Scottish Parliament Region: Glasgow

Case 200600460: Greater Glasgow and Clyde NHS Board

Summary of Investigation

Category

Health: Complaints handling

Overview

The complainant, Mr C raised a number of concerns associated with the removal of two facial lesions.

Specific complaints and conclusions

The complaints which have been investigated are that:

(a) Mr C was not told that the procedure undertaken on 8 July 2005 involved a large scale biopsy (*not upheld*);

(b) Mr C was told that a basal cell carcinoma (BCC) was being removed from his lip whereas his notes refer to it being a squamous cell carcinoma (SCC) (*not upheld*);

(c) the procedure to Mr C's lip was undertaken without proper investigation, which involved increased risk (*not upheld*);

(d) there was belated acknowledgement that the words lip and lid had been transposed, and an insincere apology was offered *(partially upheld*);

(e) Mr C had not been seen by a dermatologist or skin cancer specialist (*not upheld*);

(f) the Board failed to admit errors or variations to Mr C's medical notes (*not upheld*);

(g) the surgeon involved failed to communicate with Mr C properly (*not upheld*);

(h) there were delays associated with Mr C's appointment times *(not upheld*); and

(i) there were delays in responding to Mr C's complaint (*not upheld*).

Redress and recommendation

The Ombudsman recommends that;

(i) in addition to discussing with the patient any surgical procedure, its possible outcomes and common complications, the Board should consider

whether written information, reiterating information given, would enhance informed consent for the patient;

(ii) a further apology is made to Mr C, to acknowledge the Board's initial failure to apologise to him in a timely manner; and

(iii) the Board look to reducing the timescales between the dates of dictation, typing and issue of correspondence.

The Board have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 15 May 2006 Mr C complained to the Ombudsman after he had had two facial lesions removed. He said that on 12 April 2005 his GP identified two rodent ulcers on his face, one on his lower lip and the other on his left cheek. Mr C's complaints stem from the treatment he subsequently received at Glasgow Royal Infirmary (the Hospital).

2. The complaints from Mr C which I have investigated are that:

(a) Mr C was not told that the procedure undertaken on 8 July 2005 involved a large scale biopsy;

(b) Mr C was told that a basal cell carcinoma (BCC) was being removed from his lip whereas his notes refer to it being a squamous cell carcinoma (SCC);

(c) the procedure to Mr C's lip was undertaken without proper investigation, which involved increased risk;

(d) there was been belated acknowledgement that the words lip and lid had been transposed, and an insincere apology was offered;

(e) Mr C had not been seen by a dermatologist or skin cancer specialist;

(f) the Board failed to admit errors or variations to Mr C's medical notes;

(g) the surgeon involved failed to communicate with Mr C properly;

(h) there were delays associated with Mr C's appointment times; and

(i) there were delays in responding to Mr C's complaint.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and Greater Glasgow and Clyde NHS Board (the Board). I have also had sight of Mr C's medical records in so far as they relate to the procedures which are the subject of this complaint. On 27 October 2006 I made a written enquiry of the Board and their response to me was dated 5 December 2006. I have also sought the opinion of the Ombudsman's medical adviser.

4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Board were given an opportunity to comment on a draft of this report.

(a) Mr C was not told that the procedure undertaken on 8 July 2005 involved a large scale biopsy

5. Mr C said that he was given an appointment to attend the Plastic Surgery Unit at the Hospital at 11:10 on 18 May 2005 to be seen by a consultant (the Consultant). After examination, the Consultant advised Mr C that the lesions on his face were malignant and had to be removed as soon as possible. He was told he would receive an appointment very soon. Mr C was given a further appointment for 8 July 2005 and that day had the lesions removed under local anaesthetic. However, he said that he was not told that the procedure would involve a large scale biopsy. Although from sight of Mr C's signed consent form (for anaesthesia, operation, investigation or treatment, medical photography and research) dated for the day of his operation (8 July 2005) which Mr C said that he signed immediately before the operation, it appears that amongst other things, the clinical practitioner explained 'Further excision'.

