

THE NATIONAL ASSEMBLY FOR WALES: COMMITTEE ON STANDARDS OF CONDUCT

REPORT 02-2005 - Presented to the National Assembly for Wales on 07 December 2005 in accordance with Standing Order 16.7

COMPLAINT AGAINST JANICE GREGORY AM

Purpose and Scope of Report

1. This is a report to the Assembly by the Committee on Standards of Conduct under Standing Order 16.7 about a complaint which it has considered against Janice Gregory AM. The complaint, from representatives of the Pencoed Medical Centre, alleged three breaches by Mrs Gregory of the *Code of Conduct for Assembly Members* (the Code)¹.
2. Full details of the allegations made are set out in the Commissioner's report to the Standards Committee at Annex A.

Standards Committee Terms of Reference

3. Standing Order 16.1(ii) provides for the Committee on Standards of Conduct to:

"Investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Ministers which the Assembly has approved in accordance with Standing Order 2.7 or the Code of Conduct under Standing Order 18.14."

4. An extract from Standing Orders, which sets out the Committee's remit in full, is at Annex B. A list of the Committee's current membership is at Annex C.

The Complaint

¹ approved by the National Assembly on 14 January 2004.

5. The complaint was made to the Secretariat to the Committee on Standards of Conduct on 15 March 2005. In accordance with the *Procedure for Dealing with Complaints against Assembly Members* (the Complaints Procedure)², the complaint was referred to the Commissioner for Standards.

Summary of the Commissioner's Investigation

6. There are two possible stages to any investigation by the Commissioner into a complaint:

- a **Preliminary Investigation** in order to determine whether a complaint is admissible; and

- if the complaint is admissible, a **Formal Investigation** of the complaint leading to a report to the Committee on Standards of Conduct.

7. In accordance with the Complaints Procedure the Commissioner undertook a Preliminary Investigation to determine if the complaint was admissible. The Complaints Procedure sets out a series of 'tests' that must be passed in order for the complaint to be admissible. The key test is whether or not:

it appears at first sight that, if all or part of the conduct complained about is established to have been committed by the Member, it might amount to a breach of any of the matters encompassed within Standing Order 16.1(i) or (ii)³.

8. The Commissioner reported to the Standards of Conduct Committee on 30 June 2005 that he had concluded that the complaint was admissible and that he would be proceeding to the Formal Investigation stage.
9. The Commissioner provided a report on his Formal Investigation to the Committee on 27 October 2005. A copy of his report had been seen in draft by Mrs Gregory and the complainants and the Commissioner had taken account of their comments.

Summary of the Committee's Consideration of the Complaint

10. The Committee met on 24 November 2005 to consider the Commissioner's report and the representations made by Mrs Gregory. The Committee met in private in accordance with Standing Order 16.5. Mrs Gregory made written representations (Annex D) and attended the meeting to make oral representations to the Committee.

² approved by the Standards Committee on 18 November 2004

³ Paragraph 3.1(vi)

11. Of the three allegations made by the complainants, the Commissioner had concluded that Mrs Gregory might have breached the Code of Conduct on only one count. The Committee supported the Commissioner's recommendation that no breach of the Code of Conduct could be identified in relation to the two other allegations made and that they should be dismissed. Accordingly, the Committee's considerations concentrated on the complaint that:

As an Assembly Member we do not feel that Mrs. Gregory has acted in accordance with the trust placed in her by the general public, who expect statements issued on behalf of them to be accurate and to have been fully checked in detail before going to the press.

which the Commissioner had concluded was a breach of paragraph 4(b) of the Code which deals with 'Integrity':

Assembly Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute.

12. During its deliberations the following points were made by members of the Committee:

Mrs Gregory stated in her representations that she was in possession of documentation which she had received from what she regarded as a trusted and reliable source. Although it was accepted that Members should make every reasonable effort to check their facts before making public statements, in this instance it appeared that Mrs Gregory believed that she had all of the necessary facts;

Mrs Gregory had stated that her comments about GPs switching to a national rate 0870 telephone number had been "generic" and had not been intended to apply to Pencoed Medical Centre in particular. The Committee noted that Members are not responsible for how any statements made by them are presented in the press;

It was not always possible for Members to know every detail when questioned by the press on matters of urgent public concern. There was an expectation that Members had an overriding public duty to do their best to represent the views of their constituents in those

in those circumstances.

13. Taking account of all of the evidence provided to them and the representations which had been made, Members concluded that Janice Gregory had not breached the *Code of Conduct for Assembly Members*. As a result, it was the unanimous view of the Committee that it should recommend that the complaint be dismissed.

Anonymity

14. When the Committee recommends that a complaint is dismissed, the Complaints Procedure⁴ provides for the Committee to decide whether or not its report to the Assembly should be anonymised.
15. In this case, the Committee decided that its report should not be anonymised. The Committee felt that the details of the complaint had already been publicised in the media and that there was a case for the Members complained about to be exonerated publicly in these circumstances.

The Complaints Procedure

16. This complaint is the first one to have been conducted in accordance with the present Complaints Procedure in full. The Committee agreed to review the process in the light of this complaint to see if any improvements could be made to the detailed operation of the Procedure.

Committee on Standards of Conduct
07 December 2005

⁴ Paragraph 7.9

Annex A - Strictly Private and Confidential -

Reference: C049-05

Report to the Committee on Standards of Conduct by the Commissioner for Standards following his Formal Investigation of the complaint by representatives of the Pencoed Medical Centre in respect of Janice Gregory AM

1. Background to the complaint

- 1.1 The partners at the Pencoed Medical Centre wrote to the Standards Committee Secretariat on 15 March 2005 (Annex 1) to complain about what they described as:

'defamatory public comments she (Janice Gregory AM) made in the press about the Doctors at Pencoed Medical Centre'

- 1.2 In accordance with the *Procedure for Dealing with Complaints against Assembly Members¹ (the Complaints Procedure)*, the Secretariat forwarded the complaint and the relevant documentation to me and asked me to undertake a Preliminary Investigation.

2. The potential complaint

- 2.1 In the letter of 15 March 2005, the Pencoed Medical Centre referred to an article in the Bridgend Post of 10 March 2005 (Annex 2) concerning the installation of a new digital telephone exchange by NEG at the Practice. They claimed that Janice Gregory AM had made *'outrageous accusations'* in this article that the Doctors at the Centre were *'making a fast buck'* and were on to a *'nice little earner'* from their patients using the revenue raised by using the associated 0870 number.

- 2.2 The letter from the Centre claimed that the Doctors involved were *'NOT pocketing a penny of any revenue raised by the use of the 0870 number'*. It also claimed that Janice Gregory had not seen any of the details of the contract with NEG (the telecoms company involved) and that she had not contacted the Medical Centre before making her statement. It said that:

'Her comments are based on assumptions and hearsay that have no basis in fact. That she can mislead the public by making inaccurate and defamatory public statements about hard working local doctors without having seen any of the facts is a cause for great concern and deserves a public apology'.

- 2.3 Subsequently, in a letter dated 11 May 2005 (Annex 3) - that was sent following a meeting I had with the complainants on 6 May 2005 to clarify in what way they believed a breach of the Code of Conduct may have occurred - the Pencoed Medical Centre Practice Manager pointed to what he and the Medical Centre Partners considered to be specific breaches of the Code of Conduct for Assembly Members stemming from the comments made in the press by Janice

¹ Approved by the Standards Committee on 18 November 2004

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Gregory in the article of 10 March (referred to earlier) and a later article in the Bridgend Post on 30 March (Annex 4), in respect of:

A - Public Duty

As an Assembly Member we do not feel that Mrs. Gregory has acted in accordance with the trust placed in her by the general public, who expect statements issued on behalf of them to be accurate and to have been fully checked in detail before going to the press.

B - Accountability

Of particular importance is a member's accountability for their actions and decisions and we believe that Mrs. Gregory's inappropriate statements to the press do not bear scrutiny

C - Openness/Public Duty

As we understand the Code of Standards Members should provide reasons for making statements to the public and that they understand that they carry a special duty to the residents of the area for which they have been elected to serve. We feel strongly that our patients have been seriously misled by accusing the Partners in this Practice of "looking to make a fast buck", " seeing this as a nice little earner" and the GPs of "trying to gag her".

3. Preliminary Investigation

- 3.1 In line with the Complaints Procedure, I conducted a Preliminary Investigation to determine whether the complaint was 'admissible'.
- 3.2 Initially, I met with representatives of the Pencoed Medical Centre and then with Janice Gregory AM (on a number of occasions) to discuss the complaint. I also reviewed the documentary evidence that had been made available both by the Medical Centre and by Janice Gregory AM. Janice Gregory AM did not dispute the facts in respect of her actions in this matter, but she did not accept that her actions amounted to a breach of the Code of Conduct for Assembly Members.
- 3.3 I carefully considered the representations made by both Janice Gregory and the Pencoed Medical Centre. My conclusion was that the conduct of the Member might amount to a breach of one of the matters encompassed within Standing Order 16.1(i) or (ii), and as such was admissible. Accordingly, I made a report to the Committee on Standards of Conduct on 30 June 2005 informing it of this and the main factors that had led to my conclusion.

