

Lesbian Persistence

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General Medical Council
by email to feedback@gmc-uk.org

15 February 2025

Dear GMC

Lesbian Persistence is a voluntary organisation with members throughout Scotland. We are writing on behalf of our members, but in particular those in Fife, who have asked us to express their concerns to you regarding a doctor registered as Elisabeth Upton, GMC reference no: 8038543. Dr Upton works in the A&E Department at Victoria Hospital Kirkcaldy. Our members have said that they would be unwilling to attend the Victoria, in case they found themselves being treated by this man.

As you are no doubt aware, Dr Upton has been giving evidence this week at an employment tribunal being held in Dundee. I was at the tribunal in person, so heard his answers for myself. The responses he gave threw serious doubt on his fitness to practice. They gave grounds for several of the types of complaint listed as a concern on your website.

Risk to patient safety

Firstly, he has no grasp of basic biological facts, which we consider absolutely essential for any medic. He insisted, in all seriousness, that he is "biologically female." He also stated that sex is a "nebulous dog whistle" and that it is not necessary to know a patient's sex because transpeople's blood reference ranges change to match the "sex they align with". It is a concern that he would ignore a patient's sex, in favour of the patient's self-declared gender identity, even when this might affect a diagnosis or appropriate treatment.

None of our members identify as trans, but they are extremely concerned by the prospect of being treated by a doctor who does not recognise or respect an individual's biological make up. Dr Upton's failure to understand that someone's sex can be relevant to the appropriate course of treatment suggests to us that he presents a serious risk to patient safety.

Sexual assault / abuse of professional position

Secondly, Dr Upton admitted he would consider it appropriate if he were assigned to a female patient who had expressly asked for a female doctor. The question put to him by barrister Naomi Cunningham KC concerned a (hypothetical) patient who was experiencing very heavy bleeding. Upton's response was that if a patient was not happy with being examined by him, she had the right to ask for another doctor. However, he did not believe that many women would recognise what he described as his "trans history" and insisted that most people cannot tell he is not a woman.

He did not recognise that vulnerable women might be too scared or intimidated to challenge him, or that they would be concerned that it might affect the level of care they receive if they did so. Indeed, if you consider what happened to the only person who has challenged him (the vendetta he conducted against Sandie Peggie, which has ended in this tribunal case) you might conclude that women would be well justified in being concerned about the outcome of expressing discomfort with him.

If Upton were to perform an intimate examination of a woman in those circumstances it would clearly be non-consensual, and thus an assault, regardless of whether or not she was too unwell or unaware to recognise him as a man.

It was quite an extraordinary experience to sit in a court of law and hear an A&E doctor, (who almost by definition treats patients when they are at their most vulnerable, and possibly unconscious or sedated) blithely and confidently state his willingness, actually his determination, to commit a sexual assault on a female patient. Indeed, I had the impression he was asserting it as his right. (Although he didn't use the words "my right", that's how his self-righteous attitude and demeanour came across.)

Ms Cunningham also asked him about a rape survivor who wanted to see an "actual woman". First, he prevaricated by purporting not to understand the term "actual woman", and then went on to claim he is under no obligation to divulge any personal information, including his sex. This contradicts our understanding that a patient's interests should always be put first. The fact that he thought these were appropriate responses in a court of law really beggars belief. It suggests to us that his perception is so far from reality as to make him entirely unfit to practice.

As lesbians, our members have a particular terror of coming into contact with a man who openly admits to a willingness to assault them by intimately touching them without consent, indeed when they have expressly *refused* consent. It is impossible to overstate the trauma *any* woman experiences if she is intimately touched inappropriately. Nevertheless, the possibility that this man might perform a non-consensual internal examination brings an additional aspect to the horror for lesbians who have chosen never to have any physical or sexual contact with a man.

Indecency

This entire case started with several acts of indecency, when Dr Upton insisted on changing in front of non-consenting women.

Discrimination

Despite Upton's claim that a patient could ask him to see a female doctor instead, this case has highlighted the extent to which he harasses and discriminates against anyone who does not go along with his delusional belief that he is a *literal* woman. He mentioned several times that it is "unsafe" for him to work with nurse Sandie Peggie. Yet his complaint against her essentially boils down to a few trivial incidents: that she told him she was uncomfortable

with him being in the female changing rooms; that she waited outside the CR on one occasion until he had finished changing because she did not want to get changed in front of him; that she allegedly wouldn't look him in the eye. These incidents he has attempted to portray as harassment and transphobia.

Upton reported Sandie Peggie because his feelings were hurt, and then (it appears from the evidence) made up some further incidents in order to make a case against her. This is a clear instance of discrimination because of her protected belief that men have no place in a woman's changing room. Even without the made-up incidents, he was clearly doing everything he could to make trouble for her, starting with recording every interaction he had with her and putting a negative spin on it. This is an attempt to deny her freedom of speech and expression, and is harassment as well as discrimination.

Conclusion

In light of all the above, our members have a well-founded fear that they would be at risk should they find themselves being treated by this man.

1. He puts patients' safety at risk by denying fundamental biological facts, which makes it impossible to diagnose or treat someone appropriately in certain circumstances.
2. Our members would most certainly identify him as a man (so long as they had capacity) and either refuse to be treated by him, risking incurring his wrath and accusations of transphobia, or alternatively be unwillingly coerced into allowing him to proceed. Making someone too afraid to say "no" does not constitute consent.
3. In the event that Upton was assigned one of our members, (especially if she was suffering from any kind of urinary, bowel or gynaecological issue) he has clearly stated would treat her, regardless of her stated desire to see a female, likely committing an assault on her. The fact that our members are lesbian adds an additional aspect of distress.
4. Upton appears to be genuinely delusional. He attempted to convince the Tribunal that he is *literally* a biological female, that there is no difference between women, and men claiming to be women, and that it is possible to actually change sex. He also believes that most people cannot spot him as a man, though, having met him, it is evident in my opinion within a very short space of time. Regardless, he appears to think that it's ok for him to treat women who do not realise he is a man, even if they have asked to see a female doctor.

In light of all the above we urge you to take action to consider his fitness to practice as a matter of urgency, and to suspend him until such time as you have concluded such investigation.

Best regards

Sally Wainwright