S.28/03-04

Scottish Public Services Ombudsman Act 2002

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

GPs and staff at a medical practice in the Lothian area

Complaint as put to me

1. In this report I refer to the complainant and his wife as Mr and Mrs T. The account of the complaint provided by Mr T is that he and Mrs T were removed from the general practitioner (GP) list of their medical practice (the practice) with insufficient justification. On 15 March 2003 he complained in writing to the practice manager about the way in which Mrs T had been treated by the reception staff on 12 and 13 March when trying to arrange for the issue of a prescription which had been recommended for her by another health care provider. In particular, Mr T criticised the receptionists' habitually cold, unwelcoming, attitude. He also said that, when Mrs T had asked how she could complain about her treatment and for the name of the receptionist who had dealt with her on 12 March, she had been told to write in and that staff names could not be divulged. In reply to this complaint letter, the practice manager wrote to Mrs T on 31 March. She thanked her for her husband's letter and explained: that the practice considered it very important to give a quality, patient-focused service; that receptionists' names were not provided because this encouraged patients to deal only with specific receptionists; and that she had discussed Mrs (sic) E's letter with the partners and, as it was strongly felt that their service could not meet the family's expectations, it had been decided that Mr and Mrs T should register with another GP.

2. Mr T replied in writing on 3 April to the practice manager expressing surprise and asking several questions. He indicated that he felt the 'punishment' had been disproportionate to the 'crime' and that he intended to complain about it.

3. The matters investigated were that:

(a) Mr and Mrs T were removed from the GP list in a manner contrary to accepted professional guidance; and

(b) the practice did not handle Mr T's complaint in accordance with the NHS complaints procedure.

Investigation

4. The statement of complaint for the investigation was issued on 9 July 2003. Comments were obtained from the practice and relevant documents were examined. Evidence was taken from Mr and Mrs T, the senior partner, a GP who was familiar with Mrs T (Dr C), the two joint practice managers (Manager A and Manager B) and two of the receptionists (Receptionist A and Receptionist B). One of my professional advisers - a senior GP of long standing - acted as assessor. His report is reproduced in its entirety at paragraph 40 below. I have not included in my report every detail investigated but I am satisfied that no matter of significance has been overlooked.

Guidance and statutory provisions

5. The National Health Service (General Medical Services) (Scotland) Regulations 1995, Schedule 1, Terms of Service for Doctors, state, '9(1) … a doctor may have the name of any person removed from his list by giving notice to the [relevant Health Board] … .'

6. The regulations do not require a GP to give a reason, nor do they give the patient a right of appeal.

7. The Royal College of General Practitioners provided guidance in June 1997 in a leaflet, 'Removal of Patients from GPs' Lists'. It includes:

> '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 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 …

'**… Steps to be taken with the patient**

- ❖ Inform the patient personally that there is a problem and consider arranging a meeting to discuss matters …
- ❖ 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 … .

'… Given the current guidelines from the General Medical Council there are a few circumstances where removing a patient is inappropriate …

'… **Situations which do not normally justify removal**

… Where a patient … complains via the In-House complaints system.'

8. In March 1996 the then-Scottish Office produced guidance on the implementation of the NHS complaints procedure entitled 'Complaints: Listening, Acting, Improving'. In respect of complaints about GP practices it includes:

'… The primary objective of Local Resolution is to provide the fullest opportunity for investigation and resolution of the complaint, as quickly as is sensible in the circumstances, aiming to satisfy the complainant, while being scrupulously fair to staff …

'… It is in everyone's interest that Local Resolution at practice level is successful …

'… Conciliation may prove essential if complaints are to be resolved satisfactorily at practice level. [Health] Boards must therefore continue to make conciliators available to practices where a conciliator's assistance is requested, either by the practice or the complainant …

'… [Practices] are advised to round off the handling of the complaint giving a written summary of the investigation and its conclusions to the complainant, also indicating the complainant's right to seek an Independent Review, and that the complainant has 28 calendar days from the date of the letter to make such a request …'

9. In May 1999 the then-Scottish Office produced guidance on the NHS complaints procedure entitled 'Guidance for family health services (FHS) complaints'. It includes:

'… It is a term of service obligation on family health services practitioners to have in place and to operate practice-based complaints procedures which comply with minimum national criteria …

'… Practitioners should adopt a positive approach to the investigation of complaints whenever possible …'

Oral and written evidence of Mr and Mrs T

10. On 12 March Mrs T took in to the practice a letter from another health care provider, which asked the practice to issue a prescription for her. She told my officer that as usual she was asked if it was urgent or an emergency and that as usual she did not know what she was supposed to reply; as her skin condition was uncomfortable she decided to say it was urgent. She was therefore promised the prescription for the 13th. Mrs T had encountered the receptionist before (note: it was Receptionist A) and felt that, as on this occasion, she seemed colder and more off-hand than the others.

