

## **Fitness to Practise Determination**

The following case was heard by a Fitness to Practise Panel. It is presented here to give an example of one possible outcome of breaching a principle in *Good Medical Practice*. It is not intended to give a clear threshold between acceptable and unacceptable behaviour. Each case which comes before a Fitness to Practise Panel is judged on its own merits and assessed on the particular circumstances of the case.

### **Summary**

The doctor submitted plagiarised documents for publication without first informing the cited co-authors. When questions were raised about the articles submitted he replied on the co-authors' behalf without their knowledge, blaming a fictitious co-author for the plagiarism.

### **Relevant paragraphs of *Good Medical Practice***

The case relates to the *Probity* section of GMP, specifically paragraphs 70 and 71b on research and paragraphs 63 and 65 on writing reports and signing documents.

### **Determination on impaired fitness to practise**

Dr X: At the outset of these proceedings Mr D, on behalf of the GMC, made an application, under Rule 17(3) of its procedure rules, to amend a word in allegation 5 from “presented” to “submitted”. You raised no objection. The Panel was satisfied, having consulted with the Legal Assessor, that this amendment could be made without injustice, and the amendment was agreed.

Allegation 5 now reads:

“In [date removed] you submitted a poster entitled ‘*Trends in Pancreatic Cancer Incidence and Survival with Deprivation: a Population Based Study*’ to the Joint Meeting of the International Association of Pancreatology and the Japan Pancreas Society (‘the Poster’);”

At the outset of the proceedings you admitted all the allegations. Accordingly, the Panel announced all allegations as admitted and found proved.

In considering whether your fitness to practise is impaired, the Panel has borne in mind the submissions made by Mr D on behalf of the General Medical Council (GMC). You did not wish to make any submissions at this stage.

Mr D directed the Panel to the relevant paragraphs in the GMC's publications, Good Medical Practice (May 2001 edition) and the Indicative Sanctions Guidance (April 2005). He submitted that you demonstrated dishonesty by your determined and persistent plagiarism, and that, on the basis of the facts found proved, your fitness to practise is impaired.

The Panel has taken into account all the documentary evidence placed before it, as well as the oral evidence from Mr DC, Consultant General Surgeon at XXXX Hospital, Mr JS, Consultant General Surgeon at XXXX Hospital, Mr MD, Consultant Surgeon at the University Hospital of XXXX, and Dr GL, Director at XXXX Cancer Intelligence Unit.

You were employed by the XXXX NHS Trust from [date removed] as a Research Senior House Officer at the XXXX Hospital, XXXX.

In [date removed] the XXXX Cancer Intelligence Unit ('the XXCIU') published a Monograph entitled 'Cancer and Deprivation XXXX' ('the Monograph').

You advised your supervising consultants that you were working in collaboration with the XXXX Cancer Registry, the former name of the XXCIU.

On [date removed] you submitted an article to the journal GUT entitled 'Analysing Inequity of Upper Gastrointestinal Cancer Distribution in Various Social Classes: A Population Based Study' ('the Article'). You misrepresented that the co-authors of the Article had consented to its submission and that the Article did not duplicate material already published. Furthermore, you did not acknowledge that the source of the material was the Monograph.

In [date removed] you submitted a poster entitled 'Trends in Pancreatic Cancer Incidence and Survival with Deprivation: a Population Based Study' to the Joint Meeting of the International Association of Pancreatology and the Japan Pancreas Society ('the Poster'). On [date removed] you submitted an article entitled 'Trends in Prostate Cancer Incidence and Survival in Various Socioeconomic Classes: A Population Based Study' ('the Japanese Article') for publication in the International Journal of Urology.

In [date removed] you submitted an abstract entitled 'Colorectal Cancer Trends in Various Socioeconomic Classes: are we targeting the right population?' to the Annual Scientific Meeting of the Association of Surgeons of Great Britain and Ireland ('the Colorectal Abstract'). Also in [date removed] you submitted an abstract entitled 'Breast Cancer Trends in Divergent Social Classes: Devil in the Detail' to the Annual Scientific Meeting of the Association of Surgeons of Great Britain and Ireland ('the Breast Abstract').