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4 Formal Investigation

- 4.1 I have now undertaken a Formal Investigation into the complaint in accordance with the Complaint Procedure.
- 4.2 In order to be sure that I understood the background to this matter fully, and was able to reach a conclusion, I conducted further interviews with Janice Gregory and with representatives of the Pencoed Medical Centre. I also met with the Chief Executive of NEG, the company that installed and manages the Surgery Line telecommunications installation at the Pencoed Medical Centre, in order to be clear about the way that Surgery Line operates (including the financial arrangements) so that I could ensure that the Committee was fully informed of the context of the complaint.

'Surgery Line'

- 4.3 A large number of surgeries (more than 500) across the United Kingdom, including a number of surgeries in Wales, have installed 'Surgery Line', a state of the art telecommunications system provided and maintained by NEG Ltd. Individual surgeries specify the equipment they require, and NEG installs the system to that specification. The company claims that patients benefit by having their calls answered more quickly, with a queuing system to prevent patients from receiving a constant engaged tone at busy times. Calls are to one number at any time and are answered either by the surgery staff, transferred to a different site or passed to an out-of hours service.
- 4.4 The Pencoed Practice decided to install Surgery Line for both its Pencoed and Llanharan Centres after an online patient satisfaction questionnaire highlighted the serious difficulties patients were experiencing in getting through to the surgeries, especially during the busy early morning period. One consequence was that the telephone numbers for both surgeries changed to 0870 numbers. The Practice explained in its communications with patients that this was not an expensive premium rate number, although it would cost a higher rate per minute (6.73 pence per minute) compared with the usual BT (and other providers') charge (4.2 pence per minute) and that the Practice would receive back from NEG 2p per call. The Practice also advised patients in its communications that despite this higher cost per minute the fact that calls should not last so long and that patients would not have to phone a number of times to get what they wanted would mitigate the extra potential costs.

Costs and benefits for the Practice

- 4.5 The Practice told me that it had taken the decision to use the NEG Surgery Line system after considerable research. The Practice claims to be proactive in its relationship with patients and had not relied solely on the on-line patient satisfaction questionnaire for its information about the dissatisfaction with the old telephone system, but had used information coming directly from its daily contact with patients. NEG had originally suggested that the system had the potential to be a net revenue generator but the Practice had made it clear to NEG that as an 'ethical' organisation its motivation for installing a new system was to provide a better service for patients rather than to generate income.

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Various options were discussed with NEG and the system that is now installed was specifically designed to give patients a better service with minimal additional costs falling on the patients.

- 4.6 All the GPs at the Practice are self-employed and contracted to work in the NHS in Wales. The cost of maintaining the NEG system (nearly £600 per month) is met wholly from the Practice funds although the Practice does receive back nearly £300 a month from NEG. The net cost to the Practice is therefore over £300 per month which means that over a seven -year period each of the Partners in the Practice will pay out of their own finances around £5,000 to help fund the new telecommunications service.

Cost and benefits for the patients

- 4.7 There seems no doubt that the patients at the two Surgeries were dissatisfied with the previous telephone system. The consultations undertaken by the Practice clearly indicated this and the decision to install Surgery Line was taken to address that dissatisfaction.
- 4.8 There also seems little doubt that patients do get a better service from the new system. Calls are answered and dealt with more efficiently. However there are potential increased costs for patients depending on how long calls under the new system take - although NEG claims that its evidence shows that calls are shorter and less frequent so the actual cost per call (as opposed to the cost per minute) is less.

Recent developments

- 4.9 As a result of the concerns that were expressed locally and nationally about the cost of using the 0870 number and the adverse publicity that this produced in May of this year, NEG switched to the use of 08 44 numbers at its sites throughout England and Wales. The Practice still receives only 2p per call from NEG but the overall cost of the call to the patients has reduced from 6.73 p per minute to 4.2 pence per minute, comparable with the cost per minute of BT and other providers.

Janice Gregory AM's involvement

- 4.10 Janice Gregory first became involved in this matter when Councillor Roger Turner, a Rhondda Cynon Taf County Councillor, wrote to her on 25 February 2005 (Annex 5) to advise her that Llanharan Surgery:

'has recently introduced an new 0870 telephone service which has upset many of their patients.'

- 4.11 Councillor Turner enclosed related correspondence and drew her particular attention to a reference in the correspondence to the Welsh Assembly Government.

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- 4.12 The correspondence was an exchange of letters between Councillor Turner and the Medical Centre Practice Manager, Alan Davies, in which Councillor Turner referred to a recent telephone conversation about the dissatisfaction of patients '*who were not notified of the number change*' (to an 0870 number following the installation of Surgery Line at Llanharan Surgery). Councillor Turner enclosed with his letter of 17 February 2005 (Annex 6) an extract from the 'Mail on Sunday' of 5 February 2005 (which said that surgeries were to be banned by the Department of Health from using the 0870 numbers) and reminded Mr. Davies that during their telephone conversation he had made special reference to the higher charges for using an 0870 number.
- 4.13 In his reply dated 24 February 2005 (Annex 7) Alan Davies advised Councillor Turner that the Welsh Assembly Government would be making a ruling about 0870 numbers in the very near future and also that the comments in the Mail on Sunday of 5 February 2005 referred specifically to English GP practices.
- 4.14 He undertook to keep Councillor Turner informed of any future decision by the Welsh Assembly Government and concluded his letter by saying:

'I would like to re-emphasise that we will not be making one penny on the transfer to the 0870 number and the additional income received only goes part way to funding the cost of a new and more efficient telephone system. The increased cost to a patient is usually nullified by quicker response times'.

- 4.15 Janice Gregory told me that it was on receiving this copy correspondence from Councillor Turner that she decided to give the matter a public airing through the local newspaper resulting in the articles complained of by the Pencoed Medical Centre.

Janice Gregory's explanation of her actions

- 4.16 In my several interviews with Janice Gregory since the complaint was made, and specifically in an e-mail to me dated 17 June (Annex 8), that was sent following our interview of 24 May 2005, she has maintained that she was right to do what she did, had no regrets but that she has never intended to imply that individual GPs at the Pencoed Medical Centre personally profited from the introduction of Surgery Line. This is best summed up in her e-mail in which she said:

I have never intended to imply that any GPs, including those at Pencoed Medical Centre, have "pocketed" or made any direct personal gain from the revenue generated by the 0870 numbers. I do not see how anyone taking the whole of the article that appeared in "the Post" on Thursday 10th March in context would draw that conclusion, and I am sorry that the GPs at Pencoed have felt it reflected on them in that way.

I admire the service that the Pencoed GPs provide for people in my area and acknowledge the many innovations that they have funded through the practice. (her underlining)

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Turning to the article itself. I also regret that "the Post" chose to headline the piece in the way that they did, but I have to say that I am not responsible for the Post's journalism. I feel that if you take the words in quotes in their full context it is clear that I was referring to GPs in general and as business people, not any particular individuals. The second paragraph of the article makes it clear that my allegation was that a percentage of the revenue would go to the Surgery not into the pockets of GPs. I believe that was "fair comment" on what was at the time running strongly as a national as well as local media story.

You have asked me to consider that the GPs in Pencoed were contributing much of the cost of the new telephone system from Surgery funds, but I have to say, whilst I acknowledge this is true, if the system provided the better service attributed to it then that is only right. The fact remains that they would have paid more from Surgery funds for the system if it was not for the revenue generated from patients by the 0870 number.

The Department for Health was very clear about this. The Minister, John Hutton said in his announcement banning the use of these numbers in England on Thursday 24th February that "sick people and their families should not be asked to pay over the odds to contact local NHS services ... the use of premium and national rate telephone numbers is an unfair additional cost for many NHS patients". The Pencoed Medical Centre seem to have accepted this when they abandoned the 0870 for an 08444 "lo-call" number on 12th May.' (her underlining)

The views of the Practice and its Partners

- 4.18 The Partners and the Practice Manager were clearly very upset at the comments made by Janice Gregory in the articles of 10 March and 30 March 2005 in the Bridgend Post. They told me that patients of theirs have widely interpreted those comments as to mean that they personally have 'profited' (i.e. derived additional income) from the introduction of the Surgery Line service and that it has seriously damaged their personal and professional credibility and standing in the community. I have put these concerns to Janice Gregory on a number of occasions but she has continued to defend her actions by saying that she was not referring to the Pencoed Practice GPs specifically and that in any event the phrases 'nice little earner' and 'making a fast buck' do not imply that the GPs were benefiting financially from the financial arrangements involved. The complainants do not accept that these phrases can have any other interpretation than the one they have given them.
- 4.19 They told me that they have received very few complaints about the new phone system and that most patients who comment on the change talk about improvements to the service they receive. The only negativity about the new arrangements derives from the comments in the media by Janice Gregory. They told me that it is difficult to quantify the 'fall-out' from her comments but that all Partners and reception staff had experienced patients complaining that the doctors at the surgery were improperly making money at the expense of

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patients. The Partners believed that this had resulted in a breach of trust between the doctors and their patients and generally the reputation of the Practice had been damaged.

