

File No CN

IN THE MATTER of the Dental Act 1988

AND

IN THE MATTER of a complaint by **Christine Scott** against **Neville Gibson** of Auckland, Dentist.

TRIBUNAL
Dr P A C Coote (Chair)
Dr C Lloyd
Dr W Ross
Ms M Avia

LEGAL ASSESSOR Mr J Upton QC

TRIBUNALS OFFICER Mrs S D' Ath

COUNSEL
Mr M McClelland and Mr H Wilson for Complaints
Assessment Committee
Mr P Kennelly for Dr Gibson

**DATE OF
SUBSTANTIVE
DECISION** 8 August 2004

**DATE OF HEARING ON
PENALTY** 30 November 2004

**DATE OF DECISION
ON PENALTY** 30th November 2004

PENALTY

The Tribunal has found that Dr Gibson's failure to inform Mrs Scott about the file fracture, and his failure to discuss the consequences and treatment options relating to this event, were failures that were or could have been detrimental to Mrs Scott's welfare.

In respect of these charges the Tribunal orders the following:

- Under s 55 1(d) of the Dental Act 1988, Dr Gibson is ordered to pay a fine of \$2,500.00.
- Under s55 1(e) of the Act the Dr Gibson is censured.

In reaching its decision on penalty the Tribunal considered:

- This is Dr Gibson's third adverse finding before the Tribunal
- The public is entitled to be informed of all aspects of treatment being undertaken including setbacks
- Although the Tribunal found that Dr Gibson's conduct required sanction, it was not serious enough to require a heavier penalty

COSTS

The Tribunal orders that Dr Gibson pay 80% of the costs associated with the hearing of this matter. The Tribunal determined that the costs attributable to this hearing and all incidentals of the Disciplinary Tribunal process were one fifth of the total hearing costs (as determined by the Dental Council) of this matter as well as two other complaints heard at the same time.

In reaching this decision on costs, the Tribunal considered that it was important to take into account the actions of Dr Gibson:

- That Dr Gibson made repeated late and unsuccessful applications for adjournments of the proceedings.
- That Dr Gibson twice sought judicial review of the Tribunal by the High Court. Both applications were unsuccessful and led to further delays.
- Dr Gibson has repeatedly ignored the Tribunal's directions and time limits for the filing of evidence on several occasions both before and during the substantive hearing.
- The Tribunal accepts the CAC's submission that Dr Gibson's conduct in this matter has significantly increased the time and expense involved in bringing this case to a conclusion and that it demonstrates a serious disregard and disrespect for the Tribunal and its processes.

Further, it is reasonable to expect that Dr Gibson contribute significantly to mitigate the financial burden that this hearing has placed on the profession.

NAME SUPPRESSION

The Tribunal makes no order to suppress Dr Gibson's name. Name suppression was not sought

APPEAL

Attached to and forming part of this order is the sheet headed "Notes" which states the practitioner's right to appeal against the orders made and the times within which notice of such appeal must be given.

Philip Coote

Chairperson of the Dentists Disciplinary Tribunal