

## SPSO decision report

**Case:** 201507638, Lothian NHS Board  
**Sector:** health  
**Subject:** appointments / admissions (delay / cancellation / waiting lists)  
**Outcome:** upheld, recommendations

### Summary

Ms C was diagnosed with breast cancer. Following treatment, she decided to have reconstructive breast surgery. Ms C was placed on a waiting list and was told that the Patient Rights (Scotland) Act 2011 applied, which meant that her treatment would start within a maximum of 12 weeks. After 12 weeks, Ms C contacted the board and found out they could not meet the treatment time guarantee. Ms C complained that the board acted unreasonably by failing to meet the 12-week waiting time; that they did not acknowledge her request to meet with the chief officer or medical director; and that they failed to respond to her complaint within a reasonable time.

We took independent advice from a specialist in plastic surgery. We found that the lack of expertise available at the private-sector service provider chosen by the board was a reasonable reason for Ms C not being treated elsewhere. However, it appeared that the board had not taken sufficient steps to consider the provision of treatment by other NHS providers throughout the UK who may have had the required expertise. We determined that the board did not reasonably take into account their statutory responsibility to take all reasonable and practical steps to arrange treatment with other service providers. Also, while the board explained satisfactorily the reasons why Ms C's surgery could not be provided within the 12-week treatment time guarantee, it was unacceptable that she had to take the initiative to find out what was happening once the 12 weeks had passed. We were also concerned about the lack of information provided to us about arrangements the board have in place when they cannot meet the treatment time guarantee within their own area to arrange the provision of treatment by alternative service providers. The board apologised that a meeting was not arranged to address Ms C's complaints. We also found that there was an unreasonable delay in providing a response to Ms C's complaint.

### Recommendations

We recommended that the board:

- revise their plastic surgery waiting list letter so that any potential breach of the 12-week treatment time guarantee is made clear to patients;
- inform us of action taken (or that will be taken) to reduce waiting times for breast reconstruction patients;
- inform us of arrangements in place to provide treatment by alternative service providers when they cannot meet the treatment time guarantee for breast reconstruction patients;
- apologise to Ms C for the failings identified in this investigation;
- offer Ms C a meeting with the chief nurse and/or relevant medical director; and
- inform us of the actions taken to deal with complaints in a reasonable time.