

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 was convicted of sexual assault on a receptionist at his practice.

Relevant paragraphs of *Good Medical Practice*

The case relates to the *Working with colleagues* section of GMP, specifically paragraph 46 on respect for colleagues. It also relates to the *Probity* section, specifically paragraph 57 on being honest and trustworthy.

Determination on impaired fitness to practise

The Panel has found that on [date removed], Dr X was convicted at XXXX Crown Court of sexual assault on a female. He was sentenced to a community rehabilitation order for two years, to carry out activities for 240 hours and his name has been placed on the sex offenders register for five years.

The Panel has heard that, on [date removed], whilst Dr X was working at the XXXX Health Centre, he asked the receptionist if she would fix the computer in his office. As the receptionist started to fix the computer, Dr X stood next to her and began a conversation about her skirt and how it fastened. The Panel has heard that Dr X then took hold of the zip and undid it to reveal her underwear. The receptionist pushed Dr X's hand away and jumped up to leave the office. As she went to do so, Dr X placed his hand on the receptionist's bottom and touched her left buttock.

The Panel has heard that at the time of his arrest and subsequent questioning, Dr X denied having sexually assaulted the receptionist. However, Dr X eventually pleaded guilty and was duly sentenced.

The Judge, in his sentencing remarks, whilst understanding Dr X's embarrassment and his difficulty in accepting what he had done, commented that this case was one in which it was found that Dr X had been acting inappropriately and that his behaviour was totally unacceptable. The Panel notes that as a requirement imposed

by an Act of Parliament, his name was placed on the sex offenders register. Dr X was ordered to attend a Community Sex Offender Group Programme.

You have told the Panel that, at the time of this offence, Dr X had been a principal in general practice for some 26 years and was previously, you submit, a man of good character. You told the Panel about the familiar nature of the relationship that Dr X had with the receptionist, but that he went a step too far. You submit that the offence was at the lower end of the spectrum and no custodial or financial penalty was imposed. You have told the Panel that whilst this took place in the clinical setting, it was not part of Dr X carrying out any clinical duties. You told the Panel that patients are not at risk and this type of behaviour is unlikely to be repeated.

In deciding whether Dr X's fitness to practise is impaired, the Panel has had regard to the Indicative Sanctions Guidance when considering impaired fitness to practise. In particular page S1-2, paragraph 11, states:

“...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 with restrictions on registration or at all.”

S2-3, paragraph 11, states:

“The Council has made it clear that no doctor registered as a sex offender should have unrestricted registration.”

Page S1-9, paragraph 41, states in relation to sexual misconduct:

“This encompasses a wide range of conduct from criminal convictions for sexual assault, sexual abuse of children (including child pornography) to sexual misconduct with patients, colleagues or patients' relatives. The misconduct is particularly serious however, where there is an abuse of the special position of trust, which a doctor occupies, or where a doctor has been required to register as a sex offender...”

Good Medical Practice, (May 2001 edition), states in relation to the duties of a doctor:

“In particular as a doctor you must:

- Be honest and trustworthy.
- Avoid abusing your position as a doctor.”

The Panel has taken into account the public interest. The public interest includes the particular need to protect the individual patient, and the collective need to maintain confidence of the public in their doctors. It also includes, amongst other things, protection of patients, maintenance of public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

The Panel is concerned about the serious nature of Dr X's conviction. Doctors occupy a position of privilege and trust in society and are expected to act with integrity and uphold proper standards of conduct. That trust is not simply the trust

that patients place in doctors, but also extends to colleagues and members of the public. This misconduct is serious as Dr X abused the special position of trust, which he occupied, with a young female employee. The Panel views that in the most serious light. The Panel is in no doubt that Dr X's behaviour is far below the proper standards of conduct to be expected of a registered medical practitioner. The Panel has determined that Dr X's fitness to practise is impaired by reason of his conviction.