

SPSO decision report

Case: 201103655, Tayside NHS Board
Sector: health
Subject: clinical treatment / diagnosis
Outcome: some upheld, no recommendations

Summary

Mr C and his partner sought in vitro fertilisation (IVF) treatment on the NHS. The board, however, said that because Mr C's partner's child from a previous relationship lives with them, they were not eligible for treatment. Mr C said that this decision was unreasonable because the board's policy on assisted conception discriminates against him and other men who have no biological children. He also said that the board did not deal with his complaint properly in that there were inaccuracies and delays in their responses and that they failed to address his complaint.

We explained to Mr C that it was not for us to determine whether the board's policy was discriminatory, but that we would consider whether their actions were reasonable. We found that their decision was reasonable in light of the framework for infertility services accepted by the Scottish Government and that, in taking legal advice and ensuring compliance with Scottish Government guidelines, they had acted in line with legislation and guidance.

We did find that the board delayed in responding to the complaint and that their responses should have provided a clearer explanation about the framework for infertility services from the outset. However, we made no recommendations about this, in light of the fact that the board reviewed their complaints management system earlier this year.