

Scottish Parliament Region: North East Scotland

Case 200701715: A Medical Practice; Grampian NHS Board

Summary of Investigation

Category

Health: GP Lists

Overview

The complainant (Mrs C) said that her GP Practice (the Practice) inappropriately removed her and her husband (Mr C) from their list.

Specific complaint and conclusion

The complaint which has been investigated is that Mr and Mrs C were inappropriately removed from the Practice's list (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Practice:

- (i) ensure that the relevant regulations and guidance are adhered to before they ask for a patient to be removed from their list; and
- (ii) apologise to Mr and Mrs C for not adhering to the relevant regulations and guidance before asking for them to be removed from their list.

The Practice have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 25 July 2007, the Ombudsman received a complaint from the complainant (Mrs C) about the removal of her and her husband (Mr C) from their GP Practice (the Practice)'s list.

2. Mrs C said that they were extremely shocked, hurt and disappointed that the letter stating that they had been removed from the Practice's list was sent without any discussion. She said that a GP (GP 1) from the Practice had completed a medical certificate confirming that she was suffering from stress on the day before the letter was sent. She also said that Mr C had regular dealings with the Practice as he was a paramedic, but had been removed from the list for supporting her.

3. The complaint from Mrs C which I have investigated is that Mr and Mrs C were inappropriately removed from the Practice's list.

Investigation

4. Investigation of this complaint involved reviewing the papers and comments relating to the matter provided by Mrs C and the Practice.

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

Complaint: Mr and Mrs C were inappropriately removed from the Practice's list

6. Mrs C wrote to the Practice on 1 March 2007 to complain about a telephone call she had received from a nurse from the Practice on 27 February 2007. Mr C discussed the matter with a GP (GP 2) from the Practice on 30 March 2007 and on 1 April 2007. The Practice issued a response to the complaint on 6 April 2007. They said that if Mrs C did not feel that they had provided a satisfactory explanation, she might wish to seek medical care in another smaller neighbouring GP Practice.

7. Mr and Mrs C met GP 2 on 20 April 2007 and on 26 April 2007. On 9 May 2007, the Practice Manager wrote to Mrs C and said that she believed that the Practice had answered her complaint and further discussions would not

be productive.

8. Mrs C has stated that she spoke to GP 1 on 11 July 2007. She said that he mentioned that some patients who found themselves in similar circumstances found it helpful to move to another GP Practice. She asked if he was saying that she should leave the Practice, but he said that he was not.

9. On 19 July 2007, GP 1 completed a medical certificate for Mrs C stating that she was suffering from stress. On the following day, the Practice Manager wrote to Mr and Mrs C to inform them that they had contacted Practitioner Services and had requested their removal from the Practice's list. She said that following discussions with GP 1 and GP 2, it had been agreed that the relationship between Mr and Mrs C and the Practice had irreparably broken down and the Practice could not provide them with the continuity of service that they wanted. She said that eight days after Practitioner Services received the request, they would be allocated another GP Practice and would no longer be registered at the Practice.

10. In response to my enquiries about the matter, the Practice Manager told me that she had returned from long-term leave on 6 May 2007 and had been informed of the previous correspondence and discussions. She was also told that Mr C had followed GP 2 to her car and had prevented her from getting into the car until she discussed the case. She advised GP 2 to contact the police, as she considered this to be harassment. GP 2 did not want to make a complaint to the police, as she considered that it would not be helpful in resolving the complaint. The Practice Manager asked that Mr and Mrs C were removed from the Practice's list immediately for threatening behaviour, but it was agreed with GP 1 and GP 2 that the couple would remain on the list until they had received a response to a previous complaint they had made to the Ombudsman. She also said that Mr and Mrs C had previously made other complaints and there had been several difficult communication issues. She stated that in view of all of this and the fact that the Practice was unable to provide the continuity of care that Mrs C had requested, they considered that it was appropriate to remove Mr and Mrs C from the list.

11. On 10 July 2007, Mr C completed a statement about discussions he had with GP 2 on 30 March 2007 and on 1 April 2007. He has recorded that he had gone to the Practice's reception to ask to speak to GP 2, but was advised that she would not be able to see him that day. He left the building to return to his

car, but GP 2 came out a side door. He has recorded that GP 2 knows him, as he is a paramedic, but was not aware that he was Mrs C's husband before the discussion. He has recorded that GP 2 arranged to meet him in a community hospital on 1 April 2007 to discuss the complaint, as they were both due to be working there at that time. He states that he subsequently met GP 2 in the hospital and discussed how long it would take the Practice to deal with the complaint over a cup of coffee.

12. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (the Regulations) at Schedule 5, Part 2, Section 20 (see Annex 3) state the procedure to be followed when a GP Practice wishes to remove a patient from their list of patients. In particular, the Regulations state that a GP Practice may only make a request to the relevant Health Board for the removal of a patient if, within 12 months prior to the date of this request, the GP Practice has warned the patient that they are at risk of removal and explained to them the reasons for this.

13. The Regulations state that this does not apply where the reason for removal relates to a change of address or where the warning would be harmful or not reasonably practicable. They also state that in cases where a patient has committed an act of violence against any relevant person or behaved in a way that there have been fears for a relevant person's safety and the matter has been reported to the police, a GP Practice can remove a patient from their list with immediate effect. Where a patient is removed from a GP Practice's list in these circumstances, the Regulations state that this should be recorded in the patient's medical records.

14. Guidance from the British Medical Association on the removal of patients from GP Practices' lists states that GPs can request the immediate removal of any patient who has committed an act of violence or caused the GP to fear for his or her safety. The police or the procurator fiscal must have been informed of the patient's behaviour and the GP must notify the patient of the removal in writing.

15. Further guidance from both the General Medical Council and the Royal College of General Practitioners states that GPs should not end a relationship with a patient solely because of a complaint the patient has made. However, the guidance from the Royal College of General Practitioners recognises that complaints can lead to a breakdown in the doctor/patient relationship. I should

stress that this is guidance and, unlike statute or regulation, is not binding.

Conclusion

16. Unless one of the conditions I have mentioned in paragraph 13 is met or it is not reasonably practicable, the Practice must have warned Mr and Mrs C that they are at risk of removal in the previous 12 months. There appear to be differing versions regarding the circumstances in which Mr C met GP 2 on 30 March 2007. The Practice Manager asked for Mr and Mrs C to be removed from the list for threatening behaviour after being informed of the encounter and the couple were subsequently removed from the list on 20 July 2007. However, it is clear that neither Mr C nor Mrs C committed an act of violence and it does not appear to me that GP 2 raised any concerns about her safety before the Practice Manager returned to work in May 2007. The matter was not reported to the police or the procurator fiscal and the couple were not removed from the list with immediate effect.

17. Although I do not consider that any of the conditions mentioned in paragraph 13 were met, I accept that a GP Practice has the right to ask for a patient to be removed from their list where there has been an irrevocable breakdown in the relationship between the patient and the GP Practice and the relevant regulations and guidance have been taken into account. However, in Mr and Mrs C's case, in line with the Regulations, they should have warned them that they were at risk of removal and the reason for this should have been explained before any action was taken to have them removed.

18. The Practice failed to provide a warning and has not, therefore, adhered to the relevant regulations and guidance in relation to removing Mr and Mrs C from their list. I, therefore, uphold the complaint. I conclude, however, that the breakdown in the doctor/patient relationship is now irrevocable and it would not be appropriate to ask the Practice to reconsider their decision to remove Mr and Mrs C from their list or to recommend that the Practice consider this.

Recommendation

19. The Ombudsman recommends that the Practice ensure that the relevant regulations and guidance are adhered to before they ask for a patient to be removed from their list.

20. In addition, the Ombudsman recommends that the Practice apologise to Mr and Mrs C for not adhering to the relevant regulations and guidance before

asking for them to be removed from their list.

21. The Practice have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Practice notify her when the recommendations have been implemented.

Explanation of abbreviations used

Mrs C	The complainant
The Practice	Mrs C's previous GP Practice
Mr C	The complainant's husband
GP 1	The GP who signed Mrs C's medical certificate
GP 2	The GP who dealt with the complaint
The Regulations	NHS (General Medical Services Contracts) (Scotland) Regulations (2004)
GP	General Practitioner

List of legislation and policies considered

NHS (General Medical Services Contracts) (Scotland) Regulations (2004)

The Royal College of General Practitioners' guidance on the removal of patients from GPs' lists – September 2004

General Medical Council: Good Medical Practice

British Medical Association: GP - removal of patients from their lists

Scottish Statutory Instrument 2004 No. 115

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

PART 2

Removal from the list at the request of the contractor

20. - (1) Subject to paragraph 21, a contractor which has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition shall -

- (a) notify the Health Board in writing that it wishes to have the patient removed; and
- (b) subject to sub-paragraph (2), notify the patient of its specific reasons for requesting removal.

(2) Where, in the reasonable opinion of the contractor -

- (a) the circumstances of the removal are such that it is not appropriate for a more specific reason to be given; and
- (b) there has been an irrevocable breakdown in the relationship between the patient and the contractor,

the reason given under sub-paragraph (1) may consist of a statement that there has been such a breakdown.

