

SPSO decision report

Case: 201401872, Greater Glasgow and Clyde NHS Board
Sector: health
Subject: clinical treatment / diagnosis
Outcome: upheld, recommendations

Summary

Mr C complained about the board's role in the decision-making that he should be taken to a respite care facility (run by a private care provider) for 24 hours when he had already told them that he did not want to go, and then kept there against his express wishes. Mr C told staff when they arrived at the facility that he did not want to be there, but was persuaded to stay until the following day when his father picked him up. Mr C also raised concerns about an earlier decision by the board to instruct members of staff from the private care provider to covertly befriend him at a radio station where he was volunteering given the effect this had on him, particularly when he saw the staff members at the facility the following year.

We took independent advice from our medical adviser. We found that the board failed to act in line with the relevant legislation, which meant that Mr C's rights were not respected. We also said that it was not reasonable that Mr C was told he was going to the facility on the journey there and that this posed a risk. In relation to Mr C's stay at the facility, we found that there was a responsibility on board staff to ensure that Mr C would be returned to his home if that was his wish. The board had accepted that Mr C told staff when he arrived that he did not want to go in and refused initially to leave the car. We found that most of the healthcare professionals involved were doing everything they could to provide Mr C with treatment, despite his clearly stated wishes to the contrary, believing it was in his best interests. We were critical of the board's actions in relation to the decision that staff should befriend Mr C covertly. In doing so the board failed to respect his autonomy. It was our view that the board failed to act in a reasonable way in respect of Mr C's stay at the facility.

Recommendations

We recommended that the board:

- inform us of how they intend to ensure that decision-making capacity is assessed and clearly documented;
- review their actions in light of our findings and bring our decision to the attention of relevant board staff;
- consider using this decision as a case study to inform current practice in similar circumstances; and
- apologise to Mr C for the failings we found.