

**Case 200503335: A Dental Practice, Lothian NHS Board**

**Summary of Investigation**

***Category***

Health: Dental

***Overview***

The complainant was concerned that he had been removed from his Dental Practice's patient register.

***Specific complaint and conclusion***

The complaint which has been investigated is about Mr C's de-registration from the dental list (*not upheld*).

***Redress and recommendations***

The Ombudsman has no recommendations in respect of this complaint. However, she considered (see paragraph 9) that dentists in general and patients could find it helpful to have guidance on removing patients from dental lists. The matter was raised with the Scottish Executive Health Department, and the Ombudsman is pleased to report that they have agreed to consider this.

## **Main Investigation Report**

### **Introduction**

1. I shall refer to the complainant as Mr C. A reminder of this and other abbreviations is at Annex 1. On 2 March 2006 the Ombudsman received Mr C's complaint about his removal from his Dental Practice (the Practice)'s patient register.

2. The complaint from Mr C which I have, therefore, investigated is about Mr C's de-registration from the dental list. At paragraph 9, I cover the issue of guidance for dentists who are considering removing a patient from their list. However, that is not part of the complaint investigated and should not be taken to imply any criticism in this case.

### **Investigation**

3. I was assisted in the investigation by one of the Ombudsman's clinical advisers, who is a senior dentist and whom I refer to as the Adviser. His role was to comment on the de-registration. We examined the papers provided by Mr C, correspondence between Mr C and the Practice which the Practice sent to me, and the Practice's reply to enquiries which I put to them. To identify any gaps and discrepancies in the evidence, the content of relevant papers on file was checked against information elsewhere on file and was compared with my own and the Adviser's knowledge of the issue concerned. I am, therefore, satisfied that the evidence has been tested as robustly as possible. However, I have had to bear in mind that much of the complaint centres on aspects that cannot be proved – in other words, Mr C's attitude and what Mr C said about the money he owed. In line with the practice of this office, the standard by which the Practice's actions were judged was whether they were reasonable, in the circumstances, at the time in question.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Practice were given an opportunity to comment on a draft of this report.

### **Complaint: Mr C's de-registration from the dental list**

5. In July 2005 Mr C had a routine check-up at the Practice. Shortly afterwards he broke a tooth and, because the Practice were closed for a while, he received emergency treatment at the Practice's other branch. Mr C owed £27.12 because of this emergency treatment. Mr C said that he understood from the branch where he received that treatment that the amount would be included within his main account from the Practice. A note in the Practice's dental records says that, on 1 November 2005, Mr C said that he was not willing to pay the £27.12 because he considered that the dentist at the other branch had done a poor job. Mr C continued to have treatment at the Practice.

6. In January 2006 Mr C attended for his next routine check-up at the Practice but was told that the Practice were removing him from their patient list because he had refused to pay the £27.12 and that they had told him this in writing. However, when Mr C told the Practice that he had never received such a letter and requested a copy, the Practice were unable to give him a copy or any other proof. On 2 February 2006 a senior dentist at the Practice wrote to Mr C to apologise, and explain, about the letter. He said that he himself had written a letter several months previously to tell Mr C that he was to be removed from the list. He said he noticed that another dentist at the Practice had not signed the necessary NHS de-registration form, so he delayed sending his own letter until the form had been signed. In the mix-up, the Practice staff assumed that the letter had been sent and so they simply filed away all the papers. The letter, therefore, was not sent. The senior dentist said that he took full responsibility for this error and apologised for it. Later that month (February 2006) Mr C did pay the outstanding £27.12. However, the de-registration went ahead because the senior dentist felt that the relationship between Mr C and the Practice had broken down. The Practice said that ongoing difficulties with Mr C's attitude had been a factor in the relationship breakdown. Mr C denied that his attitude had ever been inappropriate.

### *Conclusion*

7. Dentists are permitted to end a patient's registration for various reasons, for example, non-payment or if they consider that a working relationship has broken down. I can make no comment about whether Mr C told the Practice that he was unwilling to pay the £27.12 or about Mr C's attitude. This is because it would not be possible to establish the facts about who said what, and in what manner.

However, the Practice clearly considered that the relationship had broken down, and, as there is no evidence to the contrary, the Adviser and I agree that the Practice cannot be criticised for deciding to de-register Mr C. In other words, it is not for this office to criticise a de-registration decision simply because there is no proof of the reason.

8. I do criticise the way in which the de-registration was done because it is clear that the appropriate notification was not sent to Mr C. I accept the dentist's explanation for this. The practice of this office is not to uphold a complaint where the organisation which is the subject of the complaint has, before our involvement, already taken action which we consider to be satisfactory. The senior dentist acknowledged to Mr C that the letter which should have been sent to him, telling him about the de-registration, had not been sent and the senior dentist explained the reasons and apologised. In other words, he took what we would consider to be appropriate action before our involvement. Therefore, whilst I criticise the way in which the de-registration was done, I do not uphold that part of the complaint. In all the circumstances, therefore, I do not uphold Mr C's complaint.

#### **Complaints about removal from dental practitioners' lists**

9. During the investigation, it became clear that there is little guidance for dentists who are faced with the possibility of removing a patient from their list. For many years, general practitioners (GPs) in a similar position have been able to refer to detailed guidance from organisations such as the British Medical Association and the Royal College of General Physicians. GP contracts now reinforce this guidance by including specific requirements about removal from GP lists. The Ombudsman considered that it could be helpful for dentists and patients to have more guidance in respect of dental lists. This matter was raised with the Scottish Executive Health Department, and the Ombudsman is pleased to report that they have agreed to consider this.

30 January 2007

**Explanation of abbreviations used**

Mr C	The complainant
The Practice	The Dental Practice
The Adviser	The Ombudsman's adviser, a dentist