



Disciplinary Proceedings for Doctors

A seminar to discuss recent developments

OLD SQUARE
CHAMBERS 

An introduction:

The plethora of recent High Court cases concerned with the operation of MHPS reflects the significance of the interests at stake and highlights the number of pitfalls that have been encountered in the operation of the framework in practice. The potential availability of substantial damages for non-compliance with disciplinary procedures brings into sharp focus the need to understand and anticipate these problem areas.

Old Square Chambers specialises in regulatory and disciplinary work involving doctors and other medical professionals. Members of the regulatory and disciplinary team have appeared in most of the leading cases before the High Court and appeal courts in 2011.

These include *Chesterfield NHS Foundation Trust v Edwards*; *R (Puri) v Bradford Teaching Hospitals NHS Foundation Trust*; *Lim v Royal Wolverhampton Hospitals NHS Trust*; *Hussain v Surrey & Sussex Healthcare NHS Trust* and *Mattu v University Hospitals of Coventry and Warwickshire NHS Trust*. In these cases, the courts have considered a wide range of issues spanning exclusion and the categorisation of complaints under MHPS, the potential applicability of Article 6 to the composition of disciplinary panels and the recoverability of damages for breach of disciplinary procedures.

This seminar aims to provide in depth analysis of these important issues and potential future developments in this field, together with practical guidance on the operation of disciplinary procedures, from the raising of initial concerns through to the disciplinary hearing.

Topics will include:

- The approach to exclusion and restricted practice
- Conduct and/or capability – the problems and pitfalls of categorisation
- The hearing – how different are doctors?
- The status of MHPS – contractual or not?
- Legal remedies: redress before the Courts and Tribunals
- Human Rights Act – does it apply in the disciplinary context?

John Hendy QC

From representing Wendy Savage back in 1986 through to *Mattu (No.2)* [2011], John has specialised in doctors' disciplinary cases. En route he has appeared in cases such as: *Gryf-Lowczoski* [2006] ICR 425; *Kircher* [2006]; *Palmer* [2006]; *Mezey* (No.1) [2007] (CA); *Chaudhary* [2007]; *Chan* [2008]; *Lakshmi* [2008]; *Kulkarni* [2010] (CA); *Mezey (No.2)* –[2010] (CA).

Mark Sutton QC

Mark regularly represents Trusts and doctors in disciplinary proceedings and has extensive advocacy experience before the GMC and other healthcare regulators. Appearances in 2011 include: *Chesterfield NHS Trust v Edwards* [Sup Ct]; *Lim v Royal Wolverhampton NHS Trust*; *Hussain v Surrey & Sussex NHS Trust* and *R (Puri) v Bradford NHS Trust*.

Louise Chudleigh

Louise has a wealth of expertise in matters relating to the employment, dismissal and regulation of medical practitioners and is instructed regularly by both Trusts and doctors. Cases in which she has appeared span from *Kramer* in 1995 to *Kulkarni* more recently in which she successfully obtained the initial injunction.

Giles Powell

Giles is recognised as a leading junior in professional discipline and regulatory law. He has extensive experience of disciplinary matters in respect of doctors. He has been instructed in all four of the recent leading High Court doctors' disciplinary cases: *Puri*, *Lim*, *Hussain* and *Mattu*.

Deshpal Panesar

Deshpal's cases include being led by John Hendy in *Lakshmi v Mid Cheshire Hospitals NHS Trust* [2008] IRLR 956, *Hattotuwa v Northamptonshire NHS Trust* and *Kashyap v GMC*. In addition Harding v Berkshire NHS Trust against Louise Chudleigh in the High Court, and *Hussein v Trafford Healthcare NHS Trust* against Antony White QC.

Ben Cooper

Ben acts for NHS Trusts and healthcare professionals in employment and disciplinary matters in employment tribunals, appeals, internal proceedings and before regulatory bodies. Appearances in 2011 have included *Bowater v NW London Hospitals NHS Trust* (CA) and *Hussain v Surrey & Sussex Healthcare NHS Trust* (led by Mark Sutton QC).

Marcus Pilgerstorfer

Marcus has represented both doctors and NHS Trusts in connection with disciplinary and regulatory matters. Recent cases include: *Chesterfield NHS Trust v Edwards* (Sup Ct), *Aftab v North Lincolnshire & Goole NHS* (Admin), and *Mattu v University Hospitals of Coventry and Warwickshire NHS Trust* (QBD).

Jonathan Davies

Since commencing practice, Jonathan has been instructed in internal disciplinary hearings and injunction applications before the High Court. He has appeared as junior counsel in leading cases in this area, including, most recently, *Kulkarni v Milton Keynes Hospital NHS Trust* [2009] CA and *Mezey v S.W.London & St. George's etc Trust* [2010] CA.

Betsan Criddle

Betsan's disciplinary and regulatory practice encompasses both advisory work and advocacy. She appeared before the High Court in *Lim v Royal Wolverhampton Hospitals NHS Trust* earlier this year, led by Mark Sutton QC. She also advises on complex internal disciplinary proceedings involving conduct and capability issues, both for Trusts and doctors.

Nicola Newbegin

Nicola was junior counsel for the doctor in *R (Puri) v Bradford NHS Trust*, *Hussain v Surrey & Sussex NHS Trust* and *Mattu v Coventry and Warwickshire NHS Trust* and for the trust in *Lim v Royal Wolverhampton NHS Trust*. She advises trusts and doctors bringing and facing disciplinary proceedings.

Wednesday 7th December 2011

**The British Library, St Pancras, 96 Euston Road, NW1 2DB
17.00 - 19.00**

1.5 CPD

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