

Report by the Health Service Ombudsman for England of an investigation of a complaint about a GP in Dudley

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Foreword

This is a report of my investigation of a complaint that a GP ‘bullied’ a patient, Mrs S, into leaving the GP Practice that her family had been with for 24 years. Following the investigation, I upheld the complaint but the GP has not accepted all my recommendations to remedy the injustice arising from his mistake. Therefore, I am laying this report before Parliament under section 14 (3) of the Health Service Commissioners Act as I have found injustice arising from maladministration which has not and, it appears, will not be remedied.

Mrs S’s story begins with her concern about her daughter’s health. Mrs S’s daughter had been suffering from poor health for a few years and had frequent episodes of passing out. The cause of these episodes was undiagnosed. Mrs S attended her GP Practice with her daughter in August 2010 after her daughter had collapsed at work. The Practice’s receptionist told Mrs S that as it was after 6pm there were no more appointments and so she would have to go to the walk-in centre or wait for an out-of-hours GP. Mrs S said that she told the receptionist that her daughter was unconscious in the car. Mrs S added that when she could not get an appointment she ‘stormed out’ of the Practice because she was upset and angry. The receptionist said that Mrs S swore as she was leaving. Mrs S said that she did not swear.

When the GP was told of what had happened he decided that he should write to Mrs S. In his letter he wrote that her attitude towards reception staff and the offensive language she used was not acceptable. He said that if the Practice did not receive a written apology from Mrs S within 14 days he would be unable to offer her medical care at the Practice and would require her to register elsewhere. Mrs S considered this an ultimatum and registered herself with another GP.

Mrs S complained to the Practice. She was dissatisfied with the outcome of the local resolution process so she complained to my Office. We investigated her complaint. We found that although the GP did not remove Mrs S from the Practice’s patient list, Mrs S was left in no doubt that if she did not apologise then she would be removed. The GP had not acted in line with national and local guidance about removing patients from a GP list. His actions fell so far below the applicable standard in the circumstances as to amount to maladministration which resulted in injustice for Mrs S as she felt ‘bullied’, was distressed and was inconvenienced. Mrs S’s distress was exacerbated by the knowledge that the GP was aware of Mrs S’s daughter’s on-going undiagnosed condition but the GP had not appeared to have given any consideration to this in his decision-making.

In September 2011 I issued the final report of the investigation of Mrs S’s complaint. I recommended that within one month of the report the GP should:

1. provide Mrs S with a full written acknowledgement of the maladministration identified, giving her a sincere apology;
2. provide financial redress of £500 for the distress and inconvenience resulting from his actions;
3. prepare an action plan to describe what he had done to ensure that he had learnt the lessons from the maladministration identified. He should also detail what he had done and/or planned to do, including timescales, to ensure that the Practice staff are made aware of, and follow, the relevant standards and guidance in relation to removing patients from the Practice list.

In response the GP said that his Practice were planning to organise in-house training regarding guidelines concerning patient behaviour and removal requests. He did not consider his communication with Mrs S was a direct removal request but he was willing to apologise if that was how it was interpreted. He refused compensation saying that his Practice 'will not sanction or condone the payment of monies rewarding such poor behaviour'. This was a reiteration of the GP's response to the draft investigation report.

Unfortunately, by refusing to accept my recommendations in full the GP has missed the point. He may consider that his letter was misinterpreted by Mrs S as an ultimatum. But this is not an issue of the GP's intention versus Mrs S's interpretation. Following my independent investigation, I have found that, whatever the intention of the letter, its wording was unambiguous. I do not regard the GP's demand for an apology to be an opportunity to respond. I found that the GP's letter played a significant part in the breakdown in the relationship between the GP and the patient.

