

## High Court injunction to force NHS Trust to hold a fair hearing for dismissed surgeon

A consultant surgeon dismissed by his employing NHS Trust will take his battle to the High Court on Monday, 10 August, in a bid to force the Trust to hold a full investigation and hearing into allegations against him.

The Medical Protection Society (MPS) - which provides doctors in the UK with advice, assistance and representation for legal and ethical issues - is representing consultant surgeon Mr Gideon Lauffer in his High Court bid. The crux of the case is whether an NHS hospital has the power to dismiss a doctor without following its own internal and contractual procedures. MPS says that the case has wider implications for all doctors.

Mr Lauffer was dismissed by his employer, Barking, Havering and Redbridge University NHS Trust, on 25 June 2009 over alleged concerns about his capability and conduct as a surgeon.

Mr Lauffer says his dismissal breached contractual disciplinary procedures and was contrary to human rights legislation. Mr Lauffer is seeking an interim injunction to force his employer to carry out a proper investigation and hearing into the allegations.

NHS Trusts must follow the procedures set out in Maintaining High Professional Standards in the Modern NHS (MHPS) - which are incorporated into all hospital doctors' contracts. MHPS require hospitals to hold an investigation, consider informal resolution and - where capability is an issue - retraining. Only if these options fail should the Trust proceed to a full hearing and consider dismissing the doctor.

In Addition; Dr Priya Singh, MPS Medical Director, said:

"This case raises fundamental points of principle for the medical profession. It is in the interests of all doctors and the wider public that NHS Trusts follow proper and fair procedures before considering dismissing medical staff."

"There are important procedural safeguards in place to ensure that NHS Trusts follow a proper and fair process when considering conduct or capability concerns about doctors. Significant public funds are put into training doctors. Losing highly qualified medical staff without exploring all options, particularly in the current economic climate, is not acceptable."

Mr Lauffer's High Court application follows on from a Court of Appeal judgment in July 2009 in a case also brought by MPS on behalf of one of its members - Kulkarni V Milton Keynes Hospital NHS Foundation Trust 2009. In that case the Court of Appeal confirmed doctors' rights to a fair hearing to comply with human rights legislation.

Dr Singh added:

"MPS will continue to challenge any unacceptable decision that would flout a doctor's entitlement to a fair hearing."

### About the Author

For further information on [Dr Priya Singh](#) and her work at the MPS - please see her online blog by clicking [here!](#)

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