(3) Except in the circumstances described in sub-paragraph (4), a contractor may only request a removal under sub-paragraph (1) if, within the period of twelve months prior to the date of its request to the Health Board, it has warned the patient that the patient is at risk of removal and explained to him the reasons for this.

(4) The circumstances referred to in sub-paragraph (3) are that -

- (a) the reason for the removal relates to a change of address;
- (b) the contractor has reasonable grounds for believing that the issue of such a warning would -
 - (i) be harmful to the physical or mental health of the patient; or
 - (ii) put at risk the safety of the persons specified in sub-paragraph (5); or

(c) it is, in the opinion of the contractor, not otherwise reasonably practicable for a warning to be given.

(5) The persons referred to in sub-paragraph (4) are -

(a) in the case of a contract with an individual medical practitioner, that practitioner;

(b) in the case of a contract with a partnership, a partner in that partnership;

(c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;

(d) a member of the contractor's staff;

(e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or

(f) any other person present -

(i) on the Practice premises, or

(ii) in the place where services are being provided to the patient under the contract.

(6) The contractor shall record in writing -

(a) the date of any warning given in accordance with sub-paragraph (3) and the reasons for giving such a warning as explained to the patient; or

(b) the reason why no such warning was given.

(7) The contractor shall keep a written record of removals under this paragraph which shall include -

(a) the reason for removal given to the patient;

(b) the circumstances of the removal; and

(c) in cases where sub-paragraph (2) applies, the grounds for a more specific reason not being appropriate, and shall make this record available to the Health Board on request.

(8) A removal requested in accordance with sub-paragraph (1) shall, subject to sub-paragraph (9) take effect from -

(a) the date on which the Health Board receives notification of the registration of the person with another provider of essential services (or their equivalent); or

(b) the eighth day after the Health Board receives the notice referred to in sub-paragraph (1)(a), whichever is the sooner.

(9) Where, on the date on which the removal would take effect under sub-paragraph (8), the contractor is treating the patient at intervals of less than seven days, the contractor shall notify the Health Board in writing of the fact and the removal shall take effect -

- (a) on the eighth day after the Health Board receives notification from the contractor that the person no longer needs such treatment; or
- (b) on the date on which the Health Board receives notification of the registration of the person with another provider of essential services (or their equivalent), whichever is the sooner.

(10) The Health Board shall notify in writing -

- (a) the patient; and
 - (b) the contractor,
- that the patient's name has been or will be removed from the contractor's list of patients on the date referred to in sub-paragraph (8) or (9).

Removal from the list of patients who are violent

21. - (1) A contractor which wishes a patient to be removed from its list of patients with immediate effect on the grounds that -

- (a) the patient has committed an act of violence against any of the persons specified in sub-paragraph (2) or behaved in such a way that any such person has feared for that person's own safety; and
- (b) the contractor has reported the incident to the police or the Procurator Fiscal,

shall notify the Health Board in accordance with sub-paragraph (3).

(2) The persons referred to in sub-paragraph (1) are -

- (a) in the case of a contract with an individual medical practitioner, that practitioner;
- (b) in the case of a contract with a partnership, a partner in that partnership;
- (c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;
- (d) a member of the contractor's staff;
- (e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or
- (f) any other person present -
 - (i) on the Practice premises or

(ii) in the place where services were provided to the patient under the contract.

(3) Notification under sub-paragraph (1) may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification or transmission by electronic means is not a written one).

(4) The Health Board shall acknowledge in writing receipt of a request from the contractor under sub-paragraph (1).

(5) A removal requested in accordance with sub-paragraph (1) shall take effect at the time that the contractor -

- (a) makes the telephone call to the Health Board; or
- (b) sends or delivers the notification to the Health Board.

(6) Where, pursuant to this paragraph, the contractor has notified the Health Board that it wishes to have a patient removed from the contractor's list of patients with immediate effect, it shall inform the patient concerned unless -

- (a) it is not reasonably practicable for it to do so; or
- (b) it has reasonable grounds for believing that to do so would -
 - (i) be harmful to the physical or mental health of the patient; or
 - (ii) put at risk the safety of one or more of the persons specified in sub-paragraph (2).

(7) Where the Health Board has removed a patient from the contractor's list of patients in accordance with sub-paragraph (5), it shall give written notice of the removal to that patient.

(8) Where a patient is removed from the contractor's list of patients in accordance with this paragraph, the contractor shall record in the patient's medical records that the patient has been removed under this paragraph and the circumstances leading to the patient's removal.

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