

SPSO decision report

Case: 201202173, Lanarkshire NHS Board
Sector: health
Subject: policy/administration
Outcome: some upheld, recommendations

Summary

Mr A's late wife (Mrs A) was in hospital, and had developed symptoms that suggested she might be infected with legionella (the bacterium that causes legionnaire's disease). Blood tests were taken, but Mrs A died the next day, before the results were known. The hospital issued a death certificate and Mr A organised his wife's funeral. However, when the undertaker tried to collect Mrs A's body the day before the funeral, the hospital would not release it. This was because the legionella tests had come back positive and the procurator fiscal had been informed. Mr A was left not knowing when he would be able to hold his wife's funeral, and said that he did not receive a clear explanation of the reasons for the delay or what would happen if the tests were positive. Because of the delay, the family had to cancel the funeral which both caused extreme distress and inconvenienced them, as family members were travelling from other parts of the UK.

The further tests, however, showed that the first result had been a 'false positive' and Mrs A did not have a legionella infection. An advocacy worker (Ms C) complained to us on Mr A's behalf about the board's administration and communication. She said that the board had issued the death certificate prematurely and delayed in deciding not to release Mrs A's body. She also said that their communication was unreasonable in that they delayed in telling the appropriate people that Mrs A's body was not to be released, provided an inadequate reason for not releasing Mrs A's body, and failed to provide reasonable information about what would happen if the test results were positive or about when Mrs A's body would be released.

We did not uphold the complaint that the board's administration of matters was unreasonable, as we found no evidence of delay in deciding to release Mrs A's body. Our investigation found that the decisions about this were taken as quickly as they could have been. We also found that it was reasonable for them to issue a death certificate, as the main causes of death were appropriately recorded.

However, we did uphold the complaint that the board's communication was unreasonable. Although a doctor had contacted Mr A at the right time to explain why Mrs A's body could not be released, we found no evidence that the doctor explained to him the implications of a positive test result. Although we acknowledged that normally the chance of a positive test was small, we found that Mr A and his family should have been told of the possible implications in order that they could make informed choices about important matters such as funeral arrangements.

Recommendations

We recommended that the board:

- take steps to ensure that, where similar circumstances arise, medical staff make relatives aware of the potential impact of a positive test result.