6. Thereafter, in commenting on this matter the Board said that after the procedure to remove the lesions on Mr C's face, it was normal to seek further information on the tissue removed. Tissue was sent to a histology laboratory for precise diagnosis in order to inform the Consultant about further management. In Mr C's case, the diagnosis of the lip lesion was of an SCC which required more extensive excision than a BCC.

7. I have sought advice from the Ombudsman's medical adviser on this particular aspect of the complaint and he commented that, 'The Consultant could not have predicted this (that it was an SCC) or been 100% certain of the diagnosis on inspection alone. The Consultant acted entirely appropriately to advise further surgery in order to be sure of completing the correct treatment for an SCC'. (See paragraphs 14 and 15 below).

(a) Conclusion

8. While Mr C said that he was unaware that a biopsy was carried out, the Board and the Ombudsman's medical adviser have confirmed that this was the usual procedure. Mr C appears not to have understood this (despite the information on his consent form, see paragraph 5) and, in the circumstances, more information should perhaps have been given to him at the outset, before any treatment was undertaken. However, the treatment Mr C required needed to be carried out with some urgency and I am satisfied that what was involved was no more invasive than the removal of the lesions themselves. Mr C does not appear to have understood that a biopsy was to be carried out but, I do not

consider that he can claim any injustice from this. On balance, I do not uphold his complaint but, nevertheless, the Ombudsman recommends that efforts are made to ensure that patients are fully aware of, and understand, the nature of any procedures being carried out.

(a) Recommendation

9. In the circumstances, the Ombudsman recommends that in addition to discussing with the patient any surgical procedure, its possible outcomes and common complications, the Board should consider whether written information, reiterating information given, would enhance informed consent for the patient.

(b) Mr C was told that a BCC was being removed from his lip whereas his notes refer to it being an SCC

10. Mr C said that he was under the impression that a BCC was being removed from his lip and he said that this was what the Consultant's letter of 1 June 2005 to his GP showed when he obtained sight of his records. However, he said that the contemporaneous notes of his examination dated 18 May 2005 indicated the presence of an SCC on his lower lip. A further letter from the Consultant to Mr C's GP written after his attendance at a clinic on 10 August 2005, indicated that it was an SCC on his lip and that, although there had been a procedure to remove it, it would require further surgery and that this had been arranged for 19 August 2005.

11. I have had sight of the note dated 18 May 2005 of Mr C's examination and a handwritten note records that an SCC was present on his lower lip. However, underneath the annotation 'SCC', BCC can be read. In my view this could be interpreted to read that the Consultant had made a mistake and corrected it or, that she had changed her mind. The Board's comments to me dated 5 December 2006 pointed out that the correspondence between the Consultant and GP (see paragraph 10) indicated that Mr C had a suspected BCC on his lip. I have had sight of the letter and can confirm that this was the case. Therefore, it seems to be that, at this point, no definitive view had been taken and the Board confirmed that it would have been impossible to be definitive about the nature of the carcinoma until after a histological examination. This took place after the procedure in July 2005 (see paragraph 5). The advice I have received concurs with this (see paragraph 7).

(b) Conclusion

12. Mr C suspects that in the beginning his condition was misdiagnosed but it was explained to him (on 14 October 2005), after he made his complaint to the Board, that his first consultation on 18 April 2005 provided a clinical opinion based on a visual inspection alone. At that point Mr C's lesion was determined to be malignant requiring early attention (paragraph 5). Thereafter, when the first surgical procedure took place on 8 July 2005, it was entirely appropriate, and in accordance with normal procedures, to obtain an histological examination of the lesion. It was then that the lesion on Mr C's lip was confirmed to be an SCC. Mr C believes that he was misled but, from the information available to me above (paragraph 7), I do not agree. I do not uphold this aspect of the complaint.

(c) The procedure to Mr C's lip was undertaken without proper investigation, which involved increased risk

13. Mr C believed that operating to remove the lesion from his lip without what he considered to be proper investigation was incompetent and involved unnecessary risk. He considered that a more careful initial assessment would have avoided the need for a second surgical procedure.

