

Public document

Minutes of the Investigation Committee

Oral hearing on 28-30 October 2024

This hearing has been conducted in accordance with the [General Medical Council \(Fitness to Practise\) Rules 2004](#) (*'The Rules'*).

Name of Doctor	Dr Christopher Valentine
Doctor's UID	3139477

Outcome	Warning imposed
Hearing location:	Held virtually via MS Teams

Committee Members	Mr John Anderson (Chair – Lay)
	Dr Andrew Leahy (Medical)
	Mrs Antoinette Foers (Lay)

Legal Assessor	Mr Richard Barraclough KC
Panel Secretary	Mr Gareth Eaton

GMC Representative	Ms Emma Gilsenan, Counsel
Doctor's attendance	Dr Valentine did attend
Doctor's representative	Mr Andrew McGee

- 1 The Investigation Committee carefully considered all the material before it. This included oral evidence given by Dr Valentine, Patient A and Patient B. Dr Valentine describes Patient A and Patient B as “clients” but for the purpose of this determination they are referred to as “patients”. The Committee also considered submissions made by Mr Andrew McGee, Counsel, on Dr Valentine’s behalf and those made by Ms Emma Gilsenan, Counsel, on behalf of the GMC.

Background

- 2 At the time of the alleged events, Dr Valentine was employed as an occupational physician for Occupational Health Works Ltd (‘OHW’) in Glasgow.
- 3 On 6 March 2019 an Interim Orders Tribunal (‘IOT’) placed an order of conditions on Dr Valentine’s registration. At a review of that order on 20 November 2020, the IOT placed a condition on his registration that *‘except in life threatening emergencies you must not carry out face-to-face consultations without a chaperone present’*. This order was subsequently maintained at several IOT review hearings including an IOT review hearing on 15 November 2022. The order was revoked on 13 December 2023.
- 4 In an email dated 3 May 2023 the GMC received a complaint from Miss C, a HR Advisor at a company that uses OHW. The complaint alleged that on 7 December 2022 Dr Valentine had face-to-face consultations with two of their staff members during their occupational health assessments without a chaperone present.
- 5 In a telephone conversation with the GMC on 2 June 2023 Miss C said her company had been using OHW for approximately a year and had sent numerous staff for occupational health assessments with them. Miss C said she had checked with staff about the details of their assessments with Dr Valentine after becoming aware that his registration had restrictions placed upon it by the IOT. She said that two members of staff, Patient A and Patient B, informed her that when they met Dr Valentine for an assessment no chaperone was present. Miss C said that both members of staff had said they were alone with Dr Valentine in a room throughout their assessments and there was nobody else present in any capacity.

Nurse A

- 6 During the GMC investigation, Nurse A provided a witness statement dated 27 June 2023. She said she had been aware of Dr Valentine’s interim conditions from the outset and she had routinely chaperoned for him. She also said she was the signatory for the chaperone logs Dr Valentine provided to the GMC as part of your IOT conditions. She said Miss C had also made her aware of the concerns regarding the two patients directly.
- 7 Nurse A said in her statement that she can categorically confirm that she attended both consultations on 7 December 2022 and signed the chaperone logs for them both. She said the chaperone arrangements in place were that she chaperoned from another room adjacent to Dr Valentine’s consultation room, which was separated by a large observation window. She said she observed the entire consultation through the window, and she could hear both Dr Valentine and

the patient clearly. Nurse A said she undertook her chaperone role discretely and not only sees her role to protect patients but to also protect Dr Valentine. When she signs the chaperone logs in her name, she said she is attesting to the appropriateness of each consultation individually.

- 8 In her statement Nurse A said, that having known Dr Valentine for several years, she can state without reservation that he is an excellent and highly experienced consultant physician and occupational health physician and she has no concerns whatsoever about any aspect of his practice.

Patient A

- 9 Patient A provided a witness statement to the GMC dated 25 July 2023, and a supplemental statement dated 12 September 2023. Patient A has also provided evidence orally to the Committee at these proceedings.
- 10 In her evidence Patient A said that she attended an occupational health assessment with Dr Valentine on 7 December 2022. She says that at no point during the consultation did he offer her a chaperone, nor did he explain that there was anyone observing the consultation through the internal window to the adjacent room. Patient A said that she and Dr Valentine were the only people in the consultation room, and she does not recall seeing anyone else in the adjacent room. She also said at no point did she walk past Nurse A before the appointment, nor was she introduced to her.
- 11 Patient A said there was no motivation for her to allege that no chaperone was offered to her. She accepted that her recollection about the layout of the room was not clear but she was clear about not being offered a chaperone. Patient A said the only consent that was discussed with her was consent for Dr Valentine to share what was discussed in the assessment with her employer.

