Scottish Parliament Region: Mid Scotland and Fife

Case 200701273: Forth Valley NHS Board

Summary of Investigation

Category

Health: Communication, staff attitude, dignity, confidentiality

Overview

The complainant, Mr C, complained that, despite the fact that Forth Valley NHS Board (the Board) felt unable to treat him, they did not refer him elsewhere. In the circumstances, he felt that he had to pay for his eye operation. He believed that he should be refunded the costs involved.

Specific complaint and conclusion

The complaint which has been investigated is that, although the Board felt unable to treat Mr C, they did not refer him elsewhere (*partially upheld*).

Redress and recommendation

The Ombudsman recommends that the Board write to Mr C expressing their sincere regret that an opportunity to consider all the options in relation to his future treatment was lost.

The Board have accepted the Ombudsman's recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. On 24 August 2007, the Ombudsman received a complaint from Mr C. Mr C works as a driver operating fork lift trucks and also requires to read technical instrumentation. He said that, as his eye sight had been deteriorating, he had attended his GP (the GP) who referred him to Stirling Royal Infirmary (the Hospital) in July 2004. He said that his first appointment at the Hospital was in April 2005, with a further appointment to see a consultant ophthalmologist (the Consultant) in June 2005.

2. When Mr C saw the Consultant, she told him that he was too heavy for the operating equipment she used and that he should try to lose weight before his operation. This was scheduled for December 2005 but Mr C said that, when he attended for his pre-operation assessment, he was told by the nurse who attended him (the Nurse) that, because he had lost insufficient weight, his operation would be cancelled.

3. Mr C said that Forth Valley NHS Board (the Board) did not offer him any alternatives, although he recalled having said that his sight was becoming so bad that he could lose his job. He said that it was his understanding that, if he was still too heavy for the operating equipment, alternative arrangements could have been made.

4. Mr C said that that by May 2006 his short range eyesight had 'totally gone' and that he had been unable to read for the last nine months. He said that, in desperation in May 2006, he therefore approached a private hospital to have the cataract in his left eye treated. The operation was carried out the following month. Later, in October 2006, he had similar surgery on his right eye, as an NHS patient. He is aggrieved that he had to pay for part of his treatment and felt that, if the Board considered that they could not provide the operation he needed, they should have referred him to a hospital that could. In the circumstances, he believed that he should be reimbursed the costs he incurred in seeking private treatment.

5. Although Mr C raised a number of other concerns, the matter from Mr C which I have investigated is that, although the Board felt unable to treat Mr C, they did not refer him elsewhere.

Investigation

6. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C, his MSP and the Board. I have also had sight of the Board's complaint file and Mr C's clinical records and I have sought specialist advice from both an ophthalmic and a surgical/anaesthetic adviser (Adviser 1 and Adviser 2 respectively) on the care and treatment he received. On 1 February 2008 I made a formal enquiry of the Board and I received their comments on 11 March 2008.

7. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Board were given an opportunity to comment on a draft of this report.

Complaint: Although the Board felt unable to treat Mr C, they did not refer him elsewhere

8. From the clinical records and from the Board, I understand that Mr C was referred by his GP on 28 July 2004 to the Hospital for assessment of cataracts. He was seen by a locum consultant ophthalmologist (the Locum) on 16 April 2005, who recorded that Mr C had bilateral cataracts and that his vision was reduced in both eyes. In the circumstances, the Locum referred Mr C to an ophthalmologist for cataract extraction and intra ocular lens implants and, on 23 June 2005, Mr C was seen by a consultant ophthalmologist. At this point, Mr C was recorded as having a weight of about 200 kg and it is recorded in the clinical notes that he was advised of the risks that his weight presented for surgery. Despite the risks, Mr C gave his written consent to surgery and it was suggested that he try to lose more than 40 kg prior to his operation. The notes show that Mr C was also told that weight loss was important because there were practical problems in relation to the theatre trolley, which had a maximum weight load of 140 kg. The clinical records do not show that Mr C was unhappy with this plan of action and he was, therefore, placed on the waiting list for left cataract surgery. His GP was advised accordingly and was further informed of the terms of the Consultant's discussion with Mr C.

9. The clinical notes show that Mr C was given his pre-operation assessment on 14 December 2005. The Consultant was not present, as she was on maternity leave, and Mr C was seen by the Nurse. She noted that since his last appointment he had lost only 5 kg and as a consequence, his operation, which had been scheduled for 20 December 2005, was cancelled. The Nurse recorded that Mr C 'will visit own GP and Practice Nurse re: weight and Diet

regime and contact us in 4/12 for further review for op'. (Although in commenting on a draft of this report, Mr C said that he was not asked to make contact again after four months but, after he had lost the required weight). The Board said that Mr C's clinical notes and pre-assessment form were then returned to the Consultant's secretary and staff waited for him to get in contact as he had been advised. However, they said that no further contact was made. The next entry in the records was dated 20 November 2006 and said that Mr C had had his surgery elsewhere. He was, therefore, removed from the waiting list for left eye surgery.

10. In their formal comments to me dated 11 March 2008, the Board said that, should a patient be removed from the waiting list because of a failure in their pre-assessment check, the Consultant involved would normally write to the GP explaining why and requesting treatment and/or contact when the patient became fit again. The Board added that contact with the GP would ensure that the patient was reinstated for surgery, if that was appropriate. They said this procedure (of writing to the GP, with a copy to the patient) was standard practice but they confirmed that there was no evidence this had happened when Mr C failed his pre-operative assessment on 14 December 2005. Neither was the Consultant present (see paragraph 9) and the Board have advised that it was not clear from the clinical records whether the Nurse discussed Mr C's case with another consultant. Nevertheless, it was confirmed that, although Mr C's operation had been cancelled, he had not been removed from the waiting list.

