

SPSO decision report

Case: 201606954, Borders NHS Board
Sector: health
Subject: clinical treatment / diagnosis
Decision: some upheld, recommendations

Summary

After the birth of her child at Borders General Hospital, Mrs C made a number of complaints about the procedures involved. She said that there was a failure to obtain properly informed consent for intimate examinations and that the board provided incorrect information about who had acted as a chaperone. She also complained that the board did not ensure that she was anaesthetised by an anaesthetist of sufficient seniority given that she had scoliosis (a musculoskeletal disorder in which there is a sideways curvature of the spine). Mrs C also complained that she and her new born baby were not given reasonable nursing care when she was in hospital.

The board said that they had followed their usual practice of obtaining implied consent to treatment set against a background of the clinical care they had already given. They also said that they had provided the correct name of the chaperone as requested and that Mrs C's spinal injection had been performed by both a consultant and a senior trainee. They were also of the view that Mrs C's nursing care had been reasonable.

We took independent advice from a consultant in obstetrics and gynaecology and a consultant in obstetrics and general anaesthesia. We also took independent nursing advice. We found that implied consent was insufficient for intimate examinations and that consent must be recorded in patients' notes. It was not recorded in Mrs C's notes and, therefore, we upheld this complaint.

Regarding Mrs C's other complaints, we found evidence in the notes to confirm who had acted as chaperone and we found that Mrs C had been given her anaesthetic reasonably by clinicians of appropriate seniority and expertise. We found no evidence of unreasonable nursing care. As such, we did not uphold these aspects of Mrs C's complaints.

Recommendations

What we asked the organisation to do in this case:

- Apologise for failing to seek formal consent for intimate examinations.

What we said should change to put things right in future:

- The board should develop a guideline on consent for intimate examinations and the use of chaperones, with reference to national guidance, including documentation.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.