

Case 200501748: A Dental Practitioner in the Greater Glasgow and Clyde NHS Board area

Introduction

1. On 29 September 2005 the Ombudsman received a complaint from an advocacy worker on behalf of her client (referred to in this report as Mrs C). Mrs C complained that her former dentist (Dentist 1) had improperly administered her with an anaesthetic causing her to suffer an adverse reaction and long-term illness.

2. The specific complaints from Mrs C which I investigated (*and my conclusions*) are that:

(a) Dentist 1 administered her with lignocaine (with adrenalin) despite Mrs C specifically stating she did not wish to have this drug because of a previous bad reaction to it (*upheld*);

(b) Mrs C suffered long-term health effects because of the administration of lignocaine against her wishes (*upheld*).

3. The specific recommendation that the Ombudsman is making resulting from this investigation is that:

Dentist 1 write a personal apology to Mrs C for administering her with lignocaine against her known wishes.

Following sight of the draft report Dentist 1 indicated that she accepted this recommendation and would write a personal apology as set out in the recommendation.

Investigation and findings of fact

4. The investigation of this complaint involved reading all the documentation supplied by Mrs C; Mrs C's relevant dental and medical records and the complaint files. I obtained the views of a dental adviser and a medical adviser (both referred to in this report as the adviser). I set out my findings of fact and my conclusions for

each of the heads of Mrs C's complaint. The Ombudsman's recommendation is set out in paragraph 23. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mrs C and Dentist 1 have had the opportunity to comment on a draft of this report. A glossary of terms used appears at Annex 2. Throughout this complaint all correspondence has been directed through the advocacy worker but for ease of reading I have referred directly to Mrs C in this report. Dentist 1 has directed all correspondence through the Medical and Dental Defence Union of Scotland (MDDUS).

5. Mrs C registered as a patient of Dentist 1 on 28 October 2003. At this time Mrs C completed a Patient Information Sheet. This sheet included a series of question as follows:

- '...5. Are you allergic to penicillin, antibiotics, food or other substances?
- ...10. After a general /local anaesthetic (including dental gas or injection in the arm) have you ever had an abnormal reaction?'

In response to question 5 Mrs C noted 'Yes' and 'Lignocaine'. In response to question 10 Mrs C noted 'Yes (have to have Citanest)'. Mrs C also recorded that she suffered from low blood pressure. Mrs C stated that she discussed her allergy to lignocaine with Dentist 1 at her first appointment and in particular to the problems this drug caused because of her low blood pressure.

6. On 12 December 2003, Mrs C had an appointment to have a tooth extracted by Dentist 1 who used lignocaine with adrenalin as the local anaesthetic. Mrs C complained that immediately after the administration of the anaesthetic she suffered a severe shock reaction with symptoms including difficulty breathing, rapid heart rate, headache and faintness. These problems lasted for over two hours. She further complained that while staff checked on her from time to time no attempt was made to monitor her blood pressure and when she was eventually able to go home Dentist 1 made no attempt to check on her condition.

7. During local resolution of this complaint Dentist 1 commented through the MDDUS. The MDDUS wrote on 21 January 2004 that Dentist 1 had chosen lignocaine with adrenalin because the adrenalin helped to control post-operative bleeding and this in turn was helpful in controlling Mrs C's low blood pressure.

They also stated that Mrs C was monitored in the surgery and her pulse had returned to normal within 30 minutes. Although still unwell her condition appeared to improve and it was not felt she needed to be referred to hospital. Dentist 1 did, however, act to inform Mrs C's general practitioner (GP 1) of the incident. They apologised that Dentist 1 had administered lignocaine with adrenalin and that Mrs C had suffered an adverse reaction to it.

8. Following sight of the draft report the MDDUS commented that Dentist 1 did not agree with Mrs C's view and recalled checking Mrs C on a number of occasions and considered Mrs C was fit for discharge when she left the surgery.

9. Mrs C was not happy with the view expressed by the MDDUS as she had no history of post operative bleeding and did not feel this possibility had justified the use of lignocaine or of Dentist 1 not discussing its possible use with her first. She also expressed concern that Dentist 1 knew of her previous problems but had not contacted her GP or her previous dentist to discuss this before using the lignocaine. Mrs C requested details of the dentist's code of practice. At this time Mrs C's health started to deteriorate. She advised the MDDUS of this in a letter of 18 March 2004. Mrs C wrote to Greater Glasgow NHS on 28 April 2004 and 19 May 2004 to request an Independent Review of her complaint against Dentist 1.

10. Mrs C asked NHS Greater Glasgow to investigate a lack of care before and after her extraction on 13 December 2003, failure to provide her with the dental code of practice and a lack of acceptance of accountability by Dentist 1.

