

**Spinal accessory nerve severed by GP  
(14HDC00054, 15 June 2015)**

*General practitioner ~ Medical centre ~ Lymph node removal ~ Level of competence  
~ Information ~ Informed consent ~ Documentation ~ Professional standards ~  
Rights 4(1), 4(2), 6(1), 7(1)*

A man consulted a general practitioner (GP) at a medical centre about a lump in the right posterior triangle of his neck. The GP referred the man to a specialist surgeon. The surgeon identified the lump as a lymph node. The surgeon concluded that no further investigations needed to be done, and that the man should return to see him if the lymph node grew or if he developed other lumps.

The man consulted the GP again about the lymph node in his neck. The GP stated that he discussed the treatment options with the man, which were to follow the surgeon's earlier advice of monitoring the lymph node or, alternatively, to have the lymph node removed for histological analysis for peace of mind. The GP stated that the man was keen to have an excision biopsy, and so he referred the man to the surgeon again.

The man contacted the surgeon to arrange an appointment, and was advised that the surgeon was not available for at least 10 weeks. The GP then arranged for the man to come to the medical centre for the removal of the lymph node.

The next day, the GP surgically removed the man's lymph node. It was later identified that, during the surgery, the GP had severed the man's spinal accessory nerve, which required subsequent complex surgery.

It was held that the GP's actions prior to the surgery were appropriate. However, the GP did not provide services to the man with reasonable care and skill and breached Right 4(1) when he decided to remove the man's lymph node in the absence of it being clinically indicated to do so, and by failing to follow up on the man's histology results adequately.

The GP failed to comply with professional standards and breached Right 4(2) by failing to recognise and work within his level of competence by undertaking the lymph node removal with insufficient experience, and failing to keep adequate patient records.

The GP also did not explain to the man his limited experience in removing lymph nodes. That information was information that a reasonable consumer in the man's circumstances would expect to receive. For failing to provide an adequate explanation of the options available, including an assessment of the expected risks, side effects, and benefits of each option, and for failing to provide the man with an explanation of his experience and expertise in conducting that particular surgery, the GP breached Right 6(1). It followed that the man was not in a position to make an informed choice and give informed consent to the surgery and, accordingly, the GP also breached Right 7(1).

It was held that the medical centre did not breach the Code.