Scottish Parliament Region: Glasgow

Case 200602205: Greater Glasgow and Clyde NHS Board

Summary of Investigation

Category

Health: Hospital; clinical treatment, Ear, Nose and Throat; complaint handling

Overview

The complainant, Mr C, complained about the lack of clinical follow-up for his ear, nose and throat complaint and that a Consultant Surgeon (the Consultant) did not refer him for a further clinical opinion. He also complained that Greater Glasgow and Clyde NHS Board (the Board) took over three months to respond to his formal complaint.

Specific complaints and conclusions

The complaints which have been investigated are that:

(a) no action was taken for seven months to identify the cause of the symptoms of Mr C's condition (*not upheld*);

(b) the Consultant did not refer Mr C to another specialist for an opinion (*upheld*); and

(c) the NHS took over three months to respond to the complaint (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Board:

(i) remind the Consultant of the importance of clear communication with patients, to assist their understanding of any potential diagnosis or otherwise, when symptoms are still present;

(ii) ensure that staff clearly record the outcome of a clinical decision regarding a second opinion; and

(iii) review their internal procedure for investigating and resolving complaints and consider ways to improve their response times to complaints.

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

Main Investigation Report

Introduction

1. Mr C complained to Greater Glasgow and Clyde NHS Board (the Board) on 23 May 2006 about the lack of clinical follow-up from a Consultant Surgeon (the Consultant). Mr C had been suffering with an ear, nose and throat condition for a number of months with little symptomatic relief. Mr C was unhappy about the lack of further investigation and complained to the Board as his symptoms were still present; he said the Consultant had not arranged a second opinion as requested. He also complained that the Board took too long to respond to his complaint and, thereafter, Mr C was unhappy with the response he received. He brought his complaint to the Ombudsman on 7 November 2006.

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

(a) no action was taken for seven months to identify the cause of the symptoms of Mr C's condition;

(b) the Consultant did not refer Mr C to another specialist for an opinion; and

(c) the NHS took over three months to respond to the complaint.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including the correspondence between Mr C and the Board. I have had sight of Mr C's medical records and the complaint file. I also obtained from Mr C a copy of a private consultation to assist my understanding of the presentation for his clinical condition. As part of the investigation I sought advice from an external professional adviser to the Ombudsman (the Adviser).

4. I have not included in this report every detail investigated but 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) No action was taken for seven months to identify the cause of the symptoms of Mr C's condition

5. Mr C complained that, between September 2005 and April 2006, no action was taken to identify the cause of his symptoms by the Consultant after it was confirmed that he did not have a diagnosis of cancer. During clinical investigations undertaken in August 2005, a number of examinations were undertaken as it was Mr C's understanding that the Consultant was looking for

evidence of a tumour. That was eliminated from the clinical picture later that same month.

6. As part of the investigations into his symptoms, Mr C had a consultation under private arrangements undertaken on 13 November 2005. Mr C also registered with a different General Practitioner.

7. The medical records show that Mr C was seen by the Consultant during three admissions, between August 2005 and February 2006, and at a number of out-patient clinic appointments. The Consultant had an initial clinical suspicion of nasopharyngeal cancer. During this time Mr C had CT scans carried out in August 2005 and, additionally, biopsies in August and September 2005, which indicated no evidence of malignancy. An Anti Neutrophil Cytoplasmic Antibodies (ANCA) test, a blood test used to determine the presence of Wegener's Gramulomatosis, (an inflammatory condition affecting the walls of blood vessels), was carried out on 26 August 2005 and found to be negative. Further to this, an MRI scan was carried out on 10 November 2005. A number of blood tests were also carried out over this period with a view to identifying the cause of Mr C's ongoing symptoms.

8. Mr C was seen again in February 2006 to have a grommet inserted by the Consultant. After Mr C saw the Consultant again in April 2006, he considered alternative arrangements for his clinical care with his new GP; which led to a diagnosis of Wegener's Granulomatosis following a positive blood test taken on 25 April 2006, and treatment commenced with his new GP (see paragraph 6).

