



The Impact of Vexatious & Over Zealous Notifications.

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The case of Dr "X":

- Dr X is a senior surgeon at a large public teaching hospital
- He also has a large private practice with private hospital appointments
- In August 2009 there was some professional unhappiness at the public hospital between colleagues, which included allegations of bullying by Dr X
- The hospital stood Dr X down

The case of Dr “X”:



- In late 2008 Dr ‘X’ was the surgeon for an elderly patient who died within 24 hours of the operation & the death was reported to the Coroner.
- The Coroner delivered findings on cause of death shortly thereafter and the Coroners file was closed
- Certain allegations were then made about Dr X with respect to various clinical decisions made in relation to the care of the patient who subsequently died
- The hospital made a mandatory report to the Medical Board expressing concern Dr X had engaged in unprofessional conduct
- The hospital wrote to the Coroner expressing concerns about Dr X and his involvement with the patients care and suggested that the investigation be reopened

The Case of Dr “X”:



- By August 2009 the situation was that Dr X was being investigated on three fronts:
 - Employment issue
 - Coronial investigation
 - Medical Board investigation
- The constellation of the matters “hit the press” with some sensational headlines
- The allegations were repeated in state parliament
- An army of lawyers was appointed to represent his interests
- Dr X fully was supported by his MDO during the process

Dr “X” – the outcome:



- Dr X was exonerated in the Coroner’s Court
- Dr X was reinstated to his position at the hospital
- The Medical Board matter resolved in a manner which was ultimately satisfactory to Dr X
- \$ 850,000 in legal expenses
- Two and a half years of intimidation, harassment, innuendo and emotional distress for Dr X
- Two and a half years of absence from employment at the hospital (in fact Dr X did not return to the hospital)
- Ultimate denial of Dr X’s superb expertise to the public
- The impact on the subject doctor cannot be under estimated

Impact of Vexatious Notifications:



- These complainants, in addition to seeking compensation and reparation, are in pursuit of personal vindication and retribution; aims that are incompatible with modern complaints handling procedures.
- The manner in which the claimants pursue their quest for justice and the form in which they express their complaints are clearly separable from the methods used by the vast majority of genuine complainants.
- Our members can suffer years of intimidation, harassment, innuendo, significant employment insecurity, financial loss and emotional distress/morbidity.

THE SPECTRUM OF NOTIFICATIONS



- NORMAL
- DIFFICULT
- ABNORMAL
 - VEXATIOUS
 - SECONDARY TO MAJOR PSYCHIATRIC ILLNESS
 - QUERULANT (MORBID COMPLAINANT)

The “normal” complainant:



- Aggrieved and seeking legitimate redress.
- Proportionality and perspective maintained, i.e. values other life domains and has balance.
- Focus and specificity maintained.
- Able to negotiate and accept a reasonable settlement.



The Difficult Complainant:

- Also aggrieved and seeking redress.
- Language of “being victimised” with or without loss of specificity i.e. a claim pursued “for the public good”.
- Over-optimistic expectations of compensation or major changes to institutional structures.
- Difficult to negotiate with and rejecting of all but their estimation of a just settlement.
- Though persistent, demanding and occasionally threatening will ultimately settle albeit still complaining of injustice (maintains proportionality).



Characteristics of difficult Complainants:

- The “Social Activist”
- The “Whistleblower”.
- Abnormal grief reaction.
- Obsessional Personality.
- Narcissistic Personality.
- The paranoid and “chronic grumblers”.

CLAIMS ARISING FROM PRE-EXISTING SCHIZOPHRENIA:



- Aggrieved by loss and (often) persecution.
- Claims arise totally or in part from the delusions and hallucinations associated with a pre-existing schizophrenic illness.
- Claims often bizarre.
- Nature of claim usually in constant flux
- Often impossible to define the grievance let alone resolve the claim

Other Abnormal Complainants:



- Vexatious Litigation
 - institute legal proceedings, often habitually, persistently and without reasonable grounds.
- Querulant (morbid complainant)
 - relentlessly driven by a “pursuit of justice”, their complaints cascade in type and target over years and secondarily devastate their own lives.
 - display extreme complainant behaviours – unreasonable complaints, ranging from demanding, persistent, uncooperative to aggressive (anger, intimidation, threats and violence)
 - sometimes truly avaricious and mendacious.

