

Case 200502765: A Dentist, Lothian NHS Board

Summary of Investigation

Category

Health: Clinical treatment

Overview

The complainant (Ms C) was concerned that treatment to one of her teeth was inadequate and quickly failed. She was also unhappy about the way her complaint about this had been handled by the dental practice (the Practice).

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the treatment given on 6 December 2004 was inadequate (*not upheld*); and
- (b) the complaint about this was not handled appropriately (*partially upheld*).

Redress and recommendation

The Ombudsman recommends that the Practice apologise to Ms C for any confusion caused by the letter of 30 June 2005.

The Practice have accepted the recommendation and will act accordingly. The Ombudsman asks that the Practice notify her when the recommendations have been implemented.

Main Investigation Report

Introduction

1. A woman (referred to in this report as Ms C) visited her dental practice (the Practice) on 6 December 2004, having complained previously on 15 November 2004 about hot and cold sensitivity. She received treatment to her lower right premolar from a dentist (Dentist 1).

2. Ms C received a bill in May 2005 and, after visiting the Practice on 31 May 2005, she wrote a formal letter of complaint on 6 June 2005 saying she had had problems with the tooth following treatment. A letter of response was written on 30 June 2005 but not posted. A further demand for payment was made in August and Ms C telephoned to ask why she had not received a response to her complaint. On 15 September 2005, a further letter was written (see paragraph 13). On 6 December 2005, Ms C attended a consultation with a dentist from the same Practice but who worked at a different site (Dentist 2) and was given a further copy of the bill and both letters of response. She complained again about the treatment she had received the previous December. She was telephoned by the Practice on 11 January 2006 to discuss this and a letter was sent to her on 12 January 2006. On 18 January 2006, the Ombudsman received a completed complaint form from Ms C.

3. The complaints from Ms C which I have investigated are that:

- (a) the treatment given on 6 December 2004 was inadequate; and
- (b) the complaint about this was not handled appropriately.

Investigation

4. In investigating this matter, I have seen copies of the correspondence between Ms C and the Practice Manager and copies of Ms C's dental records held by the Practice. I have reviewed the Practice's current and previous complaints procedures. I have sought advice from a dental expert (the Adviser).

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Ms C and the Practice were given an opportunity to comment on a draft of this report.

(a) The treatment given on 6 December 2004 was inadequate

6. In Ms C's initial letter of complaint to the Practice, dated 6 June 2005, she said she received a root treatment and a temporary filling. She said the root treatment and filling had come out two days after treatment and she had been left with a small stump of tooth. In her complaint to the Ombudsman, Ms C said that the tooth broke and she suffered from abscesses.

7. In their letter of 12 January 2006, the Practice said that Dentist 1 had discussed the treatment with Ms C. A root filling was recommended and Ms C requested a white filling. This is not available on the NHS and Ms C was told that private treatment could not be mixed with NHS treatment and she would need to have a dressing fill placed for a few months to create a gap between NHS and private treatment. After drilling into the tooth, Dentist 1 found the root canal to require some initial treatment before this dressing fill could be put in place. She cleaned the canal and put in place a temporary dressing. Ms C was advised to get in touch if she had problems and told she would need to return for further treatment. The Practice confirmed in their letter to her of 12 January 2006 that Ms C's root treatment had not been completed in this visit and that the dressing was not the dressing fill which would last her some months to provide a gap between the NHS and private treatment.

8. The Adviser reviewed the dental records from both the initial treatment and the subsequent treatment Ms C received from Dentist 2. He has said that it was clear root canal treatment was required on the tooth. He also said that a filling was already present and that there was radiolucency around the root of the tooth. He explained that radiolucency meant that an infection was already present and indicated the nerve of the tooth had almost certainly died. This would make the tooth more brittle and liable to fracture. This was a common occurrence and, unfortunately, not preventable.

9. The Adviser confirmed that the treatment given to Ms C by Dentist 1 was 'entirely reasonable and in line with acceptable dental practice'. It involved her drilling into the tooth to locate the root canal, cleaning the canal, placing an antiseptic dressing in the root and then a temporary filling on top. He also said that an infected tooth would require more than one appointment to ensure that the infection was eliminated and that this was 'appropriate and acceptable clinical

practice.' The treatment was not completed on 6 December 2004. There is a reference in the records to an appointment on 19 January 2005, which was cancelled by Ms C, which indicates that it was intended to continue with this treatment.