Patient B

- 12 Patient B provided a witness statement to the GMC dated 19 July 2023 and a supplemental statement dated 11 September 2023. Patient B also provided evidence orally to the Committee at these proceedings.
- 13 In his evidence Patient B said that he attended an occupational health assessment with Dr Valentine on 7 December 2022. He said at that at no point during the consultation did you offer him a chaperone, nor did you explain that there was anyone observing the consultation through the internal window. He said that he and Dr Valentine were the only people in the room. Patient B said he did not accept that he was introduced to Nurse A on his way into the consultation room. He said this categorically did not happen.
- 14 Patient B said he did not have any motivation to allege that there was no chaperone present if it were not true. He said his memory of the layout may have faded but his memory of the meeting with Dr Valentine remains clear. He said when he attended the meeting, he was focused on the meeting itself not the building layout. He said he remembered that Dr Valentine was courteous to

him during the assessment and gave him time to speak. Patient B said the only consent that was discussed with him was his consent to disclose what was discussed with his employer. Patient B considered Dr Valentine's behaviour throughout the consultation to be very professional.

Referral to the Committee

- 15 On 27 July 2023, the GMC wrote to Dr Valentine in accordance with Rule 7 of the *GMC (Fitness to Practise) Rules 2004* ('the Rules'). On 30 August 2023, Dr Valentine replied via his legal representative denying the allegations put to him by the GMC.
- 16 On 12 April 2024 the GMC wrote to Dr Valentine in accordance with Rule 11 of the Rules stating that the GMC were minded to conclude the case with a warning. The terms of the proposed warning were that on 7 December 2022 Dr Valentine had, for the two patients, arranged for a chaperone to be present in an adjoining room without informing the patients about the presence of the chaperone or without obtaining their consent.
- 17 Dr Valentine declined to accept the proposed warning and the matter was referred to the Investigation Committee. The Committee therefore convened to determine whether a warning should be issued.

Dr Valentine's evidence

- 18 At this hearing Dr Valentine provided evidence orally to the Committee. He also provided written representations, via his legal representative, to the GMC during the investigation.
- 19 In his written representations Dr Valentine provided photographs of the layout of the consultation room and the adjacent room, these photographs also showed the window between the two rooms. He said it was apparent from the photographs that the two patients were mistaken about their recollections of the consultation suite. Dr Valentine said that he and Nurse A had put considered arrangements in place that had provided a pragmatic, proportionate and workable response to the interim conditions entirely in the spirit of the GMC guidance available in this scenario.
- 20 Dr Valentine also said in his written representations that he most probably would have mentioned the presence of Nurse A as chaperone and the patients would have passed her on the way into the consultation rooms as they walked through the adjoining room. Dr Valentine said it was quite possible the patients didn't recall a chaperone being mentioned or having seen one. Further, he said their recollection of whether a chaperone was mentioned must be viewed in the context of the substantial gaps and contradictions in their memory of the consultation suite itself.
- 21 In his oral evidence Dr Valentine described his usual practice during consultations, which included how he discussed and obtained consent for a chaperone to observe the assessment. He said that with every person he assessed he would always inform them that there was someone observing the process as part of the chaperone process. Dr Valentine said that the assessment

with Patient A and Patient B were unremarkable assessments, they were straight-forward and there were no concerns raised by the patients after the assessment. Dr Valentine said there was nothing to suggest that he had deviated from the standard approach he took with all consultations when it came to informing the patient about the chaperone arrangements.

Legal advice

22 The Legal Assessor provided written advice to the Committee. This advice was also distributed to Ms Gilsonan and Mr McGee after the oral evidence had been heard in the proceedings and before their submissions were made. The Committee accepts the advice of the Legal Assessor.

GMC Submissions

23 Ms Gilsonan, on behalf of the GMC, submitted that if the facts are found proved in this case it is an appropriate and proportionate response to issue Dr Valentine with a warning. Ms Gilsonan said that on 7 December 2022 Dr Valentine assessed two patients in his role as an occupational health physician, in both assessments he arranged for a chaperone to be present in the adjoining room. However, Dr Valentine failed to inform the patients about the presence of the chaperone and he failed to obtain the patients' consent.