Furthermore, the GP has misunderstood my recommendations for remedy. Like the GP and his colleagues at his Practice, I would not sanction or condone the payment of monies for poor behaviour. Aggression and abuse are never acceptable and GP practice staff have a challenging job when they are on the receiving end of such behaviour by patients. Whatever precisely happened when Mrs S stormed out of the Practice on an August day in 2010, I have not investigated Mrs S's actions. What I have investigated is Mrs S's complaint about the GP and his actions. My independent investigation found that, following the incident when Mrs S stormed out, the GP got things wrong. As a result of his mistake and his significant part in the breakdown in the relationship with his patient, Mrs S moved

to a different GP practice. I found that the GP's actions therefore resulted in Mrs S experiencing injustice in the form of distress and inconvenience alongside feeling 'bullied'. My recommendations are to remedy that injustice experienced by Mrs S.

I have no doubt that having a patient storm out was an unpleasant experience for the Practice's staff. That does not remove the injustice experienced by Mrs S arising from the GP's actions. In Mrs S's words she was 'bullied' into finding a new GP practice after 24 years as she was given an ultimatum to apologise or be removed from the patient list. Mrs S's injustice remains unremedied.

My investigation report was copied to NHS Dudley, the local Primary Care Trust. They have urged the GP to comply with my recommendations and are considering what further action to take.

In October 2011 I considered that the GP's unwillingness to comply with my recommendations raised questions about his fitness to practise, sufficient to constitute a threat to the health and safety of patients. Therefore, I shared the report of my investigation with the General Medical Council. The General Medical Council is considering what action to take.

This is only the second time I have laid a report under section 14 (3) of the Health Service Commissioners Act since I became Health Service Ombudsman for England in 2002. By laying this report I am able to put into the public domain my investigation report, naming the doctor. I am also able to reinforce a theme in my recent report *Listening and Learning: the Ombudsman's review of complaint handling by the NHS in England 2010-11*. In the latter report I said that in a small but increasing number of cases a failure to resolve an issue led to a patient being removed unfairly from the GP's patient list and that my Office's casework shows that some GPs are not following

clear guidance available to them. As I said in *Listening and Learning*, as GPs prepare for the increased commissioning responsibilities outlined in the Government's health reforms, it is essential that they get the basics of communication right. Finally, I hope that making this story public encourages the GP to provide the long overdue remedy to Mrs S.

A handwritten signature in black ink that reads "Ann Abraham". The signature is written in a cursive, flowing style.

Ann Abraham
Parliamentary and Health Service Ombudsman

November 2011

Health Service Commissioners Act 1993

Report by the Health Service Ombudsman for England
of an investigation into a complaint made by Mrs S

Complaint about: Dr W T Hampson
Northway Medical Centre, Alderwood Precinct, Northway,
Sedgley, Dudley, West Midlands

Introduction

- 1 This is my report on the investigation into Mrs S's complaint about Dr W T Hampson. This report contains my findings, conclusions and recommendations with regard to Mrs S's areas of concern.

The complaint

- 2 Mrs S complained that Dr Hampson had accused her of using offensive language towards one of the receptionists at the Northway Medical Centre (the Practice), which she denies. Mrs S considers that Dr Hampson bullied her into leaving the Practice by giving her 14 days to apologise or face removal from the patient list. She is concerned that Dr Hampson wrote to her about his concerns, and that a copy of this letter is filed in her medical records. She said that the Practice told her that there was nothing relating to the events in her medical records.
- 3 Mrs S said that having to leave the Practice that her family has been with for 24 years has been hugely stressful for her and her daughter. She said that it has also been stressful finding a new GP. Mrs S has said that she is disappointed and upset to find that, contrary to what she had been told, there was a reference to the incident in her medical records. She also said that she is worried about her new GP seeing the entry on her records and that this has greatly upset her.

My decision

- 4 Having considered all the available evidence relating to Mrs S's complaint about Dr Hampson, including her recollections and views, I have reached a decision.
- 5 I have found that Dr Hampson's actions fell so far below the applicable standard in the circumstances as to amount to maladministration. This maladministration by Dr Hampson led to the injustice that Mrs S experienced unnecessary distress and inconvenience.
- 6 I uphold the complaint about Dr Hampson.