11. In concluding their comments, the Board advised me that, since they had received Mr C's complaint, medical and pre-operative staff have been reminded of the need to discuss complex cases, or patients with special needs, with theatre staff and others as appropriate to avoid a similar situation occurring. They said that regular validation of the waiting list now takes place and that new formal, written guidance about arrangements for patients who are listed for surgery, but fail to receive it, has been in place since January 2008. The Ophthalmic Service has also acquired two ophthalmic operating chairs with greater weight bearing capacity.

12. I sought advice about the care and treatment received by Mr C. By way of background, Adviser 1 told me that morbidly obese patients pose a higher risk than other patients when undergoing cataract surgery. She said that, 'Surgical difficulties include access to the eye, high intraocular pressure, problems with positioning and the need for specialised equipment, i.e. specialised ophthalmic

trolleys which have a suitable strength and can support such patients'. She was of the view that when the Consultant first saw Mr C (see paragraph 8), she formulated a plan to allow her to operate on Mr C and this was communicated to him and his GP. Adviser 1 said that, as the Consultant carried the ultimate responsibility for the outcome of Mr C's surgery, it was up to her to decide how, and under what conditions, she was prepared to operate. Adviser 1 said that, with regard to Mr C's consultation on 23 June 2005, she could find no fault in the Consultant's actions. She maintained that everything was of a reasonably expected professional standard. She further commented that, up to this point, Mr C appeared happy with the Consultant's approach as there was nothing in the records to indicate otherwise. Accordingly, in Adviser 1's view, at that stage a referral elsewhere was not indicated.

13. Later, when Mr C returned to the Hospital for his pre-operative assessment, it was found that he did not fit the criteria for surgery as decided by the Consultant (he had lost insufficient weight). The Nurse then cancelled his surgery and Adviser 2 said that, in doing so, the Nurse was working to the plan established by the Consultant for Mr C's weight loss. Adviser 1 added that, as Mr C did not fit the Consultant's criteria for surgery, the Nurse was acting as instructed by cancelling the operation. However, Adviser 1 went on to say that this decision was not communicated to Mr C's GP as she would normally have expected. She further added that if the cancellation was for four months, as in this case, then a senior clinician would usually be involved. There was no record of any other clinician being involved in Mr C's pre-operative assessment process other than the Nurse (see paragraph 10). Adviser 1 said it would have been a reasonable expectation for a senior clinician to have been involved and that this would have given a chance to arrange a referral to another unit or another surgeon or to the obesity clinic.

14. Notwithstanding that Mr C did not have his operation in December 2005 as expected, Adviser 1 was clear that any delay would not have caused any irreversible loss of vision and would not, as Mr C had suspected, have increased the chance of him needing laser treatment after cataract surgery.

Conclusion

15. In reaching a decision in this matter, I have to be guided by the specialist advice I receive. In considering Mr C's case, I have been told that the Consultant acted reasonably and professionally by advising Mr C to lose weight prior to his operation. Similarly, it was in order for the Nurse to cancel his

operation in December 2005. However, both Adviser1 and Adviser 2 have commented on the fact that a more senior clinician was not involved at this stage and this is what the Board told me would normally happen, nevertheless, there is no record that it did (see paragraph 10). Neither was a letter sent to Mr C's GP and, indeed, Mr C appeared to have slipped off the radar until November 2006 when it was learned that he had had operations to both eyes (see paragraph 9).

16. Mr C maintained that, if the Board felt unable to treat him, they should have referred him elsewhere to obtain treatment. Because they failed to do so, and because his eyesight was deteriorating, he considered he had no alternative but to have the operation carried out privately. While I have been reassured that the cancellation of Mr C's operation in December 2005 would not have led to irreversible problems with his eyesight (see paragraph 14), I can easily understand the implications of failing eyesight on Mr C's ability to work as a driver. This must have added to his sense of anxiety. According to the clinical notes, Mr C was to contact the Hospital again in four months time for further review (but see paragraph 9). Mr C did not contact the Board again and made the decision to have an operation carried out privately to his left eye in June 2006.

17. However, the Hospital fully anticipated that Mr C would revert to them after four months (in about April 2005), as they had been given no indication that he would do otherwise.

18. After considering all the relevant information, including the shortcomings mentioned above (see paragraph 15), I do not consider that the Board were obliged to refer Mr C elsewhere for treatment but I do take the view that they should have considered this as an option. However, the opportunity to do so was lost, in that a senior clinician was not involved after it had been decided to cancel Mr C's operation (see paragraphs 10 and 13). In all the circumstances, I am critical of this lost opportunity and partially uphold the complaint. Nevertheless, I do not agree with Mr C's contention that, in the circumstances, the Board should pay for his operation. His decision to seek private treatment was a matter for his discretion.

Recommendation

19. The Board have advised me of the actions they have taken since Mr C made his complaint (see paragraph 11) and the Ombudsman is satisfied that

these measures will prevent a similar recurrence. Nonetheless, she recommends that the Board write to Mr C expressing their sincere regret that an opportunity to consider all the options in relation to his future treatment was lost.

20. The Board have accepted the Ombudsman's recommendation and will act on it accordingly. The Ombudsman asks that they notify her when this is implemented.

Annex 1

Explanation of abbreviations used

Mr C	The complainant
The GP	The complainant's General Practitioner
The Hospital	Stirling Royal Infirmary
The Consultant	A consultant ophthalmologist
The Nurse	The nurse who attended Mr C at his pre-operation assessment in December 2005
The Board	Forth Valley NHS Board
Adviser 1	The ophthalmic adviser
Adviser 2	The surgical/anaesthetic adviser
The Locum	The locum consultant ophthalmologist