

<https://minhalexander.files.wordpress.com/2022/03/jasna-macanovic-et-judgment-dr-j-macanovic-v-portsmouth-nhs-hospitals-trust-1400232.2018-amended-judgment.pdf>

From Employment Tribunal judgment Macanovic v Portsmouth Hospitals University NHS Trust

The grounds given for Dr Macanovic's unfair dismissal:

"114. The hearing resumed on 5 March 2018 when Professor Murphy gave her decision. At the outset, she also reminded Dr Macanovic that she could instead choose to resign with a good reference. The main passages from the dismissal letter (p.1814) are as follows:

The general thrust of the Management case was that the behaviours complained of were witnessed by others, were your usual way of interacting when challenged and that you had an 'I'm right, you're wrong' attitude. Things were either done your way or they were not being done correctly.

I then heard your case. It became very evident that you interpreted the Management case as "colleagues won't work with you"; despite Mr John Knighton repeatedly making the point that colleagues find it difficult to work with you due to your behaviour, making them very anxious and that as a result good patient care is threatened.

In fact, it was noteworthy that all of the witnesses who appeared at the hearing, including yours, agreed that the atmosphere in the Renal Unit has become very difficult and, in your words, "dreadful".

Throughout the hearing you asserted that all your behaviour was as a result of your opposition to button holing. I do not intend to go into great detail about button holing in this letter. It is however very clear to me that the Trust had no concerns with the fact that you raised concerns and indeed it has gone to great lengths to investigate the use of button holing a number of times, resulting in an internal review and three external reviews to try to resolve the concerns. Despite the internal and external reviews, it was evident at the hearing, which was dominated by your assertion that button holing is a patient safety issue, that this remained your focus rather than your behaviour and how it had impacted on your colleagues, which was the focus of Management concerns.

You produced a list of patients and on questioning you confirmed that although they were not your patients, you were nevertheless continuing to monitor them in relation to button holing. This is not appropriate and a further example of your continuing focus on button holing as an issue despite the Unit Position statement on button holing being agreed last October and which you have signed and subsequently stated dealt with your concerns. As you are aware you have no right to look at patient data not pertaining to your own patients without patient consent. This is a breach of information governance and confidentiality, which the Trust has every right to take very seriously.

Your witnesses were supportive to your position and spoke about your clinical excellence and support as a peer and mentor. For clarity the Trust has never doubted your clinical skills and has no concerns in that regard. ... I have made a number of key findings in this case, which are, in summary:

- The behaviours complained of by Dr Nick Sangala, Dr Jacqui Nevols and Mr Paul Gibbs did occur;*
- Whilst you make a point of saying that you did not call a colleague a 'liar' you accept that you have accused a colleague of lying and to my mind this is a distinction without a difference;*
- You are aware of the fact that you intimidate people and have stated that you wished you were more intimidating;*
- Despite internal and external confirmation that button holing is not contraindicated and carries no specific risks, and despite you not being an expert in vascular access, you not only continue to disagree with its use, but you also referred colleagues to the GMC for using/supporting its use and I do not feel you acted professionally in this regard;*
- Relationships between you and a number of consultants in the Renal Unit have broken beyond repair as a result of your behaviour. [Emphasis added]*

115. So, as noted at the outset, the misconduct included the fact that she made the GMC referral. Other contentious points in this letter include the statement that the Trust had "no concerns with the fact that you raised concerns" and the dismissal of the evidence of her supporters as only relevant to her clinical competence. 116. Dr Macanovic was found guilty of 'serious misconduct' rather than gross misconduct and paid in lieu of notice. There was a right of appeal to Mr Powell, who had appointed Professor Murphy, but Dr Macanovic chose not to press her case any further, and so her employment ended."