The Health Service Ombudsman's jurisdiction and role

- 7 *The Health Service Commissioners Act 1993* empowers me to investigate complaints about the NHS in England. I may investigate complaints about NHS bodies such as trusts, family health service providers such as GPs (like Dr Hampson) and dentists, and independent persons (individuals or bodies) providing a service on behalf of the NHS.
- 8 In doing so I consider whether a complainant has suffered injustice or hardship in consequence of action taken by the body, a

failure by the body to provide a service it was empowered to provide, or maladministration in respect of any other action by or on behalf of the body.

- 9 When considering complaints about GPs, I may look at whether a complainant has suffered injustice or hardship in consequence of action taken by the GP in connection with the services the GP has undertaken with the NHS to provide. Service failure or maladministration may arise from action taken by the GP themselves, by someone employed by or acting on behalf of the GP, or by a person to whom the GP has delegated any functions.
- 10 If I find that service failure or maladministration has resulted in an injustice, I will uphold the complaint. If the resulting injustice is unremedied, in line with my Principles for Remedy, I may recommend redress to remedy any injustice I have found.

The basis for my determination of the complaint

- 11 In general terms, when determining complaints that injustice or hardship has been sustained in consequence of service failure and/or maladministration, I generally begin by comparing what actually happened with what should have happened.
- 12 So, in addition to establishing the facts that are relevant to the complaint, I also need to establish a clear understanding of the standards, both of general application and those which are specific to the circumstances

of the case, which applied at the time the events complained about occurred, and which governed the exercise of the administrative and clinical functions of those bodies and individuals whose actions are the subject of the complaint. I call this establishing the overall standard.

- 13 The overall standard has two components: the general standard, which is derived from general principles of good administration and, where applicable, of public law; and the specific standards, which are derived from the legal, policy and administrative framework and the professional standards relevant to the events in question.
- 14 Having established the overall standard, I then assess the facts in accordance with the standard. Specifically, I assess whether or not an act or omission on the part of the body or individual complained about constitutes a departure from the applicable standard.
- 15 If so, I then assess whether, in all the circumstances, that act or omission falls so far short of the applicable standard as to constitute service failure or maladministration.
- 16 The overall standard I have applied to this investigation is set out below.

The general standard – the *Ombudsman's Principles*

- 17 In February 2009 I republished my *Principles of Good Administration, Principles of Good Complaint Handling and Principles for Remedy*.¹ These are broad statements of what I consider public bodies should do to deliver good

¹ The *Ombudsman's Principles* is available at www.ombudsman.org.uk.

administration and customer service, and how to respond when things go wrong. The same six key Principles apply to each of the three documents. These six Principles are:

- Getting it right
- Being customer focused
- Being open and accountable
- Acting fairly and proportionately
- Putting things right, and
- Seeking continuous improvement.

18 Two of the Principles of Good Administration particularly relevant to this complaint are:

- ‘*Getting it right*’ – which includes public bodies acting in accordance with recognised quality standards, established good practice or both; acting in accordance with their statutory powers and duties and any other rules governing the service they provide; and taking reasonable decisions, based on all relevant considerations.
- ‘*Being customer focused*’ – which includes responding to customers’ needs flexibly.

The specific standards

Legal standards

19 *The National Health Service (Personal Medical Services Agreements) Regulations 2004* (PMS Regulations) prescribe the provisions which must be included in the agreements concerning the circumstances in which GPs can remove patients from their lists.

20 Paragraphs 18 to 27 of Schedule 5 to the PMS Regulations set out the provision relating to the removal of patients from a GP’s list.

21 The PMS Regulations agreement signed by Dr Hampson sets out his specific duties and powers as to the removal of patients. It is that agreement which imposes a duty on Dr Hampson to comply with the mandatory conditions which the PMS Regulations require to be included in the agreement. Paragraph 7.8.6 of the agreement in this case states:

‘... where the [Practice] has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the applicant’s race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the [Practice] shall ... notify the patient in writing of its specific reasons for requesting removal.’