11. On 20 May 2004 the MDDUS wrote again to Mrs C and stated Dentist 1 had considered Mrs C's previous reaction to lignocaine but had concluded that Mrs C was not allergic to the drug but had an adverse reaction to it. The Convener of the Independent Review Panel indicated to Mrs C that it might be helpful to consider conciliation to resolve this complaint. Mrs C agreed to this. Unfortunately it was not possible to reach an agreement through this process and Mrs C repeated her request to Greater Glasgow NHS for an Independent Review on 13 October 2004. The Convener wrote to Dentist 1 on 25 October 2004 to ask for further clarification of her reasons for administering the lignocaine. The MDDUS replied on 23 November 2004 repeating the view that Mrs C was not allergic to lignocaine and suggested that Mrs C's adverse reaction was at least in part 'psychogenic' (created

in the mind) in nature. Mrs C strongly disputed this view, pointing out in a letter of 15 December 2004 to the Convener that her reaction immediately after the extraction had started at a point she believed citanest rather than lignocaine was being used. Mrs C also pointed out that this argument was largely irrelevant as the crucial point was that she had been administered a drug she had specifically indicated she did not want. The Convener agreed to holding an Independent Review and a review panel was convened on 5 April 2005.

12. The panel report was issued on 11 July 2005 and included a summary of the statements from Dentist 1 and Mrs C. I note that Dentist 1 stated she had had recent training in the use of lignocaine and tried to discuss the nature of allergic reactions with Mrs C at her first appointment but Mrs C was not willing to discuss it. Dentist 1 stated she did not tell Mrs C of her decision to use lignocaine as she feared this would increase the likelihood of provoking a reaction in a patient who Dentist 1 considered to be a 'nervous patient'. Dentist 1 accepted that it was an error of judgement to administer lignocaine in these circumstances where she had not fully discussed its use with the patient and that on a future occasion she would always discuss such matters with the patient beforehand, preferably at a previous appointment. The panel report concluded that Dentist 1 should have discussed the reasons for using lignocaine with Mrs C but felt Dentist 1 had acted conscientiously and had accepted that she had made an error in judgement and would amend her future practice. The panel made no specific recommendation.

13. Mrs C remained unhappy with the report and complained to the Ombudsman that she had still not received any response to her request for information about a Code of Practice on dentist/patient communication. She also expressed concern that Dentist 1 had classified her as a nervous patient and raised a number of irrelevant issues to discredit her in front of the panel. Mrs C also referred to the issue of her continued ill-health and raised a concern that there had been no disciplinary action taken against Dentist 1 for her failure in her duty of care to Mrs C, despite the fact that the Independent Review had concluded Dentist 1 was wrong not to make greater efforts to discuss the administration of lignocaine with Mrs C.

14. I advised Mrs C through her advocate of the role of the General Dental Council (GDC). The GDC is the body established by the UK Parliament to regulate and

administer the registration of all dental practitioners in the UK. The GDC assesses a dentist's fitness to practice and has the authority to suspend or reprimand a dental practitioner. The GDC issues Guidance and Standards for Professional Conduct which apply to all dentists in the UK. At the time of the initial incident in this case the GDC document which governed Dentist 1's practice was *'Maintaining Standards. Guidance to Dentists on General and Professional Conduct.'* November 1977 (amended November 2001). This document was replaced in 2005 by *'Standards for Dental Professionals.'* May 2005.

(a) Dentist 1 administered her with lignocaine (with adrenalin) despite Mrs C specifically stating she did not wish to have this drug because of a previous bad reaction to it.

15. The adviser commented that while much of the discussion of the complaint at local resolution and independent review surrounded the use of adrenalin in addition to lignocaine and the low probability of Mrs C's being allergic to lignocaine; in fact the issue was one of valid consent. The adviser stated that for consent to be valid it must be informed and freely given and the dental records and correspondence in this case clearly demonstrate that consent was not given in this case.

16. The adviser also stated that the addition of adrenalin as a vasoconstrictor to reduce the blood flow to the affected area is an accepted practice. He commented that citanest (the proprietary name for prilocaine) is an equally valid choice as it can be used with another vasoconstrictor, octapressin, and was a suitable alternative in Mrs C's case.

17. The General Dental Council guidance in place in December 2003 stated:

'CONSENT

3.7A dentist must explain to the patient the treatment proposed, the risks involved and alternative treatments and ensure that the appropriate consent is obtained'

The guidance does not specify what 'appropriate consent' for local anaesthesia would be. The current guidance on Consent, *'Principals of Patient Consent'*, GDC, May 2005, states:

‘2.1 The patient must make the decision.

2.2 Do not pressurise the patient to accept your advice.

2.3 Patients have a right to refuse to give consent for an investigation or treatment. If they do so, you should respect this decision.’

18. I note that the 2005 guidance, while not in place at the time of the events of this complaint, gives greater weight to the wishes of the patient and their right to refuse treatment and I welcome this clarity.

19. In response to the draft of this report, Dentist 1 confirmed through the MDDUS that she had read the current GDC guidelines on consent '*Principals of Patient Consent*', and had read the previous guidance in '*Maintaining Standards*'.

