



## professional regulatory news

**Sulaiman v General Medical Council [2011] All ER (D) 37 (Aug)**

The appellant was employed by an NHS Trust (the trust) as a consultant in orthopaedics and trauma at a hospital. Concerns were expressed about his clinical performance and as a result a rapid response review was carried by the Royal College of Surgeons and the British Orthopaedic Association (BOA). The review suggested that the appellant should reduce his workload within the guidelines of the BOA, that there should be a reduction in the general level of his orthopaedic practice, and that there should be a rationalisation of the breadth of his work. The appellant continued to carry out a broad range of procedures. He was suspended by the trust following concerns raised as to his performance and his employment was subsequently terminated. As a result of concerns brought to the attention of the respondent General Medical Council (GMC) and the trust the appellant was invited to undergo a GMC assessment of his professional performance. The appellant agreed.

The assessment comprised tests of competence and peer review. In its report the assessment team concluded that the appellant's performance was unacceptable on five areas of good medical practice, cause for concern in three and that he presented an overall cause for concern in tests of competence. As a result of the conclusions of the assessment team, the GMC invited the appellant to agree undertakings. He declined to do so. His case was, therefore, referred to a fitness to practice hearing. The General Medical Council's fitness to practice panel (the panel) concluded that the appellant's fitness to practice was impaired and that, as a result, his registration should be subject to conditions for a period of 12 months. The appellant appealed pursuant to s 40 of the Medical Act 1983 (the 1983 Act).

He contended that the inadequacies of the assessment procedure were such that it failed to deliver a fair assessment of his ability to work as a consultant orthopaedic surgeon. The GMC submitted that the panel were fully entitled to find that the appellant's fitness to practice was impaired for the reasons it gave.

The appeal would be dismissed.

In the circumstances of the instant case, there was no good evidential basis upon which a conclusion that the assessment procedure was flawed could be founded. The criticisms made by or on behalf of the appellant were given voice at the hearing and account was taken of them by the panel. The panel had been afforded every opportunity to assess the appellant by means of his written and oral evidence. There were no grounds for finding that the factual determination made by the panel was flawed (see [56] of the judgment).

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<b>London</b> Watchmaker Court 33 St John's Lane London EC1M 4DB	<b>Southampton</b> New Kings Court Tollgate Chandler's Ford Eastleigh SO53 3LG	<b>Oxford</b> Seacourt Tower West Way Oxford OX2 0FB	<b>Portsmouth</b> Harbour Court Compass Road North Harbour Portsmouth PO6 4ST
Tel: 020 7405 2000 DX: 53323 Clerkenwell	Tel: 023 8090 8090 DX: 155850 Eastleigh 7	Tel: 01865 248607 DX: 723000 Oxford 5	Tel: 023 9222 1122 DX: 124490 Portsmouth 9

