

Case 200503615: A GP, Greater Glasgow and Clyde NHS Board

Summary of Investigation

Category

Health: General Practitioner

Overview

The complainant, Mr C, raised a number of concerns about his General Practitioner (GP 1) following a consultation in August 2005.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) GP 1 behaved unprofessionally towards Mr C during the consultation (*upheld*);
- (b) GP 1 unfairly removed Mr C from the medical practice (the Practice)'s patient list (*upheld*); and
- (c) GP 1's response to a complaint from Mr C's daughter was unsatisfactory (*upheld*).

Redress and recommendations

The Ombudsman recommends that:

- (i) GP 1 should make a full formal written apology to Mr C for failing to deal with him in a professional manner and for the distress caused to Mr C and his family in pursuing this matter;
- (ii) GP 1 should consult with the Director of General Practice Postgraduate Education (or his deputy) to discuss, identify and participate in training and developmental initiatives designed to improve his consultation and communication skills;
- (iii) GP 1 should make a full formal written apology to Mr C for removing him unfairly from the Practice patient list;
- (iv) the Practice should reflect on this case and reconsider their policy for removing patients. This revised policy should be open to the patient population and advertised in a revised 'Practice Information' leaflet;
- (v) the Practice should revise their 'Practice Complaints Procedure' to ensure that patients are made aware that they can ask for their complaint, and the

response, to be handled by someone other than the person complained about; and

- (vi) the Practice should communicate the revised complaints procedure in a revised 'Practice Information' leaflet.

Main Investigation Report

Introduction

1. Mr C suffered a heart attack in January 2005, which led to him receiving a quadruple bypass. Over the period of his convalescence he became aware of a link between heart disease and working with lead, in men of his age. Wishing to return to his hobby of working with stained glass, which involves using lead, he made an appointment to discuss the matter with GP 1 in August 2005. He asked GP 1 to organise a benchmark blood test and enquired about the possibility of subsequent blood tests to monitor the levels of lead in his blood.

2. Mr C said that 'with a raised voice and reprimanding tone' GP 1 informed him that these blood tests could not be performed under the NHS and he would have to see an Occupational Health Physician if he wanted the tests completed. Mr C pointed out that he would be working with lead as a hobby, as opposed to an occupation, and enquired if this made a difference, however, he said that GP 1 became angrier with him to the point where Mr C said that there was no point in continuing with the consultation. He said that GP 1 told him 'to go elsewhere if he didn't like the service'. Mr C said that following this incident he was unfairly removed from the medical practice (the Practice)'s patient list. Mr C's daughter wrote to the Practice on 20 October 2005 to complain about the way in which her father had been treated, however, Mr C remained unhappy with the response from GP 1 and asked the Ombudsman to investigate the matter.

3. The complaints from Mr C which I have investigated are that:
- (a) GP 1 behaved unprofessionally towards Mr C during the consultation;
 - (b) GP 1 unfairly removed Mr C from the Practice's patient list; and
 - (c) GP 1's response to a complaint from Mr C's daughter was unsatisfactory.

Investigation

4. I reviewed all relevant correspondence and documents, including Mr C's medical records, complaints correspondence, guidelines on good medical practice provided by the General Medical Council (GMC) and guidelines on the removal of patients from GPs' lists provided by The Royal College of General Practitioners (RCGP). Written enquiries were made of the Practice and the Board. I also obtained advice from the Ombudsman's medical adviser (the Adviser).

5. In line with the practice of the Ombudsman's office, the standard by which the events were judged was whether they were reasonable, in the circumstances, at the time in question. By reasonable, I mean whether the decisions and actions taken were within the boundaries of what would be considered to be acceptable practice by the medical profession in terms of knowledge and practice at the time.

6. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the GP were given an opportunity to comment on a draft of this report.

(a) GP 1 behaved unprofessionally towards Mr C during the consultation

7. In correspondence, Mr C told me that when he requested a blood test to determine the levels of lead present, GP 1 raised his voice, adopted a reprimanding tone and stated the tests could not be performed on the NHS. Mr C queried this, informing GP 1 that he wished to work with lead as part of a leisure pursuit and not as a paid job and wondered if, in these circumstances, the tests may be performed under the NHS. Mr C said that GP 1 became more irate and, when he asked him why he was raising his voice, GP 1 responded saying Mr C 'had too much to say'.

