Northern Ireland
Public Services
Ombudsman

Investigation Report

Investigation of a complaint against the Belfast Health and Social Care Trust

NIPSO Reference: 18957

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The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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Appendix 1 – The Principles of Good Administration

SUMMARY

I received a complaint about the actions of the Belfast Health and Social Care Trust (the Trust). The complainant was a patient at the Emergency Department (ED) of the Royal Victoria Hospital (RVH) on 24 April 2018 following a referral from his GP Practice. He had complained to his GP earlier that day about experiencing severe pain in his right groin the day before. The GP recorded that he had a soft tender right inguinal hernia which the GP suspected was strangulating.[1]

The patient was examined in the ED and informed by the consultant that there was no indication for emergency surgery. He was discharged with advice to his GP to make an outpatient surgical referral. He complained that he ought to have had a scan and been assessed for surgery that day. He complained about the attitude of the consultant and that he was discharged without any pain relief.

I accepted the following issue of complaint for investigation:

- **Whether the care and treatment provided to the patient at the Emergency Department of the Royal Victoria Hospital on 24 April 2018 was appropriate and reasonable?**

I did not find failings in relation to:

i. The examination, diagnosis and advice provided to the patient in the ED
ii. The decision not to admit him for surgery

I found a failing in relation to the provision of pain relief in the ED which caused the patient the injustice of pain which could have been alleviated.

I therefore partially upheld the patient's complaint about his care and treatment in the RVH. I recommended that the Trust apologies for this injustice.

The Trust has accepted my findings and recommendations.

[1] Preventing circulation of the blood supply through constriction.

COMPLAINT

1. The patient attended the Emergency Department (ED) of the Royal Victoria Hospital (RVH) on 24 April 2018 following a referral from his GP Practice. He had complained to his GP earlier that day about experiencing severe pain in his right groin the day before. The GP recorded that he had a soft tender right inguinal hernia which the GP suspected was strangulating.

2. He was examined in the ED and informed by the consultant that there was no indication for emergency surgery. He was discharged with advice to his GP to make an outpatient surgical referral. He complained that he ought to have had a scan and been assessed for surgery that day. He complained about the attitude of the consultant and that he was discharged without any pain relief.

3. The issue of complaint which I accepted for investigation was:

Whether the care and treatment provided at the Emergency Department of the Royal Victoria Hospital on 24 April 2018 was appropriate and reasonable?

INVESTIGATION METHODOLOGY

4. The patient complained to the Trust on 27 April 2018. The Trust wrote back on 29 May 2018 in response to his complaint. He remained dissatisfied with the Trust's response and complained to this Office.

5. His complaint was received by this office on 19 June 2018. The Trust wrote to the investigating Officer on 2 August 2018 in response to enquiries at the time the complaint was being assessed for investigation. Following assessment, the complaint was accepted for investigation on 23 August 2018.

6. In order to investigate the complaint, the Investigating Officer obtained from the Trust all relevant documentation together with the Trust's comments on the issues raised. This documentation included information relating to the Trust's handling of the complaint.

7. After further consideration of the issues, the Investigating Officer obtained advice from an independent professional advisor (IPA).

8. The information and advice which have informed my findings and conclusions are included within the body of my report. The IPA has provided me with 'advice'; however how I have weighed this advice, within the context of this particular complaint, is a matter for my discretion.

Relevant Standards

9. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case.

The general standards are the Ombudsman's Principles[2]:

- The Principles of Good Administration
- The Principles of Good Complaints Handling
- The Principles for Remedy

10. The specific standards are those which applied at the time the events occurred and which governed the exercise of the administrative functions and professional judgement of the staff whose actions are the subject of this complaint.

The specific standard relevant to this complaint is:

- General Medical Council (GMC) Good Medical Practice Guidance 2013 (the GMC Guidance)

[2] These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

11. I have not included all of the information obtained in the course of the investigation in this report but I am satisfied that everything that I consider to be relevant and important has been taken into account in reaching my findings.

12. A copy of this draft was shared with the Trust and the patient for comment on factual accuracy and the reasonableness of my findings and recommendations. The Trust agreed with the contents of the draft report and accepted my findings and recommendation. The complainant did not agree with the contents of the report and the IPA advice received. His comments are reflected in this report.

INVESTIGATION

Whether the care and treatment provided at the Emergency Department of the Royal Victoria Hospital on 24 April 2018 was appropriate and reasonable?

Detail of Complaint

13. It is recorded that the patient arrived at the ED at 12:42 hours. He was triaged by a nurse at 13:18 and baseline observations were recorded as normal. He was examined by a doctor and a consultant around 16:30 hours. Following examination and tests, he was informed that there was no indication for emergency surgery. He was discharged at 16:37 hours with advice to his GP to make an outpatient surgical referral. He complained that he ought to have been scanned and assessed for surgery that day.