24 Ms Gilsonan said that this behaviour does not meet with the standards required of a doctor. It risks bringing the profession into disrepute and it must not be repeated. The required standards are set out in *Good medical practice* and associated guidance. In this case, paragraphs 17, 32, 47 and 65 of *Good medical practice (2013)*, the guidance in effect at the time, are particularly relevant. Ms Gilsonan submitted that whilst these failings are in themselves not so serious as to require any restriction on Dr Valentine's registration, it is necessary in response to issue this formal warning. Ms Gilsonan also referred the Committee to the MPTS *Glossary for undertakings and conditions* which she submitted clearly sets out the meaning of a chaperone and their role.

25 Ms Gilsonan submitted that both patients were independent of each other, they did not know each other and there was no question of collusion. She submitted that both patients were credible and consistent in respect of the key issues in this case, specifically whether Dr Valentine failed to inform them of the chaperone's presence, and whether their consent was obtained for the presence of the chaperone. Ms Gilsonan said that both patients were authentic, persuasive, and unshakable in their knowledge that they were not mistaken with the recollection of the events. Ms Gilsonan said that the Committee should be mindful when considering Nurse A's evidence as she has clear motive as director of the company, from both a financial and reputational perspective, to provide her version of events as she has.

26 Ms Gilsonan submitted that in your written response to the GMC about the assessment, your recollection was vague, generic and non-specific. However, in your oral evidence you were more assertive about what you recall had happened. Ms Gilsonan submitted that, there is a material difference which should be viewed in the context of Patient A and Patient B's affirmative evidence of what they do recall.

Defence Submissions

- 27 Mr McGee reminded the Committee that it is accepted by the GMC that a chaperone was present. The allegation for the Committee to consider is, therefore, whether is it more probable than not that Dr Valentine failed to inform Patient A and Patient B of that chaperone, and hence did not obtain their consent for her to be present.
- 28 Mr McGee said that is it not Dr Valentine's case that the witnesses are fabricating their accounts in any way, or that they would have a motivation to do so. It is submitted that Patient A and Patient B are honest witnesses whose recollection of the consultations is poor. They are mistaken and their adurance doesn't necessarily equal accuracy.
- 29 Mr McGee submitted that it is possible for the Committee to assess the integrity of the witnesses' evidence in an objective way by comparing their testimonies to what is known about the physical layout of the consultation room from the photographs exhibited. He provided several examples of features of the consultation room that were described by the witnesses, but which did not correspond with the photographs.
- 30 Mr McGee submitted that the witnesses accepted in their evidence that their recollection was not as good as it could have been, and that their memories have clearly failed them to a significant extent. He suggested that this was likely because they were focussed on the consultation rather than the preamble and peripheral details which were insignificant to them. This focus on the purpose of the consultation was also reflected in Dr Valentine's clinic letters, which mentioned a 'consenting process' but did not elaborate.
- 31 Mr McGee stated that, as an experienced occupational health practitioner conducting many consultations, Dr Valentine knew what he did when opening a consultation. As such, in the absence of a written record or detailed recall of a specific consultation, it is reasonable and credible for him to say to this Committee that he knew what he would have done, because it is what he always did.
- 32 Mr McGee invited the Committee to conclude that the allegations in this case are not proved. He stated that, if the Committee does conclude that the GMC has proved its case, it should consider that Dr Valentine's oversight was an isolated occurrence. 12 employees from Miss C's company have been seen by Dr Valentine and each was contacted by Miss C; only Patient A and Patient B, whom Dr Valentine saw on the same day, had any issues.

Committee Determination

- 33 The Committee is grateful to Counsel for taking them through the details of this case and to Patient B and Patient A for the benefit of their oral evidence. The Committee does not consider that new information has arisen during these proceedings and therefore, under Rule 11(6) of the Rules, the options open to it are to determine that the matter should not proceed further, or to issue a warning.

