

SPSO decision report

Case: 201705807, Ayrshire and Arran NHS Board
Sector: health
Subject: clinical treatment / diagnosis
Decision: upheld, recommendations

Summary

Mr C complained to us about two periods when his brother (Mr A) was admitted to University Hospital Crosshouse. During these admissions, legislation contained in the Adults with Incapacity (Scotland) Act 2000 was utilised by the clinical team as they considered Mr A unable to consent or make decisions on treatment. Mr C complained that the Adults with Incapacity legislation was not used appropriately and that its use was not communicated reasonably to Mr A and his family. In addition to this, Mr C complained about the general level of care and treatment provided during Mr A's admissions.

We took independent advice from an adviser who is a registered medical practitioner with a background in psychiatry. We found that, given Mr A's circumstances during his admissions, the use of Adults with Incapacity legislation was reasonable. In addition to this, we did not identify any concerns about the general level of care provided, although we acknowledged that Mr A's experience may have differed from the information contained in the relevant documentation.

However, we identified shortcomings in relations to the recording and documentation of the use of Adults with Incapacity legislation. In addition to this, there was evidence of gaps in understanding of the Adults with Incapacity Act on a practical level, with factually incorrect information being provided on at least one occasion. Therefore, although it may have been appropriate to utilise Adults with Incapacity legislation, we concluded that there were service failings relating to the understanding of the legislation, the documentation of its use and the resulting communication with Mr A and his family. Therefore, we upheld Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr A for any distress caused due to any lack of understanding of Adults with Incapacity legislation and communication around its use in practice.

What we said should change to put things right in future:

- Ensure that all relevant staff have an appropriate level of understanding of Adults with Incapacity legislation and its use in practice.