SPSO Scottish Public Services Ombudsman

The Scottish Public Services Ombudsman Act 2002

Investigation Report

UNDER SECTION 15(1)(a)

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Scottish Parliament Region: Glasgow

Case 201305288: A Medical Practice in the Greater Glasgow and Clyde NHS Board area

Summary of Investigation

Category

Health: GP lists

Overview

The complainant (Ms C) raised concerns about the Medical Practice (the Practice) on behalf of her client (Mrs A). Mrs A's complaints relate to her son (Mr B) and attempts to register him at the Practice. Mr B was in prison but was due for liberation on 18 January 2013. Whilst Mr B was still a prisoner, Mrs A visited the Practice and completed registration forms for him. She also made an appointment for the day of his release so that he could obtain antipsychotic medication (medicines used to treat mental health conditions) to alleviate methadone (a drug used medically as a heroin substitute) withdrawal. Mrs A contacted the Practice on 16 January 2013 and confirmed that Mr B's appointment was booked for 18 January 2013. Also on 16 January 2013, the Practice Manager received a call from Greater Glasgow and Clyde Patient Registrations advising that Mr B was still registered as 'care of HMP' (care of Her Majesty's Prison) and that he could not be registered elsewhere until he was liberated. The Practice Manager thereafter cancelled the registration on the system and advised two members of staff to update Mrs A and Mr B. Neither of the staff members provided the update. Mr B was released as planned on 18 January 2013. He attended at the Practice for his appointment and was advised that there was none on the system. The Practice Manager gave him contact details for the community mental health team, community addictions team and NHS 24. Mr B left the Practice without seeing a GP. He died from pneumonia (an infection of the lungs) three days later on 21 January 2013.

Specific complaints and conclusions

The complaints which have been investigated are that:

(a) Mr B was unreasonably refused access to a GP (*upheld*); and

(b) the Practice unreasonably did not respond to further letters related to the complaint (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Practice:	*Completion date*
(i) apologise to Mrs A and acknowledge that they should have seen and assessed Mr B properly on 18 January 2013;	15 April 2015
(ii) provide us with copies of their Significant Event Analysis and Enhanced Significant Event Analysis with their reflections on what happened and why this occurred;	29 April 2015
(iii) provide us with their written policies on the registration of new patients and the provision of immediately necessary treatment;	29 April 2015
(iv) ensure that all staff within the Practice are fully trained on patient registration and provision of immediately necessary treatment;	29 April 2015
(v) apologise to Ms C and Mrs A for their failure to deal with further complaint correspondence appropriately;	15 April 2015
(vi) work with the Board to create a new complaint handling procedure and provide a copy to us for review; and	13 May 2015
(vii) ensure that all staff are fully trained on the complaint handling procedure.	27 May 2015

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

Main Investigation Report

Introduction

1. The complainant (Ms C) raised this complaint on behalf of her client (Mrs A). Mrs A's son (Mr B) was in prison but was due for release on 18 January 2013. Whilst Mr B was still a prisoner, Mrs A visited the Practice and completed registration forms for him. She also made an appointment for the day of his release so that he could obtain antipsychotic medication (medicines used to treat mental health conditions) to alleviate methadone (a drug used medically as a heroin substitute) withdrawal. Mrs A then contacted the Practice on 16 January 2013 and the receptionist on duty confirmed that Mr B's appointment was booked for 18 January 2013.

2. Also on 16 January 2013, the Practice Manager received a call from Greater Glasgow and Clyde Patient Registrations advising that Mr B was still registered as 'care of HMP' (care of Her Majesty's Prison) and that he could not be registered elsewhere until he was liberated. Thereafter, the Practice Manager cancelled the registration on the system and advised two members of staff to update Mrs A and Mr B. Neither of the staff members provided the update and both subsequently received verbal warnings as a result of their conduct. One of the staff members also received a warning for allowing Mrs A to register on her son's behalf without providing proof of residency.