You plagiarised the Poster, the Japanese Article and the Abstracts from different sections of the Monograph. You also plagiarised the Japanese Article from the prostate cancer factsheet from a XXCIU 1999 report. The diagnosis years referred to in all these publications for which you were responsible were incorrect.

On [date removed] you submitted a manuscript entitled 'Inequity of Upper Gastrointestinal Cancer Distribution and Survival with Socioeconomic Deprivation: A

Population Based Study' ('the Manuscript') for publication to the US Journal SURGERY.

On [date removed] you signed a Copyright Transfer Agreement confirming that the Manuscript was original and that the sources were credited in the Manuscript.

You misrepresented that all authors had read and approved the final version of the Manuscript. You plagiarised the Manuscript from sections of the Monograph, and the diagnosis years referred to were incorrect.

You further misrepresented that one of the co-authors of the Manuscript was DVK, PhD Cancer Services, XXXX Cancer Registry. You had also cited DVK as a co-author of the Breast Abstract. DVK was a fictitious reference invented by you.

The Panel has also heard from Mr MD and Mr DC that you claimed to have met DVK several times and that he was the sole source of all the material derived from the XXCIU which you had included in abstracts and articles.

When the plagiarism was exposed, you maintained on numerous occasions that either DK or DXX K was the person responsible for the plagiarism. This included an email to the US Journal SURGERY dated [date removed], a letter to the International Journal of Urology dated [date removed], a meeting with Mr MD, Mr DC, Mr C and Mr JS on [date removed], and a meeting with Dr GL at XXCIU on [date removed].

You have admitted that all these actions were inappropriate, misleading and dishonest.

The Panel has had regard to the advice provided in the GMC's Indicative Sanctions Guidance. Paragraph 11 states that:

'Neither the Act nor the Rules define what is meant by impaired fitness to practise but for the reasons explained below, it is clear that the GMC's role in relation to fitness to practise is to consider concerns which are so serious as to raise the question whether the doctor concerned should continue to practise either with restrictions on registration or at all'.

The GMC's publication 'Good Medical Practice' (May 2001 edition) states that doctors should be honest and trustworthy and that 'serious or persistent failures to meet the standards in this booklet may put your registration at risk'.

Indicative Sanctions Guidance, paragraph 58 at page S3-14, states that a question of impaired fitness to practise is likely to arise if:

"A doctor has behaved dishonestly, fraudulently or in a way designed to mislead or harm others...."

In particular, paragraph 45 states:

"Research misconduct is a further example. The term is used to describe a range of misconduct from presenting misleading information in publications to dishonesty in clinical drugs trials. Such behaviour undermines the trust that both the public and the profession have in medicine as a science, regardless of

whether this leads to direct harm to patients. Because it has the potential to have far reaching consequences, this type of dishonesty is particularly serious.”

The Panel regards your persistent and calculated dishonesty as a serious matter. You had declared to the XXCIU on the data request form that you would acknowledge XXCIU as having provided the data and that you would supply a copy of any publication arising from these data to the XXCIU prior to publication. Notwithstanding this signed undertaking, you submitted documents containing plagiarisms on a number of occasions. You took data from the Monograph and altered the diagnosis years, thereby rendering the data incorrect. You invented a fictitious author to help verify the authenticity of the documents and persisted in your deceit despite numerous opportunities to admit the truth, even in response to the General Medical Council’s Rule 7 letter of inquiry. You submitted plagiarised documents for publication without first informing the cited co-authors. When questions were raised about the articles submitted to SURGERY you replied on the co-authors’ behalf without their knowledge, blaming the fictitious co-author D K for the plagiarism. Your actions were dishonest throughout. This behaviour was inappropriate, misleading and dishonest, seriously undermines public confidence in the medical profession and amounts to misconduct.

The Panel is aware of its responsibility to protect the public interest and, in particular, to maintain public confidence in the profession and uphold proper standards of conduct and behaviour. The public are entitled to expect that doctors will be honest and trustworthy at all times. Your actions fell seriously short of the standards of conduct and honesty expected of a medical practitioner.

In all of the circumstances, the Panel has, pursuant to Sections 35C(2)(a) of the Medical Act 1983 as amended, determined that your fitness to practise is impaired, by reason of your misconduct.