

Please contact: Lauren Wallis (01634 332011)

Your ref:

Our ref: Petition 14/2014

Date: 21 May 2014

Mr P Jackson

Democratic Services  
Gun Wharf  
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Chatham  
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Email: lauren.wallis@medway.gov.uk

Dear Mr Jackson

**Petition: GP Practice, Dr Elapatha, Rochester**

I am writing with regard to your petition, which was presented by Councillor Mackness at the Council meeting held on 24 April 2014.

You will be aware the subject of the petition is a matter over which the Council has no direct control, and therefore I wrote to the Interim Director of NHS England (Kent & Medway Area Team) asking him to respond. His response is enclosed.

I have also sent a copy to Councillor Mackness, the Chairman, Vice Chairman and Opposition Spokespersons of the Health and Adult Social Care Overview and Scrutiny Committee and the Ward Councillors for Rochester East. I have advised that whilst there is no right for you, as lead petitioner, to request referral of the matter to the Committee under the Council's Petition Scheme it is possible you will ask that the matter is considered by the Committee at its next meeting on 24<sup>th</sup> June. This would be subject to agreement by Councillors. Please let me know if that is your wish by 5pm on Tuesday 27<sup>th</sup> May 2014.

In reaching a view on this you need to appreciate that it would not be appropriate for the Committee to discuss or seek to influence decisions relating to circumstances of a particular GP. The Committee has the power to scrutinise matters relating to the planning, provision and operation of the health service in Medway, and as such, could ask NHS England to attend to provide an update on planned provision for patients currently receiving GP services from The Delce Medical Centre and to answer questions from the Committee.

If there is anything further I can do to help please do not hesitate to contact me.

Yours sincerely

**Lauren Wallis**  
Democratic Services Officer



Your Ref: Petition 14/2014  
Our Ref: SB/EHJ/14/5/2014/Delce

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15<sup>th</sup> May 2014

Dear Ms Wallis,

**Petition: Dr Elapatha, the Delce Medical Centre, Rochester**

Thank you for your letter of 30 April 2014 and associated paperwork, regarding Dr Elapatha and the Delce Medical Centre in Rochester.  
You asked if I could provide a response to the petition presented to Medway Council by Councillor Andrew Mackness in regards to this issue.

I can confirm the following.

Dr Elapatha's registration on the GMC register was suspended by the Interim Orders Panel of the Medical Practitioners Tribunal Service (MPTS) on 24 March 2014.

The MPTS is the official body responsible for making independent decisions about a doctor's fitness to practice, measured against the professional standards set by the General Medical Council (GMC). The GMC has the statutory responsibility for registering and regulating doctors in England.

Both the MPTS and GMC are independent of NHS England.

Interim Orders Panels consider whether a doctor's registration should be restricted, either by suspension or by imposing conditions on their registration, while questions about the doctor's fitness to practice are resolved. This ensures that the GMC can take action to protect patients while it carries out enquiries into the doctor's fitness to practice.

You may wish to note that the interim suspension made by the MPTS replaces conditions on Dr Elapatha's practice that were imposed by the MPTS in December 2013. Before this the MPTS had imposed other conditions on Dr Elapatha's registration. These can be viewed on the GMC website. A copy of the most recent conditions applied by the MPTS prior to Dr Elapatha's suspension are attached for your information.

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Prior to, but independently of the interim suspension, the First Tier Tribunal of the Ministry of Justice had also made a ruling in November 2013 placing certain conditions on Dr Elapatha's practice as a GP. The schedule of conditions that the First Tier Tribunal imposed, and which is publicly available, is attached.

Confirming his ruling, the tribunal judge confirmed that:

*"Parliament has expressly required us to take account of a failure to comply with a request for an assessment in determining the issue of prejudice to the efficiency of the services. It is not difficult to see why.*

*When a PCT has concerns, or is unable to resolve concerns, the most efficient way of remedying that may be by referral for assessment by a body whose specific practitioners by such means. Equally, without an assessment a PCT may find itself in the position claimed by Medway PCT, namely that it cannot obtain the necessary reassurance that the practitioner's skills and practice are at an acceptable standard across the range of managerial as well as clinical skills, or if not, that a process has been identified to remedy any shortcomings. We find that that is what has happened in this case".*

He added:

*"In our judgement, and having regard to the evidence we have read and heard, it is important that a proper assessment does take place and any recommendations for action arising from that should be implemented in a timely and effective way."*

In concluding remarks, the judge confirmed:

*"We find that Dr Elapatha's continued inclusion in the performers list would be prejudicial to the efficiency of the services which those included in that performers list perform unless conditions are imposed and that it is therefore appropriate for the purpose of preventing any prejudice to the efficiency of the services which those included in a performers list perform."*

The separate decision made by the MPTS at the end of March 2014 to suspend Dr Elapatha from the GMC's register of doctors on an interim basis means he is not able to treat patients at the present time, while the GMC review of his practice is ongoing.

No findings have yet been made by the GMC about this.

NHS England has a duty of confidentiality to Dr Elapatha in regards to the detail of these professional issues that relate to him as an individual GP. These issues need to be resolved between Dr Elapatha and the GMC, which is continuing to review Dr Elapatha's professional practice. We are therefore only able to provide information that is in the public domain, as outlined in this letter.

Notwithstanding the above, and in the interests of openness and transparency, the Area Team would be willing to make available to you copies of all correspondence between NHS England and Dr Elapatha so that you can independently assess the background to this matter. We would also be willing to make these available to the Patient Participation Group at Delce Medical Centre and those local MPs who Dr Elapatha has contacted about this matter. Since this would require Dr Elapatha's express agreement, we would be grateful if you could advise whether you would like us to approach Dr Elapatha and seek his agreement to this suggested course of action.

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NHS England holds a contract with Dr Elapatha to deliver services to the patients registered with the practice. Whilst Dr Elapatha is suspended from the GMC register of doctors he is not able to treat patients. However, he is still responsible contractually to ensure services are delivered to his patients in line with the requirements of the contract he holds with NHS England. In these circumstances, Dr Elapatha is required to put in place alternative arrangements to ensure patients can continue to access clinical services at his surgery, for example by employing locum GPs to deliver this care to his patients.

NHS England has therefore sought certain assurances from Dr Elapatha that he has the necessary arrangements in place through which to deliver services to his patient list in accordance with the terms of the General Medical Services (GMS) contract he holds, while also abiding by the requirements set out by the Interim Orders Panel (i.e. by not directly delivering clinical care himself).

NHS England is sorry to hear that some patients are concerned about Dr Elapatha's current suspension. As the current commissioners of care from Dr Elapatha's surgery, we have been working to ensure that patients registered at his practice can continue to access care and treatment from other GPs while he is unable to treat them. This remains our priority.

I hope this information is useful to yourself and the petitioners in addressing the concerns that they have raised. We will await confirmation from you as to whether representation from NHS England is required at any future Health Overview and Scrutiny Committee.

Yours sincerely

Elliot Howard-Jones  
Interim Director