3. Mr B was released as planned on 18 January 2013. He attended at the Practice and was advised that there was no appointment on the system. The Practice Manager spoke with Mr B and explained that Greater Glasgow and Clyde NHS Board (the Board) had cancelled his registration and that he would have to complete new forms to register with the Practice. Mr B apparently became angry and demanded to be seen as he needed the antipsychotic medication immediately. He had not been provided with a supply by prison healthcare. The Practice Manager advised Mr B that as they had no medical history or background, the doctor would not be able to prescribe him the medication and that he would likely need to be referred for assessment. She suggested that he contact the surgery he had been registered with before he went to prison but Mr B advised her that was not possible. The Practice Manager then gave him the details for the community mental health team, community addictions team and NHS 24. Mr B left the Practice without seeing a GP.

4. Mr B subsequently died from pneumonia (an infection of the lungs) on 21 January 2013.

5. The complaints from Ms C which I have investigated are that:
(a) Mr B was unreasonably refused access to a GP; and
(b) the Practice unreasonably did not respond to further letters related to the complaint.

Investigation

6. The investigation of this complaint was significantly affected by delays in the provision of information by the Practice. The complaints reviewer originally wrote to the Practice on 23 April 2014 requesting that a full copy of the complaint file be supplied, along with relevant policies and procedures. The Practice were also asked to comment on why Mrs A had not been advised of the difficulties in registering Mr B as a patient and why a new patient registration request was not sent on 18 January 2013 when he was liberated. The deadline for provision of this information was 8 May 2014.

7. Follow-up letters were issued to the Practice on 30 April 2014 and 12 May 2014. Attempts to contact the Practice by telephone were unsuccessful until 20 May 2014, when a message was left with the Practice Nurse. On 21 May 2014 a call back was received from the Practice Manager assuring the complaints reviewer that the information would be collated that day and provided on 22 May 2014 via email. No information was received and this had to be followed up by the complaint reviewer's manager on 30 May 2014. The Practice Manager was not available and we were advised that arrangements would be made for the Practice Manager to call back later that day. The Practice Manager failed to return the call or provide any information.

8. The case was escalated to our investigation team. A formal written request was issued on 6 June 2014, with a deadline for all information to be supplied by 17 June 2014. No response was received. Due to my concerns about the lack of cooperation, I wrote to the Chief Executive of the Board on 3 July 2014 highlighting this case. Following the involvement of the Board, the papers for this case were finally received on 21 July 2014.

9. Investigation of the complaint involved reviewing the information received from Ms C and the Practice. The complaints reviewer also made further

enquiries with the Practice and Ms C. Independent advice was obtained from a medical adviser (the Adviser) who is a GP.

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

(a) Mr B was unreasonably refused access to a GP

11. On 3 May 2013, Mrs A attended at the Practice and spoke with the Practice Manager about the way that Mr B had been treated. Ms C submitted a complaint on behalf of Mrs A on 21 May 2013. Mrs A was concerned that in addition to requiring antipsychotic medication, Mr B had also wanted to see a GP about pain he was experiencing in his lung. She felt that if he had been seen at the Practice on 18 January 2013, his condition may have been diagnosed whilst it was still at a treatable stage.

12. The Practice Manager responded to the complaint on 28 May 2013. This letter outlined the background and advised that there were several communication failures which would be addressed within the Practice and at a higher level. The Practice Manager stated that she had provided both the Board and the prison authorities with anonymised information on the case. The Practice Manager concluded that she was sorry that Mr B had fallen through the net and that they could not help him further but maintained that he had been given the best possible advice in the situation.

Advice received

13. The Adviser said that NHS Practitioner Services control the registration of patients and they had confirmed that a patient cannot be registered at a medical practice while they are incarcerated as, at that time, they will be registered with the prison health centre. He confirmed that there was no reason why the Practice could not have registered Mr B when he presented on the day of release as he was clearly no longer in prison.

14. The Adviser considered that the Practice had not acted in keeping with the terms and conditions of their contract with the Board by refusing to see Mr B on 18 January 2013. He found their decision to be risky and unreasonable but noted that the Practice should not be blamed in isolation as there were potential communication / organisation issues on the part of the prison health centre.

15. The Adviser referred to the GP General Medical Services (GMS) contract (the contract between a practice and the board to provide primary care services to the public) and took the view that a number of clauses within the contract could potentially be applied to Mr B's attendance at the Practice. An extract has been included at Annex 3 of this report.