11. Mrs T returned on the 13th at approximately 3 pm to give the surgery time to have the prescription ready. Receptionist A was there but someone else dealt with her (note: this was Receptionist B). Receptionist B could not find the prescription and asked when it had been handed in. As there seemed to be some delay, Mrs T asked if there was a problem but was told there was not. Mrs T spotted a file and asked if her prescription was there, which turned out to be the case. Receptionist B took it for a doctor to action.

12. When Receptionist B reappeared with the written up prescription, Mrs T asked for a complaint form and to see the practice manager. Manager A therefore appeared, introducing herself by name and position and saying that, as the practice did not use such forms, complaints should be made by letter. Mrs T asked for the name of Receptionist A because she was unhappy about her attitude. Manager A said that receptionists' names were not given to patients and that the receptionists had very difficult jobs, which Mrs T felt was rather defensive. Manager B's reply of 31 March to Mr T's complaint letter of 15 March had explained that the reason for not giving out staff names was that it encouraged patients to seek to deal only with certain receptionists; Mrs T thought this reason seemed rather weak.

13. Mr and Mrs T explained that the usual tone of the receptionists was rather cold and unhelpful, and information was not forthcoming unless it was requested. There was seldom a greeting or smile and they seemed unable to apologise. Some receptionists were better than the others but still did not tend to engage warmly with patients. The GP practice to which Mr and Mrs T had moved was entirely different in this respect.

14. On receiving Manager B's reply of 31 March to his complaint letter, Mr T replied to Manager B on 3 April, asking a couple of questions. He also expressed astonishment that his letter of complaint had resulted in a request that he and his wife find another GP. In almost 35 years, he had only complained once before and so was hardly a serial complainer. Mr and Mrs T also considered Manager B to have been presumptuous in saying in her letter of 31 March that moving to another practice would be the most

suitable course of action for the Es. Mr T had never received a reply to his letter of 3 April, despite having enclosed a stamped addressed envelope.

15. At interview, Mr and Mrs T added that they could have accepted the practice's view (expressed in Manager B's letter of 31 March) that their service could not meet the Es' expectations - if there had been an opportunity to discuss and seek to resolve that issue with the practice: it had been a complete shock to receive instead a letter informing them that they should move practice.

16. In conclusion, Mr T told my officer that he would simply like the practice to reflect on what had happened and to acknowledge that they could have handled it better.

Evidence of the practice

Practice's response to statement of complaint

17. The senior partner's written response to my statement of complaint included:

> '[On 12 March Mrs T handed in] a prescription request and indicated that it would be required the following day rather than within the usual forty-eight hour period. She was advised by the receptionist that this would be done. [On 13 March she] attended to pick up this prescription which could not immediately be found but was then given to the Duty Doctor who completed the prescription and gave it to the patient.
>
> '[Mrs T] was not happy with the slight delay in proceedings and asked for a complaint form. [Mrs T] then became upset after a conversation with our receptionist and a subsequent interview with our … practice manager and said that she would make a written complaint. This duly arrived from her husband … . He stated that this was the second time he had had to complain about the attitude of receptionists whom he said were defensive in their dealings with his wife …

'The partners fully discussed the complaint at a meeting on the 31st of March and concluded that the relationship with [Mr and Mrs T] had broken down irreparably. It was felt that to continue a professional relationship in an atmosphere where mutual respect was diminished could lead to an increased likelihood of future misunderstandings and possible clinical error. Accordingly a letter was written to [Mr and Mrs T] … informing them of our decision to ask them to look for another GP …

'The decision to ask [Mr and Mrs T] to find another GP was not taken lightly: in fact none of the partners can recall any other instances in the past twenty years of patients being asked to leave our list because of a breakdown in the professional relationship.'