- 4.20 They also confirmed to me that Janice Gregory had not contacted anyone at the Surgery to discuss her concerns or to check what financial arrangements were involved. The Practice understood that she had not been in contact either with NEG - this was confirmed at my meeting with the Chief Executive of NEG - but has relied solely on the contents of the correspondence with Councillor Turner on which to base her comments.
- 4.21 So far as the Practice is concerned they contend that their only objective has been to put the record straight either:
- *by a full retraction of her statements made by Janice Gregory in the same newspapers in which the original accusations were made* (the letter to me of 11 May 2005 refers) together with a private apology; or
 - by a satisfactory resolution of their complaint brought under the Code Of Conduct for Assembly Members.
- 4.22 They were at pains to assure me that they have never sought to 'gag' Janice Gregory - on the contrary they defend her right to express disagreement with the installation of Surgery Line - but they say they cannot accept the allegations that any of them has profited as a result.

5. My Conclusions about the Complaint

- 5.1 In the letter to me of 11 May 2005 the Pencoed Medical Centre Practice Manager pointed to what he and the Medical Centre Partners considered to be three specific breaches of the Code of Standards for Assembly Members (see paragraph 2.3)
- 5.2 In this report I have provided a great deal of contextual background to the complaint, in particular about the Surgery Line and the financial arrangements for its installation and maintenance at the Pencoed Medical Centre. I believe that the Standards Committee will need to understand this fully to reach a conclusion about this complaint. However, the complaint is not about whether or not the Partners at the Practice were in fact profiting from its installation - *'earning a fast buck'* or on to a *'nice little earner'* in the words of Janice Gregory. To focus on that would be to miss the point of the complaint. Rather, the complaint is that in making these statements Janice Gregory breached the Code of Conduct for Assembly Members.
- 5.3 I have examined these allegations in detail and have taken evidence from both the complainants and the Assembly Member concerned. In line with the Complaints Procedure I have also provided both the complainant and the Assembly Member concerned with a copy of my draft Report so that they could comment on its factual accuracy. I have incorporated their comments so far as I am able in the final version of the Report.

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5.4 I will deal with each part of the complaint in turn:

A - 'Public Duty'

"As an Assembly Member we do not feel that Mrs. Gregory has acted in accordance with the trust placed in her by the general public, who expect statements issued on behalf of them to be accurate and to have been fully checked in detail before going to the press."

In fact "public duty" is not referred to in the current Code of Conduct² but the general direction of this requirement is contained in that part of the Code that deals with 'Integrity'. Paragraph 4 (b) of the Code states:

'Assembly Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute'.

My conclusion is that by relying wholly on the contents of the correspondence between Alan Davies (the Practice Manager at Pencoed Medical Centre) and Councillor Turner, Janice Gregory breached the requirements of this part of the Code and failed in her Public Duty to act with the 'integrity' required under the Code.

These were very strong and pointed comments about a group of respected professionals and I contend that she should have checked her facts with them or with NEG, the providers of Surgery Line, before making these statements. Janice Gregory did neither, even though this would have been a simple task. Her defence is that she already knew the 'facts' from the correspondence and from the article in the Mail on Sunday. She is clear that she knew at the time that she made her statements that the Practice generally and the Partners specifically were not profiting from the new telecommunications system but she still made her comments. She told me that BT had also confirmed that the change would mean additional revenue for the Practice and that a BT spokesperson is quoted in the article in the Bridgend Post of 30 March 2005 as saying *'they would be making money'*.

She claims that her comments do not imply that the individual doctors were *'making a fast buck'* or on to *'a nice little earner'*. However, the Partners at the Pencoed Medical Centre clearly do consider that the comments apply to them personally, that so do many of their patients and that this has damaged the relationship of trust between the doctors and their patients as well as their credibility and standing in the community.

B - Accountability

"Of particular importance is a member's accountability for their actions and decisions and we believe that Mrs. Gregory's inappropriate statements to the press do not bear scrutiny"

² Approved by the Assembly on 14 January 2004

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The Code requires that:

'Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office'

The Practice claims that Janice Gregory's *'inappropriate statements'* do not bear scrutiny. My conclusion is that this is largely based on a mis-understanding by the complainants of the nature of this requirement - in practice, the statements of all Assembly Members are potentially open to scrutiny by this very process amongst others. That is certainly the case here and consequently I conclude that there has been no breach of the Code of Conduct by Janice Gregory in this respect.

C - Openness/Public Duty

"As we understand the Code of Standards Members should provide reasons for making statements to the public and that they understand that they carry a special duty to the residents of the area for which they have been elected to serve. We feel strongly that our patients have been seriously misled by accusing the Partners in this Practice of "looking to make a fast buck", " seeing this as a nice little earner" and the GPs of "trying to gag her"."

The Code requires that:

'Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions, and restrict information only when the wider public interest clearly demands'

The complainants claim that their patients have been seriously misled by the statements that Janice Gregory made and that this represents a breach of this part of the Code of Conduct. In fact this part of the Code is designed to minimize decisions and actions being made in secret and to encourage openness and transparency about those decisions and the reasons behind them. I can find no evidence that Janice Gregory has breached the Code of Conduct in this respect.

6. Other Matters

- 6.1 Janice Gregory has raised a number of other matters that I need to bring to the Committee's attention. The first of these is a procedural issue. Janice Gregory is concerned that the complaint as it was first received (i.e. in the letter of 15th March 2005) did not 'at first sight' establish that there had been a breach of the Code of Conduct. She is correct that it was only in the letter from the Medical Centre on 11 May that the allegation was particularised in terms of the Code of Conduct - the letter makes this clear.

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- 6.2 It is not unusual for complainants to complain in very general terms, and part of my Preliminary Investigation is often concerned with establishing exactly in what ways the complainant considers that the Code may have been breached. In this case, the complainants' letter of 11 May 2005 sets out three areas where they believe a breach may have occurred, although in the one area where I find evidence of a breach, the complainants have actually quoted a previous version of the Code of Conduct. It is not my job to 'coach' complainants in any way but the Committee does expect me to help complainants to be clear and specific about where a breach may have occurred. In the final analysis this is not a process to determine whether the complainants have got the words of the Code exactly right and can point with absolute certainty to evidence that a breach has occurred. It is the responsibility of the Committee to examine the evidence provided to it by my Investigation against the spirit and intentions of the Code and to judge whether a breach has in fact taken place.
- 6.3 Janice Gregory also took issue with the complainants' descriptions of "public duty", "accountability" and "open-ness". She says that her prime duty is to her constituents and to draw to public attention any matters that she believes affect them. She believes she could have done this in the Assembly Chamber and thereby attracted some degree of privilege for her statements but this was an issue that she felt the local paper was right to highlight. She believes that in making her comments through the 'Post' (which is a widely read locally distributed newspaper) she made herself as accountable to her electors in this matter as she was able.
- 6.4 Janice Gregory says that she has talked to many people in Pencoed about this issue and finds them to understand the issues perfectly well. She says that she did not set out to mislead them in any way and does not believe they have been. She contends that they do not believe that the GPs in the Pencoed Practice have personally profited but do understand that patients have been asked to pay more for a service than they would otherwise have had to.
- 6.5 Janice Gregory raised with me her concern about the nature of this complaint. She feels that this complaint was brought to try and make her refrain from public debate on an issue that has shown itself to be of great concern to her electors. She had no argument with the conclusion of my Preliminary Investigation that the complaint (at least in the form it arrived in the 11th May letter) is "admissible" under the terms of the Complaints Procedure and that this meant that I had to provide a report to the Standards Committee that specifies where I conclude that a breach of the Code of Conduct has taken place. Her belief is that the Code was drawn up to ensure the highest standards of integrity for Members but she finds it very difficult to accept as legitimate a use of the Code which in her view would seek to hamper Members from fully engaging in robust and open political debate.
- 6.6 Janice Gregory also expressed her concern that the letters from the Pencoed Medical Centre raise the prospect of legal action by use of the words 'libellous' and 'defamation'. The specific concerns are set out in her e-mail of 17 June (Annex 8, paragraphs 2 and 3).