9. The advice I have received from the Adviser indicates that, whilst Mr C was not provided with a formal diagnosis until April 2006, there was evidence in the medical record of the Consultant attempting to manage Mr C's symptoms. Between September 2005 and April 2006, while no further ANCA tests were undertaken, other tests were undertaken (see paragraph 7). The Adviser has told me that a diagnosis of Wegener's Granulomatosis is very difficult to make, as it is rarely seen in the general population. He has indicated that it may not be immediately apparent.

10. The Adviser highlighted that the Consultant undertook a number of tests to try to establish what was causing the symptoms experienced by Mr C as part of his enquiries into Mr C's clinical presentation and this indicated that a range of options were being considered. It was noted by the Adviser that the ANCA test

was ‘strongly positive’ from the test taken on 25 April 2006 (see paragraph 8) but negative again on 10 May 2006. He said this gave an indication of the fluctuation in the presentation of the condition. However, the Adviser’s view is that the disease activity fluctuates, adding to the difficulty in confirming the condition. He commented that it would have been difficult to identify how a diagnosis could have been made earlier, as there was no definitive ANCA test result. Mr C saw the Consultant again in April 2006, following which Mr C decided to make other arrangements to have his symptoms investigated.

(a) Conclusion

11. Mr C did not have further ANCA tests to determine the presence of Wegener’s Granulomatosis between September 2005 and April 2006. Nevertheless, I am mindful of the lack of a positive test in August 2005 to confirm a diagnosis for Wegener’s Granulomatosis. The Adviser told me that it would not have been his expectation for the test to be carried out again at that point, as a test was taken yielding a negative result and the condition did not reveal itself until April 2006. The Adviser pointed out that this is a fluctuating condition and he has said that further tests may not have yielded a positive result. While no further ANCA tests were carried out for what is known to be fluctuating condition (see paragraph 10), other investigations were (see paragraphs 7 and 9) and, accordingly, I have not upheld this aspect of the complaint. However, I have noted that Mr C was unclear about the action that was being taken over this period. Therefore, the Ombudsman has the following recommendation.

(a) Recommendation

12. The Ombudsman recommends the Board remind the Consultant of the importance of clear communication with patients, to assist their understanding of any potential diagnosis or otherwise, when symptoms are still present.

(b) The Consultant did not refer Mr C to another specialist for an opinion

13. Mr C complained that he had asked for a second opinion on two occasions, which had not been arranged for him. His letter of 20 October 2005 indicated to the Consultant that he was keen to discuss an option of a second opinion. Mr C wrote again on 17 March 2006 and asked about a second opinion, which was not arranged. In his original complaint letter dated 23 May 2006 to the Board, Mr C highlighted to the Chief Executive that when he saw the Consultant on 24 April 2006 he was very ill but still asked about a second opinion.

14. The medical records confirmed that Mr C asked the Consultant for a second opinion on two occasions. On 20 October 2005 the Consultant wrote to Mr C's GP indicating that he thought Mr C was improved and outlining options for further treatment if required, which subsequently was as a day patient in February 2006 for the insertion of a grommet. In that letter there was no mention of a second opinion. He was seen again by the Consultant in April 2006. Mr C ended the clinical contact, preferring to have matters pursued through his new GP. The Consultant wrote to Mr C's GP on 19 May 2006 indicating that a general medical opinion had been offered during the clinic appointment on 24 April 2006 but he understood Mr C would prefer the referral to come from the GP.

(b) Conclusion

15. Given the discussions and correspondence which passed between the Consultant and Mr C, I accept that he did ask for a second opinion on two occasions. This was not pursued by the Consultant on the first occasion as he considered Mr C was improving and he was going to see Mr C again at his clinic in Mid-Argyll Hospital, Lochgilphead. On the second occasion, Mr C opted to pursue this with his own GP. Nevertheless, these matters should have been clarified between the Consultant and Mr C to ensure both parties clearly understood the position of the option of a second opinion. The matter of the second opinion was not progressed and, therefore, I uphold this aspect of the complaint.

(b) Recommendation

16. The Ombudsman recommends that the Board ensure that staff clearly record the outcome of a clinical decision regarding a second opinion.

(c) The NHS took over three months to respond to the complaint

17. Mr C raised his complaint on 23 May 2006 and the final response was made by the Board on 13 October 2006. Clarity was sought by the Board from Mr C to check that he wanted the matter handled in line with the NHS Complaints Procedure. Mr C confirmed that was the case in a telephone call he made on 31 May 2006. This was confirmed by the Board in a letter dated 5 June 2006 acknowledging Mr C's complaint.

18. The NHS complaints procedure guidance recommends that Health Board complaints should be acknowledged within three working days and responded

to within 20 working days. In cases where the Health Board is unable to meet this timescale, the Board must let the complainant know and explain the reason for the delay, with an indication of when the response is to be expected. The investigation should not normally be extended by a beyond a further 20 days. If it is necessary to extend it beyond 40 working days, the complainant should be given a full explanation of the progress of the investigation and an indication of when the final response can be expected. The letter should also indicate that the Ombudsman may be willing to review the case at this stage.

19. On 13 and 14 June 2006, Mr C wrote to the Board and also to a second Health Board and asked for his complaint issues to be handled jointly between those Boards. (Mr C wrote to two separate Health Board areas as his GP, at the time, was in one Health Board area and the treatment he was undergoing was carried out in another Health Board area.) I have seen the correspondence and understand that Mr C considered his complaints with both Health Boards were linked. On 22 June 2006 he was sent a holding letter from the Board, explaining there had been a delay in the handling of his complaint. On 18 July 2006 Mr C wrote to the Board, asking for an update regarding the handling of his complaint. On 26 July 2006, he received a response from the Board about his complaint but no indication of any joint resolution with the second Health Board. Mr C was unhappy with the response, which I have seen and I do agree it was not a full response. He, therefore, wrote to the Board again on 11 August 2006. He was told by the Board that a review of his case would take place. This culminated in a final response to Mr C dated 13 October 2006, with information to refer matters to the Ombudsman if he remained unhappy with the resolution of his complaint. There is no indication of a joint final response from the Boards regarding Mr C's complaints but I have not investigated this matter and will make no further comment.

20. In total, the response was made 20 weeks after Mr C initially complained. Mr C was provided with a letter regarding the delay in responding to his complaint and an apology on 22 June 2006. A response to his complaint was sent on 26 July 2006 but he remained unhappy and sought a further response as part of local resolution, in line with the NHS complaints procedure. The Board sent a further apology letter regarding the delay in providing a further response to his complaint dated 18 September 2006 and provided a final response on 13 October 2006.

(c) Conclusion

21. Mr C was advised that there were delays in the investigation of his complaint. He was advised of the delays and apologies were offered in two letters (see paragraph 20). An initial response was provided on 26 July 2006, four weeks longer than the NHS complaints procedure guidance recommends. It did not deal fully with Mr C's complaint and the full response provided by the Board, took longer than three months. Over this period there was little explanation for the delays (see paragraphs 18 and 20), as recommended by the guidance, and Mr C did not receive an indication of when to expect a response after the Board were unable to meet the initial 20 day time scale. In all the circumstances, I uphold this aspect of the complaint.

(c) Recommendation

22. The Ombudsman recommends that the Board review their internal procedure for investigating and resolving complaints and consider ways to improve their response times to complaints.

23. The Board have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the board notify her when the recommendations have been implemented.

Annex 1

Explanation of abbreviations used

Mr C	The complainant
The Board	Greater Glasgow and Clyde NHS Board
The Consultant	Consultant Surgeon, ear, nose and throat
The Adviser	Health Adviser to the Ombudsman
ANCA test	Anti Neutrophil Cytoplasmic Antibodies test

Annex 2

Glossary of terms

Biopsy	Obtaining a tissue specimen for microscopic analysis, to establish a precise diagnosis
CT scan	Computed tomography: a special radiographic technique which uses a computer to assimilate multiple x-ray images into a two dimensional cross-sectional image
Malignancy	a cancer
MRI scan	Magnetic Resonance Imaging: a special imaging technique used to image internal structures of the body
Nasopharyngeal cancer	A cancer in the back of the nose
Wegener's Granulomatosis	A form of vasculitis (a group of diseases featuring inflammation of the wall of blood vessels), which affects the lungs, kidneys and other organs

Annex 3

List of legislation and policies considered

Can I help? The NHS Complaints Procedure Issued April 2005