14. In their response to me of 5 December 2006, the Board said that the procedure undertaken to Mr C's lip in July 2005 was to allow the Consultant to understand the nature of the lesion and, in their opinion, was part of the ongoing investigation of his condition. From the correspondence available (paragraph 3), I am aware that on 14 October 2005 Mr C was advised that the histological report undertaken after the procedure in July 2005 indicated that while the lesion near his ear had been completely excised, that on his lower lip indicated that 'a residual tumour was still present at one of the excision margins'. The Consultant, therefore, requested that Mr C return 'for wide local excision and reconstruction' of his lower lip. This procedure was duly performed on 19 August 2005 and the histological report then carried out confirmed that there was no residual tumour identified in any of the sections that they examined.

(c) Conclusion

15. Mr C believed that the procedures carried out to his lip were unnecessary and that if proper investigation had been done in the first place there would have been no need for a second operation. However, the advice I have received is that Mr C's treatment was appropriate and, therefore, I cannot

agree. I am unclear what further investigation Mr C believed should have been carried out initially, but, I cannot see how the Consultant could have known by visual inspection alone whether or not a lesion had been fully excised. Thereafter, the histological examination could only take place once the procedure had been carried out. It was only then that it could be confirmed whether or not there was any residual tumour or whether the lesion had been fully excised. In these circumstances, I do not uphold the complaint.

(d) There was belated acknowledgement that the words lip and lid had been transposed, and an insincere apology was offered

16. Mr C said that on 8 July 2005 during conversation while walking with a nurse from the day ward to theatre, he discovered that his notes recorded that he had a lesion on the right lower lid. He said he immediately brought this error to the nurse's attention. Thereafter, he said, sight of his medical records in November 2005 confirmed that incorrect information had been recorded and that the lesion was on his right lower lid (rather than lip).

17. From Mr C's clinical records I am aware that after seeing Mr C on 18 May 2005 the Consultant wrote to his GP saying amongst other things, 'The lesion is a suspect basal cell carcinoma, one on the lower lid (sic) and the other one on his left ear.' However, Mr C said that it was not until 5 April 2006 in a letter to him that the Board acknowledged that there had been an incorrect recording of the location of one of his facial lesions, that is 'lower lid' instead of 'lower lip'. The same letter also acknowledged that human error is 'an ever present possibility' as were the potential serious consequences of such an error. It rehearsed the processes undertaken to ensure that a typographical error was not carried forward to surgery.

18. In the meantime, a meeting took place between Mr C and Patient Liaison Managers and the Service Manager, Burns and Plastics on 29 March 2006, and I have been advised during my enquiries (see paragraph 3) that it was at this meeting that Mr C received an apology for the incorrect recording of information in his records.

(d) Conclusion

19. Mr C said that it took the Board too long to acknowledge the problem (from when he raised it with them in November 2005 until 5 April 2006) and I agree. I consider that it would have been more appropriate to address this sooner and accordingly this is a failing on the part of the Board. I, therefore, uphold this

part of the complaint. Mr C also said that the apology he ultimately received (see paragraph 18) was insincere but, I have seen no evidence of this. The Board obviously considered that the matter was sufficiently important to merit a meeting with Mr C to discuss this, and other matters. On the whole, I partially uphold this complaint

(d) Recommendation

20. The Ombudsman recommends that when it has been determined that an apology is due, it is done so without delay. This did not happen in this case and she recommends that a further apology is made to Mr C to acknowledge their initial failure.

(e) Mr C had not been seen by a dermatologist or skin cancer specialist

21. Throughout his treatment Mr C complained that he had not been seen by a skin cancer specialist or a dermatologist and his medical records confirm this. However, I also noted from correspondence to Mr C dated 5 April 2006 that he was advised that his continuing treatment had been discussed with the Clinical Director for Plastic Surgery and he was satisfied that what was proposed met with normal guidelines. Then on 11 April 2006 a letter from the Consultant to Mr C's GP recorded that she was happy to continue with Mr C's follow-up, but that if it was preferred that a dermatologist did this to let her know. The Board advised in their response to my enquiries of 5 December 2006 that there was no subsequent contact from the GP requesting that Mr C be referred to a dermatologist.