16. The Adviser said that Mr B presented with a difficult request as a recently liberated patient looking for antipsychotic medication to ease drug withdrawal. However, in the Adviser's view, the decision not to assess Mr B's needs properly was arguably a form of discrimination on health grounds. The Adviser considered that refusal to register a patient because of discrimination of this sort would put a practice in breach of their terms of service with the Board.

17. The Adviser went on to say that even if the Practice did not want to register him on 18 January 2013, Mr B would have fallen into the category of requiring 'immediately necessary treatment'. The Adviser stated that practices approached by a patient resident in their catchment area who was not registered elsewhere must carry out an assessment if the patient required immediate treatment.

18. In circumstances such as Mr B's, the Adviser said that the correct course of action would have been to ask him to wait until the GP on duty could fit him in. The GP would then have been able to listen to Mr B's concerns and make a reasonable assessment of his medical needs. The Adviser said that it may have been that the GP would have felt unable to prescribe in keeping with Mr B's request but this could only have been established by carrying out a proper assessment. The Adviser noted that there was no corroborating evidence to confirm that Mr B wanted to see a GP about the pain in his lung; however, given Mrs A's recollection and the fact that he died a few days later from pneumonia, the Adviser considered it to be reasonable to assume that this was an issue he would have raised during any consultation. The Adviser considered that both the lung pain and request for antipsychotic medication would fall into the category of 'immediately necessary treatment'.

19. The Adviser said that the Practice Manager's suggestion that Mr B contact his old GP practice was bad advice. Having been in prison and registered with the prison health centre, a fact that the Practice Manager was aware of following her contact with NHS Practitioner Services, it was the case that Mr B was no longer registered with any local GP practice. As he had been registered

in prison, it was likely that his records would have been recalled by the Board and would no longer have been retained by his former practice. The Adviser said that the Practice Manager was likely to have been aware that Mr B's former GP would have been in exactly the same position as the Practice when it came to making arrangements to see and assess him. The Adviser went on to say that the Practice had an obligation to deal with Mr B and not suggest that he seek help elsewhere as he had come to them, he was not registered at another local practice and was a resident in the catchment area.

20. The Adviser said that the advice to seek help from the community mental health and addiction teams was unrealistic and unhelpful. The Adviser considered that the Practice Manager would have been aware that it was highly unlikely that Mr B would have been able to secure help from these avenues given that these events took place on a Friday afternoon.

21. The Adviser said that the Practice Manager's advice to contact NHS 24 was incorrect, as Mr B had presented within the core hours of the Practice's service. Regardless of how inconvenient it may have been, the Adviser said that the Practice were required by the terms of the GMS Contract to see and assess Mr B on the afternoon of 18 January 2013.

(a) Conclusion

22. The advice I have received is that Mr B should have been seen and assessed by a GP at the Practice on 18 January 2013. From the account of the Practice Manager, it is clear that Mr B made her aware that he wanted to see a GP about antipsychotic medication and he has also been described as having lung pain that he planned to speak to the GP about. Although it is acknowledged that the Practice Manager may have been unaware of Mr B's lung pain, either of these issues would have placed him within the category of requiring 'immediately necessary treatment'.

23. The advice received has also highlighted that the Practice Manager's advice to Mr B was not appropriate, particularly the suggestion that he contact NHS 24 given that he had visited the Practice within their core hours of operation.

24. It is not possible within the scope of the investigation to say whether assessment by a GP on 18 January 2013 could have led to a different outcome

for Mr B, however, it is clear that he should have been seen and assessed at the Practice. In light of the failings described, I uphold this complaint.

25. During the course of this investigation, it became clear that no GP at the Practice had been involved in either the incident itself or the handling of the consequent complaint. After becoming aware of this case through my investigation, a GP at the Practice advised that a Significant Event Analysis had been carried out. The GP subsequently advised that they are working with NHS Education Scotland on an Enhanced Significant Event Analysis. They are also working with the Board to review the complaint handling procedure and on training in complaints handling for their staff.