8. Mr C stated that in these circumstances he suggested to GP 1 that there was no point in continuing with the appointment, to which he stated GP 1 responded that he 'should go elsewhere' if he did not like the service.

9. Mr C then decided to 'wait silently and peacefully in the surgery' until he was provided with an explanation for GP 1's attitude. He told me that the police were called and he was asked to leave the surgery. Mr C said that at no point was he violent, abusive or aggressive to either GP 1 or the police. The police subsequently confirmed that Mr C's actions were not perceived by them to be threatening or violent in any way (see paragraph 39). Mr C has provided correspondence which confirms no charges were brought and Mr C received a formal apology from the police in relation to the way in which they had dealt with the incident.

10. In his response to the complaint, GP 1 said, 'I wish to refute categorically Mr C's assertion that my behaviour was unprofessional. I believe that my behaviour throughout was entirely professional'.

11. GP 1 confirmed that, during the consultation, Mr C requested a blood test to identify the levels of lead present and was advised that this was not part of General Medical Services. Mr C was further advised that he would have to arrange for an Occupational Health Physician to complete these tests. He said that despite this information Mr C continued to argue that the tests should be done by the Practice.

12. GP 1 advised Mr C that the Practice would not undertake the requested tests and that if this was the only reason for the appointment, the consultation should end. He said that Mr C was verbally abusive towards him and about the service provided by the Practice. He said that he advised Mr C that if he felt that way he should consider registering with another practice.

13. GP 1 said that Mr C had to be persuaded to leave the consulting room. Mr C then remained in the waiting room for some time. GP 1 said that Mr C then told him that he was lucky that their consultation had been 'in here', referring to the privacy of the consultation room. GP 1 perceived this to be a threat and advised Mr C to leave the premises or the police would be called. Mr C refused to leave and the police subsequently removed him from the premises.

14. Mr C's medical records include the following consultation notes:
'Advised negative checks for lead not available on Occupational Health Service, then began to argue that this was the same as for smokers. Advised that as I had a big surgery I wasn't prepared to discuss further. Then became argumentative and verbally abusive and aggressive. Asked to leave several times. Refused to leave, wants to be given the address for complaints at The Health Board. Advised police would be asked to attend. Said he would wait for the police. Police arrived and patient was eventually arrested.'

15. Greater Glasgow Health Board (Practitioner Services) subsequently referred Mr C to the 'Challenging Behaviour Clinic' (a clinic for patients with behaviour which, in the way it presents to staff, may be threatening, or may lead to actual assault) as a result of being removed from the Practice patient list for behaviour deemed to have been threatening.

16. Following the referral to the 'Challenging Behaviour Clinic', the Consultant Clinical Psychologist noted that 'Mr C asks many questions and is keen to

receive information; this could be seen as challenging'. However, the Consultant Clinical Psychologist went on to say that 'I do not consider that he constitutes a risk to medical practitioners.'

17. The Adviser told me that GP 1 should have provided a more detailed explanation to Mr C about the value, or otherwise, of having blood tests to determine the levels of lead present. If GP 1 felt the tests were appropriate, he should have explained to Mr C how he should go about getting the tests done and, if he felt that the test was inappropriate, he should have explained the reasons why. The Adviser also told me that, if GP 1 was unsure of the value of these tests, he should have explained this to Mr C and committed to finding out whether the requested tests were necessary, how to obtain them and how to interpret the results.

(a) Conclusion

18. The key event which led to this complaint was the conversation between GP 1 and Mr C during the consultation. Each side has given an account of the conversation which is contradictory to the other. Mr C contended that GP 1's manner was unprofessional while GP 1 considered that he had acted professionally, provided Mr C with appropriate advice and that Mr C had threatened him. As there is no independent corroboration, what was or was not said cannot be proved. However, I have had regard to GP 1's account of the consultation as recorded in the medical notes.

19. The medical notes do not reflect that Mr C was provided with the information he needed in relation to pursuing his hobby, in a way that he could understand. Rather, they suggest that because GP 1 'had a big surgery' he was not prepared to discuss the matter further.

20. The GMC provides guidance on 'Good Medical Practice'. Doctors must listen to patients and respond to their concerns and preferences; give patients the information they want or need in a way they can understand; and respect patients' rights to reach decisions (with the doctor) about their treatment and care. I have seen no evidence that GP 1 provided Mr C with the appropriate information, in an understandable way, to allow him to make appropriate choices. I also note that GP 1 said that he told Mr C he would have to go to an Occupational Health Physician for the blood test (see paragraph 11), whereas his consultation notes (see paragraph 14) state 'advised negative checks for lead not available on Occupational Health Service'.