Other documentary evidence from the practice

18. Manager B replied to Mr T's complaint letter of 15 March in a letter to Mrs T on 31 March. She explained that the practice relied heavily on teamwork and good communication and considered it of prime importance to give patients a quality, patient-focused service. This was reinforced to staff at regular staff meetings. Feedback was frequently invited from patients and was generally positive. The practice did not give staff names to patients because they had found that this encouraged patients to seek to deal with specific receptionists. She and the partners, with whom she had discussed the complaint, strongly felt that their service could not meet the expectations of the Es, who were therefore being asked to seek another practice.

19. Manager B provided details of the practice's complaints procedure. Part of this comprised a patient leaflet called, 'Are you happy with our service?'. It includes:

'… **OUR RESPONSE**

'We will acknowledge your [complaint] … and complete our investigations within ten working days. We will then contact you to offer an appointment to discuss our findings.

‘The aim of our investigations will be

‘(1) to find out exactly what went wrong
‘(2) allow you to discuss it with those concerned
‘(3) take appropriate steps to ensure that the problem does not arise again …

‘… We would hope to solve the majority of problems "in-house". This does not affect your rights to approach the health board directly in the first instance, or if you feel dissatisfied with our response … You should contact the board’s … Complaints Officer, [address] …’

Interview evidence from the practice

20. Both receptionists had met Mrs T several times and felt that generally she was rather confrontational and aggressive, that she spoke down to the receptionists and became easily worked up.

21. Receptionist A dealt with Mrs T on 12 March and was present for part of the time on the 13th. Receptionist B was not present on the 12th but dealt with Mrs T on the 13th. Receptionist A said that Mrs T’s manner on the 12th was provocative from the start: whilst still several feet away from the reception desk, she said she wanted to speak to a doctor. When Receptionist A said that no doctor was on the premises, Mrs T repeated her request and threw the letter at Receptionist A. Receptionist A asked if it was something she needed - which was intended as a polite introductory remark - to which Mrs T replied sarcastically in the affirmative. When Mrs T explained her request, Receptionist A explained that the normal procedure was to allow 48 hours for a prescription to be prepared unless it was urgent (eg if the medication was needed that day). Mrs T appeared angry about this. Receptionist A took out Mrs T’s file and, in the usual way, attached the prescription request to it and put it in one of the GPs’ boxes for the prescription to be written up. She intended to mark it as urgent but forgot to do so because Mrs T’s manner distracted her. Mrs T started to complain about the poor service and about previous problems with the receptionists and the practice. Because Mrs T had requested an urgent prescription, Receptionist A told her they would try and have it ready the next day but

made no promises, simply saying that Mrs T should phone in the morning to see if it was ready.

22. On the 13th, Receptionist A was the duty receptionist but was otherwise occupied when Mrs T came in so, in line with normal practice to avoid queues, Receptionist B saw her. As the prescription was not in the box where Receptionist B would have expected to find it, she asked Mrs T when she had handed it in. When Mrs T explained that she had been told it would be ready on the 13th, Receptionist B told her that prescriptions usually took 48 hours. At interview she acknowledged that this could have made Mrs T feel – wrongly - that she was going to be told to come back the next day; however, she did not consider it to be the cause of Mrs T's anger because she was already angry by this time. When Receptionist B found the unactioned papers, Mrs T became more angry and asked about prescription procedures. Receptionist B said she would get it actioned by a GP straightaway but Mrs T remained unhappy and hostile. When she noticed Receptionist A, she said in an aggressive manner that she wanted her name and a complaint form. Receptionist B realised that she should get help at this point and called Manager A.

23. Manager A explained her involvement of 13 March. She had not met Mrs T before. Although Mrs T had simply wanted a complaint form, Manager A had thought she should deal with the situation herself and so went to the front desk. When she appeared Mrs T launched into a tirade about the practice and the receptionists. Manager A felt she was reacting to the incident in an extreme manner, particularly as she had received the written up prescription by then: her face was quite pink, her voice was trembling and her body was shaking. Manager A explained that complaints should be put in writing and that complaint forms were not used. She also explained that a friendly, efficient service was a constant priority of the practice and that this was supported by ongoing staff training. When Mrs T demanded to know Receptionist A's name, she felt uncomfortable about giving it as Mrs T was clearly quite hostile and so she gave her own and Manager B's names. Mrs T left, indicating that she would be submitting a complaint.

