

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 treated a female patient for depression and suggested she apply for the practice receptionist post. He then attempted to kiss her one evening.

In treating another female patient, the doctor carried out inappropriate intimate examinations without explaining their purpose or offering a chaperone. He did not record the examinations in the patient's medical notes.

Relevant paragraphs of *Good Medical Practice*

The case relates to the *Relationships with patients* section of GMP, specifically paragraphs 21b on the doctor-patient partnership, paragraph 32 on maintaining trust in the profession and paragraph 36 on consent. It also relates to paragraphs 56 and 57 of the *Probity* section on being honest and trustworthy.

Determination on impaired fitness to practise

Dr X: The Panel has considered, on the basis of the facts found proved, whether your fitness to practise is impaired by reason of misconduct. It has taken account of all the evidence presented, Ms B's submissions on behalf of the General Medical Council (GMC) and those of Mr F on your behalf.

The Panel has found that you were a UK registered practitioner working as a General Practitioner at the XXXX Medical Centre, XXXX.

In or about [date removed] Patient A registered as a patient at the XXXX Medical Centre. Throughout [dates removed] you treated her for a depressive illness. Towards the end of [date removed] a vacancy arose for a receptionist at XXXX Medical Centre. Patient A commenced employment as a receptionist on [date removed]. She was offered this employment at your suggestion in an attempt to improve her self esteem.

On an unspecified Wednesday evening in [date removed] in the surgery staff room you approached Patient A, put your hands on her arms, pulled her body towards you, and attempted to kiss her. You told her that you found her “very attractive” and “very beautiful” or words to that effect. The Panel found your actions in this regard to be inappropriate, unprofessional, an abuse of your professional position, and sexually motivated.

In [date removed] Patient C was a patient registered at the XXXX Medical Centre. On [date removed], Patient C consulted you complaining of hyperacidity and you prescribed medication for her condition. On [date removed], Patient C consulted you again complaining of headaches and palpitations. She was prescribed medication and told to return in one week.

On [date removed], Patient C returned for her follow up appointment. In the course of this appointment you examined her breasts. You did not explain the purpose of the examination to Patient C nor did you offer her a chaperone for the examination. You examined her breasts when it was not clinically indicated and in an inappropriate manner which included pinching her left nipple. You did not record the examination in Patient C’s medical records.

The Panel found your actions in examining Patient C’s breasts to be inappropriate, unprofessional, an abuse of your professional position, and sexually motivated.

You also conducted an internal vaginal examination. You did not explain the purpose of the examination to Patient C and did not obtain her express consent. You did not offer Patient C a chaperone for the examination, nor did you record its findings in her medical records. The Panel found your actions in this regard to be inappropriate and unprofessional.

In determining whether your fitness to practise is impaired, the Panel considered the GMC’s Indicative Sanctions Guidance (April 2005). In particular, at paragraph 11 of section 1 it 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.”

In relation to Patient A, the Panel has taken into account the GMC’s Good Medical Practice (July 1998) which was applicable at the time. This states that:

“All patients are entitled to good standards of practice and care from their doctors, Essential elements of this are professional competence; good relationships with patients ...; and observance of professional ethical obligations.”

Further, the Panel noted at paragraph 12 it states:

“Successful relationships between doctors and patients depend on trust. To establish and maintain that trust you must:

- *treat patients politely and considerately;*
- *respect patients' privacy and dignity;"*

and at paragraph 22 it states:

"You must not abuse your patients' trust. You must not...use your position to establish improper personal relationships with patients..."

In relation to Patient C, the Panel has also taken into account the GMC's Good Medical Practice (July 2001), the inside cover of which states:

"Patients must be able to trust doctors with their lives and well-being. To justify that trust, we as a profession have a duty to maintain a good standard of practice and care

In particular as a doctor you must:

- *make the care of your patient your first concern;*
- *treat every patient politely and considerately;*
- *respect patients' dignity and privacy;*
- *listen to patients and respect their views;*
- *give patients information in a way they can understand;*
- *respect the rights of patients to be fully involved in decisions about their care;*

...

- *be honest and trustworthy;*

...

- *avoid abusing your position as a doctor;"*

The Panel also considered paragraph 17 which states:

"You must respect the right of patients to be fully involved in decisions about their care. Wherever possible, you must be satisfied, before you provide treatment or investigate a patient's condition, that the patient has understood what is proposed and why, any significant risks or side effects associated with it, and has given consent..."

and paragraph 20 which states:

"You must not allow your personal relationships to undermine the trust which patients place in you. In particular, you must not use your professional position to establish or pursue a sexual or improper emotional relationship with a patient..."

In relation to your management of Patient C, on [date removed], you clearly fell short of these standards. It is clear that you did not adequately inform her about the purpose of your examinations. Your examination of Patient C's breasts was sexually motivated. You did not obtain her express consent for the vaginal examination despite her age and immaturity. You did not offer her a chaperone for the vaginal examination nor did you keep adequate records of your consultations with her.

The Panel was most concerned with your sexually motivated behaviour towards these two patients, who were vulnerable for very different reasons, in two entirely

different sets of circumstances, separated by four years. These represent serious breaches of the standards set out in Good Medical Practice.

The Panel is conscious of its responsibility to protect the public interest, particularly with reference to the protection of patients, maintaining public confidence in the profession and declaring and upholding proper standards of conduct and behaviour.

You have exploited your position as a general practitioner and abused the trust placed in you by two of your patients. The Panel is in no doubt that your behaviour has fallen seriously below the standards expected of a registered medical practitioner.

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