21. In providing care, doctors should encourage patients to take an interest in their health and to take action to improve and maintain it. This may include advising patients on the effects of their life choices on their health and well-being. Again, I consider that in seeking information to allow him to make a decision about participating in his hobby, Mr C was not advised of the effects his hobby may or may not have on his health.

22. Successful communication is vital in the doctor/patient relationship. The GMC publication 'Good Medical Practice' also provides guidance on effective communication with patients. Doctors must listen to patients; ask for and respect their views about their health; and respond to their concerns and preferences in a way they can understand. They must provide the information patients want or need to know about their condition, its likely progression and the treatment options available to them, including associated risks and uncertainties. They must also respond to patients' questions, keeping them informed about the progress of their care. The evidence I have seen does not indicate that GP 1 responded appropriately to Mr C's enquiries. This, together with the record of the consultation in Mr C's medical notes, leads me to conclude that GP 1 did not communicate with Mr C in an effective manner.

23. The advice I received from the Adviser, who read Mr C's medical records, is that Mr C is an individual who was known to be concerned about his health. GP 1 was aware of this and should have responded to Mr C's questions about blood lead levels in a more appropriate manner.

24. It would be inappropriate for me to offer any view on GP 1's professional behaviour in relation to his fitness to practice. The question I have asked myself is whether GP 1's manner and attitude was in keeping with someone in his position as a provider of public services. Taking account of all the evidence and the advice I have received, on balance, I conclude that GP 1 behaved unprofessionally during the consultation, in that he did not follow the GMC guidance as set out in paragraphs 20 to 22. I, therefore, uphold this complaint.

(a) *Recommendation*

25. The Ombudsman makes the following recommendations:

- (i) GP 1 should make a full formal written apology to Mr C for failing to deal with him in a professional manner and for the distress caused to Mr C and his family in pursuing this matter; and

- (i) GP 1 should consult with the Director of General Practice Postgraduate Education (or his deputy) to discuss, identify and participate in training and developmental initiatives designed to improve his consultation and communication skills.

(b) GP 1 unfairly removed Mr C from the Practice's patient list

26. In considering this complaint, I examined the 'Practice Information' leaflet and found that it offers no advice or guidance on the Practice's patient removal policy or the circumstances which may lead to its implementation.

27. I also examined Mr C's medical records and confirmed that, on 4 August 2005 (the day of the appointment), GP 1 sent a letter by fax to Greater Glasgow Health Board to request that Mr C be removed from his patient list. In this correspondence, GP 1 explained that 'today it was necessary to ask the police to remove this man from my surgery'.

28. I mentioned in paragraph 14 that GP 1 recorded in the medical notes that Mr C 'became argumentative and verbally abusive and aggressive', however, he did not record specifically what was alleged to have been said by Mr C which led him to assess his behaviour as abusive or aggressive.

29. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004, Schedule 5, Part 2, Section 21 (the regulations) state the procedure to be followed when a GP Practice wishes to remove a patient, who is considered to be violent, from their list of patients. Given that GP 1 had perceived Mr C's behaviour as threatening (see paragraph 13), this action complied with the procedure to be followed as required by the regulations.

30. I also considered The RCGP guidance in relation to the removal of patients from GP's lists. This notes that the removal of a patient from a practice list can be an extremely upsetting experience for all concerned. It also notes that the failure of a therapeutic relationship may afford the chance of patient care being continued within the same practice setting, 'even if the relationship with a single individual has failed'. Where, however, a patient's continued registration within a practice may be detrimental to the primary healthcare team as a whole, 'GPs retain the right to remove a patient from the Practice list'.

31. In considering the RCGP guidance I found examples of situations that 'may' justify the removal of a patient from a GP Practice list. These included 'any type of verbal or physical abuse, including threats or gestures'. However, I also noted that situations that do not normally justify the removal from a GP Practice list include, for example, where a patient occasionally or persistently questions clinical techniques; or where the patient exhibits high levels of anxiety or 'demand' about perceived serious problems. Bearing this in mind, I was mindful of the Consultant Clinical Psychologist's assessment that, while Mr C's questioning could be seen as challenging, she did not 'consider that he constitutes a risk to medical practitioners' (see paragraph 16).