22 Paragraph 7.8.8 states:

‘... the [Practice] may only request a removal under paragraph 7.8.6, if, within the period of 12 months prior to the date of its request to the PCT, it has warned the patient that he/she is at risk of removal and explained to him/her the reasons for this.’

23 There are some exceptions to this requirement. For example, if the GP has reasonable grounds for believing that the issue of such a warning would be harmful to the physical or mental health of the patient or would put at risk the safety of the GP, practice staff or any other person present on the practice premises; or where, in the GP’s opinion, it would ‘*not otherwise be reasonable or practical*’ to give such a warning. The GP should record in writing the date of any warning given and the reasons for giving such a warning as explained to the patient, or the reason why no such warning was given.

Professional guidance

- 24 The Royal College of General Practitioners (the RCGP) are responsible for maintaining standards in general medical practice. In September 2004 they published *Removal of Patients from GPs' Lists: Revised Guidance for College Members* (the RCGP Guidance). This provides information about the situations that may justify removal from a GP's patient list. These include unacceptable behaviour such as physical violence; physical, verbal or discriminatory abuse (including threats or gestures); sexual or racial harassment.
- 25 The RCGP Guidance states that occasionally, people may persistently act inconsiderately, that is, their behaviour may fall outside that which is normally considered to be reasonable. In such circumstances there may appear to be an irretrievable breakdown in the patient-doctor relationship. However, it is under these conditions that the potential for misunderstanding is at its greatest. Therefore, it is important not to lose sight of the cause of the breakdown and to remember that the circumstances surrounding the apparent breakdown may be perceived differently by the patient and the doctor.
- 26 The RCGP Guidance sets out a number of steps to be taken within a practice before a decision is taken to remove a patient, including consideration of whether any aspect of the running of the practice is contributing to the problem, for example, a receptionist with poor interpersonal or communication skills. It also suggests that the practice consider implementing solutions or procedures that might help, such as more thorough training of practice reception staff. The RCGP Guidance also suggests that the practice should consider

arranging a meeting with the patient to discuss the problem.

The Practice's policy

- 27 The Practice has a patient removal policy that details the circumstances in which a patient can be removed from the list and the process for doing so. One situation which is listed that justifies removal is violence. Included in the examples given are the following:
- When a patient is physically violent or threatening towards a doctor, Practice staff or other patients on the Practice premises.
 - When a patient gives verbal abuse or makes threats towards the doctor, Practice staff or other patients.
- 28 The Practice's 'zero tolerance' statement says:
- 'Please treat doctors and staff as you would expect to be treated by them, with politeness and respect. Violence and aggression towards doctors and staff will not be tolerated and in instances where this occurs severe steps will be taken.'*
- 29 The Practice's policy states that in the above circumstances the incident will be reported to the Practice Manager and all staff involved will complete an incident report and the matter will be brought to the attention of the Practice partners. The case will then be discussed at a Practice meeting. If it is decided that the patient does not need to be removed from the list immediately, a warning letter will be sent to the patient stating the reasons for potential removal. The policy states that the patient will be given an opportunity to respond to the Practice.

The investigation

- 30 We visited Mrs S on 27 January 2011 to discuss the nature of her concerns and the way in which we would investigate her complaint. We also visited the Practice on the same day to discuss Mrs S's complaint.
- 31 During this investigation we have examined all the relevant documentation. This includes papers provided by Mrs S, documentation provided by Dr Hampson, and the papers relating to the attempted resolution of the complaint at local level. We have taken account of comments made by Mrs S and by the Practice.
- 32 In this report I have not referred to all the information examined in the course of the investigation, but I am satisfied that nothing significant to the complaint or my findings has been omitted.

