

SPSO decision report

Case: 202204012, Greater Glasgow and Clyde NHS Board - Acute Services Division

Sector: Health

Subject: Clinical treatment / diagnosis

Decision: some upheld, recommendations

Summary

C complained about the care and treatment that their adult child (A) received from the board during three admissions to hospital with non-epileptic seizures.

A is a prisoner and has a learning disability and autism. C is A's welfare guardian. In terms of the guardianship order in place at the time relevant to the complaint, C was granted the power "to consent or withhold consent to medical or dental treatment and to require the Adult to comply with such treatment and to administer such medications as may be prescribed for the Adult" and 'To decide and approve the appropriate level of health and social care for the Adult'.

C complained that they had not been appropriately involved in A's care, despite holding the guardianship order. C complained that the board gave non-emergency treatment to A knowing that they were deemed to lack capacity to make that kind of decision.

We took independent clinical advice from a neurology adviser, who referred to the Adults With Incapacity (Scotland) Act 2000 (AWI), the code of practice for practitioners and relevant guidance.

We noted that A's presentation was complex. We found that the board carried out appropriate investigations and provided reasonable care and treatment during each of A's admissions. We did not uphold this aspect of C's complaint.

We found that when C raised the matter of guardianship with the board during a telephone call, the board ought to have done more to explore this further. Guardianship paperwork should have been included in A's records, with AWI paperwork completed appropriately for each admission. Whilst it was appropriate for the board to carry out emergency treatment without consulting the guardian, C ought to have been consulted in relation to all non-emergency treatment. We upheld this aspect of C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the failings our investigation has identified. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

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

- Clinical and nursing staff are familiar with Adults with Incapacity legislation and guidance.

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.