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7. Conclusion
 - 7.1 In line with the Complaints Procedure, I conducted a Preliminary Investigation into the complaint that Janice Gregory AM has breached the Code of Conduct for Assembly Members in order to determine whether it is 'admissible'.
 - 7.2 Having established that it was an 'admissible' complaint, I have undertaken a Formal Investigation to reach a conclusion as to whether that Member has, as a result of that conduct, breached one of the matters encompassed within Standing Order 16.1(i) or (ii)
 - 7.3 I have concluded that Janice Gregory has, as a result of her conduct, breached the Code of Conduct for Assembly Members in respect of her 'Public Duty' - in that she did not take adequate steps to check the facts about the financial arrangements that applied to the installation of Surgery Line at the Pencoed Medical Centre before commenting on those arrangements in a press article in the Bridgend Post of 10 March 2005. She repeated and elaborated on those comments in a further article in the Bridgend Post on 30 March 2005.
 - 7.4 This is in effect a breach of the Code of Conduct in respect of Paragraph 4 (b) relating to 'Integrity' which requires that *'Assembly Members should at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the Assembly and refrain from any action which would bring the Assembly, or its Members generally, into disrepute'*. I conclude that her conduct in this matter fell short of the public's expectations that someone in her position would be very careful to check the facts before issuing public statements about the actions and motivation of a respected group of professional public servants.
8. Private Consideration of the Complaint
 - 8.1 In accordance with the Complaint Procedure, I have considered whether the Committee should consider the complaint in private. My conclusion is that it should not. The facts on which the complaint has been made are publicly available (i.e. they were newspaper articles) and there will not, in my view, be any merit in meeting in private.

Richard Penn
Commissioner for Standards

27 October 2005

Pencoed Medical Centre



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The Secretarial
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March 15th 2005

Dear Sir or Madam,

We wish to complain about the behaviour of our local Assembly Member, Ms Janice Gregory, regarding defamatory public comments she has made in the press about the Doctors at Pencoed Medical Centre.

We really must write to put the record straight having read the outrageous accusations by Janice Gregory AM in the press that Doctors at Pencoed Medical Centre are "making a fast buck" and on to a "nice little earner" from their patients using revenue raised by using an 0870 number.

Firstly, the Doctors are NOT pocketing a penny of any revenue raised by use of the 0870 number. We have just completed a patient satisfaction questionnaire and one of the conclusions was that patients were dissatisfied with the antiquated telephone system in place, frequently having to call back, being put on hold and often unable to get through.

We were approached by a company called NEG who offered to install a state of the art digital exchange which they would fund using the 0870 number. It was suggested that the Doctors *could* make a profit out of 0870 if desired but this was unanimously rejected by the GPs. We were told that, although the extra cost per minute was 3p more, most callers would actually pay less overall compared to the old system. This is because out of hours calls are routed in one call (the old system needed 2 calls) and callers could expect to have calls answered quicker and have to call back less often. The GPs felt that 3p was a small price to pay for a far superior service and **NONE** of this revenue goes to the GPs (who are in fact themselves paying to be part of the service). Ms Gregory has accused us publicly of making money out of our patients and this is completely untrue. She should have checked these details before making such serious allegations in public.

Pencoed Medical Centre has a nationally renowned practice website, which is the most visited GP practice website in the UK and has won a prestigious national award for excellence. This website and online prescription service is funded completely by the GPs out of their own pockets without any NHS or public funding. Whether you agree with 0870 or not, the overriding concern of the Doctors has always been to give their patients the best possible service.

Dr J P Jones • Dr D A Ware • Dr G V Price • Dr J A Crane • Dr G A Preest
www.pencoedmedical.co.uk

Pencoed Medical Centre



Janice Gregory AM has never seen any of the financial details of our contract with NEG, nor has she contacted us to check the facts before making statements about us in the press. Her comments are based on assumptions and hearsay that have no basis in fact. That she can mislead the public by making inaccurate and defamatory public statements about hard working local Doctors without having seen any of the facts is a cause for great concern and deserves a public apology.

These are very serious allegations made in public that have no basis in fact that we feel compelled to bring this to the attention of the Presiding Officer at the National Assembly responsible for investigating complaints relating to Assembly Members standards of conduct.

One wonders whether Ms Gregory adopts this approach when commenting on any other aspects of public life.

Yours faithfully,

Dr. J P Jones (Senior Partner)

Dr. D A Ware

Dr. G V Price

Dr. J A Crane

Dr. G A Preest

Dr J P Jones • Dr D A Ware • Dr G V Price • Dr J A Crane • Dr G A Preest

March 2

GPs in 'nice little earner'

The Post

Printed and published by Western Mail & Echo Ltd, Thomson House, Havelock Street, Cardiff, CF10 1XR.

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HEALTH minister Brian Gibbons is being urged to ban GPs' "nice little earner" in order to protect patients.

The call has come from Ogmoreside AM Janice Gregory after it emerged a surgery in her constituency, Pen-coed Medical Centre, is in the process of switching to a national rate 0870 telephone number. It means people have to pay more for their calls and a percentage of what they pay goes to the surgery itself.

English health chiefs have announced they are banning the practice from April. But the Welsh Assembly Government is still reviewing the situation.

"GPs shouldn't be looking to make a fast buck," said Mrs Gregory.

"I have urged Dr Brian Gibbons to ban the use of this number because once other GPs start to see this is a nice little earner, they will all start to change over."

Around 20 GP practices in Wales are already using the number, which is normally used

Call to stop GPs' surgery from using 0870 number

by large private businesses.

But it means calls can be twice as expensive as those with a local dialling code, such as 01656 or 01443.

BT said a daytime call to a GP surgery will cost 8p a minute using the 0870 number, as opposed to 5p a minute with the normal code.

Chris Oram, of BT in Wales, said: "On an 8p call BT makes 3p.

"This does not mean the other 5p goes to the surgery, but they will be making money."

Mrs Gregory said: "GPs are explaining it away by saying they can invest in better technology. But many of my constituents who are on a

fixed income, such as pensioners, will be hit in the pocket."

Dr Gibbons said: "I am considering the best approach, which now needs to be taken."

A spokesman for Pen-coed Medical Centre refused to comment.



OPPOSITION
Janice Gregory AM

ANNEX 3

The Medical Centre
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The Medical Centre
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Llanharan
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Fax: 01443 229855

11/5/05

Mr. Richard Penn
Independent Adviser on
Standards of Conduct
Welsh Assembly Government
Cardiff Bay
Cardiff

Dear Mr. Penn,

RE: PRACTICE COMPLAINT AGAINST MRS. JANICE GREGORY AM

Thank you for visiting our Practice last Friday in relation to our complaint against Janice Gregory and for taking the time to provide a comprehensive breakdown of your role as Independent Adviser on Standards of Conduct.

The Partners and I would like to make the following points where we believe Mrs. Gregory has broken the Code of Conduct through inaccurate and libellous statements made by her to the press regarding our new telephone system.

1. Public Duty.

As an Assembly Member we do not feel that Mrs. Gregory has acted in accordance with the trust placed in her by the general public, who expect statements issued on behalf of them to be accurate and to have been fully checked in detail before going to the press.

2. Accountability.

Of particular importance is a Members accountability for their actions and decisions and we believe that Mrs. Gregory's inappropriate statements to the press do not bear scrutiny.

3. Openness/Public Duty

As we understand the Code of Standards, Members should provide reasons for making statements to the public and that they understand they carry a special duty to the residents of the area for which they have been elected to serve. We feel strongly that our patients have been seriously misled by accusing the Partners in this Practice of "looking to make a fast buck", "seeing this as a nice little earner" and the GPs of "trying to gag her".

Dr J. H. Jones • Dr D. A. Ware • Dr G. V. Price • Dr J. A. Crane • Dr G. A. Preest

www.pencoedmedical.co.uk

Pencoed Medical Centre

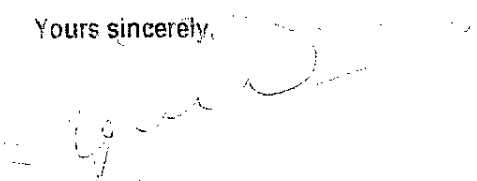


In conclusion, we feel that Mrs. Gregory has been unprofessional and foolhardy in making statements which were strong enough to require clarification with our Practice before going to the press. If this had been the case we feel that this unhappy situation would never have materialised.

The doctors are both angry and distressed by the misleading and inflammatory comments made in public and without having the courtesy to check the details with the Practice beforehand. Her comments have caused considerable bad feeling within the area toward the doctors and we feel that the doctor/patient relationship in some cases has been affected due to a feeling that the GPs are profiteering from their telephone calls.

We would like Mrs. Gregory to make a full retraction of all her statements in the same newspapers in which the original accusations were made and a private apology would also be appreciated.

Yours sincerely,


Alan Davies.
Practice Manager

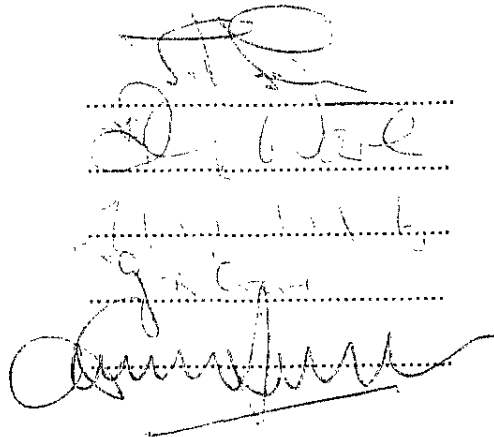
Dr. J P Jones – Senior Partner

Dr. D A Ware – Partner

Dr. G V Price – Partner

Dr. J A Crane – Partner

Dr. G A Preest – Partner



Dr J P Jones • Dr D A Ware • Dr G V Price • Dr J A Crane • Dr G A Preest

www.pencoedmedical.co.uk

Wednesday March 30 2005

'I'LL MAKE A STAND FOR THE PEOPLE'

abby.alford@wme.co.uk

AN AM who spoke out against the increasing use of expensive 0870 telephone numbers by GP surgeries has been reported to the National Assembly's public standards commissioner.