32. The RCGP notes that the potential for misunderstanding is at its greatest in circumstances where it appears that there has been irretrievable breakdown in the patient doctor relationship. Therefore, 'it is important not to lose sight of the problem and to remember that the circumstances surrounding the apparent breakdown may be perceived differently by the patient and the doctor'. The RCGP, therefore, suggests a process that could be adopted or adapted by practices in order to attempt to restore the relationship.

33. This process includes:

- informing all appropriate members of the practice about the problem;
- discussing carefully and confidentially the possible reasons for the patient's behaviour;
- considering whether any aspect of the running of the practice is contributing to the problem (eg, an over-stressed GP);
- considering solutions or procedures that may help;
- informing the patient that there is a problem;
- explaining to the patient the nature of the problem. 'The use of an appropriately skilled member of the practice to facilitate communication and understanding is likely to be helpful to all parties and may lead to conciliation';
- trying to elicit the patient's perspective and interpretation of the situation. (A previously unsuspected medical problem might be uncovered); and
- being prepared to negotiate with the patient over specific problems.

(b) Conclusion

34. Abuse or violence towards medical staff is not acceptable and should not be tolerated. To address unacceptable behaviour by patients, the NHS Scotland Zero Tolerance Campaign was introduced in 2003. It is important,

however, that staff and service users are aware of what constitutes 'violent' behaviour and, to clarify this issue, the Zero Tolerance Campaign Resource Pack refers to The Managing Health at Work Partnership Information Network Guidelines, which state:

'Violence is not restricted to acts of aggression, which result in physical harm. It also includes behaviours such as gestures or language that may cause staff to feel afraid, threatened or abused.'

35. I consider that it is also important to recognise that individuals may view incidents differently. What makes one person afraid or uncomfortable may be perfectly acceptable to someone else. It is necessary, therefore, for me to take GP 1's personal perspective into account when considering whether or not he acted fairly in removing Mr C from the Practice's patient list.

36. However, I consider that a period of reflection may have produced a different outcome. Sending the fax to remove Mr C from the Practice list on the same day as the incident suggests that little time was taken to review and evaluate the events or to assess the impact of such a decision on Mr C's wellbeing. It does not appear that consideration was given to whether or not there were other options available to the Practice, for example, those suggested by the RCGP and documented in paragraph 33.

37. Mr C's medical records indicate 'no previous anger problems and no aggressive behaviour during consultations'. Subsequent assessments by another doctor (Doctor 2) and the Clinical Psychologist at the Challenging Behaviour Rehabilitation Clinic both concluded that Mr C did not constitute a risk to Health Care staff.

38. I have seen no evidence to suggest that Mr C's continued registration within the Practice would have been detrimental to the Practice team as a whole (see paragraph 30), therefore, an alternative approach may have been to consider if it was appropriate for Mr C in future to see another doctor in the Practice (the Practice has three partners) or, indeed, simply to warn Mr C that his actions meant that he was at risk of removal and explain the reasons for this to him.

39. I have acknowledged the need to take account of GP 1's perspective in relation to this matter (see paragraph 35) and, perhaps had Mr C left the surgery at the conclusion of the consultation, matters may not have escalated,

however, in considering the evidence, it is clear to me that the doctor/patient relationship between GP 1 and Mr C had indeed broken down. I am aware also, however, that although the police attended the surgery as requested by the Practice, the police later confirmed that in no way were Mr C's actions seen by them as threatening or violent.

40. While the doctor/patient relationship between GP 1 and Mr C had broken down, I consider that the Practice should have considered alternatives to the final sanction of removing Mr C from the Practice list, for example, the process recommended by the RCGP (see paragraph 33). On that basis, I am inclined to agree that GP 1 acted unfairly in removing Mr C from the Practice patient list and I, therefore, uphold this complaint.

(b) Recommendation

41. The Ombudsman makes the following recommendations:

- (i) GP 1 should make a full formal written apology to Mr C for removing him unfairly from the Practice patient list; and
- (ii) the Practice should reflect on this case and reconsider its policy for removing patients. This revised policy should be open to the patient population and advertised in a revised 'Practice Information' leaflet.

(c) GP 1's response to a complaint from Mr C's daughter was unsatisfactory

42. The Practice's complaints procedure explained how to complain, how a complaint would be dealt with and what options were available if the complainant was not happy with the response.