(a) Recommendations

26. I recommend that the Practice:	*Completion date*
(i) apologise to Mrs A and acknowledge that they should have seen and assessed Mr B properly on 18 January 2013;	15 April 2015
(ii) provide us with copies of their Significant Event Analysis and Enhanced Significant Event Analysis with their reflections on what happened and why this occurred;	29 April 2015
(iii) provide us with their written policies on the registration of new patients and the provision of immediately necessary treatment; and	29 April 2015
(iv) ensure that all staff within the Practice are fully trained on patient registration and provision of immediately necessary treatment.	29 April 2015

(b) The Practice unreasonably did not respond to further letters related to the complaint

27. After receiving the Practice's response to Mrs A's complaints on 4 June 2013, Ms C conducted some further enquiries with NHS Practitioner Services and wrote a further letter of complaint, dated 30 August 2013, which was addressed to the Practice Manager.

28. No response was provided and Ms C wrote again on 7 October 2013, enclosing a copy of the previous correspondence for the Practice Manager's attention.

29. Again, no response was provided and Ms C wrote a further letter to the Practice Manager on 19 November 2013 enclosing copies of her earlier correspondence. Ms C requested that the Practice respond within ten working days but they failed to comply.

30. After receiving Ms C's initial submission to us on 13 February 2014, preliminary enquiries were made with the Practice to establish why no response had been provided in relation to Ms C's further correspondence. The Practice advised on 14 February 2014 that they had not received any additional correspondence from Ms C.

31. Ms C was advised of the Practice's position and she sent a further letter on 17 February 2014, enclosing copies of her earlier correspondence. The Practice again failed to respond and Ms C issued another letter to them dated 20 March 2014 enclosing copies of her previous correspondence. Once again, no response was received.

Practice response

32. On 18 July 2014, the Practice Manager advised the complaints reviewer that there was no excuse for the upset that they had caused Mrs A but that the Practice wanted to provide an explanation of how extenuating circumstances contributed to the situation. The Practice acknowledged that the delays in this case had been unacceptable and that they has been lax in relation to this.

33. The Practice Manager explained that at the time Ms C's letter of 30 August 2013 was received, they were in the process of changing the principal GP at the Practice. Due to this changeover, the Practice Manager advised that there was some confusion over entitlement to membership services supplied by the Medical and Dental Defence Union of Scotland (MDDUS). This apparently resulted in the Practice Manager not receiving the advice requested in relation to Ms C's letter of 30 August 2013. The Practice Manager said that the letter was left until the matter could be clarified with the GP. An unrelated incident then took place at the Practice that required internal investigation and, due to the extra work involved, the Practice Manager advised that Ms C's correspondence was filed and forgotten.

34. The Practice Manager said that she was fully aware of her responsibilities in applying the complaints procedure which was in place and accepted that there had been a severe breach of protocol, which she apologised for.

(b) Conclusion

35. At the time Ms C raised Mrs A's complaint, the complaints handling procedure in place at the Practice stated that complaints would be acknowledged within two working days and dealt with within ten working days. However, during the investigation it was noted that the forms used to record the receipt and outcome of a complaint state that a response is due within 20 working days.

36. On the basis of the evidence available, Ms C's initial complaint appears to have been dealt with expediently, however, it is clear that there was a complete failure to acknowledge or address any of the additional concerns that were raised in her subsequent correspondence. There was also a failure to provide information about how to pursue the complaint with SPSO if Mrs A remained dissatisfied with the response that the Practice had provided to Ms C.

37. I am not satisfied that the Practice's explanations provide any reasonable form of mitigation for their failure to respond appropriately to complaint correspondence and I am concerned by the lack of urgency that was apparent, even when my office became involved. I am particularly concerned that the Practice told us that no additional correspondence had been received from Ms C, when this was clearly not the case.

38. The Board made enquiries with the Practice, following receipt of my letter of 3 July 2014, drawing their attention to my concerns about the lack of co-operation with my investigation. In the course of these enquiries, it was noted that the Practice's complaints literature had not been updated to reflect the Patient Rights (Scotland) Act 2011. The Board planned to take this forwards with the Practice. As stated previously in this report, during my investigation the Practice advised that they are working with the Board on a review of their complaints handling procedure and staff training on complaints handling.

