

SPSO decision report

Case: 201706659, Tayside NHS Board
Sector: health
Subject: communication / staff attitude / dignity / confidentiality
Decision: upheld, recommendations

Summary

Mrs C complained that certain risks associated with knee replacement surgery she underwent at Ninewells Hospital had not been explained to her when she consented to the operation. She also complained that the wrong size of implant was used and that cement had leaked and caused nerve injury. Mrs C underwent additional surgery a couple of days later to remove the cement.

We took independent advice from a consultant orthopaedic surgeon (a specialist in the treatment of diseases and injuries of the musculoskeletal system). We found that the recognised risk of some complications were not documented as having been explained to Mrs C in line with the General Medical Council's consent guidance. We considered this was unreasonable and upheld this aspect of Mrs C's complaint.

Whilst we could not say for certain what caused Mrs C's nerve damage (a recognised risk of surgery that was explained to her during the consent process), we considered it was unlikely to be related to the cement leakage. However, we were concerned about actions of staff in relation to the sizing of the implants and the lack of experienced staff present in the theatre at the time of implantation. Therefore, we upheld this aspect of Mrs C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mrs C for failing to inform her of all the recognised risks of the surgery, for the inappropriate circumstances around component sizing, lack of experienced staff in theatre and record-keeping failures. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.

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

- Patients should receive full information on the risks of surgery in accordance with recognised guidance such as the General Medical Council.
- Implant sizing is the operating surgeon's responsibility; and all relevant staff should ensure they are present in the theatre.
- Staff should ensure thorough and contemporaneous record-keeping of all relevant events during surgery.