43. Complaints about Practice staff are dealt with by the Practice Manager, while complaints against a doctor are dealt with by GP 1. However, the complaints procedure does not stipulate an alternative approach to dealing with complaints where the complaint is about the Practice Manager or GP 1.

44. On 6 October 2005 Mr C wrote to the Practice Manager to complain about the 'inappropriate and unprofessional behaviour and attitude of [GP 1]' and his 'unnecessary removal from the patient register'.

45. A response to Mr C's complaint was sent by GP 1 on 18 October 2005. In it, he stated that he believed his behaviour was entirely professional in his dealings with Mr C. He also stated that he had provided the appropriate advice

in relation to monitoring blood lead levels and what Mr C should do if he was unhappy with the service. Finally, he explained that, as he considered that Mr C had verbally threatened him, he deemed it unsafe to continue to provide General Medical Services to him. He, therefore, requested that Mr C be removed as a patient on the Practice list.

46. I was concerned to read in GP 1's response to Mr C's complaint, which was copied to Mr C's daughter, that he considered Mr C, who was a 58-year-old man who six months earlier had undergone a quadruple bypass, to be 'by no means a frail person. He is a chap of probably above average height and weight and by no means incapable of violence'. I could find no basis for this statement and do not understand the suggested correlation between Mr C's physical build and his propensity to violence; indeed I have previously reported that Mr C's medical records indicated 'no previous anger problems and no aggressive behaviour during consultations'.

47. GP 1's response to Mr C's complaint led to a further letter of complaint from Mr C's daughter being sent to the Practice Manager on 20 October 2005. She complained about GP 1's manner and actions in dealing with her father and the impact this had on the family. She requested a full investigation into her concerns and a response in accordance with the NHS complaints procedure.

48. On 27 October 2005 GP 1 issued a short response to Mr C's daughter, enclosing a copy of his previous response to Mr C's complaint (see paragraphs 45 and 46). He pointed out that Mr C's removal from the Practice list was the result of threats made by Mr C and concluded in stating 'this Practice has always had a zero tolerance attitude towards those who are rude, aggressive, abusive or threatening to any member of the Practice team'.

49. My examination of the medical records failed to confirm that a mandate was held from Mr C allowing GP 1 to disclose information about him to a third party.

(c) Conclusion

50. Patients have a right to expect that information about them will be held in confidence by their doctors. In this particular instance, GP 1 should have requested Mr C's authority to provide information about his complaint to his daughter before a response was issued.

51. I was also not convinced that the complaint from Mr C's daughter to the Practice Manager had been thoroughly investigated. GMC guidance calls for patients who complain about the care or treatment they have received to receive a prompt open constructive and honest response, including an explanation of the action taken. GP1's response simply re-stated his position.

52. I also consider that the response issued by GP 1 to Mr C's complaint, which was subsequently copied to Mr C's daughter, was unreasonable in relation to GP 1's comment that Mr C was 'by no means incapable of violence'.

53. Nothing in the GMC guidance indicates that doctors cannot be involved directly in responding to complaints about the treatment they provide. Where a patient would prefer not to receive a response directly from the doctor, as is sometimes the case, arrangements should be made for the investigation of the complaint and the response, to be provided by someone else within the Practice. I consider that the 'Practice Complaints Procedure' should be amended to reflect this.

54. In considering specifically whether GP 1's response to the complaint from Mr C's daughter was unsatisfactory, I have to agree that it was, as it breached Mr C's confidentiality.

(c) *Recommendation*

55. The Ombudsman recommends that:

- (i) the Practice should revise their 'Practice Complaints Procedure' to ensure that patients are made aware that they can ask for their complaint, and the response, to be handled by someone other than the person complained about; and
- (ii) the Practice should communicate the updated complaints procedure in a revised 'Practice Information' leaflet.

56. The Ombudsman asks that the Practice notify the Ombudsman when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
GP 1	Mr C's General Practitioner
The Practice	The medical practice where Mr C was removed from the patient list
RCGP	Royal College of General Practitioners
The Adviser	The Ombudsman's Medical Adviser
Doctor 2	A doctor who examined Mr C at the Challenging Behaviour Rehabilitation Clinic
GMC	General Medical Council

List of legislation and policies considered

The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

The General Medical Council 2001 Good Medical Practice guidance

The Royal College of General Practitioners 'Removal of Patients from GPs' Lists' guidance