

SPSO decision report

Case: 201902979, Lothian NHS Board - Acute Division
Sector: Health
Subject: Communication / staff attitude / dignity / confidentiality
Decision: upheld, recommendations

Summary

C, a support and advocacy worker, complained on behalf of their client (A) about the board's failure to share confidential patient information with A. C said that information was unreasonably withheld and should have been shared as their safety was at risk. C also complained that the board wrongly treated A's complaint as a 'concern' and they took an unreasonable length of time to respond.

The board said that they were not in a position to share the information A had requested, however they recognised there was some learning for the clinical team and they took steps to address this. The board also said they did not treat C's initial email as a complaint as it clearly stated A wanted to "discuss their experience and concerns". The board recognised their written response was not issued within a reasonable timescale.

We took independent advice from a mental health nurse. We found that it would have likely been reasonable and legally justifiable for some of the information A requested to be shared with them. We identified that staff were not fully familiar with the national guidance on consent, confidentiality and information sharing. We upheld the complaint.

In relation to complaint handling, we concluded that it was reasonable to treat A's initial email as a concern and a request for a meeting. However, matters became confused when the board's written response following the meeting included SPSO referral details, which inferred it was a complaint response. When C submitted a formal complaint, we noted that the board did not meet the required timescales. On that basis, we upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to A for failing to consider whether the disclosure to A of confidential patient information was justifiable. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsa.org.uk/information-leaflets.

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.