24. Manager B and Receptionist B also explained the practice's policy regarding the giving out of staff names. All staff except Manager B had a name badge. However, the practice was not strict about the wearing of them because they did not want to encourage patients who tended to ask to be dealt with by receptionists whose names they knew. If they were asked, staff would usually give out their own names if they were comfortable about this.

25. Mrs T had been seen almost exclusively by Dr C until 1999. Dr C and Manager B said that the practice had had previous experiences of complaints from the Es. Manager B said there was a pattern to them, starting in 1998, where Mrs T would have a complaint and Mr T would write in to make the complaint. There was also a pattern to the subject matter, which had been about a clinical issue on one occasion and otherwise was always about attitude and administration. From the copy correspondence provided by the practice, I note that these previous approaches comprised a negative written comment by Mr T in 1998 about the practice's appointments procedure and a formal written complaint in 1999 alleging a delay in the arrangement of a hospital appointment. Dr C said that she saw the current complaint as a repeat of the 1999 complaint. Dr C had not seen Mrs T since then but was clear that there had been no complaints between then and the current complaint. When my officer suggested that 1999 had been a long time ago, Dr C replied that it had been a serious issue and that she had felt that Mr T's comments at that time had been personal. The senior partner said that the decision to ask the Es to leave had been because of the accumulation of complaints. When it was suggested that there had been no complaints since 1999, he said that there might have been some at the level of the receptionists.

26. Mr T's formal complaint of 15 March 2003 was discussed at the weekly practice meeting on 31 March. All the partners and the two managers attended, as was usual. Manager B contributed to the discussion but the decision to ask the Es to change GP was taken jointly by the GPs only. The possibility of a meeting was discussed but Dr C was against this because there seemed no point, given that the 1998/1999 complaints had been resolved by correspondence alone. Other options, such as issuing a warning

to the Es or using the conciliation service provided by the Health Board, were not discussed. Dr C felt that in any case a warning would not have been appropriate in this case.

27. Dr C said that the discussion at the meeting had been lengthy, although the senior partner felt it was decided fairly quickly that it would not be tenable to continue to treat the Es: the prescription incident had been trivial but the next incident could have been serious. Manager B said that in the prescription incident, the practice acknowledged that they had not – as had been intended – marked up the prescription request as urgent. Nevertheless, the problem had been rectified promptly, yet that had not been good enough for Mrs T, who was clearly never going to be satisfied. It was therefore felt that they should leave before anything serious happened. Mr and Mrs T had thus been asked to leave because of a history of dissatisfaction with the practice, not because of this one complaint.

28. No other patient had been asked to leave the practice in over 20 years. When asked what marked the Es out from other patients, the senior partner and Dr C said that other patients were not habitual correspondents like the Es and that one could have a two-way conversation with other patients; Manager B said that other patients were not as persistently difficult; Manager A said that the removal was a natural outcome because Mrs T clearly had no faith in the practice and would never be satisfied.

29. Manager B was asked at the meeting of 31 March to seek advice from their medical defence organisation on how to effect Mr and Mrs T's removal. Manager B therefore sent a draft copy of her proposed reply to the complaint to the defence organisation, and, with their backing, issued the letter on 31 March.

30. Manager A, Manager B and the senior partner discussed the practice's complaint handling procedures at interview.

31. The practice received about five official complaints a year, although Manager A said that she was sometimes called to the front desk to resolve matters informally. Manager B handled most complaints but Manager A

dealt with them if, for example, her colleague was absent. Manager B would always clear her proposed decision regarding any complaint with the partners before issuing it to a complainant.

32. When interviewing practice staff, my officer commented that the procedures complied with national guidance but that it was not clear whether they had all been followed in dealing with Mr T's complaint.

33. Firstly, the patient leaflet (paragraph 19 above) referred to two meetings being offered during the complaints process – one to allow the patient to discuss the complaint and one to discuss the practice's findings on completion of the practice's investigation. This clearly did not happen in every case. Manager A felt that complainants should be given a meeting if they wanted one, although she herself had never offered a meeting. In the Es' case no meeting had been offered because it was considered that there was no point, the relationship having reached the end of the road. Secondly, the patient leaflet said that the investigation would aim to establish what had gone wrong. Manager B explained that they had done this by taking statements from relevant staff and ascertaining that Receptionist A had not marked the prescription request as urgent, although she had intended to do so. Thirdly, the patient leaflet said that the practice would take steps to ensure a problem did not recur. Manager B said that, in this respect, the staff had been retrained on prescription issues. She had also twice asked the hospital which had issued the prescription request if they could mark the envelopes of non-urgent requests accordingly (as was done by another hospital from whom they often received such requests); no answer had yet been received. Fourthly, national guidance (paragraph 8 above) advised that at the end of the local resolution stage of a complaint, complainants should be told of their right to request an independent review of their complaint within 28 days. Manager B said that, although her letter had not included this, the information appeared on the patient leaflet.