Janice Gregory may now face a grilling in front of a special committee following the complaint from doctors at Pencoed Medical Centre, Pencoed, near Bridgend.

But today the Ogmere AM remained unrepentant.

"I gather that people think by referring me to the public standards committee they can gag me," said Mrs Gregory.

"I will relish it if the standards commissioner decides there's a case to answer because I will answer it. I will make the case on behalf of my constituents."

Pencoed Medical Centre is

Practice manager disputes claim

ALAN Davies, practice manager at Pencoed Medical Centre, said: "Everything Janice Gregory has said is inaccurate. I can put my hand on my heart and say that we are not going to be making a profit."

Mr Davies said the new

to install a digital phone system.

The system comes with a national rate 0870 number, which means calls can be twice as expensive as those with a local dialling code, such as 01656.

BT said a daytime call to a GP surgery would cost 8p a minute using the 0870 number, as opposed to 5p a minute with the normal code. Spokesman Chris Oram said: "On an 8p call BT makes 3p. This does not mean the other 5p goes to the surgery, but they will be making a profit."

advanced telephone system would mean patients should get through the first time they rang, rather than having to ring back several times.

Mr Davies said any money generated from the 0870 number would go towards paying for the phone system.

Mrs Gregory urged Welsh Health Minister Brian Gibbons to do the same during an assembly meeting earlier this month.

She said: "GPs shouldn't be looking to make a fast buck."

But Alan Davies, Pencoed Medical Centre's practice manager, said it was patients and not doctors who would benefit from the new system.

But 62-year-old patient Rose Malster said: "I don't think it's right."

An assembly spokeswoman said: "I can confirm we have

ANNEX 5

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Roger Kenneth Turner
The County Borough Councillor for the Brynna Ward
Cynghorydd Burdeistref Sirol Ward Brynna

10 Redroofs Close, Brynna Road
Pencoed, CF35 6PH

Te/ffon: 01656 863045

25th February 2005

Janice Gregory AM
Constituency Office
44A Penybont Road
Pencoed
Bridgend
CF32 5RA

Dear Janice

Re: Llanharan G.P. Surgery, Tredegar Avenue, Llanharan

The above Surgery has recently introduced a new 0870 telephone service which has upset many of their patients.

The enclosed correspondence should explain the position more clearly.

However, the specific reference to the Welsh Assembly Government should be of particular interest to you.

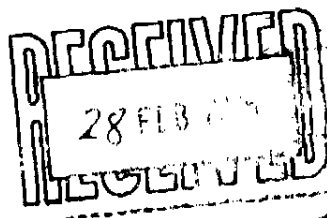
Your help in this matter would be greatly appreciated.

Yours sincerely

R. Turner

County Borough Councillor Roger Turner

Enclosures



ANNEX 6

17 February 2005

Mr A Davies
The Medical Centre
Heol-yr-Onnes
Pencoed

Dear Mr Davies

Number change - 0870, Llanharan Surgery

I refer to our recent telephone conversation regarding the above and the dissatisfaction of patients who were not notified of the number change.

You will recall that I made special reference to the higher charges for using an 0870 number service. To this end I have included below a "typed" version of an article which appeared in the "Mail on Sunday" dated 5th February 2005.

Your comments to the above would be very welcome.

Yours sincerely

County Borough Councillor Roger Turner

Article from the Mail on Sunday – 5th February 2005

0870 for GPs

Doctors' surgeries are to be banned from using 0870 numbers in a U-turn which could cost the Health Service £11.5 million.

Some 300 surgeries across the country have been accused of 'cashing in on the sick' after signing up to the premium-rate scheme, sanctioned last April by Health Minister John Hutton.

Many large organisations have switched to 0870, which enables them to collect a slice of the charge imposed on callers.

Now the Department of Health has announced it is banning GPs from signing up to the scheme.

The introduction of 0870 numbers to GPs was carried out in partnership with Network Europe Group, which supplies phone systems to surgeries in return for a slice of the call charge imposed on patients over the following seven years.

NEG's chief executive Richard Chapman said the company expected the NHS to reimburse the £11.5 million spent on the project.

'We installed our equipment on the basis it was acceptable to the Government,' he added last night. 'If there's a U-turn we would expect to get our money back.'

ANNEX 7

Pencoed Medical Centre



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Fax: 01443 228055

24/2/05

Councillor R K Turner
10 Redroofs Close
Brynna Road
Pencoed
Bridgend
CF35 6PH

Dear Councillor Turner,

RE: LLANHARAN TELEPHONE NUMBER CHANGE

Thank you for your letter dated the 17th February regarding the above. We have also spoken briefly on the telephone regarding this matter.

As I understand the current position, the Welsh Assembly Government will be making a ruling regarding 0870 telephone numbers in the very near future. The comments contained within the Mail on Sunday refer specifically to English GP Practices.

I would like to re-emphasise that we will not be making one penny on the transfer to the 0870 number and the additional income received only goes part way to funding the cost of a new and more efficient telephone system. The increased cost to a patient is usually nullified by quicker response times.

I will try to keep you informed of any future decision made by the Welsh Assembly.

Yours sincerely,



Alan Davies
Practice Manager

Dr J P Jones • Dr D A Ware • Dr G V Price • Dr J A Crane • Dr G A Praest

www.pencoedmedical.co.uk

Rogers, Gareth (APS Table Office)

ANNEX 8

Subject: FW: Potential Complaint - response

From: Gregory, Janice (AM)
Sent: 17 June 2005 14:25
To: 'Richard Penn'
Subject: Potential Complaint - response
Importance: High

Dear Richard,

With reference to our most recent meeting concerning the above I feel I would like now to take the opportunity to put the issues I have raised in relation to the matter in writing and to some extent respond to the letters from the Pencoed Medical Centre of 15th March and 11th May 2005.

Firstly, I wish to record my concern that the medical centre has in both letters raised the prospect of legal action by the use of the words "defamation" (line 2 of 15th March letter) and "libellous" (line 4 of 11th May 2005). Whilst I do not believe that any libel action in this matter has any prospect of success, I feel it should be a fundamental principle that no-one should face 'double jeopardy' and that if the practice believes they have a case for defamation they have a route through the civil courts through which they can pursue it.

It concerns me that they may be attempting to use the Assembly's complaints procedure to try to establish or strengthen such a case. I acknowledge that there is nothing that anyone can do to rule out a civil action in the future but I do not believe that the complaints procedure should be proceeding under such an explicit threat.

Whilst placing that concern on the record, let me also say for the record that I have never intended to imply that any GPs, including those at Pencoed Medical Centre, have "pocketed" or made any direct personal gain from the revenue generated by the 0870 numbers. I do not see how anyone taking the whole of the article that appeared in "the Post" on Thursday 10th March in context would draw that conclusion, and I am sorry that the GPs at Pencoed have felt it reflected on them in that way.

I admire the service that the Pencoed GPs provide for people in my area and acknowledge the many innovations that they have funded through the practice

Turning to the article itself. I also regret that "the Post" chose to headline the piece in the way that they did, but I have to say that I am not responsible for the Post's journalism. I feel that if you take the words in quotes in their full context it is clear that I was referring to GPs in general and as business people, not any particular individuals. The second paragraph of the article makes it clear that my allegation was that a percentage of the revenue would go to the Surgery not into the pockets of GPs. I believe that was "fair comment" on what was at the time running strongly as a national as well as local media story.

You have asked me to consider that the GPs in Pencoed were contributing much of the cost of the new telephone system from Surgery funds, but I have to say, whilst I acknowledge this is true, if the system provided the better service attributed to it then that is only right. The fact remains that they would have paid more from Surgery funds for the system if it was not for the revenue generated from patients by the 0870 number.

The Department for Health was very clear about this. The Minister, John Hutton said in his announcement banning the use of these numbers in England on Thursday 24th February that "sick people and their families should not be asked to pay over the odds to contact local NHS services ... the use of premium and national rate telephone numbers is an unfair additional cost for many NHS patients". The Pencoed Medical Centre seem to have accepted this when they abandoned the 0870 for an 08444 "lo-call" number on 12th May.

Again I first have a procedural issue. It is not clear to me that the complaint as it was first received (i.e. in the letter of 15th March) did at first sight establish that there had been a breach of the code of conduct. It was only in the later letter from the Medical Centre that such matters were explored and as the letter makes clear this was subsequent to your discussion with them on 6th May.

On the substantive matters, however, I take issue with their descriptions of my "public duty", "accountability" and "open-ness". My prime duty is I believe to my constituents and to draw to public attention any matters that I believe affect them. I could have done this in the Assembly Chamber and thereby attracted some degree of privilege for my statements in this matter but this was an issue which I felt the local paper was right to want to highlight.