(a) Dentist 1 administered her with lignocaine (with adrenalin) despite Mrs C specifically stating she did not wish to have this drug because of a previous bad reaction to it: Conclusion

20. I note Mrs C's concern that there was a lack of an NHS Code of Practice for dentists. I consider that by December 2003 the GDC guidelines were not sufficiently robust, but that Dentist 1 did act in accordance with the guidelines. It is regrettable that Mrs C was not made aware of the role of the GDC or the GDC Guidelines at an early stage in this complaint, as it may have gone some way to allaying her fears regarding the apparent lack of regulation and resolving this complaint.

21. The Independent Review Panel (IRP) report stated that, in the opinion of the panel, Dentist 1 had learned from this complaint. The adviser commented that Dentist 1 had gained an educational experience as a result of this complaint. Dentist 1 has already apologised to Mrs C (through the MDDUS) for administering the lignocaine with adrenalin.

22. Mrs C had very clearly made it known to Dentist 1 that she would not accept treatment with lignocaine. Further, there was an alternative drug available so there was no medical imperative to use lignocaine. I therefore, uphold this aspect of the complaint.

23. The Ombudsman recommends that Dentist 1 write a personal apology to Mrs C for administering her with lignocaine against her known wishes.

(b) Mrs C has suffered long-term health effects because of the administration of lignocaine against her wishes.

24. Mrs C complained that, as a consequence of her adverse reaction to lignocaine, she had suffered from long term health problems and that her doctors considered she had a condition similar to Chronic Fatigue Syndrome.

25. Mrs C's general practitioner (GP 1) provided me with a statement about Mrs C's health. She noted that, prior to the events of this complaint, Mrs C had no major medical problems. GP 1 stated she had seen Mrs C on 17 December 2003 and noted at that time her blood pressure was 150/100 (135/80 or below is regarded as normal anything above this is abnormal) and her pulse was quite slow. GP 1 had referred Mrs C to the post-viral/chronic fatigue clinic who reported that her condition was suggestive of Chronic Fatigue Syndrome.

26. The medical adviser reviewed the information provided by GP 1 and Mrs C and noted that Mrs C had undergone a series of investigations for heart problems and thyroid imbalance but all these had concluded her symptoms were stress related. The adviser noted that following a review at the chronic fatigue clinic it was reported that Mrs C's tests were now normal and that she had now returned to most of her normal activities. The adviser concluded that Mrs C suffered a side effect to the lignocaine, he acknowledged the psychological distress of being administered lignocaine against her express wishes and he noted the stress caused by pursuing a complaint for so many months. He considered that the diagnosis of Chronic Fatigue Syndrome is possible and resulted from a combination of the original side-effect, the distress of having her wishes ignored and the recognised pressure of pursuing a complaint. There is not sufficient medical or dental evidence for the adviser to comment on the question of an allergic reaction to lignocaine.

27. In her response to my draft report, Dentist 1 commented through the MDDUS that there could be many other reasons for a patient suffering Chronic Fatigue Syndrome. The MDDUS provided a report from an expert adviser in support of their view that Chronic Fatigue Syndrome is not a recognised adverse effect of

dental local anaesthesia and that Dentist 1 was, therefore, not responsible for Mrs C's long-term health problems. The MDDUS also indicated that Dentist 1 did not feel she could apologise to Mrs C as there was no evidence that her chronic fatigue symptoms were caused by the lignocaine.

28. This report considers the questions of allergic reaction and chronic fatigue syndrome as a result of the use of lignocaine rather than the impact of being administered a drug specifically against the patient's wishes.

29. The adviser commented on the report provided by the MDDUS that the diagnosis and causes of Chronic Fatigue Syndrome are indeed medically uncertain, and while he could not state with certainty (required by a Court of Law) that Mrs C's illness was attributable to the administering of lignocaine against her wishes, he still considered that on balance this was the case.

(b) Mrs C has suffered long-term health effects because of the administration of lignocaine against her wishes: Conclusion

30. There is insufficient evidence for me to reach a conclusion on the long-term impact on Mrs C's health from being administered lignocaine and experiencing an adverse reaction. However based on the medical evidence I have seen, I do consider Mrs C suffered long term health problems from the administering of a drug against her wishes (see conclusion in (a)). I uphold this aspect of the complaint.

31. The Ombudsman does not consider there is any beneficial action that can be taken in respect of this aspect of the complaint but notes that the change in Consent Guidance referred to in (a) should provide greater protection to the public in this regard.

27 June 2006

Explanation of abbreviations used

Dentist 1	The complainant's dentist
GP 1	The complainant's general practitioner
Mrs C	The complainant
MDDUS	The Medical and Dental Defence Union of Scotland

Glossary of terms

Citanest	A local anaesthetic used in minor surgery
Lignocaine	A local anaesthetic used in minor surgery
Psychogenic	An effect created in the mind
Vasoconstrictor	Any substance or environmental stressor that acts to constrict blood vessels.