SPSO decision report

Case: **201909530, Borders NHS Board**
Sector: Health
Subject: clinical treatment / diagnosis
Decision: some upheld, recommendations

Summary

C was dissatisfied with the treatment received from the board following an urgent referral to the gastroenterology department (specialists in the diagnosis and treatment of disorders of the stomach and intestines) from their GP after experiencing back pain and rectal bleeding. The referral was triaged by the board and a colonoscopy (examination of the bowel with a camera on a flexible tube) was arranged.

Following the colonoscopy, C was advised there was a probable tumour in their lower bowel. C's treatment was discussed at a multi-disciplinary team meeting (MDT) and C was advised that a referral to a hospital within another board had been made for a Transanal Endoscopic Mucosal Surgery (TEMS, a minimally invasive surgery) procedure.

C was examined by a colorectal surgeon (a surgeon who specialises in conditions in the colon, rectum or anus) at the other board and the TEMS procedure was scheduled. Further MDTs took place where the question of an anterior resection (a surgical procedure to remove the diseased portion of the bowel and rectum) being a more appropriate treatment was considered. C had a meeting with a consultant surgeon at Borders General Hospital and their understanding following this meeting was that clinicians would further consider and reach a decision on what the most appropriate treatment for C was. The consultant surgeon's letter to C's GP indicated that their understanding of the outcome of the meeting was that C had expressed a preference for TEMS with further steps, such as an anterior resection, afterwards if needs be, and had made arrangements for C to be seen by the TEMS team.

C attended an appointment at the other board where the colorectal surgeon said that C had refused an anterior resection. C denied this. It was also decided that a further biopsy would be undertaken. Whilst awaiting the results of the biopsy, C complained to the board and had further correspondence with them whilst also approaching this office about their concerns.

We took independent advice from an oncologist (a doctor who specialises in the diagnosis and treatment of cancer). We found that it was reasonable that C was not referred to an oncologist and that investigations of a tumour reported following their colonoscopy were reasonable. However, we found that the board had unreasonably downgraded C's referral and that the board's failure to treat C's condition as cancer was unreasonable. We noted that the board did not meet the treatment time guarantee and that there were significant delays in decisions on C's treatment that were reached jointly with another board. We considered that the likelihood of delays should have been made clear to C to allow them the opportunity to properly consider all of the options available. We upheld C's complaint about the treatment they had received.

C also complained about the board's response to a complaint they submitted. We found that it was unreasonable that the board did not directly address some matters that C raised and upheld this aspect of C's complaint. However, we considered it was reasonable that the board took a different position to C about what had been said at a particular consultation.

C also complained about a subsequent response the board provided to them. We found that the board's response was generally reasonable. Therefore, we did not uphold this aspect of C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the specific failings identified. The apology should make clear mention of each of the failings identified and meet the standards set out in the SPSO guidelines on apology available at www.spso.org.uk/information-leaflets.

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

- In similar cases, referrals and test results should be assessed reasonably and patients should receive treatment within 62 days of the referral and within 31 days from the decision to treat, as per Scottish Government treatment time targets. Our findings should be brought to the attention of relevant clinicians in a supportive manner and they should consider identifying these as learning point for their annual appraisals.
- A mechanism should be in place to ensure patients are informed when delays to treatment are likely.
- The pathway for the treatment of patients from Borders NHS board to another board area should be appropriate and efficient; including that clinician availability does not delay treatment decisions and that it is clear where responsibility for ongoing management and treatment lies at all times.

In relation to complaints handling, we recommended:

- Staff should handle complaints in line with the Model Complaints Handling Procedure, which includes responding to all aspects of complaints.

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.