

Scottish Public Services Ombudsman Act 2002

Report by the Scottish Public Services Ombudsman
of an investigation into a complaint against:

A GP in the West Renfrewshire Area

Complaint as put to the Ombudsman

1. The account of the complaint provided by Mr O is that on 29 January 2002 he insisted during a telephone conversation that the receptionist at The Surgery (the First Surgery) should arrange a blood test for his daughter earlier than ten days ahead, but the receptionist refused. On 5 March, Practitioner Services told Mr O he had been removed from the list of patients of his general practitioner, Dr E. Mr O wrote to the Senior Partner of the practice on 6 March complaining about the practice's action. On 21 March, Dr E wrote on behalf of the practice referring to the telephone conversation Mr O had with the receptionist and said that the doctor-patient relationship had now broken down between the practice and him. She also said it had been a practice decision to ask the Health Board to remove his name from her list. On 26 March, Mr O wrote to Dr E asking in what way had the doctor-patient relationship broken down. Dr E explained on 17 April that he had been removed from her list because of the distress experienced by the receptionist after her telephone conversation with him and aggression shown to staff members was regarded by the practice as a breakdown in the doctor-patient relationship. On 22 April, Mr O requested an independent review of his complaint. The convener informed Mr O on 15 July that he was turning down his request because a review had no authority to reverse the practice's decision to remove him from their list and that his daughter had been treated with all reasonable care by the general practitioners within the practice.

2. The matters subject to investigation were that:

- (a) Mr O's removal from Dr E's list of patients was unreasonable and was not carried out in accordance with professional guidance; and
- (b) the complaint handling by the practice was inadequate.

Investigation

3. The statement of complaint for the investigation was issued on 4 September 2002. Mr O comments were obtained, and relevant documents including his clinical records were examined. Dr E, the Practice Manager and the Receptionist were also interviewed. I have not included in this report every detail investigated, but I am satisfied that no matter of significance has been overlooked.

National guidance

4. 'Removal of Patients from GPs' Lists', guidance produced by the Royal College of General Practitioners (RCGP) in June 1997, included:

'The relationship between a doctor and patient should be a therapeutic and beneficial one. However there are a few circumstances where it would normally be considered reasonable to remove a patient. Even in these circumstances a GP may decide to retain the patient.

Situations which justify removal:

...

When a patient:-

...

- **Gives verbal abuse or makes threats towards the doctor, practice staff or other patients ...**

(C) Guidance on Removing patients due to irretrievable breakdown of the doctor- patient relationship

Occasionally patients persistently act inconsiderately and their behaviour falls outside that which is normally considered to be reasonable. In such circumstances there may be a complete

breakdown in the doctor-patient relationship. It is important not to lose sight of the problem and to remember that the circumstances surrounding the breakdown may be perceived differently by the patient and the doctor. It is under these conditions that the potential for misunderstanding is at its greatest. The following guidance suggests a process which could be adopted or adapted by practices in order to attempt to restore the relationship or failing that to facilitate the constructive removal of the patient from the GP's list. However, it is recognised that frequently it may be impossible or impractical to go through all of these steps.

Steps to be taken within the practice

- Inform all appropriate members of the practice about the problem.
- Discuss carefully and confidentially the possible reasons for the patient's behaviour ...

Steps to be taken with the patient

- Inform the patient personally that there is a problem and consider arranging a meeting to discuss matters. It may be considered more appropriate to inform the patient by letter but a GP should seek the advice of his Defence Society before corresponding with the patient.
- Attempt to explain to the patient the nature of the problem. (It may be useful to use a specially skilled or sympathetic member of the practice to facilitate this).
- Try to elicit the patient's perspective and interpretation of the situation.
- Be prepared to negotiate with the patient over specific problems (eg too frequent requests for home visits may be reduced by a promise of easier telephone consultations with the doctor)'.

5. 'Good Medical Practice', a 1998 General Medical Council (GMC) leaflet for doctors, includes:

'Rarely, there may be circumstances in which you find it necessary to end a professional relationship with a patient. You must be satisfied your decision is fair ... You must be prepared to justify your decision if called upon to do so. In such cases you should usually tell the patient why you have made this decision ...'

