

Fitness to Practise Panel 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 this principle. 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 of the case

This doctor falsified a patient's prescription to obtain an antibiotic intended for his wife. He also failed to attend a patient despite requests from hospital staff and did not answer his pager or mobile when they tried to contact him. He then failed to attend a meeting to discuss the patient's care. On another occasion, when working for a clinic he applied for leave which he was told he could not take unless he arranged suitable cover. He failed to attend the clinic and did not arrange suitable cover.

Relevant paragraphs of *Good Medical Practice*

This case relates to the *Good clinical care* section, specifically paragraphs 2, 3b and 3h, and paragraph 5. It also relates to *Working with colleagues*, specifically paragraphs 46 and 48, and to the *Probity* section, specifically paragraphs 56 and 57.

Determination on impaired fitness to practise

Mr X: The Panel has considered whether your fitness to practise is impaired on the basis of the facts it has found proved. In doing so, it has taken into account all the evidence presented to it, including your evidence, the submissions made by both Counsel and the advice of the legal assessor.

In [date removed] you were employed as a Specialist Registrar in Otolaryngology by the XXXX NHS Trust.

During that time you worked at the Ear Nose and Throat ("ENT") out-patient clinic. On [date removed] a patient, Mrs C, attended a consultation with you at the clinic.

The Panel has heard that on that occasion you asked Mrs C if she paid for her prescriptions, to which she replied “no”. You have accepted that, during the course of the consultation, you asked Mrs C if you could complete a prescription for her that included medication intended for your wife.

Mrs C's witness statement, which was agreed, states that she felt “vulnerable, used and abused by someone in a position of responsibility” and further, that she felt “intimidated” because you followed her to the pharmacy. The Panel is concerned that you gave no thought to the pressures you put on your patient.

You have admitted that you completed a prescription for Mrs C that included the antibiotic Augmentin, which was not required for her condition, and that you subsequently retrieved the Augmentin from Mrs C. In your evidence you accepted that you made a mistake in falsifying a prescription for your own private use.

The Panel has heard that a disciplinary hearing into the events concerning Mrs C was held on [date removed]. The Panel notes from the letter dated [date removed] from Dr A, Medical Director, to you, concerning the outcome of the hearing, that the Trust considered your actions to have been “very serious”, noting that you had “caused stress and anxiety to a patient and acted in a way that was detrimental to the Trust's image.” The Medical Director issued you with a final written warning, which was to remain on your file for two years. He further indicated in the letter that he would be advising the GMC and Deanery of the event and the action taken. You have accepted that your conduct in this regard was inappropriate, unprofessional and not in the best interests of patients.

The Panel went on to consider a number of other incidents in respect of your conduct whilst you were employed as a Specialist Registrar in ENT Surgery by the XXXX NHS Trust at the XXXX Hospital.

Between [date removed] and [date removed] you were Specialist Registrar to Mr O, Consultant Head and Neck Surgeon. You therefore had responsibility for the care and treatment of his patients, including Mr JS. All of the evidence, including yours, is that in the latter half of [date removed] Mr JS was very ill. Indeed, the Panel notes from some of the agreed witness statements that Mr JS was considered to be the sickest patient in the hospital at that time. You have accepted that on [date removed], you failed to attend the High Dependency Unit (HDU) at or before 08:00 to check on Mr JS. In fact, you did not attend the HDU until around 11.00, some three hours later. The Panel has heard that nursing staff attempted to contact you regarding concerns about Mr JS. You have accepted that you failed to respond to your bleep or mobile.

Mr H, Consultant Head and Neck Surgeon at the xxx, questioned you about your absence from the HDU. You have accepted that you told him that you had not been able to answer your bleep or mobile as you had been motorcycling towards the hospital. At the time you indicated that the problem had arisen as a result of the absence of your Senior House Officer (“SHO”). Your evidence is that on the morning of [date removed] you took your daughter to school. You have accepted that you did not contact the hospital on that morning, until you attended at 11:00. The Panel notes the accepted witness statements of Nurse L and Mr H, which indicate that other staff attended Mr JS in your absence. It is clear from these statements that Nurse L and Mr H were unhappy about your absence on that occasion. The Panel

further notes from Mr H's statement that the events of [date removed] caused him to report in writing his concerns about you to the clinical tutor and the training director at the hospital.

As a doctor, you should make the care of your patient your first concern. You were aware that Mr JS was very ill at that time, and that in Mr O's absence, you had considerable responsibility for Mr JS' care. You have accepted that your conduct in this regard was inappropriate, unprofessional and not in the best interests of patients.