THE QUERULANT: (MORBID COMPLAINANT)



- Aggrieved by victimization, persecution and loss.
- Emotionally charged beliefs of being victimised, or having been unjustly treated.
- Loss of focus and proportionality.
- Relentless and prolonged “Pursuit of Justice”.
- Inflexibly focussed on grievance but if offered “total reparation” will still extend complaints.
- Overtly seeking reparation and retribution, covertly seeking vindication.

STUDIES ON THE QUERULANT



- Age: 4th, 5th or 6th decade
- Males:Females 4:1
- Premorbidly: reasonably high functioning, well educated.
- Majority have had partners
- Criminal history-uncommon
- Psychiatric history -uncommon
- Substance abuse -not prominent
- No one is born to be querulant

The Querulant personality:



- “A rough, irritable, egotistic person, defective in his notions of justice” - Krafft-Ebing (1897)
- “Restless, excitable, irritable, inflated self esteem, assertive, combative, defiant, fanatical” - Kollé (1931)
- “A obsessional and distrustful individual, combative and insensitive to all but his own needs, hypersensitive to criticism and liable to misinterpret communications” - Lester (2003)

Developmental Challenge:



- Ageing:
 - Face mortality, loss of power, failure to achieve goals.
- Environmental stressor in majority:
 - Threats to self image, prestige, position, power, property and rights.
 - Marital break up/custody issues.
 - Educational or career setback e.g. failure, negative evaluation, dismissal or lack of promotion,
- Physical or psychological injury or illness.
- Majority had an associated stressful court case.

THE QUERULANT: (MORBID COMPLAINANT)



- Communication
 - Multiplicity of modes.
 - High volume of material.
 - High variety of material.
 - Internet, emails and multiple c.c.'s
- Language
 - Emphatic, third person, inappropriate “legalese”.
 - Not understandable and/or repetitive arguments.
- Multiple complaints and litigation (cascading).

Member’s description:



“Two statements of claim have been struck out and described as “prolix” – and the statements of claim were indeed long, vague and incoherent.

After the second one was struck out, the Judge accepted submissions that eight of the respondents should be struck out from the action.

They were then given a third chance to try to make a coherent statement of claim....and submitted 400 pages.

The judge went off, had lunch and described in less than a page what the complainant had to prove.

He wrote most elegantly: a small jewel in a legal sewer”.

Impact on Complaints Staff:



- Over half of the persistent complainants made some form of threat of violence towards complaints professionals.
- These threats explain the apprehensiveness about personal safety expressed by many of the professionals who deal with the unusually persistent.
- The study indicated that threats are very much a part of the behaviour of the querulant.
- We must make strenuous efforts to protect and support the staff who deal with such cases.

Impact on the Complainants:



- The Querulant suffer social and interpersonal damage.
- Unusually persistent complainants not only seriously disrupt their social and financial functioning, but also via threatening and intrusive behaviour frighten and distress those attempting to help them.
- We must endeavour to prevent or extricate persistent complainants from their damaging progress.

Querulant counter-measures*:



- **First:** Without appropriate procedure you will struggle.
- **Second:** Recognise the 5 V's (victimized, voluminous and vague communications, variable demands, seeks vindication).
- **Third:** Do No Harm. Success is measured in "containment and safety" rather than "completion and satisfaction".
- **Fourth:** Firm boundaries and normal practice.
- **Fifth:** Unreasonable complainant conduct does not preclude there being a valid underlying issue.

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Querulant counter-measures*:



- **Sixth:** They are legally hyper-competent yet disorganized and overwhelmed.
- **Seventh:** Maintain focus for yourself and them.
- **Eighth:** Control through clear limits.
- **Ninth:** Silence is Golden.
- **Tenth:** More time granted equals more confusion created.
- **Eleventh:** Thick Skin and Share the load.
- **Twelfth:** Don't "personalise" the encounter.

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Conclusion:



“An eye for an eye will only make the whole world blind.” — [Mahatma Gandhi](#)