Mr O's Evidence

6. Mr O said that on 29 January 2002 his wife had telephoned the First Surgery. Both his wife and brother-in-law had overheard his part of the conversation. His wife had made the first telephone call to the receptionist at the First Surgery. She was upset when she came off the phone because their daughter was extremely ill and needed a blood test, which could not be arranged for 14 days hence. At this point, Mr O spoke to the First Surgery. At the time, he had not been sure whom he had spoken to but subsequent documentation showed that it was the Receptionist. He expressed his concern about the fortnight delay, insisted on an earlier blood test and hung up the phone. He admitted that he was upset and annoyed during this conversation, and that he did raise his voice and speak over the Receptionist but this arose from his concern for his daughter. He stressed any parent would have acted in the same way. He recalled saying "that's not good enough, I want the blood test taken earlier" and "I'm not happy with that". He had raised his voice to impress his concern on the Receptionist. At no point did the Receptionist say he was upsetting her or did not like his tone of voice; if she had, he would have moderated his tone. He believed she did say that she would see what she could do but he became frustrated that she would not agree to an earlier test. His wife then received a telephone call from the First Surgery saying a blood test could be taken the following morning (8.05 am if he recalled correctly). He thought his earlier telephone conversation had impressed on the Receptionist his concern and resulted in an earlier blood test. Mr O strongly believed that an experienced and professional receptionist should be able to handle a telephone call with an upset parent who raises their voice because of their concern for their

child. Nevertheless, if at any time he had been informed of the Receptionist's upset, he would have apologised and explained that his behaviour arose from his own upset.

7. Mr O was therefore extremely upset to receive some six weeks later a card saying he had been removed from his GP's surgery list because he had upset somebody. At that time, his daughter was very ill and said she felt uncomfortable about going into the surgery because he had been removed from the list. He was most annoyed about the way the incident had been handled. He would have appreciated a telephone call saying there had been an upset, which the surgery wanted to resolve, instead of removing him immediately from the list.

8. On 6 March, he went into the First Surgery and dropped the card on the table in the reception area saying "I would like to know about that" or something like that. He believed he had acted assertively, not aggressively. He then saw the Practice Manager who had acted in an impertinent manner towards him. He was very upset when she pointed out that it was only him that had been removed, not the rest of his family. He admitted that he did raise his voice during this conversation but did not at any point talk over her. Mr O stressed that when he raises his voice, he is not shouting and certainly not being aggressive; it is simply a means by which the other person becomes aware of his unhappiness. He could not recall the Practice Manager asking him not to shout, but she may have commented on his raised voice which he agreed with her was raised but because he was annoyed. He thinks she may have asked him to lower his voice, which he would have done. His annoyance was justified because he was trying to clarify a situation which had involved his daughter's continuing illness.

Chronology

9. A chronology of the main events is listed below.

5 March 2002: Practitioner Services wrote to Mr O informing him that from 11 March he would no longer be registered with Dr E.

6 March 2002: Mr O wrote to the Senior Partner of the Practice. Among other things he wrote:

'It appears from your surgery's Practice Manager, a receptionist I apparently spoke to some weeks ago complained I allegedly was aggressive to her during a telephone call ...

'When questioning your Practice Manager about the Receptionist she refused to give me any pertinent details or information ...

'... because of the disgraceful way this situation has been handled ... I require forthwith a full explanation along with an apology for the Receptionist's inability to cope with clients who are more than concerned about their children's health. Together, of course, with my reinstatement ...'.

6 March 2002: the complaints officer of the Primary Care Trust wrote to Mr O in response to a telephone call. He explained the NHS complaints procedure.

12 March 2002: The Senior Partner wrote to Mr O:

'... I am about to retire ... I have, therefore passed your letter of complaint to Dr E for her comments.'

18 March 2002: Dr E dictated a statement which she signed on 21 March:

'... (The Senior Partner) asked the Practice Manager to ask me to take the family off the list. I thought Mr O should be removed from the list but not the family but that this should be a practice decision and should be discussed at a Practice Meeting. We did discuss it at a Practice Meeting and it was agreed by all the Partners who were present that Mr O but not the rest of his family would be removed from the list.

'I agreed to have Mr O removed from my list to support the member of staff involved.'

21 March 2002: the practice wrote to Mr O:

'Telephone Incident on 29 January

'... The above incident was very unfortunate. We think the Doctor-Patient relationship has now broken down between our practice and yourself. It was a practice decision to ask the Health Board to remove your name from Dr E's list and you should therefore register with another doctor ...'.

