

Adjudication

Complaint by Dr Zofia Luklinska on behalf of Mr Bogdan Luklinski *UK's Worst... Quacks* BBC1, 31 July 2003

Summary

Mr Luklinski, who practised as a 'back specialist', complained that it was unfair to label him the 'UK's worst quack'. In particular, the undercover investigator used to test his skills in the programme had misled him, the programme had misrepresented the situation of a patient who claimed to have been damaged by Mr Luklinski's treatment and he was professionally qualified to treat back problems.

Ofcom found that the deception involved in using an undercover investigator was justified and he had not unfairly misled Mr Luklinski; the programme's treatment of the patient who claimed to have been damaged was fair and Mr Luklinski had misrepresented his professional qualifications. It was not unfair to describe him as the 'UK's worst quack'.

1. Issue

This programme investigated those nominated as quack doctors by viewers and asked a panel of judges to pick the worst. Mr Bogdan Luklinski, a 'back specialist' was secretly filmed treating a 'patient'. However the patient was an undercover investigator working for the programme. The programme also featured a patient of Mr Luklinski, called "Grace" in the programme, who said he had caused her severe pain.

Mr Luklinski was named in the programme as the "UK's worst quack". He complained that he had been treated unfairly in the programme.

2. Unfairness

a) Undercover investigator

Mr Luklinski's case

Mr Luklinski complained that he was unable to diagnose correctly the patient's (undercover investigator's) problems because the patient not only gave him false information but also hid information about his other medical conditions. The programme also claimed Mr Luklinski failed to identify correctly which of the investigator's legs was shorter. However, he claimed the investigator had misled him by telling him, when asked, that he had not broken a leg in the past, when in fact he had. He complained that apparently, the programme-makers had desperately wanted to trick him and had also treated him unfairly by providing him with false information.

The BBC's case

The undercover investigator was in fact the Dean of Clinical Studies at the British College of Osteopathic Medicine and did not in reality suffer from back problems. However, he described his symptoms in such a way that any back specialist would have diagnosed the problem as most likely to be a kidney infection. Mr Luklinski failed to do so. The BBC maintained the programme correctly alleged that Mr Luklinski had failed to identify which of the undercover investigator's legs was shorter. It was also clear from the untransmitted footage that Mr Luklinski had not asked the undercover investigator whether he had had a broken leg.

Decision

It was legitimate for the programme-makers to test Mr Luklinski's skills by presenting him with a set of symptoms from which an expert in the field should have been able to diagnose the problem correctly. This did involve deceiving Mr Luklinski as to the true identity and physical condition of the undercover investigator. However the fact that the 'patient' was not genuinely suffering from the symptoms did not mean that Mr Luklinski could not have made an appropriate diagnosis from the information provided to him. As a means of exposing potentially harmful lack of expertise, the deception was justified and not therefore unfair.

It was reasonable for the programme-makers to accept the word of the undercover investigator when he said it was his right leg that was shorter. Mr Luklinski should have been able to identify which leg was shorter. He did not need to know whether a leg had been broken. It was not clear from the untransmitted footage which leg Mr Luklinski did in fact diagnose as shorter. However, Mr Luklinski did state, incorrectly, in subsequent correspondence that the right leg was longer than the left leg. In these circumstances, we did not consider that the programme-makers had tried to trick Mr Luklinski into giving a wrong diagnosis or that it was unfair to say that he had failed to identify which leg was shorter.

b) Damage to patient

Mr Luklinski's case

Mr Luklinski complained that the programme wrongly claimed that Mr Luklinski had, during treatment, damaged a patient, they called "Grace". He complained it did not put her story into context nor did it make clear that "Grace" had hidden the fact from him that she had suffered from the condition in question for over 6 years, had had a spinal operation to correct the condition and had had various other treatments. The BBC were told about these previous conditions before the programme. Furthermore, the programme did not mention that she had signed a form, on which Mr Luklinski's qualifications were given, agreeing to treatment and that she was also pleased with her treatment.

The programme said that he had not apologised to this patient. However, Mr Luklinski claimed he was not aware that her condition had deteriorated. He sympathised with her but he had taken all necessary steps to treat her safely. She was 100% symptomless on discharge. Mr Luklinski believed that the Dean at the British College of Osteopathic Medicine was not qualified to assess her case as he is not an authority on spinal disorders.

The BBC's case

The programme clearly stated that Grace had suffered from back pain for years and quoted Mr Luklinski as saying "...she had the problems already". She also said in the programme "...I'd been in hospital with other people..". There was no question of her hiding anything. As predicted by the Dean, on the basis of what Mr Luklinski did to her, she was in a worse condition after being treated by Mr Luklinski. The treatment cost over £5,000. In this case, the BBC said the consent form she signed was irrelevant. What mattered was that she had been led to believe that Mr Luklinski could improve her condition because she thought he was properly qualified to do so. The truth was that he was not. It was not true that she was 100% symptomless on discharge. She testified on the programme how much more pain she was in. The Dean (the undercover investigator) has been an osteopath for more than 19 years specialising in spinal mechanics.

