

**Gastric banding procedure did not produce desired weight loss  
(01HDC00755, 9 May 2003)**

*Surgeon ~ General practitioner ~ Obesity ~ Standard of care ~ Anticoagulant therapy ~ Follow-up care ~ Co-operation among providers ~ Information about condition and treatment options ~ Rights 1(1), 4(1), 4(5), 6(1)(a), 6(1)(b), 6(1)(d)*

A woman complained about a surgeon who performed a gastric banding operation for treatment of her morbid obesity. She had self-referred after watching a television programme on the operation and complained that she was not informed about other surgical options for weight reduction. She also complained that the surgeon performed the operation knowing it would not work, and that she had suffered postoperative bleeding complications.

The Commissioner held that the surgeon breached Right 6(1)(b) in not discussing other surgical weight-loss options. The fact that the patient self-referred for a specific operation did not excuse him, and arguably he had a greater obligation to provide information about alternatives because the television programme the patient had watched focused on only one operation.

The surgeon did not breach Right 4(1) in assessing the patient's suitability for surgery as the preoperative assessment met international standards, he took care to discuss her obligations, and gave written information. There was insufficient evidence that he performed the operation believing it would not work, and no evidence that it was clinically inappropriate. When a surgical procedure does not produce the desired outcome, it does not mean there was fault in suggesting it. Further, the surgeon did not breach Right 4(1) in performing the procedure notwithstanding the patient's failure to lose weight preoperatively or knowing that her ability to exercise was limited.

The patient also complained that the surgeon sent incorrect information to her former GP that she had lost 6 kg. It was held that the surgeon did not attempt to mislead the GP and went to some lengths to keep providers well informed. The patient believed the surgeon blamed her for lack of progress, but he was genuinely trying to find out why the lap band was not working. Another aspect of the complaint was that the surgeon did not explain why the lap band was not being inflated. However, the surgeon attempted to provide information that a reasonable patient in her circumstances needed. His explanation about wound complications was appropriate and accurate and he discussed the matter with the registrar to ensure the patient received appropriate care.

The patient also felt that the surgeon failed to show her respect, including ridiculing her attendance at a support group, but it was found that he had made a genuine attempt to reconstruct a deteriorating relationship.

The patient was concerned that another doctor may have participated in or observed her surgery, without her knowledge or consent. However, the Commissioner accepted the surgeon's assurance that he had no prior knowledge of a professional visitor, and could not recall an observer being present.