

## Scottish Parliament Region: Mid Scotland and Fife

### Case 200801411: A Medical Practice, Fife NHS Board

#### Summary of Investigation

##### **Category**

Health: GP lists

##### **Overview**

The complainant (Ms C) raised concerns that she and her two children were inappropriately removed from their GP practice (the Practice)'s list because her partner (Mr B) was removed for abusive behaviour.

##### **Specific complaint and conclusion**

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

##### **Redress and recommendations**

The Ombudsman recommends that the Practice:

- (i) ensure that their policy on the removal of patients from their list complies with the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 and is within the spirit of the guidance available;
- (ii) ensure they have followed the Regulations and considered and followed alternative courses of action before removing a patient from their list; and
- (iii) apologise to Ms C for inappropriately removing her and her children from their list.

## **Main Investigation Report**

### **Introduction**

1. On 22 August 2008, the Ombudsman received a complaint from the complainant (Ms C) about the inappropriate removal of herself and her children from their GP practice (the Practice)'s list following her partner (Mr B)'s removal for abusive behaviour. Ms C considered it unfair that she and her children were removed when they had done nothing wrong. Ms C also said that she had been spoken to harshly by a GP from the Practice (the GP) in front of her young daughter.

2. The complaint from Ms C which I have investigated is that Ms C and her children were inappropriately removed from the Practice's list.

### **Investigation**

3. My investigation of this complaint involved reviewing the papers relating to this matter provided by Ms C and by making specific enquiries of the Practice. Furthermore, I considered the guidance on removal of patients produced by the British Medical Association, the General Medical Council and by the Royal College of General Practitioners. I also reviewed the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (the Regulations). Additionally I discussed this case with the Ombudsman's GP Adviser (the Adviser).

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

### **Complaint: Ms C and her children were inappropriately removed from the Practice's list**

5. On 28 April 2008 Mr B telephoned the Practice to make an appointment for Ms C's daughter (Miss C). The Practice were unable to offer an appointment until later in the day and there followed a heated exchange between Mr B and the Practice receptionist. The Practice described Mr B's behaviour during the call as particularly unpleasant and abusive. Ms C stated that Mr B had merely been concerned about Miss C's health.

6. Ms C described that when she and Miss C attended the appointment later that day the GP verbally attacked her regarding Mr B's telephone call and told

her that she and her children should register with another GP practice. The GP's recollection of the appointment does not coincide with Ms C's. He stated that he discussed the issue with Ms C and explained the Practice's reasons for removing her and her children from the list. The Practice informed Ms C and Mr B in a letter dated 29 April 2008 that they and Ms C's children had been removed from the list.

7. The Practice told me that Mr B had been verbally abusive towards the GP and other staff on a number of occasions over the past year relating to his own care but primarily concerning the care of Ms C and her children. In particular they mentioned the incident on 28 April 2008 when Mr B telephoned the Practice in relation to Miss C. The Practice told me that they discussed the incident with Ms C when she was at an appointment later that day. They said to me:

'It was explained that, although we did not have a problem with [Ms C] or her children, we could no longer tolerate [Mr B's] abuse, and because he was likely to continue to represent the family at the surgery, in the interests of the doctor/patient relationship they would need to register with another practice.'

8. The Practice considered that removing Mr B alone would be highly unlikely to prevent contact with him in the future as a good deal of his contact was around issues relating to Ms C and her children. They considered that they were justified in their decision to remove the entire family from the list to protect their doctors and staff to whom they have a duty of care.

9. In its guidance for doctors, 'Good Medical Practice', which all doctors must follow, the General Medical Council states:

'In rare circumstances, the trust between you and a patient may break down, and you may find it necessary to end the professional relationship. For example, this may occur if a patient has been violent to you or a colleague, has stolen from the premises, or has persistently acted inconsiderately or unreasonably. Before you end a professional relationship with a patient, you must be satisfied that your decision is fair ... You must be prepared to justify your decision. You should inform the patient of your decision and your reasons for ending the professional relationship, wherever practical in writing.'

