

SPSO decision report



Case: 201805164, Borders NHS Board
Sector: Health
Subject: appointments / admissions (delay / cancellation / waiting lists)
Decision: some upheld, recommendations

Summary

Mrs C was listed for a procedure to decompress a nerve in her foot. This procedure was agreed by a consultant but they resigned so Mrs C was transferred to another consultant (consultant 2) whose preferred treatment was non-surgical. Mrs C expressed concern at the treatment proposed for her so she met with a third consultant (consultant 3). It was agreed that she would be listed for surgery. Mrs C understood the procedure would involve removal of a bone spur (bony lumps that grow on the bones of the spine or around the joints) along with decompression of the deep peroneal nerve (a nerve that runs from the leg to the top of the foot). After surgery, Mrs C became aware that the procedure carried out by consultant 3 involved only the removal of the bone spur. Mrs C complained that the board unreasonably changed the original treatment plan agreed for her and that they inappropriately failed to carry out the procedure she consented to. She also complained that the board unreasonably failed to arrange a follow-up appointment with a different consultant.

We took advice from a consultant orthopaedic surgeon (a specialist in the treatment of diseases and injuries of the musculoskeletal system). We found that consultant 2's preferred treatment was reasonable although we did note that pre-operative investigation was limited with no apparent x-rays being arranged until Mrs C was seen by consultant 3. We found that consultants can have differing opinions in relation to proposed treatment and therefore, it was reasonable to change the original treatment plan for Mrs C given her care was transferred between different consultants. Therefore, we did not uphold this aspect of Mrs C's complaint.

In relation to consent for the surgery, we found that the consent form signed by Mrs C and the letter issued by consultant 3 confirming the proposed surgery did not match the surgery she received. It may have been the case that removing the bone spur released pressure on the nerve anyway but this should have been explained clearly to Mrs C. We found that whilst the procedure may have been clinically appropriate, the communication surrounding the procedure was unclear and inconsistent so we upheld this aspect of the complaint.

In relation to arranging a follow-up appointment for Mrs C with a different consultant, we saw evidence that Mrs C had clearly communicated that she was unhappy with the response provided to her complaint and she asked that her follow-up appointments be with someone else other than consultant 3. We saw evidence that consultant 3 wrote to Mrs C offering to facilitate her receiving an opinion from someone else. Mrs C said she did not receive that letter. The board told Mrs C that because she did not have an open referral, she should return to her GP to discuss further treatment options.

We found that it would have been reasonable for the board, as part of its handling of Mrs C's complaint, to offer her the opportunity to meet with a different consultant. Doing so would have demonstrated a willingness to try to better understand and resolve Mrs C's ongoing concerns about her surgery. 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 clearly and consistently communicate with her in relation to her surgery and for not offering her the opportunity to meet with a different orthopaedic consultant as part of their final complaint response. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets
- Clearly communicate to Mrs C details of the surgery including the procedure consented to and the procedure actually carried out detailing whether that involved decompression of the deep peroneal nerve.
- Consider offering Mrs C the opportunity to meet with an orthopaedic consultant to discuss her concerns about the surgery.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.