

## SPSO decision report

**Case:** 201508479, Tayside NHS Board  
**Sector:** health  
**Subject:** clinical treatment / diagnosis  
**Outcome:** not upheld, recommendations

### Summary

Mr C was diagnosed with kidney cancer and underwent an operation at Ninewells Hospital to remove one of his kidneys. Mr C felt that, had staff acted appropriately in response to his emails, his cancer may have been diagnosed sooner and he may not have had to undergo the procedure.

Mr C said that he had reported a decline in his health in an email to the neurology department. He said that had staff reviewed him in the neurology clinic following this, his kidney cancer may have been diagnosed sooner. We took independent advice from a consultant neurologist. They did not consider that the content of Mr C's email indicated that he needed to be reviewed in the neurology clinic or that he needed clinical attention at this time. In view of this, we did not uphold this complaint. Although the adviser was satisfied that staff had not failed to provide treatment to Mr C, they noted that staff had not responded to Mr C's email to advise him that he did not require clinical review. They were critical of this and suggested steps the board might consider taking.

Mr C also raised concerns about the board's actions following a further email, in which he reported further symptoms. The adviser found that, in response to this email, the board had advised Mr C to see his GP, which we considered to be reasonable. We noted that Mr C was subsequently reviewed in the neurology clinic and a blood test performed. The adviser found that the results of the test indicated that Mr C had elevated levels of one of his liver enzymes and that the board had written to Mr C's GP regarding this, which the adviser considered to be appropriate. We therefore did not uphold this aspect of Mr C's complaint.

We found that Mr C's GP had arranged an ultrasound test of Mr C's abdomen to explore whether the increased liver enzyme levels were significant to the condition of Mr C's liver. The adviser noted that this ultrasound scan identified a lesion on Mr C's kidney, which was confirmed as cancerous. We did not consider that the care provided to Mr C by staff in the neurology department had caused a delay in diagnosing his kidney cancer. We found that the cancer was not related to the abnormal blood test or Mr C's neurological condition, rather it was an incidental finding based on an ultrasound scan.

Mr C expressed concern at the delay between the diagnosis of the cancer and the date he received treatment. We sought independent advice from a consultant urologist. They noted that the board had missed the timescales for cancer treatment by two days in this case. However, given that the delay was short, we did not consider that this was an unreasonable failing in care. We did not uphold this complaint.

Mr C also complained that the board had not investigated his complaint impartially, as the clinician who investigated Mr C's complaint was the educational supervisor of the clinician he had complained about. We noted that the guidance on complaints handling did not state any requirement in relation to this matter, and in the circumstances of the case we considered that the board had not failed to investigate impartially. While we did not uphold this complaint, we found that the board had taken a significant length of time to respond to Mr C's complaint. While we noted that various complexities of the case contributed to this, on balance we considered that the delay was disproportionate. We also found that the board had not addressed an important aspect of Mr C's

complaint in their response. We were critical of this and made a recommendation.

### **Recommendations**

We recommended that the board:

- feed back the comments of the adviser to staff in the neurology department to ensure that staff appropriately respond to patient correspondence;
- consider whether it would be appropriate to introduce guidelines regarding email communication in light of the adviser's comments; and
- feed back to staff the importance of ensuring that complaint responses address the concerns raised.