Key events

- 33 Mrs S had been registered as a patient at the Practice for 24 years. Her children were also registered there. Over the past few years her daughter has been suffering from poor health and has had frequent episodes of passing out. The cause of these episodes has not been diagnosed and she continues to pass out periodically.
- 34 Mrs S attended the Practice at about 6pm on the evening of 23 August 2010 and asked what time the Practice was open until. The receptionist told her that it was open until 6.30pm but that the last appointments were at 6pm. Mrs S asked if there was a possibility of seeing a doctor but was advised that there were no free appointments. The receptionist informed Mrs S that she could attend a nearby

walk-in centre or could call the out-of-hours doctors who were available from 6.30pm. Mrs S became frustrated at this point and stormed out of the Practice, pushing the door open with force as she did so. The receptionist said that as Mrs S was leaving she said: *'This surgery is shit, I can't believe I can't get an appointment'*.

- 35 When Dr Hampson was told of what had happened he decided that he should write to Mrs S about the incident. In a letter sent the following day he wrote:

'I am sorry that we were unable to offer you an appointment last night but understand that you were informed of the alternative services available to you for your daughter.'

'Your attitude to our reception staff and offensive language is not acceptable.'

'If we do not receive a written apology from yourself in the next 14 days we will be unable to offer you medical care at the practice and so will require you to register elsewhere.'

- 36 After receiving the letter from Dr Hampson Mrs S registered herself with another practice.

Local resolution

- 37 Mrs S wrote back to Dr Hampson and said that she had decided to register with another GP practice. She explained that she had become so frustrated and emotional because of the ongoing problems with her daughter's health. She gave her account of events and acknowledged that her frustration had led to an emotional outburst but not *'attitude'* as had been described by him. She said that she certainly did not use offensive language during the conversation with the receptionist. She said she wanted to receive a letter from

Dr Hampson apologising for this error and the slur on her character. She also asked for any mention of the incident to be removed from her records. She said that his letter was a knee-jerk reaction and that it had not taken into account the full facts of what had happened.

- 38 On 17 September the Practice Manager wrote to Mrs S. She said that the letter from Dr Hampson concerning Mrs S's behaviour was not a knee-jerk response to the incident. The Practice Manager said Dr Hampson had received an *'immediate full report from the experienced receptionist on duty, whom we have no reason to doubt'* and that offensive language would not be tolerated. The Practice Manager advised Mrs S that there was no entry in her medical record to amend with regard to this incident.
- 39 On 25 September Mrs S wrote to the Practice Manager. She asked to see a copy of the full report made by the receptionist concerning the incident involving her. She wanted to know what offensive language she had been accused of using. She wrote that the effect of the Practice Manager's letter was to make her a *'branded liar'*.
- 40 In a letter dated 28 October 2010 the Practice told Mrs S that *'a copy of the initial correspondence is included in [her] notes'*.

Mrs S's recollections and comments

- 41 Mrs S said that her daughter had been ill for many years and therefore had had many visits to the Practice, including one a few days before 23 August. She said that her daughter kept passing out and had knocked herself unconscious on a number of occasions. She said that on 23 August her daughter had again passed out at work and she went to collect her.

Mrs S said that she was obviously quite upset about the situation. She said that she knew that the Practice closed at 6pm, but wanted a GP to see her daughter in her semi-conscious state as previously she had only been seen once she had recovered. Mrs S asked the receptionist what the point was of going to the walk-in centre when they did not know her daughter and did not have her medical records. She said that she told the receptionist that her daughter was unconscious in the car. Mrs S said that when the receptionist would not give her an appointment she *'stormed out'* because she was angry and upset. However, she said that she did not swear.

- 42 Mrs S said that they went to the walk-in centre who said that they did not know her daughter and suggested that she see her GP the following day.
- 43 Mrs S said that being *'kicked out'* of the Practice where her family had been registered for 24 years had been *'mega-stressful'* for her and her daughter, given her daughter's ongoing illness. She said that she felt *'bullied'* into leaving and finding another practice because she was given an ultimatum to apologise or face being removed from the Practice list. She said that she felt very let down by the Practice. She said that even when she explained the reason for her reaction Dr Hampson did not reconsider his decision. She said that she would have felt better about things if he had invited her in for a discussion about what had happened.