I believe I took appropriate steps to ensure myself of the accuracy of the story about the 0870 number. I had in my possession a letter from the practice manager to Cllr Roger Turner dated 24th February 2005 in which he acknowledges the increased cost to the patient and that the centre would receive an additional income from the change to the 0870 number. BT had also confirmed that the change would mean additional revenue. The BT spokesperson is quoted in a subsequent article (30th March) as saying "they would be making money".

I believe in making my comments through "the Post" which is a widely read locally distributed newspaper I have made myself as fully accountable to my electors in this matter as I was able.

As for the question on "openness" I believe the Medical Centre's argument turns the requirement of 4(e) of the code of conduct on its head. Instead of "restrict(ing) information only when the wider public interest clearly demands" it; the Medical Centre wants me to refrain from comment on an issue which is of clear public interest. The Medical Centre has confirmed the level of interest by the strong reaction they report from their patients.

I have talked to many people in Pencoed over the past weeks and find them to understand the issues perfectly well. I did not set out to mislead them in any way and I do not believe they have been. They do not believe that GPs have personally profited but do understand that patients have been asked to pay more for a service than they would otherwise have had to. This is the reason why 0870 numbers have been banned for use by GP Surgeries in England and I am still asking the Health Minister here to do the same.

In conclusion I want to raise a final concern about the nature of this complaint. I cannot help but feel that this complaint has been brought to try and make me refrain from public debate on an issue which has shown itself to be of great concern to my electors.

I have no argument with your conclusion that that complaint (at least in the form it arrived in the 11th May letter) is "admissible" under the terms of sections 2 and 3 of the procedure. This inevitably means that you have to provide a report to the Standards Committee. But I suggest in that report you do have to indicate under 4.2iv where you conclude that I have breached the code of conduct.

I believe that the code was drawn up to ensure the highest standards of integrity for Members but find it very difficult to accept as legitimate a use of the code which would seek to hamper Members from fully engaging in robust and open political debate.

Yours sincerely,

Janice Gregory AM

Labour - Ogmere

Janice.Gregory@Wales.gov.uk

Tel: (029) 2089 8373

Fax: (029) 2089 8375

STANDING ORDER 16 - Standards of Conduct

Title and Terms of Reference

16.1 There shall be a Committee on Standards of Conduct, which shall:

(i) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with Standing Order 4 or any Assembly resolution relating to the financial or other interests of Members, or that a Minister has not complied with the requirements of Standing Order 2.8;

(i) (a) investigate, report on and if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a member has not complied with any requirement to record matters specified under Standing Order 38.

(ii) investigate, report on and, if appropriate, recommend action in respect of any complaint referred to it by the Commissioner for Standards that a Member has not complied with any Assembly resolution relating to Members' standards of conduct or with the guidance for Ministers which the Assembly has approved in accordance with Standing Order 2.7 or the Code of Conduct under Standing Order 18.14;

(iii) consider any matters of principle relating to the conduct of Members generally;

(iv) supervise the arrangements for the compilation, maintenance and accessibility of the Register of Members' Interests and the Record of Membership of Societies, and the form and content of the Register and the Record;

(v) present an annual report to the Assembly on the complaints made under (i), (i)(a) and (ii) and the action taken, and on its conclusions in respect of ethical standards in the conduct of the Assembly's business; and -

(vi) establish and lay before the Assembly procedures for the investigation of complaints under Standing Orders 16.1 (i), (i)(a) and (ii).

Membership

16.2 The Assembly shall elect a Member to chair the Committee, together with other Members elected so far as practicable to reflect the balance of political groups in the Assembly. The Presiding Officer shall not be a member of the Committee, but shall be entitled to attend any meeting of the Committee, or submit papers to it, for the purpose of drawing to its attention such considerations as he or she considers appropriate.

16.2A Where a Committee Member is subject to a complaint under this Standing Order he or she shall take no part in any consideration of the complaint by the Committee. In such circumstances, and in relation solely to the consideration of the complaint

the complaint concerned, another Member from the same political group, who has been nominated in advance by the Leader of that group, may replace that member. The nominated Member may participate in the meetings of the Committee to consider the complaint as if he or she were a member of it. No Member may replace more than one Committee member at a meeting.

Commissioner for Standards

16.3 The Assembly shall appoint a person who is not an Assembly Member or a member of its staff to act as the Commissioner for Standards. The duties of the Commissioner shall be:

- i. to investigate factual matters arising out of any complaint against a Member;
- ii. to advise the Committee on any matters of general principle relating to the standards of conduct of Members;
- iii. to advise the Committee on any matters of general principle relating to the Registration of Members' Interests and the Recording of Membership of Societies; and
- iv. otherwise render such assistance on matters relating to the standards of conduct of Members as the Assembly may from time to time decide.

16.3A Where the Commissioner for Standards is unable, for whatever reason, to investigate a complaint, the chair of the Committee (or if he or she is unable to act another member of the Committee acting on his or her behalf) shall propose to the Assembly the temporary appointment of a person, who is not an Assembly Member or a member of its staff, to investigate the complaint. Time shall be made available as soon as possible for such a motion to be debated; and in any event such a debate shall take place within five working days of the motion having been tabled. Such motions shall not be subject to amendment.

Meetings

16.4 The Committee shall meet as soon as may be after a complaint has been referred to it by the Commissioner for Standards; and at other times as convened by the chair.

16.5 The Committee may meet in public or in private, but when deliberating upon a complaint, the Committee shall meet in private unless it resolves otherwise. Any Member who is the subject of an investigation by the Committee shall be permitted to make oral or written representations to it and may be accompanied at oral hearings by another person (who may participate in the proceedings with the permission of the chair).

16.6 The chair may, after consulting the Presiding Officer, call a meeting of the committee in a week in which the Assembly is not holding a Plenary meeting in order to consider an urgent matter.

Reports

16.7 If the Committee has investigated a complaint referred to it by the Commissioner for Standards, it shall report to the Assembly as soon as may be after completion of the investigation. Such a report may include a recommendation to censure a Member for failing to comply with any of the matters encompassed within Standing Order 16.1 (i), 16.1(i)(a) or 16.1 (ii).

16.8 If a motion to consider a report under Standing Order 16.7 is tabled by a member of the Committee, time shall be made available as soon as possible for the motion to be debated. Such motions shall not be subject to amendment.

16.9 The Committee may report to the Assembly on other matters within its remit from time to time.

MEMBERSHIP OF THE COMMITTEE ON STANDARDS OF CONDUCT

Kirsty Williams (Chair)	Brecon & Radnorshire	Liberal Democrats
David Davies	Monmouth	Conservative
Jocelyn Davies	South Wales East	Plaid Cymru/Party of Wales
Tamsin Dunwoody	Preseli Pembrokeshire	Labour
Val Lloyd	Swansea East	Labour
Lynne Neagle	Torfaen	Labour
Karen Sinclair	Clwyd South	Labour
Owen John Thomas	South Wales Central	Plaid Cymru/Party of Wales
Gwenda Thomas	Neath	Labour
Brynle Williams	North Wales	Conservative

Clerk	Andrew George
Deputy Clerk	Gareth Rogers
Commissioner for Standards	Richard Penn
Counsel to the Assembly Parliamentary Service	Peter Jones

STATEMENT BY JANICE GREGORY AM

IN RESPONSE TO THE REPORT TO THE COMMITTEE ON STANDARDS OF CONDUCT BY THE COMMISSIONER FOR STANDARDS FOLLOWING HIS FORMAL INVESTIGATION OF THE COMPLAINT BY REPRESENTATIVES OF THE PENCOED MEDICAL CENTRE IN RESPECT OF JANICE GREGORY AM MADE IN MARCH 2005

I wish to commence my response to the above with a very clear appeal to the Standards Committee to dismiss the complaint against me and the recommendation of the Commissioner to uphold it. I do this on two fundamental grounds.

Firstly, I do not believe the complainants or the Commissioner have sufficiently demonstrated that there is a clear breach of the code of conduct in force.

The complainants do not refer to any of the specific standards of behaviour with which the code is primarily concerned (i.e. matters relating to Interest of Members and propriety contained in articles 5 – 18).

Instead in their second letter of complaint dated 11th May 2005 they seek to rely on the general principles of standards in public life as the basis for pursuing the matter.

The points identified are: Integrity
Accountability
Openness

The Commissioner himself concludes that there is no case to answer in respect of accountability and openness so I will confine myself to the first point at this stage.

Integrity is not in fact specifically identified by the complainants themselves but is identified by the Commissioner as the most likely source for their reference to "Public Duty". He deals with this in 5.4 of his report.

However the complainants have a clear view of what they mean by public duty. They refer to "*the trust placed ... by the general public, who expect statements issued on behalf of them to have been fully checked in detail before going to the Press.*"

I do not believe that there is any such duty implied by the code. I believe my constituents would expect me to bring to their attention matters of public concern and comment on their behalf without fear or favour. Of course I should "check my facts" but it is not my understanding that the "facts" of the change of telephone system are really at issue. It is rather a question of interpretation of phrases used and reported in commenting upon the changes made.