26 March 2002: Mr O wrote to Dr E:

'... a member of your staff could not cope with concerned patients demanding the very basic of services offered by the practice and because of this person's failings ... all my family have been severely offended. In your reply to me you proffer the suggestion that you think the Doctor-Patient relationship has broken down between your practice and myself. Can I have an explanation of what you mean by that statement ...'.

27 March 2002: Mr O wrote to the Primary Care Trust about his complaint:

' ... After very careful examination of the facts it is now quite obvious that the Doctor-Patient relationship has not broken down. It is clear the breakdown is between the receptionist and the nurse assigned to take blood samples ...'.

2 April 2002: Dr E acknowledged this letter.

15 April 2002: Dr E replied:

' ... the decision to ask the Health Board to remove you from my list was made collectively. We asked them to do so because of the distress experienced by our receptionist after her telephone conversation with you. We would regard aggression shown to staff members as a breakdown in the doctor/patient relationship ...'.

22 April 2002: Mr O wrote to the Trust to ask for an Independent Review Panel to look into his complaint.

15 July 2002: The Trust's convener wrote to Mr O refusing his request for independent review.

22 July 2002: Mr O wrote to the Ombudsman asking her to consider his complaint.

Evidence of the Receptionist

10. The Receptionist said that on 29 January 2002 she spoke on the telephone to Mrs D to tell her that because the nurse was off work, the appointment to take a blood sample from her daughter would have to be cancelled and re-arranged for the next week. The Receptionist felt that Mrs D was happy with this.

11. At about 4.45 pm Mr O telephoned the First Surgery. He said the delay in the appointment was not acceptable. Mr O continually spoke over The Receptionist and did not allow her to finish a sentence. He kept saying 'You know absolutely nothing'. The Receptionist described Mr O as 'shouting and bawling' and 'out of control'. Mr O also repeatedly demanded to know the name of the person he was speaking to. The Receptionist did not tell him her name. She eventually managed to tell Mr O that she would contact the practice's Second Surgery to see if an emergency appointment could be arranged. The telephone call ended after about 15 minutes.

12. Later the Practice Sister telephoned the Second Surgery and spoke to the duty doctor about Mr O's telephone call. The duty doctor then spoke to The Receptionist and advised her to telephone Mr O to say that

he should bring his daughter to the First Surgery at 8.30 am on 30 January to get the blood tests. When phoned Mr O said he could not come as he had other things to do, but his daughter would be brought to the appointment.

13. The Receptionist said that she was upset by the telephone call and felt intimidated by Mr O. She was worried she might meet him when she was alone going home from the surgery. Because of the upset the call had caused the Receptionist, The Practice Manager asked her to make a brief note of what had happened.

14. The Receptionist has been a receptionist in GP practices for 15 years. She has often dealt with people who were difficult or demanding, but had never felt intimidated before. She had received substantial training for her work as a receptionist.

Evidence of The Practice Manager

15. The Practice Manager had not been on duty when the incident happened. She heard from the Practice's computer operator that The Receptionist was upset. This was very unusual indeed.

16. The Practice Manager spoke to the Senior Partner about the incident. The Senior Partner said that the whole family should be struck off because Mr O had abused The Receptionist. She could only remember one person being struck off before. The Practice Manager wrote to the Health Board to find out how to do this.

17. Dr E was not happy with the Senior Partner's view that the whole family be struck off. Dr E decided this should be discussed at a Practice Meeting. The meeting felt that it was necessary to strike off Mr O because of his abusive behaviour.

18. When Mr O got the letter from Health Board saying he had been removed from Dr E's list, he came to the First Surgery. The Practice Manager took him to her office. He was unpleasant, verbally abusive, shouting, and it was not possible to reason with him. He demanded

reinstatement. He also demanded to know the name of the Receptionist he had spoken to on 29 January.

19. Mr O later wrote to the Senior Partner demanding reinstatement. This letter was passed on to Dr E. It was not treated as a complaint but as a demand, and so not treated under the complaints procedure. The Practice Manager did not see that it could have been dealt with under the complaints procedure.

Evidence of Dr E

20. Dr E was not in the surgery when the incident happened. She heard about it from either The Practice Manager or The Senior Partner.

21. Dr E could not remember many people being struck off – it happened less than every four or five years. She was not happy with The Senior Partner's view that the whole family should be struck off. She felt the decision whether or not to strike someone off should be taken at a Practice Meeting. There was discussion at the Practice Meeting. Royal College and GMC guidelines were not considered. Dr E was not aware of these at the time. Dr E is now aware of these guidelines and they would be taken into account on any future occasion if striking off was being considered.

22. The Practice Manager had written to the Health Board asking about the right way to remove someone from list. Dr E had hoped the Health Board would advise about the best way to do this, but that did not happen. The Health Board told the practice that the procedure was to inform the Health Board of removal from the list. Dr E felt that, in retrospect, it would have been better if Mr O had been first contacted by the practice about being removed from the list, rather than hearing first from the Health Board.

23. Dr E had not considered Mr O's letter to The Senior Partner as a complaint under the complaints procedure. She was clear that the practice did not want to reinstate Mr O because it was felt he had abused a member of staff.

Findings(a)

24. A GP does have a contractual right to have any patient removed from their list. I have, however, noted the national guidance about removing patients from GP lists. This makes it clear that these should be rare events, which only happen in particularly difficult circumstances. GPs are advised that, in effect, removal is a measure of last resort. Careful consideration should be given to other measures before a final decision is made.

25. This complaint arises from a single telephone call made by Mr O to the First Surgery. Mr O says he was upset, and did raise his voice and speak over the Receptionist. He feels any parent would have acted in the same way. The Receptionist described Mr O as verbally abusive. She is an experienced receptionist. She has told the investigating officer that she has never been this upset by a patient. This is supported by the evidence of the Practice Manager and Dr E about her reaction to the telephone call. They have also told me that she is a competent receptionist who copes well with her work.

26. The Royal College of General Practitioners' Guidance clearly says that verbal abuse towards staff is a situation in which removal from a GP's list is justified. Mr O does not believe that he was abusive to the Receptionist, but Dr E did believe this. I believe that in these circumstances Dr E was justified in considering removing Mr O from her list.

27. Dr E took the issue to a Practice Meeting where the issue was discussed. At the Practice Meeting it was unanimously agreed that Mr O should be removed from the list. I believe that this was an appropriate way of considering the matter. I do not uphold the complaint that Mr O's removal from Dr E's list of patients was unreasonable.

28. Dr E has told me that she was not aware of guidance from the Royal College of General Practitioners and the General Medical Council about removing patients. This guidance suggests that steps should be taken

with a patient to try to resolve issues which cause problems. It is unfortunate that Dr E was not aware of the guidance and that such steps were not considered. She has also expressed her regret that Mr O was not contacted before he heard about his removal from the Health Board. I do not know if taking such steps as the guidance suggests would have resolved the problem, but it is regrettable that they were not attempted. I uphold the complaint that Mr O's removal from Dr E's list of patients was not carried out in accordance with professional guidance.

29. Dr E has told me that she is now aware of the guidance from the Royal College and from the GMC. She has assured me that the guidance will be taken into account if she has to consider the removal of any patients in the future. I welcome this assurance.

Findings(b)

30. The practice had a complaints procedure which is in accordance with NHS guidelines. Neither Dr E nor the Practice Manager considered any of Mr O's letters under the complaints procedure. It is clear that after his meeting with the Practice Manager, Mr O understood why he was being removed from the list, although he did not agree with the reasons. Subsequent letters from Mr O were acknowledged and responded to appropriately.

31. Mr O's letters to The Senior Partner and Dr E were clear expressions of dissatisfaction and should have been treated as complaints. Indeed, in his reply to Mr O, The Senior Partner did recognise the letter to him as being a complaint. Mr O did have the reasons for his removal from the list explained to him by the Practice Manager and Dr E. However, Mr O also expressed dissatisfaction that the 'reception staff could not cope with concerned patients demanding the very basic services offered by the practice'. He also objected to being removed from the list. I consider that these were complaints, and it is unfortunate that they were not dealt with under the practice complaints procedure. I am not clear, however, that doing so would have made a significant difference to the responses Mr O received from Dr E, except that he would have been told how to take his complaint further through the NHS complaints procedure. To this

extent, I uphold the complaint that the complaints handling by the practice was inadequate.

Conclusion

32. My findings are set out in paragraphs 24 to 31. I am reassured that Dr E will now take professional guidance into account when considering removing a patient from her list. Dr E asked me to convey through my report – as I do – her apologies to Mr O for the shortcomings I have identified.

Iain Law
Complaints Manager
duly authorised in accordance with
paragraph 11 of Schedule 1 to the
Scottish Public Services Ombudsman Act 2002

1 August 2003