Decision

It was apparent from the programme that Grace was not pleased with Mr Luklinski's treatment and was still suffering terrible back pain. She blamed Mr Luklinski's treatment for the pain she suffered subsequently. The position on discharge was irrelevant to whether she had suffered damage as a result of Mr Luklinski's treatment of her. The fact that she had signed a form on which his qualifications were given was also irrelevant to the quality of the treatment she received. The programme did make it clear that she already had chronic back problems and had been in hospital before he treated her.

In these circumstances, we believe that it was reasonable for the broadcaster to rely on the evidence of the expert on whether Mr Luklinski's treatment of Grace had been successful. The Dean of Clinical Studies at the British College of Osteopathic Medicine was a specialist in spinal mechanisms and sufficiently qualified to offer his opinion.

We did not consider it unfair for the programme to say that Mr Luklinski failed to apologise to Grace. Mr Luklinski may not have been aware on discharge of her later problems, but he had been alerted subsequently to the problems she had suffered and had still failed to apologise.

c) Qualifications

Mr Luklinski's case

Mr Luklinski complained that the programme undermined his professional integrity, calling him a "quack" who had no qualifications and "assaulted" patients. He had an MSc degree and the course he took was recognised worldwide. He had many years experience, in the NHS in Poland and England and in private practice. During his university course he completed specialisations in Physical Education and Medical Rehabilitation, which qualified him to treat patients' musculo-skeletal problems including back pain. He is qualified to teach physical education and is an athletic coach with a university diploma. He is a graduate of the Hahnemann College of Homeopathy. He could not be compared to the other quacks in the programme.

He graduated from the Medical Rehabilitation Faculty at the Academy of Physical Education in 1969. The course was a 4-year course and he had special permission to study concurrently at the Medical Rehabilitation Faculty during the last two years of

his physical education course, which meant he studied double the hours for various courses. The medical rehabilitation course was not part of the physical education course and the title awarded on completing the medical rehabilitation course “meant” MSc. The courses covered relevant scientific subjects. The reason why the Academy said he had not graduated from those departments, was because there were only faculties, not departments, when he graduated.

He did not represent himself as a qualified medical practitioner. Although he agreed to the description of himself as the “best back doctor”, he did so in the belief the expression was being used in a figurative manner to emphasise the treatment procedure and not in any orthodox sense. He was entitled to treat patients for musculo-skeletal disorders, including spinal disorders, because of his qualifications and experience. His website and business card clearly state that he is a spinal specialist and do not refer to any orthodox medical qualifications. His degree was recognised by the Physiotherapy Board in England in 1973 and the Hahnemann College of Homeopathy is on the official list of approved Colleges of Homeopathic Medical Association. The form patients sign before treatment, which is also displayed on the website, states that he is not a medical doctor. As a homeopath, he can practise general medicine. The criminal convictions brought up by the BBC were based on a misunderstanding and miscarriage of justice.

The BBC’s case

The BBC responded that Mr Luklinski claims to be a leading back specialist but he is not professionally qualified to treat back problems. He continues to misrepresent his qualifications and mislead patients, even though he has already been in prison for acting as a doctor and assaulting a patient. The programme was fully justified and in the public interest in steering people away from him. There is no doubt that Mr Luklinski is a quack, i.e. an impostor in medicine.

Mr Luklinski is qualified to degree standard as a physical education instructor. He is not a qualified medical practitioner as he pretends to be. His business card and website misrepresent his qualifications. His certificates show that he qualified as a physical education teacher. He obtained a Master’s Degree from the Academy of Physical Education in Krakow, but he only completed a course in Rehabilitation Therapy with a grade of Satisfactory/Pass (probably as part of the Master’s Course). This is the lowest grade needed to achieve the award. The Academy of Physical Education confirmed that Mr Luklinski was not a therapist and could not have obtained a diploma from the Academy’s Faculty of Rehabilitation Therapy as it only opened in 2001. The Academy confirmed that Mr Luklinski does not have a degree in Medical Rehabilitation and studied the subject only as one part of his degree in Physical Education. He has no right to use the letters MSc (Med Rehab) after his name. A translation supplied by Mr Luklinski was therefore inaccurate in referring to him obtaining his MSc on 10 December 1996. His business card is false in including “MSc (Med Reh)” in his qualifications. His true qualification only trained him to practise exercises and gentle massages and only under the direct supervision of a medical doctor.

The Hahnemann College of Homeopathy is not recognised by the British Homeopathic Society or by the Society of Homeopaths. He is not registered with either body or recognised by them. Despite his criminal conviction he described himself in the programme as the best back doctor and said that he had had medical training, because medical rehabilitation was part of medicine. Even though he apparently gained his homeopathy certificate in 1983, the court in 1995 ruled that he had acted inappropriately by treating patients and that this qualification was irrelevant.

Mr Luklinski has a long history of deception and dangerous dealing. He was convicted of contempt of court in 1987 in connection with removal of items from a care home he ran. He was exposed in 1987 as running a clinic under the guise of a doctor specialising in sexual disorders and infertility, charging people for injections he was not qualified to give. He posed as a back doctor in Harley Street and was convicted in 1995 of obtaining money by deception and assaulting a patient; he produced during the trial a certificate from a non-existent university. He used day releases during his sentence to continue to work from Harley Street, for which he received a further sentence.

