

VIEWS & REVIEWS

PERSONAL VIEW

No doctor should be untouchable

Even very senior doctors must be subject to the same codes of conduct, and to the same sanctions when they are breached, says seasoned whistleblower **Peter Wilmshurst**

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Allegations that Jimmy Savile sexually abused children and vulnerable hospital patients surfaced after his death, when he was no longer protected by the English defamation laws. These laws were designed to protect the wealthy and famous from allegations by poorer citizens by making it difficult and expensive to defend a defamation claim, even if you are telling the truth. Should we blame the cover-up entirely on the libel laws?

There were those in authority at the BBC (where Savile had star status), in hospitals where he had unprecedented access, and in the criminal justice system who had heard reports of his misconduct but failed to act. Victims were told that their testimony would count for little compared with the word of the television star and charity fundraiser. Savile was valuable to the organisations and his victims were not. Savile himself bragged that he was untouchable. Other organisations that have covered up misconduct include the Catholic church over child abuse by priests, and the South Yorkshire Police over their failings at the Hillsborough disaster. Organisations protect their members, and senior members are, like Savile, often powerful and untouchable.

I believe, based on observation of the outcomes in several cases in which I have been involved, that the medical establishment is no different, with senior doctors being untouchable. Indeed, once, when I raised concerns at a meeting at the Department of Health about a senior doctor, I was even told that he was "untouchable." I know that over many years the General Medical Council had refused three times to investigate allegations about him from other doctors (not from me). On 23 November 2012, the Department of Health wrote to me that the current chief medical officer is unable to discuss the issue with me "due to pressure on her time." Refusal to hear allegations will allow later denial of knowledge of them.

The GMC investigates serious allegations about doctors, but in my experience it will often refuse to investigate the most senior doctors.

I reported Clive Handler to the GMC for financial misconduct. When he appeared before the professional conduct committee, the chairman of the committee, Peter Richards, had to stand

down from the hearing because, in his role as medical director of Handler's hospital, Richards had agreed to conceal Handler's misconduct from the GMC.^{1 2} The GMC refused requests from its own solicitors and from me to take action against Richards, who had clearly broken the GMC's rules on reporting misconduct by other doctors. Richards, who held many senior positions, including chairman of the Council of Deans of UK Medical Schools and Faculties, returned to chair hearings at the GMC after Handler was suspended from the medical register.

Senior managers at the Royal Brompton Hospital knew that over many years Professor Peter Collins had used qualifications he had not been awarded.^{1 2} They knew that he had obtained three posts using false qualifications and that he put them on his letters. The whistleblower was informed by letter from the chairman of the board of governors that unless he dropped the matter his career might suffer. I reported Collins to the GMC. The GMC informed me that no public hearing was required because they had accepted a private assurance from Collins that he would not use false qualifications again. In the few years before and after the GMC's decision on Collins, seven more junior doctors faced public hearings for claiming qualifications they had not been awarded. Six (Rashid Rhalife-Rahme, Seth Atardo, Ashoka Prasad, Afolabi Ogunlesi, Abu Shafi, and Ashutosh Jain) were removed from the medical register and one (Sahmin Pandor) received a reprimand.² They differed from Collins (educated at Cambridge and St Thomas') in many respects, including the fact that most had only once claimed qualifications they had not been awarded.

The GMC does not allow a doctor to voluntarily remove his or her name from the medical register when he or she is under investigation. However, twice, when I reported heads of medical institutions to the GMC for concealing research misconduct within their institutions, the GMC informed me that, as a result of administrative errors, each had been allowed to remove their names voluntarily, so the GMC could not investigate my allegations.

Despite legislation meant to protect whistleblowers, I am aware that an NHS trust and a health authority spent more than £2.5m

(€2.9m; \$3.8m) in legal fees before getting a whistleblower (a junior doctor) to accept a legal settlement that included a gagging clause preventing him from revealing illegal activity by a senior doctor. A deanery was complicit in the victimisation of the trainee. Allowing for additional management time and the financial settlement with the doctor, the protection of a senior doctor probably cost the NHS more than £5m.

If we are genuinely going to put patients first, then nobody, no matter how senior they are, can be untouchable. However, this will only happen when we have a cultural change in healthcare, with promotion of real openness and real protection for whistleblowers, plus reform of the English libel laws to provide a genuine public interest defence.

Competing interests: I have read and understood the BMJ Group policy on declaration of interests and declare the following interests: I have defended three libel claims brought by a US medical device company, and I have reported several doctors to the GMC.

Provenance and peer review: Not commissioned; not externally peer reviewed.

- 1 Wilmshurst P. Dishonesty in medical research. *Med Leg J* 2007;75:3-12.
- 2 Wilmshurst P. The General Medical Council—a personal view. *Cardiology News* Oct/Nov 2006;10:13-15.

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