34. Manager B was asked at interview why her complaint reply of 31 March to Mr T's complaint letter had been addressed to Mrs T. She explained that a similar letter had also been sent to Mr T. She said she had

not noticed that the letter addressed to Mrs T was written as though to her husband: for example it asked 'you and your wife' to look for another GP.

35. Manager B was also asked if there was any reason for her not replying to Mr T's 3 April letter, which had expressed surprise at their being asked to leave the practice and had asked some further questions. Manager B explained that while the practice was considering what to reply, they learnt that Mr T had asked the Health Trust for an independent review of his complaint. She had therefore phoned the Trust for advice and had been told to do nothing about the letter.

36. On being asked, Manager B said she would do nothing differently if a similar situation arose again.

Lessons learnt

37. The practice had now produced a complaint form on which complainants could set out their complaint.

38. The senior partner said that after the complaint had been dealt with, he had studied the guidance from the Royal College of General Practitioners (for example, paragraph 7 above). Originally he had felt that Mr and Mrs T's removal had been effected in accordance with that guidance. However, he now considered that a meeting or conciliation could have been helpful and that this was the route he would envisage in any future cases.

39. Also on reflection, he now felt that it would have been better to have dealt with Mr T's complaint first, explaining that the practice did not uphold it, then – as a later and separate stage in the process – asked them to find another practice. That would have the benefit of not appearing to remove a patient from the list because they had complained and would also be a gentler way of asking a patient to move practice.

<u>Report of my assessor</u>

40. I set out below the assessor's report.

(i) *This report has been prepared using documents held in the Ombudsman's casework file. It includes correspondence and documents provided by the complainant, the senior partner and the relevant primary care trust. I also attended interviews on 29 September 2003 with the senior partner, one of his partners and his joint Practice Managers. I also had access to notes of interviews carried out on 26 August 2003 by the Ombudsman's complaints investigator with two of the practice receptionists.*

(ii) *The matters I was asked to consider were whether:*

(a) *Mr and Mrs T were removed from the Practice's list in a manner contrary to accepted professional guidance; and*
(b) *the Practice handled Mr T's complaint in accordance with the NHS complaints procedure.*

Background

(iii) *Mrs T had been seen at a private hospital concerning a skin condition and attended the surgery on 12 March 2003 to deliver a letter from the Consultant with recommendations for treatment. Mrs T wanted to collect the prescription the following day, but when she returned to the surgery on 13 March it was not immediately available. The receptionist arranged for the duty doctor to sign the prescription, but Mrs T remained dissatisfied and asked how she could make a complaint. The receptionist asked one of the Practice Managers (the Practice has two members of staff sharing the role of Practice Manager) to speak to her.*

(iv) *Mr T wrote a letter of complaint to the Practice on 15 March, raising concerns about arrangements for issuing the prescription and the attitude of the receptionist.*

(v) *This complaint letter was acknowledged in writing by one of the Practice Managers and a fuller response was made in a letter dated 31 March 2003. This letter included a statement that Mr and Mrs T should look for another GP. They subsequently received a letter from the Common Services Agency (acting on behalf of the Trust) informing them that they would be removed from the Practice list.*

The removal from the list

(vi) *GPs have a contractual right to remove a patient from their NHS list without having to give a reason. It is now widely accepted that this right should be exercised reasonably in accordance with the professional guidance issued by the Royal College of General Practitioners, the British Medical Association and the General Medical Council. The essence of this guidance is that removal from the list should only take place as a last resort, when the doctor-patient relationship has broken down irretrievably. Some attempt should have been made to resolve the problems and an explanation should usually be given to the patient. Removal should not take place solely because the practice has received a complaint.*

(vii) *Following Mr T's letter of complaint of 15 March, the Practice Manager raised the matter at one of the regular weekly practice meetings on 31 March. One of the GPs present reminded the meeting about previous complaints made by Mr T in 1998/1999 and the Practice Manager reported Mrs T's complaining and demanding attitude whenever she attended the surgery. Following this discussion, the GPs decided to remove Mr and Mrs T from the list.*

