

Applicant

AH

Respondent

Secretary for Justice

Date of Decision:

20 February 2015

DECISION

INTRODUCTION

1. In a decision dated 20 November 2014, The Secretary for Justice (“the Secretary”) cancelled the Applicant’s approvals as a legal aid provider in Criminal 1, 2 and 3, Duty solicitor, FLAS, Family Law and PDLA with effect from 28 November 2014 and to bar him from applying for approval for a period of 12 months from that date
2. The Secretary’s decision arose from a recommendation of the Performance Review Committee which had met to consider the applicant’s failure to comply with repeated requests for audit files and from two recent complaints that the applicant had failed to appear in Court when rostered to do so as a duty lawyer.
3. The recommendation was that The Secretary exercise the powers given under section 102 of the Legal Services Act 2011 to cancel the applicant’s approvals and bar him from applying for re-approval for 12 months.
4. The Applicant’s Application for Review was received on 18 December 2014. He stated his ground for review as:
 - a. The Secretary erred in fact and law as to the obligation to provide audit files;
 - b. The Secretary erred in failing to consider mitigating circumstances;
 - c. The Secretary erred in taking into account ex-parte information provided after the PRC meeting; and

- d. The Secretary otherwise erred in fact and law.
5. The Applicant has not presented any particulars of fact or law to support his stated grounds for Review. He has received requests to do so but has failed to respond.
 6. The Secretary has nevertheless responded to the grounds for review as follows:
 - a. The legislative requirements were met. Ss 91 and 92 of the Act relate to the audit of files and the requirement of a provider to co-operate with the auditor. The Applicant did not comply and the Secretary referred the matter to the Performance Review Committee pursuant to s79 of the Act.
 - b. 'Notwithstanding the explanation given by the Applicant, the conclusion was that the conduct of the Applicant amounted to a woeful failure to comply with his obligations to provide files for audit.
 - c. In so far as it is said that the Secretary erred in taking into account ex-parte information, the Secretary infers that the Applicant may be referring to the cancellation of all his approvals. His response to that proposition is that he relied on the sanctions available under s102 of the Act of which the Applicant had notice.
 7. Given that the Applicant has provided no substantial particulars in support of his application, the Review Authority must confirm the decision of the Secretary. It does so.

BJ Kendall
Review Authority