I feel I was in possession of sufficient information to draw a conclusion. The letters I had in my possession (including a copy of a letter from the Medical Centre Practice Manager) confirmed the basic information I needed and the press comments were made in the context of a story which was running in the national media in any event.

The Nolan principle of "integrity" deals with the rather different issue of placing a Member under any "obligation" that might influence them in the performance of their official duties.

The further paragraph quoted by the Commissioner from the Assembly's code expands this by providing a duty to maintain the public's trust and confidence in the Assembly and refrain from bringing the Assembly into disrepute.

Even if it were to be accepted that this is what the complainants mean by "Public Duty" which I would consider unlikely, to relate this to the substance of the complaint surely stretches the point too far.

The Commissioner concludes (in 5.4) from his view of the background to the case that my comments "have damaged the relationship of trust between the doctors and their patients as well as their credibility and standing in the community". I do not happen to believe this but even it were true, I do not see how it supports a conclusion that I had undermined the public's trust in the Assembly or brought the Assembly or its Members into disrepute.

This brings me to my second and related point. I believe a decision to uphold the complaint would have severe implications for the way in which members should be expected to publicly represent the views and interests of their constituents

I cannot accept that there was any obligation on my part to further question the Pencoed Medical Centre before commenting on the issue. To imply a requirement on me to do so is against the spirit of free speech and independent comment. There would be occasions when to go back in this way would invite a cover up and it hardly fits with a culture of openness and scrutiny. How would a Member help a "whistleblower", for example?

This surely is a matter of judgement which must be a matter for the individual concerned? Otherwise politicians would be severely hampered in giving a public airing to serious issues they wish to raise on behalf of their constituents. In this particular instance it was not as if the Medical Centre were not being given ample opportunity to put their side of the argument in public and through the media as well.

It also brings me back to an issue I raised with the Commissioner early on in our exchanges. I do believe this complaint was made in an attempt to make me refrain from further public comment on an important and live issue to many of my constituents.

My right to comment freely on such matters should not be constrained except by the usual protections of the law. In this case the Medical Centre has consistently said my comments were "defamatory" and "libellous". If they believed this to be the case they have a remedy in law. I do not believe it should be the place of the complaints procedure to provide a route for judgements of that nature.

I do want to re-emphasise that I do not feel the reported phrases which form the heart of the complaint have, in the context, the rather narrow meaning put on them by the complainants and accepted by the Commissioner. He appears to give weight in this to the fact that the complainants are (in his words) "a respected group of professional public servants" but I am not clear why this should add anything to the substance of their complaint. I hope that the alleged "status" of the complainants was not a relevant consideration.

The Commissioner asks the standards committee to focus on the question that in making the statements reported in the local press was I in breach of the code of conduct. I have sought to concentrate on that issue above, but he himself introduces "as background" a number of arguments which I believe are in themselves contentious and in the following annex I seek to take issue with some of the detail of that background argument.

Janice Gregory AM
Ogmore

Annex to statement of Janice Gregory AM

Introduction

The Commissioner provides a lengthy “background” explanation of the context of the complaint. It is submitted that this is largely provided from the point of view of the complainants and seeks to justify the Commissioner’s later conclusions.

In introducing those conclusions he also seeks (in 5.2) to downplay the relevance of the extensive background already provided, but given the detailed nature of the explanation, I feel I must raise issues about the points made with the Committee and these are detailed below.

Notes

Page 1 – 2.1 There is a fundamental difference over interpretation of the use of the terms *‘making a fast buck’* and *‘nice little earner’*. This has already been referred to in my e-mail to Richard Penn of 17 June, which the committee is asked to consider in full. But it is in essence a matter of opinion.

Page 1 – 2.2 Richard Penn accepts the Practice’s view about *‘using the revenue raised’*, but there seems no doubt that the change to the 0870 number allowed them to modernise the phone system with patients making a contribution thereby saving the full expense of modernisation. (This is effectively demonstrated in Alan Davies own words of 24th February – report annex 7 – where he confirms there is an “additional income received” and “the increased cost to a patient”).

If my comments were inaccurate and misleading then why did the practice change the number to a 0844 number before there was any requirement to do so? The practice changed over on 12 May fully 2 months before the Welsh Assembly Minister announced they had to (see **A1**).

Page 2 – 3.2 All the written evidence submitted with the report has been provided by me. There is no documentary evidence to support the practices claim that they needed to change the phone system in response to patient demand.

The only evidence available from the Practice’s own website demonstrates that there was overwhelming customer satisfaction with the previous service (see below on point 4.4 and **A2**)

Page 3 – 4.2 There is no documentary evidence presented to support the claims of NEG about the way that Surgery Line operates including the financial arrangements or a comparison with the previous costs.

Page 3 – 4.3 NEG claims that patients benefit but offer no documentary evidence to support that claim. NEG say that they supply each system to the needs of the individual surgery therefore it is impossible to make broad claims about patient benefits when each system could be different.

It is also said that *calls are answered either by surgery staff, transferred to a different site or passed to an out of hours service*, but in reality patients are given a choice of numbers in a menu system that can be confusing and takes time to manoeuvre, it is also possible to cancel an appointment but not to reschedule one which means you have to make another call to speak to a receptionist.

Page 3 – 4.4 The online patient satisfaction questionnaire was only to a small proportion of the patient base (*there are 10,990 patients in the Pencoed and Llanharan practices 264 people filled in the online questionnaire only 2.4%*)

- *25 patients thought that the existing service was **poor or very poor**.*
- *56 patients thought that the existing service was **Fair**.*
- *181 patients thought that the existing service was **Good, Very Good or Excellent**.*

It would seem from this that patients were satisfied with the service and there were not any serious difficulties experienced by patients getting through to the surgeries. There was no demand for change from a patient satisfaction view. With such a big change involving all the patient base and with the small survey carried out pointing to no major problems the Practice should have consulted a broader patient base and then informed them of the changes. The Practice also state they *communicated with patients before they installed the new system*, there is no documentary evidence to support this and I have yet to talk to a patient who was consulted. There is also nothing to substantiate the claim that calls would not last as long.

Page 3 – 4.5 The Practice say they *asked patients that they examined on a daily basis about satisfaction with the old system*. Again there is no evidence provided of the results of this consultation. They also claim that *the system was specifically designed to give patients a better service with minimal additional costs falling to the patients*. This confirms there were some costs falling on patients which would not otherwise have done. It begs the question why they did not start off with the 0844 number and not the 0870 number.

Page 3 – 4.6 The Commissioner concludes that *over a seven year period each of the Partners in the practice will pay out of their own finances around £5,000 to help fund the new telecommunications service*. But it is not entirely clear how this compares with the present position when there was no contribution from the patients. Neither is it clear why if this money can be said to be coming from *"their own finances"*, the

contribution provided by the income from the 0870 number is not also "their own".

Page 4 – 4.8 The Commissioner seems to accept the word of the Practice and NEG that *patients do get a better service*. NEG is the service provider so might be expected to claim an improved service but there doesn't appear to have been a further satisfaction survey or other supporting evidence.

Page 5 – 4.16 Again it is clear that the press article was written in the context of a story that had some prominence in the national media at the time and that John Hutton (the Minister responsible in England – see A3) had already banned the use of 0870 numbers and that I was calling for the Welsh Assembly Minister to do likewise (which he later did).

Page 6

4.18 & 4.19 In my experience the complaints from patients had been about the extra cost and also about having to remember a much longer telephone number together with a system that can be difficult to understand especially for the older person who would much prefer to talk to someone.

Again the Practice provides little or no evidence for the assertion that patients widely interpreted my comments as to mean "*they personally have profited from the introduction of the surgery line service and that it has seriously undermined their personal and professional credibility and standing in the community*". This is not backed up by my contact with patients and members of the public.

The Commissioner reports that "*the only negativity about the new arrangements derives from comments in the media by Janice Gregory*". But this is patently untrue as Cllr Turner's original correspondence related to the dissatisfaction and upset of "many patients" and this predated the media coverage.

Attached :

- A1 Letter from Brian Gibbons (Minister for Health and Social Services) dated 5 July 2005 - confirming the announcement that GMS practices in Wales will be stopped from using national and premium rate telephone numbers.
- A2 Copy of relevant page from Pencoed Medical Centre website survey conducted in 2004.
- A3 Copies of press releases from BMA and Department of Health and BBC website coverage from 24 February 2005 indicating nature of media comment on national and premium rate telephone numbers at GP surgeries and confirming Department of Health ban because of the "unfair additional cost for many NHS patients".

Brian Gibbons AM/AC
Minister for Health and Social Services
Gweinidog dros Iechyd a Gwasanaethau Cymdeithasol



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

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5 July 2005

Dear Janice,

Thank you for your email of 15th June regarding the use of premium rate telephone numbers in GP surgeries.