(viii) *Following this decision, the Practice Manager wrote the letter of 31 March to Mrs T, and the senior partner wrote to the Common Services Agency to remove them from his list, after consulting with his medical defence organisation.*

Comments on the removal

(ix) *In the light of my comments about the professional guidance about the removal of patients from a GP's list, the decision to remove Mr and Mrs T seemed to me to be somewhat precipitate and out of proportion to the admittedly dysfunctional contact about the prescription on 13 March. During the course of their interviews, the Practice Managers and the GPs told us that the decision about the removal was taken, not because of the complaint itself, but because of Mr T's previous complaints in 1998/1999 and Mrs T's behaviour whenever she attended the surgery.*

(x) *We were told about the 1998/1999 complaints during our interview with one of the partners and it was clear that the recollection of this was a significant factor in the decision to remove them from the list.*

(xi) *Although we were told that Mrs T complained frequently about the service provided by the Practice and was said to be always difficult and demanding, practice staff were unable to provide examples of specific incidents in the recent past and no attempts seem to have been made to try to modify her behaviour prior to the prescription incident. Indeed it seemed from the information provided during our interviews, that there was no clear recollection among the practice team of particular problems with Mrs T, but rather her reputation.*

(xii) *The removal of a patient from a GP's list is a serious matter and this must be done reasonably, in line with the professional guidance. I recognise that the decision was taken after full discussion between the partners and after taking advice from the defence organisation. In itself, the dispute over the prescription does not seem serious enough to have led to the removal, unless this was a further event in a pattern of unreasonable behaviour. Given the information we have gathered during the course of this investigation, I believe it would have been preferable in the circumstances to have warned Mrs T that a repeat of her behaviour would lead to her and her husband's removal from the list, rather than take immediate action. I recommend that the Practice consider this approach in the future.*

<u>The handling of the complaint</u>

(xiii) *The Practice has a satisfactory in-house procedure for handling complaints, which complies with the requirements and recommendations of the NHS complaints procedure. We were shown a poster displayed in the reception area setting out details about how patients can make a complaint and a leaflet about this is available on request. The Practice Managers are responsible for responding to complaints in accordance with the Practice's procedure. I have no concerns about the Practice's procedures for complaint handling.*

(xiv) *It is a matter of regret that the question of the removal became entangled in the Practice's handling of Mr T's complaint, and the Practice Manager's letter of 31 March certainly gives the impression that this decision was a direct response to the complaint, although we were repeatedly assured that this was not the case.*

(xv) *The Practice Manager's response letter does not make it clear that the complaint was seen as a formal complaint that was to be handled according to the Practice's in-house procedure. There was no information offered about the availability of a local resolution meeting (or, indeed, the two such meetings which the Practice's complaints leaflet stated would be held), the use of the independent conciliation service or the right to apply to the Trust for Independent Review. Although these elements may not be part of the contractual requirements for a practice's complaints handling procedure, they are considered to be good practice and were part of the guidance for GPs on the NHS complaint procedure. I recommend that the Practice should consider incorporating this approach to complaint handling within their procedure.'*

Findings

41. In reaching my findings I have been guided by the advice provided by my assessor. I turn first to the investigation into whether Mr and Mrs T were removed from the practice's list in a manner contrary to accepted professional guidance. The decision to remove Mr and Mrs T seems to have been driven by: the prescription incident on 13 March this year; Mr T's written criticism in 1998 and formal complaint in 1999; Mrs T's reputation as a difficult person; and Mr T's reputation as a habitual correspondent. However, despite questioning, no one interviewed was able to give examples other than those in this report to justify the Es' reputation. It does not seem to me that the spirit of the professional guidance has been followed. It is implicit in the Royal College of General Practitioners' guidance that some attempt be made to restore the relationship (paragraph 7 above). The process suggested by the College to achieve this involves some form of empathy and/or interaction with the patient – for example, a meeting, an attempt to explain matters sympathetically and/or an attempt to ascertain the patient's perspective. This did not happen. Moreover, the guidance

produced by the various professional bodies listed in the assessor's report is clear that patients should not be removed from a list because they have made a complaint. Although the practice firmly maintained that Mr and Mrs T were removed because of a history of dissatisfaction, that history seems to have little substance and it is clear that the complaint was the catalyst for the removal. I conclude that Mr and Mrs T were removed in a manner contrary to accepted professional guidance. I uphold this aspect of the complaint.