39. The Practice did not deal with further correspondence in relation to this case appropriately. In light of the forgoing, I uphold this complaint.

(b) Recommendations

40. I recommend that the Practice: *Completion date*

(i)	apologise to Ms C and Mrs A for their failure to deal with further complaint correspondence appropriately;	15 April 2015
(ii)	work with the Board to create a new complaints handling procedure and provide a copy to us for review; and	13 May 2015
(iii)	ensure that all staff are fully trained on the complaints handling procedure.	27 May 2015

41. The Practice have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Practice inform him when the recommendations have been implemented.

Annex 1

Explanation of abbreviations used

Ms C	the complainant
Mrs A	the aggrieved
Mr B	the aggrieved's son
Practice Manager	Manager of the overall running of the Practice
GP	General Practitioner
the Adviser	General Practitioner
HMP	Her Majesty's Prison
the Board	Greater Glasgow and Clyde NHS Board
GMS	General Medical Services

Annex 2

Glossary of terms

antipsychotic medication	medicines used to treat mental health conditions
GP GMS Contract	contract between a general practice and the board for delivery of primary care services to local communities
methadone	a drug used medically as a heroin substitute
pneumonia	an infection of the lungs

Annex 3

Legislation and policies considered

GP GMS Contract Extract

Attendance at practice premises
30. The Contractor shall take reasonable steps to ensure that any patient who has not previously made an appointment and attends at the practice premises during the normal hours for essential services is provided with such services by an appropriate health care professional during that surgery period except where:

30.1. it is more appropriate for the patient to be referred elsewhere for services under the Act; or

30.2. the patient is then offered an appointment to attend again within a time which is reasonable having regard to all the circumstances and his health would not thereby be jeopardised.
…

ESSENTIAL SERVICES
46. The Contractor must provide the services described in clauses 47 to 52 (essential services) at such times, within core hours, as are appropriate to meet the reasonable needs of its patients, and to have in place arrangements for its patients to access such services throughout the core hours in case of emergency.

47. The Contractor must provide-

47.1. services required for the management of the Contractor's registered patients and temporary residents who are, or believe themselves to be-

47.1.1. ill with conditions from which recovery is generally expected;

47.1.2. terminally ill; or

47.1.3. suffering from chronic disease

delivered in the manner determined by the practice in discussion with the patient;

47.2. appropriate ongoing treatment and care to all registered patients and temporary residents taking account of their specific needs including-

47.2.1. the provision of advice in connection with the patient's health, including relevant health promotion advice; and

47.2.2. the referral of the patient for other services under the Act; and

47.3. primary medical services required in core hours for the immediately necessary treatment of any person to whom the Contractor has been requested to provide treatment owing to an accident or emergency at any place in its practice area.

48. For the purposes of clause 47.1, “management” includes-

48.1. offering a consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and

48.2. the making available of such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under the Act and liaison with other health care professionals involved in the patient's treatment and care.

49. For the purposes of clause 47.3, “emergency” includes any medical emergency whether or not related to services provided under the Contract.

50. The Contractor must provide primary medical services required in core hours for the immediately necessary treatment of any person falling within clause 51 who requests such treatment, for the period specified in clause 52.

51. A person falls within this clause if he is a person-

51.1. whose application for inclusion in the Contractor's list of patients has been

refused in accordance with clauses 181 to 184 and who is not registered with another provider of essential services (or their equivalent) in the area of the PCT;

51.2. whose application for acceptance as a temporary resident has been rejected under clauses 181 to 184; or

51.3. who is present in the Contractor's practice area for less than 24 hours.

52. The period referred to in clause 50 is-

52.1. in the case of clause 51.1, 14 days beginning with the date on which that person's application was refused or until that person has been registered elsewhere for the provision of essential services (or their equivalent), whichever occurs first;

52.2. in the case of clause 51.2, 14 days beginning with the date on which that person's application was rejected or until that person has been subsequently accepted elsewhere as a temporary resident, whichever occurs first; and

52.3. in the case of clause 51.3, 24 hours or such shorter period as the person is present in the Contractor's practice area.