Determination on the facts

- 34 As Dr Valentine disputes the facts of the allegation, as set out by the GMC, the Committee is first required to determine whether it finds that the facts of the allegations are proved on the civil standard of proof.
- 35 The Committee is satisfied that the evidence before it is sufficient to conclude, on the balance of probabilities, that on 7 December 2022 Dr Valentine failed to inform Patient B and Patient A that a chaperone was present. It follows that, if a person is not aware of a chaperone's presence, they cannot have consented for the chaperone to observe the consultation.
- 36 The Committee has seen a chaperone log signed by Nurse A attesting to the fact that the consultation was observed. However, this log does not offer assurance that the patient was aware of the chaperoning. Nor is any assurance provided by the clinic letters written by Dr Valentine following Patient A and Patient B's consultations, which do not mention a chaperone.
- 37 The Committee has therefore relied on Dr Valentine's account of the consultations, both written and oral, and the witness statements and their oral evidence. Nurse A explained in her witness statement that she was aware that Dr Valentine was required to have a chaperone and the arrangements in place, but she did not include an explanation of how patients were made aware of her presence or how consent was obtained.
- 38 The Committee accept Mr McGee's submission that Patient A and Patient B would have been focused on the consultations and that peripheral details, such that Dr Valentine's introductory remarks, may not have been retained. The Committee consider that this supposition may apply equally to recollections of all of those present at the consultations on 7 December 2022.
- 39 The passage of time is also likely to have impacted the ability of all of those involved to recall details that appeared insignificant at the time. Indeed, Dr Valentine has been honest in his admission that he does not explicitly remember informing Patient A and Patient B of Nurse A's presence. In oral evidence at these proceedings you described, in some detail, what your standard practice is for explaining your role and informing patients of Nurse A's presence. Dr Valentine stated that he sees 'no reason why [he] would have deviated from this' on 7 December 2022.
- 40 The 'Rule 7 response', dated 30 May 2024 and submitted on Dr Valentine's behalf by his legal representative, states that he '*most probably would have mentioned the presence of [Nurse A] as chaperone*'. The Committee consider that weight must be given to Dr Valentine's response from 30 May 2024, which was not as definite as his oral evidence to this Committee.
- 41 The Committee find the GMC witness evidence in respect of the relevant facts to be credible. It does not give significant weight to what the witnesses could, or could not remember, about the physical layout of the consultation suite. As has been submitted, seemingly inconsequential details are easily forgotten. However, both are clear on what the Committee considers would

have been important considerations in their minds if the question of chaperone had been mentioned.

- 42 While the Committee agree with Mr McGee's view that it doesn't follow that a witness is correct just because they are adamant, both witnesses have been clear and consistent in their accounts of the relevant facts. The Committee consider that, in respect of the relevant facts, both witnesses have given oral evidence that is consistent with their written statements. The accounts from two individuals, given independently of each other, increase the likelihood that the witnesses' recall of the relevant facts is reliable.
- 43 The Committee considers that the unusual nature of the chaperoning arrangements is of particular significance. Nurse A was present because it was a requirement of the IOT conditions that were in place at the time, not because the offer of a chaperone would be usual practice for an occupational health consultation where no physical examination was conducted. This increases the likelihood of a chaperone being a memorable detail in the mind of the patient.
- 44 It is also atypical for a consultation room to have an internal window with another person observing through that window. Despite social distancing being in place and the situation of the window directly behind the patient, the Committee consider it more likely than not that the patient would have recalled the scenario of being observed from behind, if they were aware of it.

The Committee's approach to considering a warning

- 45 The Committee is aware that the GMC has a legal duty to protect the public. The Medical Act 1983 splits this duty into three distinct parts and requires the GMC to act in a way that:
- protects, promotes and maintains the health, safety and wellbeing of the public ('patient safety')
 - promotes and maintains public confidence in the profession
 - promotes and maintains proper professional standards and conduct for members of the profession.
- 46 In addition to the part warnings play in maintaining public confidence and upholding standards for the profession, they also serve to formally indicate to a doctor the behaviour or performance that has significantly departed from the professional standards expected and should not be repeated. The GMC *Guidance on warnings* states that they should be viewed as a deterrent. They are intended to remind the doctor that repetition of the given conduct is likely to result in a finding of impaired fitness to practise, which may lead to restrictions being placed on their registration.
- 47 The Committee considered whether the concerns are sufficiently serious to warrant a formal response, in the form of a warning, in the interests of upholding the GMCs legal duty. In determining this, and in line with the GMC *Guidance on warnings*, the Committee considered whether:

- a) there has been a clear and specific breach of the professional standards
- b) your conduct, behaviour or performance approached, but just fell short of, that which would pose a risk to public protection
- c) a repetition of the given conduct is likely to elevate the seriousness to a degree where you would pose a risk to public protection and restrictive action by the GMC would be necessary.

