

SPSO decision report

Case: 201508237, Tayside NHS Board
Sector: health
Subject: clinical treatment / diagnosis
Outcome: upheld, recommendations

Summary

Mrs C complained about the care and treatment she received at Ninewells Hospital after having her jaw joint replaced with an artificial joint. Prior to then, Mrs C had been under the care of an oral medicine consultant who had tried a range of non-surgical methods to manage the pain she was having in her jaw joint. Mrs C was then referred to a specialist surgeon, who recommended surgical replacement of the joint. Mrs C proceeded with the surgery but suffered complications that resulted in the artificial joint being removed for several months and replaced with a different type.

Mrs C was concerned that the risks of surgery had not been properly explained to her, about the sourcing of the artificial joint, that special equipment to detect nerves was not used during the surgery, and that there was a delay in identifying problems with the replacement joint.

We took independent advice from an oral and maxillofacial (the speciality concerned with the diagnosis and treatment of diseases affecting the mouth, jaws, face and neck) surgeon. We found no failings with the standard of surgery performed or the type of artificial joint used. We also considered that Mrs C's ongoing problems were reasonably reviewed with no undue delay in providing treatment.

However, we considered it unreasonable that there was no evidence to show that a discussion took place with Mrs C at any out-patient appointment with regard to all the benefits and recognised risks associated with the surgery. The only records of such discussions were during a phone call, where not all the risks were documented, and on the day of Mrs C's surgery, where it was unclear what had been explained to her. We therefore upheld Mrs C's complaint.

Recommendations

We recommended that the board:

- apologise in relation to the failings identified in the consent process;
- review the service's process for obtaining informed consent to ensure it is in line with General Medical Council consent guidance; and
- consider providing written patient information on the jaw joint surgery.