

SPSO decision report



Case: 202103246, Western Isles NHS Board
Sector: Health
Subject: Policy / administration
Decision: upheld, recommendations

Summary

C complained about the board's decision not to fund the travel and accommodation costs they and their spouse had incurred as a result of travelling to visit their child (A) who was receiving treatment under a compulsory treatment order (CTO) in a different part of the country. C complained that the board's decision had failed to take into account the provisions of section 278 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (the 2003 Act), which they considered placed a duty on the board to continue funding travel costs until A became 18, in addition to other legislation they considered to be applicable. C also complained about the board's failure to respond to correspondence in relation to this issue.

The board's position was that C was an adult once they turned 16 and that their patient travel policy did not allow for the funding of visits to adult patients. The board stated that it would have nevertheless considered funding C's visits to A had it been deemed critical by the consultant in charge of A's care but that no request for C's attendance had been made by clinicians.

We found that the board's patient travel policy did not allow for visits to patients over the age of 16 years to be funded by the board. However, we found that the board had failed to demonstrate that they had meaningfully considered the provisions of section 278 of the 2003 Act and had not adequately explained why they considered it did not apply to C and A's circumstances. We also found that the board had unreasonably failed to respond to C and their spouse's correspondence.

Therefore, we upheld C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the failings identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- The board should reflect upon the findings of this investigation and reconsider their position in relation to the award of travel expenses to C under their policy and in particular consider whether section 278 of the 2003 Act applied to C and A's circumstances between the relevant period. Having done so, the board should consider whether C's travel and accommodation costs should be met. If the board does not consider section 278 to be applicable, the board should provide sufficient reasons for its position to C.

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

- The board should acknowledge and/or respond to correspondence which requests specific information.

In relation to complaints handling, we recommended:

- The board should ensure that complaints are identified and processed in accordance with their complaints handling procedure.

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.