10. The British Medical Association guidance on the removal of patients from GP lists states that removal should be an exceptional and rare event and a last resort in an impaired doctor/patient relationship. Other than administrative reasons or violent behaviour, the sole criterion for removal should be an irretrievable breakdown of the doctor/patient relationship. The guidance states that if the behaviour of one member of a household or family has led to their removal, GPs will use their judgment about other members. It goes on to state that sometimes an explicit discussion with other family members about the problem and the choices which they have will be useful.

11. The Royal College of General Practitioners' guidance on the Removal of Patients from GPs' Lists suggests a process that should be followed where there has been a breakdown in the relationship between the GP and the patient. The guidance states that the patient should be told that there is a problem and that a meeting should be arranged to discuss matters. It states that GPs should try to elicit the patient's perspective and interpretation of the situation and should be prepared to negotiate with them over specific issues. The guidance also states that the removal of one member of a household does not mean that the removal of other family members should automatically follow. It states that the removal of the entire household may be appropriate in rare cases, particularly where there has been violent or threatening behaviour, but suggests that the reasons are given clearly. I should stress that this is guidance and, unlike statute or regulation, is not binding.

12. The Regulations state that general practitioners must not discriminate against patients, should warn them when they are at risk of removal and should normally give their reasons. The Regulations also provide that general practitioners exercise a reasonable standard of professional and clinical judgment and this brings the professional guidance referred to in previous paragraphs to bear.

13. The Adviser reviewed this complaint and considered that the Practice had not made sufficient efforts to resolve the situation with Ms C prior to removing her and her children from the list. He suggested that it could have been constructive for the Practice to meet with Mr B either with or without Ms C in order to address the behaviour which they considered unacceptable in an attempt to continue to work with the family as a whole.

### *Conclusion*

14. The Regulations require general practitioners not to discriminate against patients, to warn them when they are at risk of removal and to give the reasons for it. They also provide that general practitioners should exercise a reasonable standard of professional judgment.

15. I accept that a general practitioner 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 practice. I also fully accept that the Practice has a duty to protect their staff from abusive behaviour, and that because of this they wanted to end their relationship with Mr B.

16. The Practice did not have any issue with Ms C's behaviour and have explicitly told her so. They told Ms C that the reason for removing her and her children was the likelihood of Mr B's continued involvement in making contact with them in relation to Ms C and her children.

17. The Practice were in a difficult situation. Mr B had been involved with representing the interests of Ms C and her children in ways which the Practice found unacceptable. They have told Ms C and me that their view was that as long as Ms C and her children were their patients, this situation was likely to continue. The question I have to consider is whether they reached this decision in a reasonable and fair way.

18. I have mentioned above the Regulations and the advice from the General Medical Council, the British Medical Association and the Royal College of General Practitioners. They all agree that removal should be a last resort. Last resort must mean that other options have been considered and found to be inadequate. In this case there is no evidence that the Practice did consider other options. The Practice's account of the appointment on 28 April 2008 does not indicate any attempt to explore with Ms C and/or Mr B whether there might be such options, nor were there any subsequent attempts to do so.

19. Furthermore, the Practice failed to warn Ms C that she was at risk of removal from the list before taking action to remove her and her children. The purpose of such a warning is to give the patient an opportunity to remedy the situation before they are removed from the list.

20. In all the circumstances I uphold the complaint.

*Recommendations*

21. The Practice explained to me that they were unaware of the Regulations. They assured me that they will endeavour to follow the Regulations closely in the future.

22. The Ombudsman recommends that the Practice:

- (i) ensure that their policy on the removal of patients from their list complies with the Regulations and is within the spirit of the guidance available;
- (ii) ensure they have followed and considered alternative courses of action before removing a patient from their list; and
- (iii) apologise to Ms C for inappropriately removing her and her children from their list.

The Ombudsman asks that the Board notify her when the recommendations have been implemented.

**Explanation of abbreviations used**

Ms C	The complainant
The Practice	Ms C's GP practice
Mr B	Ms C's partner
The GP	A GP from the Practice
The Regulations	The National Health Service (General Medical Service Contracts) (Scotland) Regulations 2004
The Adviser	The Ombudsman's GP Adviser
Miss C	Ms C's daughter