42. I now turn to the investigation into whether the practice handled Mr T's complaint in accordance with the NHS complaints procedure. Mr T's complaint of 15 March 2003 to the practice was about his wife's treatment on the 13th and the receptionists' habitually unwelcoming attitude. Mrs T received an acknowledgement and, shortly afterwards, a definitive response (and the practice say that a similar version was also addressed to Mr T). That response did not address the complaints raised by Mr T nor report on the outcome of the practice's investigation of the complaint. Instead it explained that the practice sought to provide a quality service and that patient feedback was usually positive, and it asked Mr and Mrs T to move practice.

43. The 1999 guidance on NHS complaints (paragraph 9 above) says that GPs must have in place and operate complaints procedures which comply with minimum national criteria. The procedures in place at the practice (paragraph 19 above) comply with – and, indeed, exceed - those criteria. However, I have concerns about the operation of those procedures. The procedures provide for two meetings between the complainant and the practice, but it was clear at interview that meetings were not automatically offered to complainants. It was said at interview that there was no point to a meeting in this case. However, no attempt seems to have been made to consider whether Mr and Mrs T would have wished to meet. Indeed, Mr and Mrs T said at interview that they would have liked the chance to discuss and seek to resolve the decision to remove them. One of the practice managers explained that their investigation of the complaint had established what had gone wrong by taking two staff statements and ascertaining that Receptionist A had not – as she had intended to do – marked the

prescription request as urgent. This does not seem to me adequately to satisfy the spirit of the 1996 and 1999 guidance (paragraphs 8 and 9 above). This says, for example: that local resolution should provide the fullest opportunity for resolution, aiming to satisfy the complainant; that successful local resolution is in everyone's interest; that to resolve complaints satisfactorily, conciliation may be essential; and that practices should generally adopt a positive approach to an investigation. The guidance does not state that complaint replies should address the specific complaints, presumably because that should be obvious. I do not consider it to be good complaints handling that a complaint on specific issues be answered by a general overview of how a practice seeks to achieve its objective of a quality service or a statement that other patients are generally content with the service.

44. On a wider point, the practice's reply to the complaint does not make it clear that the complaint was being dealt with as part of the practice's and the NHS' complaints procedures. In particular, Mr T was not told that he had the right to request an independent review. One of the practice managers acknowledged that her reply to the complaint had not mentioned independent review but said that it was contained in their complaints leaflet. However, the leaflet does not specifically refer to an independent review nor that the request for one must be made within 28 days. Nor is information in a leaflet of value if patients do not receive it – as in this case.

45. I also note (paragraph 35 above) that one of the practice managers said the Trust had advised against replying to Mr T's letter of 3 April, in which he asked some questions and expressed surprise at being asked to change practice. The reason given at interview for the Trust's advice was that by then the Trust had received Mr T's request for an independent review. I consider that courtesy and good complaints handling would have dictated that a short explanation to that effect was sent to Mr T in reply to his letter.

46. I conclude that the practice did not handle Mr T's complaint in accordance with the NHS complaints procedures. I uphold this aspect of the complaint.

47. Mr T has said (paragraph 16 above) that he would simply like the practice to reflect on what had happened and to acknowledge that they could have handled it better. It is clear to me that they have done so. I welcome very much the initiatives already effected by the practice and the further thoughts of the senior partner. This demonstrates a constructive approach. The practice say that staff have been retrained on prescription issues and that attempts are being made to obtain certain hospital requests for prescriptions differently. And a complaints form has been introduced. The senior partner made it clear that on reflection he felt that a meeting or conciliation could have been helpful and that he would envisage such a route in future. He also considered that the handling of Mr T's complaint and the decision to ask them to leave would better have been dealt with as two separate actions.

48. I **recommend** that the senior partner make his views clear to others at the practice. I also **recommend** that the practice amend the operation of their complaints procedure in line with the points covered in my findings above.

Conclusion

49. I have set out my findings in paragraphs 41 to 48. I am pleased to report that the senior partner has asked me to convey to Mr and Mrs T – as I do through this report – an apology for the shortcomings which have been identified and has agreed to act on my recommendations in paragraph 48. I regard that as a suitable outcome to the investigation.

Professor Alice Brown
Ombudsman

12 December 2003