I am pleased to announce that I have agreed to introduce regulations to stop GMS practices adopting national and premium rate telephone numbers. Officials are currently working with the telecom supplier, of practices with 0870 numbers, to agree a programme for conversion.

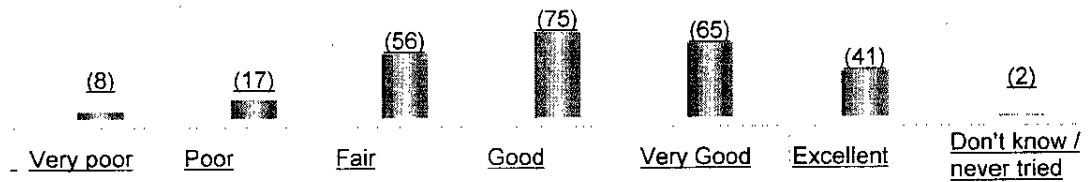
I hope that this will address your concerns

Yours sincerely

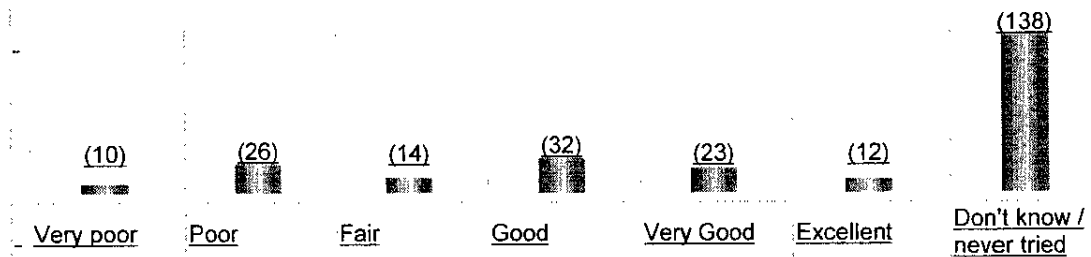
Brian Gibbons AM/AC



**Thinking of times you have phoned the practice, how do you rate the following:
Ability to get through to the practice on the phone? (4.31)**

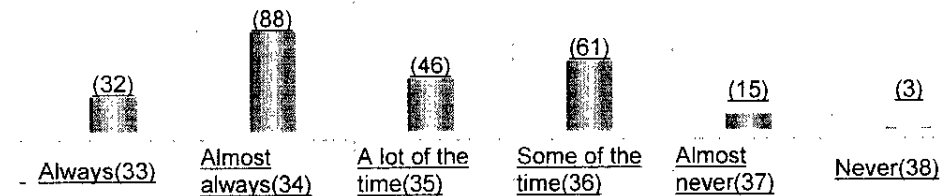


Ability to speak to a doctor on the phone when you have a question or need medical advice? (5.45)



The next questions ask about your usual doctor. If you don't have a 'usual doctor', answer about the one doctor at your practice who you know best. If you don't know any of the doctors, go straight to question 11.

In general, how often do you see your usual doctor? (1.56)



A3



The British Medical Association
The professional association for doctors

GP leader responds to ban on higher rate telephone numbers

Press release date: Thursday, 24 Feb 2005 (BMA London)

Responding to the Department of Health (England) announcement banning the use of higher rate telephone numbers within the NHS, Dr Hamish Meldrum, chairman of the BMA's General Practitioners Committee said:

"The BMA is sympathetic to the view that patients should not be charged over the odds for contacting their GP by doctor. A relatively small number of GP practices use 0870 numbers, as do some other NHS bodies. Some of the GP practices involved were encouraged to switch to 0870 systems by their primary care organisation. By introducing 0870 telephone systems, practices will have benefited from improved equipment installed with the aim of ensuring patients were able to get through to the practice quickly, deliver their message or request speedily, and in general spend less time on the telephone than with previous systems. We welcome the Government's intention to fund the cost of the change back to *lo-call rate* systems and this should apply to all affected practices, whatever their telephone system supplier. We look forward to talks with the Department about implementing the new policy in a workable time-frame."

Ends

NB

The BMA understands that in the region of 300 GP practices use 0870 telephone numbers. This figure should be seen in the context of 11,000 practices in the UK, approx 8,000 of them in England.

Keywords: General practitioners

A3



DH home - Publications and statistics - Press releases - Press releases notices

Hutton rings the changes on NHS telephone numbers

Published: Thursday 24 February 2005

Reference number: 2005/0074

National and Premium Rate Phone Numbers Banned From April

Health Minister John Hutton today announced a ban on expensive telephone numbers that charge patients over the odds to call NHS services in their area. The ban will protect patients from paying premium and national rates to call local NHS healthcare services, such as their GP or dentist, in future.

From April, NHS organisations will not be able to set up new premium and national rate telephone numbers for patients contacting local services.

John Hutton also announced that the GP practices currently using national rate telephone lines will be expected to change these to 'lo-call' rate numbers, which offer patients a guaranteed low call rate. The switch to these numbers should be completed by the spring.

John Hutton said:

"Sick people and their families should not be asked to pay over the odds to contact local NHS services. The use of premium and national rate telephone numbers is an unfair additional cost for many NHS patients. That is why we are taking this action today."

Michael Summers, chairman, The Patients Association, said:

"The Patients Association welcomes this announcement. Many patients were contacting us as calls were so expensive, particularly when surgeries were busy or engaged. This decision will be welcomed by patients generally."

Around 290 GP practices have established national rate lines, which charge up to 7.5p per minute, for taking patient appointments and for requesting repeat prescriptions.

National rate telephone numbers start with an '087' prefix. Premium rate telephone numbers start with the digits '09'. The only special service numbers the NHS will be able to use in future are freephone numbers or those that offer patients a guaranteed low rate call, such as '0845' or '0844'.

numbers.

The ban will be enforced through changes to the relevant legislation and guidance, including revised contracts for GPs and directions to NHS Trusts. It will also apply to NHS dentists, NHS opticians and GP out of hours service providers.

Notes to editor

1. From 1 April 2005, NHS organisations providing local services will not be able to adopt national or premium rate numbers. This will be achieved through:
 - GP practices – amendments to GMS regulations
 - APMS and PCTMS practices, including out of hours providers – amendments to directions
 - NHS Trusts and PCTs – directions
2. GP practices currently using national rate telephone lines will be expected to change these to 'lo-call' numbers, under an arrangement between the Department of Health and the principal supplier. The department will make funding of around £500 per practice available for them to switch from national rate to lo-call numbers. The department will be working with PCTs to identify which practices will be entitled to the additional funding.
3. Dentists will be included in the ban. However, it will take longer to make the changes to the relevant legislation. The department expects the ban to be in place by summer 2005.
4. Pharmacists will not be included within the ban. Pharmacies remain able to use premium rate numbers to support their private commercial activities.
5. For media enquiries contact 020 7210 5222. For non-media enquiries contact 020 7210 4850.

A3

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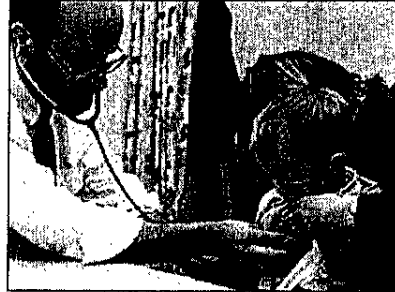
Last Updated: Thursday, 24 February, 2005, 10:45 GMT

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NHS ban on top rate phone lines

NHS organisations will be banned from setting up new premium and national rate telephone numbers for patients contacting local services.



Hundreds of GP surgeries are using 0870 numbers

GP practices currently using national rate phone lines will be expected to switch to low rate numbers.

The move, which comes into effect from April, was announced on Thursday by Health Minister John Hutton.

Around 290 GP practices had established national rate lines, which charge up to 7.5p per minute.

These were being used to take patient appointments and for requesting repeat prescriptions.

Mr Hutton said: "Sick people and their families should not be asked to pay over the odds to contact local NHS services.

"The use of premium and national rate telephone numbers is an unfair additional cost for many NHS patients."

Michael Summers, chairman of the Patients Association, welcomed the move.

He said: "Many patients were contacting us as calls were so expensive, particularly when surgeries were busy or engaged."

The ban will also apply to NHS dentists, NHS opticians and GP out of hours service providers.

However, dentists will have until the summer to comply with the new rules.

Pharmacies will remain able to use premium rate numbers to support their private commercial activities.

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Doctors' response

Dr Hamish Meldrum, chairman of the BMA's GP Committee, said: "The BMA is sympathetic to the view that patients should not be charged over the odds for contacting their family doctor.

"A relatively small number of GP practices use 0870 numbers, as do some other NHS bodies.

"Some of the GP practices involved were encouraged to switch to 0870 systems by their primary care organisation.

"By introducing 0870 telephone systems, practices will have benefitted from improved equipment installed with the aim of ensuring patients were able to get through to the practice quickly, deliver their message or request speedily, and in general spend less time on the telephone than with previous systems."

Dr Meldrum welcomed government plans to reimburse GPs who have to switch phone lines, up to a cost of £500.

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