(a) Conclusion

10. The Adviser is clear that the treatment provided by Dentist 1 was 'entirely reasonable and in line with acceptable dental practice.' The treatment Ms C required was only partially completed at that date. While an appointment was made for Ms C for 19 January 2005 to continue the treatment, this was cancelled. This does not, however, change the finding of the Adviser that the treatment she did receive was appropriate. On the basis of the evidence provided, I do not uphold this complaint.

(b) The complaint about this was not handled appropriately

11. The NHS complaints procedure changed in April 2005. Prior to this, a complainant would proceed to complain to the relevant NHS Board, following the initial response from the Practice. This step is no longer available and complainants now come direct to the Ombudsman if they remain dissatisfied. Under both old and new procedures the Practice should acknowledge the complaint within two working days and respond in writing within ten working days.

12. Ms C initially complained in person on 31 May 2005, following receipt of a bill for treatment. She was advised to write and a document in Ms C's file showed that her written complaint, dated 6 June 2005, was received on 22 June 2005. She received a copy of the complaints procedure with a letter of acknowledgement. A letter of response was written on 30 June 2005. In this, the Senior Partner said he had reviewed the file and interviewed Dentist 1 and other staff. The letter said that, on 16 December 2004¹, Ms C was told a dressing would be placed on top of the root filled tooth and a private filling done some months later. The Senior Partner also said that the root filling was completed properly and without trouble and that she had paid for this. Ms C was advised to contact the NHS complaints Adviser if

¹ The records show this was 6 December 2004. A transcript of Ms C's notes is on file and headed FAO the Practice Manager. This contains the incorrect date of 16 December 2004 and it seems this error is repeated in this letter.

she remained unhappy. It was only later confirmed in the letter from the Practice dated 12 January 2006 that the root filling had not been completed (paragraph 7).

13. The letter of 30 June 2005 was never received by Ms C. The Practice accept it was not posted. They have said they are unsure why this error occurred but consider that the most likely explanation is that the letter was put on file to be reviewed by Dentist 1 and this did not happen. They believe that the reason for this is that Dentist 1 was on holiday at the time the letter was written; on her return one of the Practice sites was closed; and, shortly thereafter, Dentist 1, a postgraduate trainee, left the Practice.

14. The Practice have said that, following this, it was decided that all correspondence requiring review by a postgraduate trainee or concerning such a trainee would be copied to the Practice's postgraduate trainer. This would ensure that the situation where correspondence was not dealt with because a trainee had left the Practice would not reoccur.

15. Ms C complained again on 6 September 2005, following receipt of another bill for her treatment. By this time Ms C was being treated by Dentist 2, who was also with the Practice but worked at a different site from Dentist 1. A letter dated 15 September 2005 apologised for this delay and enclosed the letter of 30 June 2005. Ms C has said she only received this on 6 December 2005, when receiving treatment from Dentist 2. In response to my questions about this, the Practice said they had been very embarrassed by the failure to post the initial letter and were aware of the need for a quick response. There was nothing on file to indicate this had not been sent.

16. A note on file, dated 14 December 2005, referred to a telephone call by Ms C to the Practice. It noted that Ms C said she would not be paying, that she had been told no root canal treatment had been done and wished to see a copy of her notes from December 2004.

17. A further letter of complaint was written by Ms C and dated 7 December 2005. The Practice have said they received this on 21 December 2005, the day on which the Practice closed for the Christmas/New Year period. In this letter, Ms C said she had just received the letters of 30 June

and 15 September 2005 and had not been informed of any complaint procedure other than to write to the Senior Partner, so was unsure if it had been correctly followed.

18. On 11 January 2006, in response to a telephone call from Ms C which said the matter was urgent, the Senior Partner called her on her mobile. The Senior Partner has said this was about 21:00 hours. Ms C said her telephone records show this was 22:06 hours and she felt that telephoning at this time was inappropriate.²

19. A final letter was sent to Ms C on 12 January 2006. In this, the Senior Partner said that a draft version of the letter was ready to be posted to her on 21 December 2005 but that, given her letter of complaint was received that day, it had been delayed until after the Christmas/New Year break. The letter refers to the telephone conversation of 11 January 2006 and says that the Senior Partner had been told that the matter was 'urgent' and had no way of assessing how urgent this was. It said that, after he had been cut off, Ms C had called him back to continue the conversation and that she ended the call by asking him not to telephone her again. He said he would not do so.