Decision

In the programme, Mr Luklinski agreed that it was appropriate to describe him as “the best back doctor” and said that he had been practising for 33 years. When asked, in the programme, whether he had medical training he said that medical rehabilitation (in which he had training) was part of medicine.

In all the circumstances, we are not persuaded that the description “best back doctor” was used by Mr Luklinski in a figurative manner and took the view that he intended to leave the impression that he was a qualified doctor. We considered that a statement in the consent form that he was not a “medical doctor” was unlikely to have been sufficient to alert any patients who could have been misled as to the true position.

The evidence supplied by Mr Luklinski and the BBC did not support Mr Luklinski’s claim that he had an MSc in medical rehabilitation. It appears that Mr Luklinski had one degree and that was an MSc degree in Physical Education. Indeed, nowhere in the papers submitted did he state unequivocally that he had an MSc in Medical Rehabilitation.

Ofcom took the view that completing a course in medical rehabilitation did not entitle Mr Luklinski to claim he had an MSc in medical rehabilitation, unless the particular course was accredited for that purpose. The evidence suggested it was not. Ofcom noted that, according to the BBC, the Academy of Physical Education in Krakow had made it clear that Mr Luklinski was not entitled to say that he had an MSc in medical rehabilitation.

Ofcom is not in a position to judge at what level the courses Mr Luklinski completed and the qualifications he obtained should have equipped him, if at all, to treat patients with back problems. However, the programme did not say that he had no qualifications and it was clear that the experience and qualifications he had obtained did not justify the description “best back doctor” or “MSc (Med Reh)”.

Mr Luklinski significantly misrepresented his qualifications. We noted that during his trial for obtaining money by deception and assaulting a patient, he claimed to have a PhD from a university which did not exist. He was also shown to be lacking in the skills and expertise that he claimed to have. In these circumstances, it was not unfair to describe him as a “quack”.

d) Other issues

Mr Luklinski’s case

The programme did not make it clear that the undercover investigator had made a false appointment in order to see him. Mr Luklinski complained that a BBC crew

invaded his clinic under false pretences and the police had to be called to remove them.

The comments regarding his methods were based on untrue and spun stories that misled the public in order to sensationalise. The BBC did not use the information he had provided in writing, rectifying errors about his qualifications, Grace's treatment and her prior condition.

The panel of experts used to determine who was the "UK's Worst ...Quack" was biased and misinformed, as they had not been told the full story. They were not qualified to make judgements about spinal treatment, as none of them specialised in spinal disorders.

The programme showed pictures of hands working on a patient as a backdrop. These were not his hands and this technique was not used in his type of treatment. This was intended to disqualify his professional expertise. The hands looked real and viewers would have thought they were showing the technique he used.

The BBC's case

The programme raised serious questions. Mr Luklinski was asked for answers well before the programme was broadcast. However, the written material supplied by Mr Luklinski was full of dubious claims and determined evasions and much of it would have misled viewers. He had been invited to appear on the programme and refused, so the team went to his premises because he deserved to be confronted.

All the panel of experts had significant qualifications and are well able to recognise Mr Luklinski's failings. The professionals who judged Mr Luklinski were shown all the correspondence between the programme-makers and Mr Luklinski's representative. They had no documentary evidence of Mr Luklinski's qualifications because he had refused to provide it, but the judges' attention was drawn to the information he had given. He sent copies of his qualifications after he knew of the judges' decision and the programme-makers discussed these with the judges, who decided not to alter their decision.

The hands shown working on someone's back were not presented as Mr Luklinski's or meant to indicate a technique. Viewers would have realised they were simply a contextual image.

Decision

Although Mr Luklinski put his side of the case in writing, he refused to be interviewed. Ofcom accepted that, given the seriousness of the accusations, it was not inappropriate for the programme-makers to confront him without warning in order to put those accusations to him and give him a final opportunity to answer them. It was clear from the programme that the crew was not there by invitation or with Mr Luklinski's agreement. In this case, it is of no relevance whether or not the police were called.

The programme-makers included Mr Luklinski's point of view in the programme, in relation to Grace's treatment. The programme did not state that Mr Luklinski lacked any qualifications and the true position was not clear from his correspondence with

the BBC. In these circumstances it was reasonable for the programme-makers not to include the information he provided.

The panel of experts in the programme were being asked to judge a number of people who working in the medical field, not just in back treatments. In these circumstances, it was reasonable for the programme-makers not to confine the panel to specialists in spinal disorders. However, in Ofcom's view, those chosen were sufficiently qualified and were given enough evidence to make a judgement.

Close up footage of hands working on a back was nothing more than a filmic device to help illustrate the story. We do not believe that viewers would believe that this was Mr Luklinski's technique.

Overall, the programme, *The UK's Worst... Quacks* was not unfair to Mr Bogdan Luklinski.

Executive Fairness Group

Mr Tim Suter
Mr Chris Banatvala
Ms Judith Barnes

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