

The rising tide of litigation

Innocence or otherwise is largely defined by successive experiences. Early on in life, the hope is that one's innocence will be rapidly lost. Such is not the case, Professor Sir John Scott explains.

As the rising tide of litigation and complaints against doctors commenced, many of us who had been established practitioners for a couple of decades or more assumed we had 'seen and heard it all'. Some of us even thought we were above, and immune from, the process of close scrutiny by peers, let alone by the general public – we were innocents to the nuances of this evolving scene.

At that time, I was reasonably confident in my professional position as chief medical officer at a large metropolitan hospital. The ward sister (charge nurse) was an extremely competent senior woman of great charm and efficiency. She had a good but overworked staff. A bright and competent trio of junior doctors complemented the unit.

Alas, one Sunday afternoon, adoring relatives visited a patient and found her lying dead – ward staff being unaware of this. This was not an appropriate thing for the patient to have done on the Sabbath.

The family's complaint

Sure enough, a stiffly worded complaint came through the mail to the administration of the hospital. We still had medical superintendents in those days. We also had matrons. A conference was arranged for us to plan the defence of the unit and the hospital. I needed no reminding that the matriarch who had precipitated the sad event was a leading personality in an

extremely prominent family. I was also reminded of the fact in a telephone conversation with her nephew, himself a distinguished lawyer, that the family would be bringing his niece when they came to confront us at the hospital, she also being a lawyer in private practice. However, in neither the initial letter nor in that telephone conversation were the details of the complaint made known to us. Rather, an urgent appointment was demanded, which was duly arranged.

At a preliminary meeting of the medical superintendent, matron, ward sister and myself, we worked out what seemed to be a rather weak strategy. By that stage a formal apology had been tendered to the family in writing. No reply was received.

The confrontation

On the fateful day that our quartet assembled, each of us expressed varying manifestations of acute anxiety. In marched the family led by the new senior matriarch, a very stern faced woman. Her forbidding countenance was mirrored in that of the relatively young woman lawyer.

Somewhat to our surprise, the deceased's nephew did not launch into a diatribe, but rather thanked us for the opportunity to meet. Further to our surprise, he thanked the superintendent for the written apology and said that that had not been requested nor expected. The wind went out of our sails – our strategy was shattered.

The patriarch then said that the woman lawyer would read out the substance of the family's complaint. We braced ourselves. A long tirade followed, largely concerned with questions of cultural sensitivity, lack of public consultation and a number of other topical issues that didn't seem to connect with the situation in question. We became increasingly confused.

The medical superintendent, who was looking quite pale, deferred to me. I was groping for an entry and tentatively began to ask why the letter of apology had proved to be unacceptable.

The matriarch interrupted me. 'Everyone dies once, we are not on about that. We were deeply offended that your ward had unisex toilets.'

We suppressed our sighs of relief and kept straight faces, and entered into a discussion, fortunately managing to resolve the issues and dissipate the family's anger.

Never assume you've lost your innocence

In hindsight it is difficult to see how the situation could have evolved in any other way. However, the primary lessons were obvious. Whenever possible, be apologetic, not too defensive, and enter a complaint enquiry situation with the best possible intelligence in hand. The secondary lesson was, do not think you have lost your innocence at any stage of your career, no matter which discipline you follow. People are people, and 'folks is queer'. This family certainly regarded us as 'queer folk'. **MT**

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