48 The Committee's role is not to review the case examiners' decision on whether a warning is appropriate, but to consider the matter afresh.

Committee's decision on a warning

49 The Committee find that on 7 December 2022 Dr Valentine arranged for a chaperone to observe two occupational health assessments from an adjoining room. However, he failed to inform the patients of the chaperone's presence or obtain their consent for the chaperone to observe. In doing this, the Committee find that there has been a clear and specific breach of the standards expected of a registered practitioner, specifically, the standards as set out in paragraphs 17, 32, 47 and 65 of *Good medical practice (2013)*.

50 The Committee find that Dr Valentine failed to satisfy himself that he had obtained consent or other authority before assessing both patients. Furthermore, Dr Valentine failed to give both patients the information they needed to know about the chaperone arrangements before conducting the assessment. The Committee also find that in failing to properly inform the patients, or seek their consent, Dr Valentine did not provide adequate respect for their dignity or privacy. Taking these failings together, the Committee find that Dr Valentine has failed to justify the trust the patients placed in him.

51 The Committee notes that, at the time of the assessments, Dr Valentine's registration with the GMC was subject to IOT conditions which were in place to protect patients and the public during a GMC investigation that was on-going at the time. One of these conditions was that a chaperone must be present when conducting face-to-face consultations. The Committee is therefore concerned that, despite these restrictions being in place, Dr Valentine failed to adequately ensure the patients were properly informed of the chaperone arrangements or obtain their consent. The Committee therefore concludes that there has been a significant departure from the standards expected of a registered practitioner.

52 The Committee note that both assessments occurred on the same day and that Dr Valentine has informed the Committee that his usual practice was to inform patients of the chaperone arrangement and seek their consent. The concerns therefore appear to be isolated to one day and there is nothing before this Committee which suggests that there has been any repetition of similar concerns. The Committee note that both patients raised no concern with the assessment itself.

53 Taking all these factors into account, the Committee has weighed the interests of the public with Dr Valentine's interests and considered whether it would be a proportionate response to issue him with a warning. On balance, the Committee is concerned that, should it take no action, it would not serve to protect patients and the public. The Committee considers it extremely important that given the trust patients place on doctors, it must send a clear message that upholding the appropriate standards in obtaining consent and informing patients of chaperone arrangements is necessary to keep patients safe. This, it feels, is strengthened when a doctor is under restrictions which are designed to keep patients and the public at risk of harm.

54 The Committee therefore considers it to be an appropriate and proportionate response in this case to issue Dr Valentine with the following warning:

On 7 December 2022 Dr Valentine arranged for a chaperone to observe his consultations with two patients from an adjoining room without informing either of the patients concerned about the chaperone's presence or obtaining their consent.

This behaviour did not meet with the standards required of a doctor. It risked bringing the profession into disrepute and it must not be repeated. The required standards were, as of 7 December 2022, set out in *Good medical practice (2013)* and associated guidance. In this case, paragraphs 17, 32, 47 and 65 of *Good medical practice* were particularly relevant:

17. You must be satisfied that you have consent or other valid authority before you carry out any examination or investigation, provide treatment or involve patients or volunteers in teaching or research.

32. You must give patients the information they want or need to know in a way they can understand. You should make sure that arrangements are made, wherever possible, to meet patients' language and communication needs.

47. You must treat patients as individuals and respect their dignity and privacy.

65. You must make sure that your conduct justifies your patients' trust in you and the public's trust in the profession.

The current guidance set out in *Good medical practice (2024)* states that:

16. You must recognise and respect every patient's dignity and right to privacy.

25. You must be satisfied that you have consent or other valid authority before examining or treating patients, or involving patients or volunteers in teaching or research. More detail about this is given in our guidance on Decision making and consent which you must follow. If relevant to your practice, you must also follow our guidance on Making and using visual and audio recordings of patients.

28. The exchange of information between medical professionals and patients is central to good decision making. You must give patients the information they want or need in a way they can understand.

81. You must make sure that your conduct justifies patients' trust in you and the public's trust in your profession.

Whilst this failure in itself was not so serious as to require any restriction on Dr Valentine's registration, it is necessary in response to issue this formal warning.

This warning will be published on the medical register in line with our publication and disclosure policy, which can be found at www.gmc-uk.org/disclosurepolicy.

That concludes the determination of the Investigation Committee in this case.

John Anderson
Investigation Committee Chair