournments

Reaffirmation of the need to provide clear reasons in relation to adjournments.

The [Record of Determination in the case of Siddiqui](#) (which is available for a short period of time on the MPTS website) shows the Panel's 'model' determination on the adjournment application (see page 10).

Proceeding in the absence

Following the recent circular in relation to the case of [Lawrance](#), this judgment from Justice Hickinbottom goes further to examine the approach to proceeding in the absence.

Again, this case related to specific circumstances in which the doctor was present during a part of the hearing and then voluntarily absented himself. As such, the approach in this case should not be used in all cases where the doctor is not present.

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