

Scottish Parliament Region: Highlands and Islands

Case 200602824: Highland NHS Board

Summary of Investigation

Category

Health: Hospital; Clinical treatment and diagnosis

Overview

The complainant (Mr C) raised some concerns that he was treated inappropriately by a consultant (Clinician 1) during a consultation. Mr C also suggested that Clinician 1's suggested treatment was inappropriate.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the conduct of Clinician 1 during the consultation was inappropriate (*not upheld*); and
- (b) the treatment suggested by Clinician 1 was inappropriate (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Board:

- (i) apologise to Mr C for Clinician 1's failure to clarify the significance of lifestyle rather than sexuality when taking a history from Mr C during the consultation; and
- (ii) ensure Mr C's medical records are amended, where possible, to remove the term 'homosexuality' where it refers to a medical condition, including the GP records, as this is inappropriate.

The Board have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 3 April 2007, the complainant (Mr C) brought a complaint to the Ombudsman's office regarding a consultation he had on 28 October 2004 with a Consultant (Clinician 1). Highland NHS Board (the Board) had reviewed the complaint and also held a meeting with Mr C to discuss his complaint. On reviewing the evidence available, I decided to investigate the complaint.

2. The complaints from Mr C which I have investigated are that:

- (a) the conduct of Clinician 1 during the consultation was inappropriate; and
- (b) the treatment suggested by Clinician 1 was inappropriate.

Investigation

3. In conducting my investigation, I reviewed the relevant medical notes, complaints correspondence and I also obtained the view of the Ombudsman's medical adviser (the Adviser) which proved to be extremely useful in reaching my conclusions.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Board were given an opportunity to comment on a draft of this report.

(a) The conduct of Clinician 1 during the consultation was inappropriate

5. This head of complaint stems from Mr C's assertion that Clinician 1 behaved inappropriately during the consultation on 28 October 2004. Mr C was seen by Clinician 1 following GP referral due to an enlarged lymph node on Mr C's neck. Mr C's past medical history included testicular cancer for which he received surgery and radiotherapy. Mr C's medical history also showed that he had received a hair transplant.

6. The evidence demonstrates that during the consultation, Clinician 1 asked Mr C a number of questions in order to reach a possible diagnosis of the causes of the enlarged lymph node. Clinician 1 also mentioned, during the course of the consultation, the fact that Mr C had received a hair transplant. Furthermore, prior to asking questions of a personal nature, Clinician 1 instructed a nurse who had been present at the start of the consultation to leave the room. Clinician 1 then continued asking questions and raised the fact that Mr C is homosexual. Mr C found all these actions to be unreasonable and insensitive

and felt that Clinician 1 had asked inappropriate questions due to Mr C's sexual orientation.

7. The Adviser, in reviewing the evidence, made a number of observations regarding the reasonableness and appropriateness of Clinician 1's management of the consultation. The Adviser's comments are outlined in paragraphs 8 to 11.

Adviser's comments

8. There are a large number of causes for an enlarged lymph node in the neck. Given a previous history of malignancy it would be reasonable to place a possible malignant change higher up the list of differential diagnoses than in a patient with no such previous medical history. It would also be reasonable to propose excision biopsy of such a node in order to reach a tissue diagnosis.

9. Diagnosis in such cases is attempted by a process of history-taking, clinical examination and subsequent investigation, if necessary. As part of history-taking in such cases, one would expect a surgeon to explore any predisposing risk factors of malignancy. This may, reasonably, include lifestyle factors that place an individual at risk of HIV. However, one would expect such issues to be explored regardless of sexual orientation ie unprotected sex with casual partners, intravenous drug abuse etc. Clearly, when taking a sexual history, a degree of sensitivity should be employed in order to ensure that the patient is not unduly embarrassed or distressed and it should be made clear why such questions are being asked. Taking account of the circumstances, it is my view that Clinician 1's actions in asking the nurse to leave the consultation were reasonable whilst the subject of lifestyle factors were raised, in order to reduce any potential embarrassment caused for Mr C.

10. Mr C has clearly been offended by the manner in which this aspect of the history has been taken. It is noted that the GP referral letter to Clinician 1 includes the term 'homosexuality' under the list of past medical history. This is almost certainly due to the routine listing of all reasons for a significant consultation with a GP on the practice database. This information is then inserted into all subsequent referral letters in order to ensure that no previous medical condition is missed.

11. It is the Adviser's opinion that Clinician 1 gave Mr C the erroneous impression that he enquired about his sexuality because he felt that it was a

potential risk factor for HIV rather than exploring whether his lifestyle could place him at risk.

(a) Conclusion

12. Taking account of all the evidence, including the Adviser's comments, which I accept, I am satisfied that Clinician 1's actions in conducting the consultation were reasonable. However, I do have some concerns regarding communication between Clinician 1 and Mr C which could have been better and as a result I have made a suitable recommendation. However, the general point of complaint is not upheld as I believe the consultation was conducted appropriately.

(a) Recommendation

13. The Ombudsman recommends that the Board:

- (i) apologise to Mr C for Clinician 1's failure to clarify the significance of lifestyle rather than sexuality when taking a history from Mr C during the consultation; and
- (ii) ensure Mr C's medical records are amended, where possible, to remove the term 'homosexuality' where it refers to a medical condition, including the GP records, as this is inappropriate.

14. The apology should not cover any other aspect such as clinical diagnosis as I do not believe that to be necessary.

(b) The treatment suggested by Clinician 1 was inappropriate

15. Following the consultation on 28 October 2004, Clinician 1 suggested that a biopsy be taken of the swollen lymph node for further investigation. Mr C was upset at the suggestion that invasive measures should be employed to establish the cause of the swollen lymph node and he felt that alternative, less intrusive treatment be undertaken first. Mr C requested a second opinion, however, before Mr C was seen by another Clinician, the swelling in the lymph node subsided.

16. The Adviser's view, as stated in paragraph 8, is that, given the circumstances of Mr C's past medical history, the suggestion of a biopsy was reasonable.

(b) Conclusion

17. Having considered all the relevant evidence regarding this point of complaint, I accept the Adviser's view and conclude that Clinician 1's proposal for a biopsy was reasonable. Therefore, I do not uphold this aspect of complaint.

18. The Board have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Board notify her when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
Clinician 1	The Consultant who carried out the consultation
The Board	Highland NHS Board
The Adviser	The Ombudsman's medical adviser