On Wednesday [date removed] at 08:30 you failed to attend a multi-disciplinary team (MDT) meeting , notwithstanding that you were timetabled to attend the meeting, and that neither Mr O nor your SHO was due to attend. You have accepted that there would be no other head and neck surgeon there to report on the condition of Mr JS. Mr H questioned you about your absence from the MDT meeting and you indicated that your absence was connected to your wife working.

The Panel considers that, in the light of your failure to attend to Mr JS on [date removed], and the severity of his condition, you should have been acutely aware of the need to be at the MDT meeting. Mr O had also told you during the Autumn of [date removed] that you should be attending MDT meetings. In spite of this, you failed to attend the MDT meeting of [date removed]. You have accepted that your conduct in this regard was inappropriate, unprofessional and not in the best interests of patients.

On the afternoon of [date removed] you were timetabled to work in Mr H's Quick Early Diagnosis ("QED") clinic commencing at 14:00. The Panel has heard that the QED clinic dealt with GP referrals of patients with suspected cancer, and that the Friday clinics were busy.

You applied for leave for the [date removed] for your daughter's birthday and you have accepted that you did not give the requisite six weeks advance notice. The Panel has heard that Mrs S, Service and Appointments Manager, was responsible for authorising leave. She explained to you that it was not possible to authorise this leave, unless you could find suitable cover, due to the fact that a number of doctors would be absent on that particular day, including your SHO.

The Panel has heard from Mr P, at that time an SHO at the XXXX NHS Trust, that you telephoned him on Monday [date removed] to see if he would cover you for the QED clinic that Friday, [date removed]. Mr P's evidence was that he told you he was on study leave and that his priority during that week was to complete his research at the XXXX Hospital. Feeling under pressure from you, as his senior colleague, Mr P told you that he would try to help. On Tuesday [date removed] he telephoned you and told you that he would not be able to get to the clinic until 15:00 at the earliest. On Wednesday [date removed], Mr P telephoned you late at night and said that he would not be able to attend the clinic until 16:00 or 16:30. On Thursday [date removed], Mr P telephoned you to say that it was unlikely he could cover the clinic and that, if you had not already done so, you should find someone else to cover.

Despite this, you failed to attend the clinic, or to arrange suitable cover. You also failed to notify the Service and Appointments Manager by [date removed] of the difficulties you were in. The Panel has heard that your non-attendance at the clinic

on this occasion resulted in most of the patients being kept waiting at least three hours. Your absence also caused considerable difficulty to your colleagues, some of whom had to be obtained from operating theatres at short notice, to cover your duties in the QED clinic that afternoon.

You have accepted that your conduct as described above was inappropriate, unprofessional and not in the best interests of patients.

Mr JL, one of the Programme Training Directors, met with you on [date removed] to discuss your conduct. The Panel has noted the minutes of the meeting, the content of which you have accepted.

You have admitted that at that meeting you were asked if you had had any disciplinary or cautionary or advisory meetings at any other hospitals including XXXX NHS Trust. You have further admitted that you denied that there had been any such meetings at XXXX NHS Trust. The Panel has found that by reason of your failure to disclose the fact that you had been before a disciplinary meeting at the XXXX NHS Trust on [date removed], your conduct was inappropriate, unprofessional and dishonest.

“Good Medical Practice” (2001) sets out the duties of a doctor. This includes the requirement that you must make the care of your patient your first concern; you must be honest and trustworthy; avoid abusing your position as a doctor and work with colleagues in the ways that best serve patients' interests. The Panel has found that you breached a number of these fundamental tenets. You abused your position as a doctor by obtaining medication, intended for your wife, on a patient's prescription. You failed to attend a patient in a high dependency unit; five days later you failed to attend a multi-disciplinary team meeting concerning the same patient. You further failed to attend or arrange suitable cover on Friday [date removed] for the QED clinic.

The Panel is concerned that you failed to appreciate the effect of your actions on your patients and colleagues. Patients were kept waiting and your colleagues were put under undue pressure. Your attitude towards patients as well as your colleagues has been described, and admitted by you in your evidence, as cavalier and lacking in insight.

Moreover, you acted dishonestly by failing to tell your employer about your previous disciplinary history. The Panel considers that this dishonest behaviour by you is liable to bring the medical profession into disrepute.

Taking all these factors into account, the Panel has determined that your fitness to practise is impaired because of your misconduct.