(e) Conclusion

22. I am satisfied from the evidence available to me that Mr C's treatment was following usual procedures and that the opportunity existed for his case to be referred to a dermatologist, however, that Mr C's GP did not appear to consider this necessary. After carefully considering the matter I have seen no evidence of service failure and accordingly, I do not uphold the complaint.

(f) The Board failed to admit errors or variations to Mr C's medical notes

23. Mr C alleged that despite the errors he identified (the transposition of the words lip and lid (paragraphs 16 and 17) and his belief that an incorrect diagnosis was recorded), the Board have only admitted to the first of these. He said that they have persistently evaded any acknowledgement of other error.

(f) Conclusion

24. While it may be Mr C's belief that other errors existed, I do not agree for the reasons stated at paragraph 8 above. I do not uphold this complaint.

(g) The surgeon involved failed to communicate with Mr C properly

25. Mr C said that when he attended for his second operation on 19 August 2005 he tried to discuss the problems he said he had experienced after the first procedure on 8 July 2005. He said that meanwhile he had written to the Consultant on 1 August 2005 advising her that his wound had become infected, but, at his next appointment, she declined to discuss the letter beyond acknowledging that she had received it. Mr C said that he felt this was strange because the Consultant had spent some time explaining the differences between BCCs and SCCs.

(g) Conclusion

26. Mr C was of the opinion that the Consultant failed to consult with him properly because she did not want to discuss the terms of his letter to her (see paragraph 24) but, by his own admission (his letter of 30 January 2006 refers), his intention had been to advise the Consultant about a hospital acquired infection which he said were a major drain on NHS resources. The Consultant acknowledged receipt of his letter, which in the circumstances, I consider was all she was required to do, then, she began to discuss Mr C's particular circumstances and diagnosis. I do not take the view that the Consultant failed to communicate properly with Mr C and I do not uphold this part of the complaint.

(h) There were delays associated with Mr C's appointment times

27. Mr C's medical treatment has involved his attendance at the Hospital on numerous occasions, however, he complained that invariably he was not seen at the allotted time and on some occasions the delay had been up to 55 minutes. He complained that these delays have never been properly explained nor were apologies given.

(h) Conclusion

28. In their formal comments on the complaint (see paragraph 3), the Board maintained that delays have been acknowledged and that on many occasions they have endeavoured to offer Mr C explanations. I have had sight of the correspondence referred to (in particular to letters dated 26 August 2005, 18 January and 24 November 2006), and confirmed that this is the case.

Apologies were offered. While I accept that such delays are irritating and at times inconvenient, they are often unavoidable. This has been explained to Mr C and, therefore, I do not uphold this aspect of the complaint. However, in dealing with this aspect of his complaint, the Board undertook to discuss ways to improve the information given to patients with regard to the waiting time situation and, it would be helpful to learn what, if any, changes have been implemented since.

(i) There were delays in responding to Mr C's complaint

(i) Conclusion

29. I have had sight of all the correspondence between Mr C and the Board (paragraph 3) and on occasion, when replying to Mr C, the Board have missed the deadlines set out in their stated complaints procedure. While Mr C is aggrieved at this, I am satisfied that when targets have slipped an explanation was given and appropriate apology was made. Mr C felt that he was given inadequate or poor replies to his concerns but I do not agree; he was further advised how to continue to advance his complaint in the event that he remained unhappy. He was also told the reasons why there may be a gap between letters being dictated, typed and posted and the Board advised me (in their letter of 5 December 2006) that they appreciate that such delays occur but that this is partly to due to the different locations of staff involved (patient liaison staff are not on the same sites as clinical directors) and also the availability of staff to sign the correspondence concerned). While I accept the Board's explanation and do not uphold the complaint, the Ombudsman nevertheless asks that the Board look at these circumstances to ascertain whether the timescales can be reduced.

(i) Recommendation

30. The Ombudsman recommends that the Board look to reducing the timescales between the dates of dictation, typing and issue of correspondence.

20 June 2007

Annex 1

Explanation of abbreviations used

Mr C	The complainant
The Board	Greater Glasgow and Clyde NHS Board
The Hospital	Glasgow Royal Infirmary
The Consultant	The Consultant at Glasgow Royal Infirmary
BCC	Basal cell carcinoma
SCC	Squamous cell carcinoma