- 44 Mrs S said that it had also been stressful finding a new GP, which was now around three to four miles from her home. She also said that she was worried about the new GP seeing the entry in her records and that this had greatly upset her. She said that, unfortunately, people do judge based on such things. She said that she was also

concerned that Dr Hampson and the Practice Manager had told her and this Office that there were no entries in her records relating to this, and felt that the Practice had lied to her and to us.

The receptionist's comments

45 The receptionist told us that when she told Mrs S that she could not have an appointment, Mrs S became quite frustrated and was gesturing with her hands, saying that there was an ongoing problem with her daughter. Mrs S said that her daughter needed to be seen. She said this with a raised voice and was quite angry. The receptionist said that she was trying to be quite calm. Mrs S then walked out and pushed the door open with force, which made the receptionist jump, and as she did so Mrs S said: *'This surgery is shit'*. The receptionist said that she was a bit scared that Mrs S might come back in as she had been quite angry.

Dr Hampson's comments

46 Dr Hampson said that he sees patients by appointment only and that the walk-in centre was there for these situations. He said that the last patient appointments are at 6pm and so when Mrs S had come in, he was with a patient. When he had finished with the patient he saw that the receptionist was *'disturbed'* and on the verge of crying. He said that she is very experienced and does not complain needlessly. The receptionist told him what had happened. He told us that Mrs S had been *'bullying, in your face, demanding an appointment and aggressive'*. He said that she had sworn when she left, although she may have not meant it to be overheard.

47 Dr Hampson said that the receptionists have to deal with difficult patients all of the time and that he has a duty to protect his staff. He said that, given the receptionist's state, on the balance of probabilities he was persuaded that Mrs S had acted as the receptionist had described. He said that he was aware of the ongoing situation with Mrs S's daughter's health, but that this did not excuse her actions. He said that he had to decide what an appropriate response to Mrs S's actions should be. He said that it would not have been appropriate to take no action but neither would it have been appropriate to have removed her straight away. Therefore, he decided that her actions needed a *'fairly strong letter'*. He said that the local Primary Care Trust (NHS Dudley) has a strict 'zero tolerance' policy which the Practice employs and, therefore, he felt that he had to demand an apology from Mrs S for her actions.

48 Dr Hampson said that in the 24 years that Mrs S had been a patient at the Practice there had never previously been a problem.

49 In reference to Mrs S's concern about there being an entry in her medical records about what had happened, Dr Hampson said that they were a paper-free Practice and so all letters are stored electronically. He said that the letter asking her to apologise had been recorded in Mrs S's medical records, which contain all correspondence and clinical treatment details. However, he said that no details of the incident had been recorded in her clinical records themselves. He explained that this was why there had been a misunderstanding about what had been recorded. He said that these records were forwarded on to her new GP.

50 We contacted the Practice on 21 October 2010 and the Practice Manager told us that there was nothing recorded in Mrs S's medical

records about the incident. The Practice sent us a screen print of the summary of the entries in Mrs S's medical records, which included the following entry for 24 August: *'letter RE ATTITUDE AND OFFENSIVE LANGUAGE'*.

Dr Hampson's comments on our draft report

- 51 In response to our draft report Dr Hampson requested that my Office reconsider our findings. He said that Mrs S had voluntarily changed doctors and had not been removed from the patient list by the Practice. He said that without any recognition by Mrs S that her behaviour had been unacceptable there appeared to be an irretrievable breakdown of the patient-Practice relationship, which would indicate that a *'parting of the ways'* was imminent.
- 52 In a further letter to my Office, Dr Hampson said that the letter to Mrs S was not intended as a formal removal request or even an indirect removal request, but was meant *'more as a warning and opening for a response'*. He apologised for the misunderstanding if the phraseology in the letter was *'poor, ambiguous or misunderstood'*. He said that at the time of the initial letter it had not been his intention or understanding that he had started a formal removal request procedure and therefore he found it difficult to accept our finding of maladministration.
- 53 Dr Hampson said that although he did not accept our finding of maladministration, the Practice was intending to provide training to staff on the PMS guidelines for the removal of patients from the patient list. However, he was not prepared to offer a financial remedy to Mrs S.

