

COUNCIL FOR HEALTHCARE REGULATORY EXCELLENCE

NOTE OF CASE MEETING ON 14 SEPTEMBER 2005

At 11 Strand, London WC2

Re Mr Philippe Raffit

PRESENT: Jane Wesson (Chair)
Hew Mathewson
Peter North

IN ATTENDANCE: Michael Andrews (Fitness to Practise Manager)
Briony Mills (Fitness to Practise Officer)
Christian Dingwall (Partner, Bevan Brittan LLP Legal Advisor))
Katrina Mitchell (Trainee, Baker & McKenzie LLP (CHRE Secondee))

1. DEFINITIONS

In this note, the following abbreviations will apply:

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| The Meeting | Case meeting of Council Members |
| PCC | Professional Conduct Committee |
| GOsC | General Osteopathic Council |
| Mr Raffit | Mr Philippe Raffit |
| LD | Complainant |
| The Act | NHS Reform and Healthcare Professions Act 2002 |
| Risk Factors | CHRE Risk Factors – Sexual Misconduct (Inappropriate Relationships) |

2. THE PCC'S DECISION

- (i) The Meeting considered whether the decision of the PCC of the GOsC on 26 July 2005 to find Mr Raffit guilty of conduct which falls short of the standard required of a registered osteopath, contrary to s.20(1)(a) Osteopaths Act 1993, and to sanction him with an admonishment should be referred to the High Court under Section 29 of the Act.

- (ii) The heads of charge were:
 - (a) That contrary to Section 20(1)(a) Osteopaths Act 1993, Mr Raffit being a registered osteopath has been guilty of conduct which falls short of the standard required of a registered osteopath in that:
 - (b) On 19 January 2005 Philippe Raffit sent a card containing inappropriate comments and suggestions to LD while she was his patient.

Mr Raffit admitted the charges and therefore all the facts were found proved. He also accepted that the facts amounted to unacceptable professional conduct.

3. DOCUMENTS

The following documents were before the Meeting:

- (i) Transcripts of the PCC hearing dated 26 July 2005;
- (ii) Exhibits submitted to the PCC;
- (iii) Decision of the PCC on 26 July 2005;
- (iv) Code of Practice – Pursuing Excellence (1998, updated 2002);
- (v) Risk Factors;
- (vi) Lawyers' Report dated 8 September 2005; and
- (vii) Section 29 Manual.

4. CONFLICT OF INTEREST

The Chair informed the CHRE that the members convened had no apparent conflicts of interest and no conflicts were registered.

5. JURISDICTION

The Meeting agreed that the CHRE had power to refer this case under Section 29(4)(a) of the Act if they considered that the decision of the PCC was unduly lenient and it was desirable to refer for the protection of the public.

6. MATTERS NOTED BY THE MEETING

The Meeting noted the matters set out below:

(i) Background to PCC's findings

The PCC's finding that Mr Raffit's conduct fell short of the standard required of a registered osteopath concerned a card he sent to a female patient on 19 January 2005 which contained inappropriate comments and suggestions.

Mr Raffit, a French national, gained his qualifications from the British School of Osteopathy in 1971. Since then he has undertaken various positions, all within England. At the time he sent the card he was practising from consulting rooms in Blackrod, Bolton, which are separate from his residential address, and at which he has practised since 1982.

LD, a 27 year old female, became a patient of Mr Raffit in December 2004 for chronic back pain. She attended appointments with him on 10 December 2004 and 5 January 2005, at which she says the treatment was satisfactory. On 20 January 2005, she received the card from Mr Raffit which included a statement that he lived on his own and that she was welcome anytime. LD said the card "shocked, disturbed and sickened" her.

Mr Raffit admitted the charges at the hearing and therefore all the facts were found proved. He also accepted that the facts amounted to unacceptable professional conduct. However, it was noted that he initially attempted to justify sending the card to LD.

(ii) The PCC's Findings

The Meeting took account of the fact that the PCC had found Mr Raffit guilty of conduct which falls short of the standard required of a registered osteopath and decided an admonishment was the relevant sanction. In particular:

- (a) The PCC accepted that it was an isolated incident that would not happen again, but made the point that Mr Raffit would not be able to rely on an unblemished record in the future; and
- (b) The PCC was concerned that Mr Raffit had sought to minimise his understanding of what was written in the card to LD.

7. APPLYING SECTION 29 TO THE CASE

The Meeting considered the following points:

- (i) The Meeting first considered whether there was an issue of public protection in this case by having regard to the Risk Factors for guidance. The Meeting noted that although LD had not suffered physical harm she had been shocked and distressed by Mr Raffit's actions. It was agreed that Mr Raffit had abused his professional position by sending the card to his patient but that it was a relatively low level of abuse. The Meeting questioned whether Mr Raffit had genuine insight given the fact he was not questioned by the PCC, did not give evidence, and did not at show any insight in the letters sent to LD and Laura Scrutton at the GOsC.
- (ii) Mr Raffit tried to explain that the language used in the card referred to LD's treatment and that it had been misconstrued, but admitted in his written plea that he should never have sent it and doing so was a serious error of judgment.
- (iii) Mr Raffit admitted to sending letters and cards to patients on previous occasions, but there was no evidence as to whether these contained any inappropriate comments. However, no complaints had been made against him before.
- (iv) LD said the treatment provided by Mr Raffit was satisfactory and there was no indication that she felt alarmed or uncomfortable during her two appointments with him.
- (v) Mr Raffit offered an undertaking never in the future to write to a patient except where providing medical information to individuals who have a legitimate reason to seek such information. The PCC did not (on the face of the transcript) formally accept the undertaking and its status is therefore unclear.

Overall, the Meeting decided that the PCC's consideration of public protection was not perverse, and that there had been reasonable assessment on the evidence available. As Mr Raffit's actions were at the lower end of the spectrum of inappropriate relationship with a patient, the Meeting was of the opinion that an admonishment was an adequate sanction to protect the public. There was no issue of public protection in this case, and therefore no need for the Meeting to consider undue leniency or discretion to refer the case.

8. CONCLUSION

The Meeting concluded that:

- (i) It had jurisdiction under Section 29(4)(a) of the Act to consider whether or not to refer this case to the High Court;
- (ii) Based on the matters noted above, and on the basis of the evidence that was before the PCC, the Meeting considered that the PCC could have reasonably come to the conclusions it did;
- (iii) In the absence of public protection issues, it was not necessary to determine whether the decision was unduly lenient; and
- (iv) The Section 29 criteria had not been fulfilled. Accordingly, no question arose of the Meeting exercising a discretion to refer this case to the High Court.

Jane Wesson (Chair)

(for and on behalf of CHRE)

Date: