

Scottish Parliament Region: Highlands and Islands

Case 201005321: A Dentist, Highland NHS Board

Summary of Investigation

Category

Health: FHS Dental removal from patient list

Overview

The complainant (Mrs C) raised a number of concerns that following a telephone discussion with the practice receptionist (the Receptionist), she and her husband (Mr C), her son (Mr A) and daughter (Miss D) were de-registered from the dentist's (Dentist 1's) list of patients.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) Dentist 1 unreasonably de-registered Mrs C, Mr C, Mr A and Miss D without explanation (*upheld*);
- (b) Dentist 1 inappropriately said that she did not require to provide any explanation (*not upheld*); and
- (c) Mr A's appointments on 23 March 2011 and 20 April 2011 which fell within the period Dentist 1 remained liable to provide treatment (until 8 June 2011) were unjustifiably cancelled (*upheld*).

Redress and recommendation

The Ombudsman recommends that Dentist 1:

Completion date

- (i) Dentist 1 apologise to Mr A for cancelling his appointment on 23 March 2011 without establishing its purpose.

13 January 2012

Dentist 1 has accepted the recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. The complainant (Mrs C) raised a number of concerns that following a telephone discussion with the practice receptionist (the Receptionist), she and her husband (Mr C), her son (Mr A) and daughter (Miss D) were de-registered from the dentist (Dentist 1)'s list of patients. Mrs C complained to the Dental Practice (the Practice) and remained dissatisfied with their response and complained to my office.

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

- (a) Dentist 1 unreasonably de-registered Mrs C, Mr C, Mr A and Miss D without explanation;
- (b) Dentist 1 inappropriately said that she did not require to provide any explanation; and
- (c) Mr A's appointments on 23 March 2011 and 20 April 2011 which fell within the period Dentist 1 remained liable to provide treatment (until 8 June 2011) were unjustifiably cancelled.

Investigation

3. In order to investigate this complaint my complaints reviewer reviewed all of the correspondence between Mrs C and the Practice as well as documentation relating to the Practice's investigation of the complaint. A written enquiry was made of the Practice.

4. 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 were given an opportunity to comment on a draft of this report.

Background

5. On 28 February 2011, the Receptionist telephoned Miss D to explain that Dentist 1 was absent due to illness and to make arrangements for a re-arranged appointment. Mrs C then came on the telephone and spoke to the Receptionist as she was not happy that her daughter's appointment had been cancelled. Miss D attended the Practice later that day and was seen by another dentist. On 8 March 2011, Highland NHS Board (the Board) wrote to Mrs C, Mr C, Mr A and Miss D and explained to them that Dentist 1 had informed the Board that she wished to stop providing NHS dental treatment to them all. Dentist 1 would no longer be responsible for the provision of NHS dental treatment from

8 June 2011. Mrs C telephoned the Practice to ask for an explanation as to why the whole family were de-registered and was told that Dentist 1 did not have to provide an explanation.

(a) Dentist 1 unreasonably de-registered Mrs C, Mr C, Mr A and Miss D without explanation; (b) Dentist 1 inappropriately said that she did not require to provide any explanation; (c) Mr A's appointments on 23 March 2011 and 20 April 2011 which fell within the period Dentist 1 remained liable to provide treatment (until 8 June 2011) were unjustifiably cancelled

6. Mrs C complained to the Practice on 18 March 2011 that she found it unacceptable that the Practice did not have to provide an explanation as to why they de-registered the whole family. Mrs C could recall two previous telephone calls to the Practice. The first was when she received a telephone call cancelling an emergency appointment for Mr A and after she explained the circumstances he was given an appointment with another dentist at the Practice. The other telephone call she recalled was on 28 February 2011 when the Practice telephoned to cancel Miss D's appointment because Dentist 1 was off sick. Mrs C explained to the Receptionist that this was unacceptable as Miss D had toothache and had arranged time off work and arrangements were made for her to see another dentist that day. Mrs C agreed that she was not happy about the cancellations but denied that she was rude etc. Mrs C said that if this was the only reason the whole family were de-registered then this was unacceptable and she failed to see why another dentist at the Practice could not treat the family.

7. On 21 March 2011 the Practice Owner (Dentist 2) wrote to Mrs C. He said that Dentist 1 was correct to de-register Mrs C as the Practice policy was to take action whenever patients were unpleasant to either the dentists or staff. He said it was unfortunate that members of the family had been booked in when Dentist 1 was absent due to a small number of days illness over the last few months. The Practice endeavour to provide appointments with alternative dentists the same day if available. Dentist 2 gave information about alternative dental practices who were NHS based practices although they too tended to de-register patients who were unpleasant to staff.

8. On 28 March 2011, Mrs C complained to my office. She said that she was not rude or aggressive to staff and that it was unacceptable that the whole family was de-registered and that the Practice had effectively blacklisted them.

She added that during the three month notice period the Practice cancelled all routine check ups and also an appointment for Mr A for 23 March 2011 which was part of the ongoing dental treatment which he was receiving.

9. In response to enquiries made by my office, Dentist 2 said that when a dentist is off ill the Practice endeavour to accommodate as many of their patients as possible that day and they are offered any emergency appointments which are available during the day. The Practice operates a zero tolerance to those who are rude or abusive to the dentists or staff and it was felt that Mrs C had been rude, forceful and extremely unpleasant to the Receptionist. [Note: the Practice policy states 'We will not tolerate any abusive behaviour towards our staff'.] Dentist 2 explained that the decision was influenced by the effect of Mrs C's telephone conversation on the Receptionist. As Mrs C was deemed to be unpleasant on behalf of her family, Dentist 2 felt that it was better if the whole family moved to a different practice so that she would not be unpleasant to the staff again either herself or on behalf of other family members.