My findings

- 54 In considering whether there has been maladministration by Dr Hampson, I have taken account of the Ombudsman's Principles of *'Getting it right'* and *'Being customer focused'* (paragraph 17). In order to *'get it right'* Dr Hampson should have followed the PMS Regulations agreement (paragraphs 19 to 23), the guidance provided by the RCGP (paragraphs 24 to 26), and the Practice's own policy (paragraphs 27 to 29).
- 55 The PMS Regulations agreement allows GPs to remove patients from their lists (assuming they have reasonable grounds) but they must have given a warning that the patient is at risk of removal within the previous 12 months and explained the reasons for this, apart from in exceptional circumstances (as set out in paragraphs 21 to 23). This is also stated in the Practice's policy. The PMS Regulations agreement would only have allowed Dr Hampson to remove Mrs S without having first issued a warning if this would have been harmful to her physical or mental health, put at risk the safety of members of staff or patients at the Practice, or where in his opinion it would not otherwise have been reasonable or practical to give such a warning. I have seen no evidence to suggest that any of these exceptional circumstances applied in this case. Dr Hampson did not give Mrs S a warning before writing to tell her that she would be removed from the patient list. He said that his letter was not intended as a formal removal request and he apologised if the phraseology used was *'poor, ambiguous or misunderstood'*. I take a different view: the intention might not have been to remove Mrs S formally, but there is absolutely no ambiguity in the wording of the letter. Although, in the event, Dr Hampson did not remove Mrs S from the patient list, she was

- left in no doubt that if she did not apologise then she would be removed. He therefore did not act in line with the PMS Regulations agreement.
- 56 In his response to our draft report Dr Hampson said that without any recognition by Mrs S that her behaviour had been unacceptable there appeared to have been an irretrievable breakdown of the patient-Practice relationship. However, had Dr Hampson been *'Getting it right'* and acting in line with the PMS Regulations agreement and RCGP Guidance, he would have discussed the incident with Mrs S, given consideration to whether the Practice had contributed to the breakdown and, in the light of what came out of that discussion, considered issuing a warning. He did not even follow the Practice's own policy because Mrs S was not given an opportunity to respond; and although Dr Hampson considers his letter to have been *'more as a warning and opening for a response'*, I do not regard his demand for an apology to be an opportunity for Mrs S to respond. It seems to me that the letter sent by Dr Hampson played a significant part in the breakdown of the relationship, a fact that he has failed to fully acknowledge. In not acting in line with the relevant guidance, Dr Hampson was not *'Getting it right'*.
- 57 Dr Hampson's actions fell significantly below the applicable standards and guidance. This was maladministration.
- 58 Mrs S also complained that the Practice lied to both her and to my Office when they said that there were no entries in her records regarding the incident.
- 59 The Practice saved a copy of the letter it had sent Mrs S about the incident in her administrative records. This administrative record is separate from the records of clinical contact between Mrs S and the Practice's clinical staff, but forms part of the overall medical record that was forwarded to her new GP. It seems to me that Dr Hampson and the Practice Manager interpreted Mrs S's and our enquiries as referring only to whether an account of the incident had been recorded in her clinical records: they did not consider the entry relating to the letter in the administrative record to be relevant. Had they considered the purpose of Mrs S's enquiry a little more they might have understood that she was concerned that her new GP would learn of the incident from her records, and have considered whether the administrative record would be of concern to Mrs S also.
- 60 I do not concur with Mrs S's view that Dr Hampson and the Practice Manager lied to her and to us about her records; in my view they misunderstood her concerns and the reason she wanted to know whether or not there was an entry anywhere in her records. In doing so they lacked customer focus, by failing to consider the purpose of Mrs S's request for that information. Further, the choice of words used to record the letter sent about the incident was insensitive and unnecessary. No consideration appears to have been given to how the heading *'letter RE ATTITUDE AND OFFENSIVE LANGUAGE'* could be interpreted by anyone who was not in possession of the facts of the incident. As the entry was made for administrative purposes only, I cannot see that it was necessary to include such details in the letter title.
- 61 I have identified shortcomings in Dr Hampson's recording of the letter and the subsequent responses to Mrs S's and our enquiries. However, the entry, although insensitive, was an accurate description of the letter sent to Mrs S and I am