20. The letter of 12 January 2006 set out in detail the treatment received by Ms C in December 2004. This conforms with the description given by the Adviser. It also said problems had been caused by Ms C's failure to complete courses of treatment on three occasions, which had led to her receiving bills for incomplete treatment and, subsequently, being given a history of outstanding accounts on her record. Ms C was told of the requirement to pay for copies of notes and a copy of the complaint procedure and a page of her notes were included with the letter. Ms C was told it was not clear why she had not had a copy of the complaint procedure before and that this had been discussed with reception staff.

21. On 12 January 2006, Ms C telephoned this office for advice and was advised to send her complaint to us. A complaint form dated 16 January 2006 was received on 18 January 2006. On 19 January 2006, Ms C sent a letter to the Board marked for the attention of the Ombudsman Service. This was sent to us by

² The telephone records were not seen as part of this investigation.

the Board by fax. In this letter, Ms C responded to the letter from the Practice of 12 January 2006. She said she had never been told she needed to pay for copies of records before and that she had received a copy of the complaints procedure in response to her initial complaint but had no response for seven months.

22. In response to my questions, the Senior Partner provided copies of old and new complaints procedures and documentation relating to them. This included a patient's charter, standard letters of acknowledgment, leaflets and an action/summary sheet which is kept on file. He said he had directed Ms C to the Board initially, as they would be able to explain the NHS policy concerning payment for NHS treatment. He said he had not provided her with the new complaints procedure, as he had been unaware that Ms C could complain under this, given she had been treated when the old system was in force. The documentation had been updated prior to my request to see them.

(b) Conclusion

23. There were problems with the handling of Ms C's complaint. In particular, the failure to post the initial response to Ms C's complaint in June 2005 has led to this becoming more protracted and complex. The letter itself does not clearly describe the treatment actually given to Ms C. Given the terms of the letter, it is not surprising that Ms C was confused when she did receive this and that her subsequent complaint included her concern that she had been told she had had treatment which Dentist 2 correctly said she had not. It is also clear that the Practice were confused by changes in the NHS complaints procedure and did not inform Ms C of her right to complain to the Ombudsman.

24. It is not possible to confirm whether the letter of apology of 15 September 2005 was ever sent and, therefore, how long the delay was in responding to Ms C's complaint. It is also not possible to establish what was said during the telephone conversation of 11 January 2006. Ms C was undoubtedly telephoned in the evening on 11 January 2006 but given she had said this was 'urgent' and dentists do regularly telephone patients outside of working hours to discuss dental emergencies, it was understandable that the Senior Partner did not wish to delay till the next day. Following this conversation, it was noted on Ms C's records that the Senior Partner should not call her again at Ms C's request and she was told explicitly this would not happen again in the letter of 12 January 2006.

25. The Practice have sought to resolve the problems highlighted by Ms C's complaint. They have put in place safeguards to prevent correspondence concerning postgraduate trainees being lost and, when it became clear Ms C had been confused about the treatment given and was still unhappy, a detailed letter was sent to her on 12 January 2006. Given the New Year/Christmas holidays, this was within the time limit set out by the NHS complaints procedure.

26. On the basis of the evidence provided, I am satisfied that the Practice have correctly and appropriately sought to prevent the problems which arose during the handling of this complaint recurring. They have also apologised to Ms C for the delay in responding to her complaint. However, they have not yet apologised for providing her initially with confusing information about her treatment in the letter of 30 June 2005. I, therefore, partially, uphold this complaint.

(b) Recommendation

27. The Ombudsman recommends that the Practice apologise to Ms C for any confusion caused by the letter of 30 June 2005.

28. The Practice have accepted the recommendation and will act accordingly. The Ombudsman asks that the Practice notify her when the recommendations have been implemented.

30 January 2007

Explanation of abbreviations used

Ms C	The complainant
The Practice	The dental practice at which Ms C received the treatment
The Adviser	Dental Adviser to the Ombudsman
Dentist 1	The postgraduate trainee dentist who undertook the initial treatment
Dentist 2	The dentist who completed the treatment

Glossary of terms

Radiolucency

The condition where the passage of x-rays or other forms of radiant energy occurs with little attenuation