10. Dentist 2 also explained that he had checked the Practice records and there was no evidence that there was any outstanding treatment. The Practice were obliged to carry out emergency treatment only during the three month notice period and that any routine check ups were cancelled. There was note that Mr A had a 20 minute appointment for treatment but there was nothing recorded in his treatment plan but this could have meant that he had made an appointment having become aware of symptoms.

Regulations

11. The National Health Service (General Dental Services) (Scotland) Regulations 2010 sets out that a dentist who wishes to terminate a continuing care arrangement shall give the patient not less than three months notice in writing of the termination of the arrangement. It also mentions that where a dentist gives such notice he/she shall complete any care and treatment which it has been agreed the patient will receive before the termination date and any further treatment that may be necessary to secure and maintain the oral health of the patient. In cases where the dentist wishes to terminate a continuing care arrangement with less than three months notice they should apply to the Health Board in writing for consent to terminate the arrangement and set out the reasons for the termination.

(a) Conclusion

12. The matter under consideration is whether it was unreasonable for Dentist 1 to have de-registered Mrs C and her family without explanation. There is nothing in the regulations (other than in cases where less than three month notice is requested) which requires a dentist to explain the reasons why a patient has been de-registered and both the patient and a dentist are entitled to end a continuing care arrangement should they deem it appropriate. However, the fundamental question is whether the actions of Dentist 1 were reasonable. I acknowledge that the Practice has a policy that they will not tolerate abusive behaviour towards their staff and this is common throughout the National Health Service. However, the policy does not explain what action will be taken when such behaviour is deemed to be abusive. It does not explain whether the person will be spoken to or given advice that their behaviour has given cause for concern and that should it continue then the patient's registration would be at risk. The policy also does not explain that other members of the patient's family would also be at risk of being de-registered from the Practice.

13. The conversation between Mrs C and the Receptionist was interpreted in two ways. It is clear that Mrs C denies that she was abusive to the Receptionist although she was unhappy that her daughter's appointment was to be cancelled. It is equally clear that the Receptionist was distressed as a result of the conversation with Mrs C and that following it the decision was taken that Mrs C had been abusive to the Receptionist. It is subjective as to what constitutes abusive behaviour and I make no further comment in this regard.

14. This investigation has also highlighted an unfairness in cases where dentists decide to de-register patients from their list of patients. There is no right of appeal in such cases and the patient has no alternative but to register with another dentist which could take some time and might not be as convenient. I also recognise that members of Mrs C's family were de-registered from the Practice although they had done nothing wrong.

15. In this case, I believe that it was unreasonable for Mrs C and her family to have been de-registered from Dentist 1's list and I uphold the complaint.

(b) Conclusion

16. Mrs C has complained that Dentist 1 inappropriately said that she did not have to provide any explanation for the de-registration of the family. While the

guidance is silent on this issue, it also does not say that a dentist cannot give an explanation and, therefore, it would be for individual dentists to decide what was appropriate. In general, I deem it to be good practice to provide an explanation to patients who have been de-registered so they are aware of the reasons why this has taken place. However, technically Dentist 1 was correct and therefore I do not uphold this complaint.

(c) Conclusion

17. Dentist 1 advised the Health Board on 8 March 2011 that she wished to terminate the continuing care arrangement with Mrs C and her family, from 8 June 2011. During that period she was still under an obligation to complete any treatment which was outstanding. I am satisfied that the appointment which was planned for Mr A on 23 March 2011 was for treatment other than a routine check up and as such Dentist 1 should have honoured it or at least have investigated the reason for the appointment. I uphold this complaint.

(c) Recommendation

18. I recommend that Dentist 1:	<i>Completion date</i>
(i) Dentist 1 apologise to Mr A for cancelling his appointment on 23 March 2011 without establishing its purpose.	13 January 2012

19. Dentist 1 has accepted the recommendation and will act on it accordingly. The Ombudsman asks that Dentist 1 notify him when the recommendation has been implemented.

Ombudsman's Commentary

20. My predecessor published a report (200503335) in which she highlighted that there was little guidance for dentists who are faced with the possibility of removing a patient(s) from their list. She mentioned that for many years, general medical practitioners (GPs) in a similar position have been able to refer to detailed guidance from organisations such as the British Medical Association and the Royal College of General Physicians. GP contracts now reinforce this guidance by including specific requirements about the removal of patients from GP lists. The matter was raised with the then Scottish Executive Health Department and they agreed to consider the matter further. My complaints reviewer has made enquiries with NHSScotland and was informed that new regulations came into force on 1 April 2010 to provide for lifetime registration with a dentist under NHS arrangements. It was hoped that as a result of the

change there would be less of a problem with patients being de-registered. However, if there were ongoing complaints then they would be interested to find out the nature of the complaints and would consider whether there was anything they could do to assist. I consider that in terms of natural justice it would be helpful for dentists to have more guidance in respect of removals from dental lists. I will share this report with the Chief Dental Officer for Scotland and ask her to consider whether action can be taken to address this anomaly. I also intend to write to the Cabinet Secretary for Health and Wellbeing and the General Dental Council to highlight my concerns in this regard.

Explanation of abbreviations used

Mrs C	The complainant
The Receptionist	Dental receptionist who spoke to Mrs C on the telephone on 28 February 2011
Mr C	Mrs C's husband
Mr A	Mrs C's son
Miss D	Mrs C's daughter
Dentist 1	The family dentist
The Practice	The family dental practice
The Board	Highland NHS Board
Dentist 2	Dental Practice Owner