satisfied that Dr Hampson did not intend to mislead either Mrs S or my Office. Therefore, although these actions demonstrated a lack of customer focus, I do not find that they amount to maladministration.

Injustice

- 62 Mrs S said that she had felt ‘bullied’ into leaving the Practice and that this had been very stressful for her and her daughter. She said that she felt let down by the Practice. She said that she now has to travel by car to her new GP practice.
- 63 Contrary to Dr Hampson’s view, the letter sent to Mrs S made it clear that she would be removed from the Practice list if she did not apologise and so I can understand why Mrs S felt bullied into leaving. Further, I can fully appreciate why this was so distressing for her, given that the reason for her becoming frustrated and emotional in the first place was because of her daughter’s condition at the time. This was made all the more distressing by the knowledge that Dr Hampson was aware of her daughter’s ongoing condition but had not appeared to have given any consideration to this in his decision-making. There was also an added inconvenience for her in having to find a new GP practice with which to register after she had been happily registered for so long at the Practice. She now has to travel further to visit her new GP too.

Conclusions

- 64 I therefore uphold Mrs S’s complaint about Dr Hampson.

Recommendations

- 65 When deciding on recommendations for Dr Hampson, I have taken into account my Principles for Remedy. Three of the Principles particularly relevant to this complaint are:
- ‘*Being customer focused*’ – which includes apologising for and explaining the poor service;
 - ‘*Putting things right*’ – which includes, if possible, returning the complainant to the position they would have been in if the maladministration had not occurred. If that is not possible, compensating the complainant appropriately; and
 - ‘*Seeking continuous improvement*’ – which includes using the lessons learnt from complaints to ensure that maladministration is not repeated.
- 66 With these Principles in mind, I recommend that within one month of the issue of this investigation report, Dr Hampson should:
- provide Mrs S with a full written acknowledgement of the maladministration identified in our investigation report and give her a sincere apology for the injustice we have identified. A copy of that letter should be sent to my Office;
 - provide financial redress of £500 to Mrs S for the distress and inconvenience resulting from his actions; and
 - prepare an action plan to describe what he has done to ensure that he has learnt the lessons from the maladministration identified by this upheld complaint. He should also detail what he has done and/or plans to do, including timescales, to ensure that Practice staff are made aware of, and follow, the relevant standards and guidance

in relation to removing patients from the Practice list. Copies of the action plan should be sent to my Office, Mrs S, and to NHS Dudley. Dr Hampson should also ensure that Mrs S and NHS Dudley are updated regularly on progress against the action plan.

Final remarks

- 67 In this report I have set out our investigation, findings, conclusions and decision with regard to the service Mrs S received from Dr Hampson. At the time of the events complained about, Mrs S was understandably concerned about her daughter's health. She could rightly have expected Dr Hampson, as their GP, to have taken account of this in his subsequent action. Instead, he demonstrated a lack of empathy for her situation and the wording of his letter only added to her frustration.
- 68 Mrs S said she feels that if Dr Hampson agreed with our recommendations and carried all of them out, then this would be sufficient to allow her to move on and draw a line under her complaint and the events that led to it. I hope that this report will achieve this outcome for her.



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