14. The patient reported that his GP subsequently made a red flag referral for an ultrasound scan (at another hospital in a different Trust area). When he made enquiries about this a week later he was informed that the referral had been triaged as non-urgent with a waiting time of four months. He was referred privately and had his hernia repaired on 17 May 2018. The actions of the patient's GP and the other Trust do not form part of this investigation.

Evidence considered

15. In deciding whether care and treatment is appropriate and reasonable, I consider the applicable clinical standards and guidelines. I then assess whether the relevant care and treatment provided meets those standards. In this case I refer to the GMC Guidance which outlines the duties of a doctor.

16. The GMC Guidance states at paragraph 15:
'You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:

a. *adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
b. *promptly provide or arrange suitable advice, investigations or treatment where necessary*
c. *refer a patient to another practitioner when this serves the patient's needs.*

17. Paragraphs 19-21 of the GMC guidance state you must:
'Record your work clearly, accurately and legibly:

- *Documents you make (including clinical records) to formally record your work must be clear, accurate and legible. You should make records at the same time as the events you are recording or as soon as possible afterwards.*
- *You must keep records that contain personal information about patients, colleagues or others securely, and in line with any data protection law requirements.*
- *Clinical records should include:*

a. *Relevant clinical findings*
b. *The decisions made and actions agreed, and who is making the decisions and agreeing the actions*
c. *The information given to patients*
d. *Any drugs prescribed or other investigation or treatment*
e. *Who is making the record and when.'*

Clinical Records and Relevant Independent Professional Advice from the Independent Professional Advisor (IPA) (including the Trust's response to IPA)

18. The Trust provided the Investigating Officer with notes and records of the patient's attendance at the ED RVH on 24 April 2018. These were subsequently provided to the Consultant ED IPA (the ED IPA**)**

19. The ED IPA explained that the patient was triaged by a nurse at 13:18 hours. She recorded his baseline observations which were normal. These included heart rate, blood pressure, respiratory rate and temperature. His pain score was recorded as two out of ten, with ten being the worst pain. The IPA advised that he subsequently '*had baseline blood samples taken for full blood count Urea and electrolytes'.*

20. Later in the afternoon, the patient was assessed by a junior doctor (FY2) who recorded his medical history and carried out a physical examination. He noted tenderness in the right inguinal region. Blood tests were recorded as normal. The doctor confirmed that his notes were recorded at 16:30 hours.

21. The ED IPA advised that the junior doctor sought advice from the consultant who reviewed the patient and diagnosed a reducible right inguinal hernia. The consultant informed him that there was no indication for emergency surgery and he should be referred by his GP to surgical outpatients for review.

22. The Investigating Officer asked the ED IPA if the patient was appropriately assessed in the ED. He advised:
'Whilst in the emergency department [the patient] had his vital signs (heart rate, Blood pressure, temperature, respiratory rate and oxygen saturations) measured as part of the triage assessment. These were normal and do not raise concern or require any sort of escalation. In addition, there were Full blood count and Urea and Electrolyte blood samples taken. The results of these tests are recorded in the medical notes.'

23. The ED IPA was asked if any other tests or scans should have been ordered to confirm the diagnosis. He advised:
'From the records of the presenting complaint and the clinical assessment, [the patient] was suspected of having a hernia. This was identified on examination. I do not consider that any further tests were required to confirm the diagnosis of a right inguinal hernia… As the consultant had not got any clinical concern or suspicion that the hernia had become complicated (incarcerated or strangulated), I agree with the assessing team that no additional tests were required at that time and outpatient assessment was appropriate for ongoing management.'

24. The Investigating Officer asked the ED IPA if the patient should have been offered any medication. The ED IPA advised:
'When [the patient] registered at the Emergency department there is a discriminator recorded of 'moderate pain'. However, during triage assessment the pain score is recorded as 2 this would normally be considered mild pain. It is good practice to offer pain relief to patients in the emergency department. There is no record that this was done…I would consider it best practice to document if a patient declines pain relief when offered.'

25. The investigating Officer asked the ED IPA if there was evidence of good communication and practice as required by the GMC Guidance. He advised:

'*My Impression is that the medical team made efforts to inform the patient of the diagnosis and the appropriate course of management for his condition. This is in keeping with the standards expected by the GMC Good medical Practice guidance.'*

26. The Investigating Officer asked if the patient's discharge was timely and appropriate. He explained that he was seen three hours and 48 minutes after he was registered in the emergency department. He advised that the standard expected is for every patient to be assessed with 60 minutes of arrival by a '*decision maker*'. On receipt of the ED IPA advice, the Trust explained that '*in April 2018 there were 8068 attendances to the RVH ED, 57.7% of patients were seen, treated and discharged within 4 hours.'*

27. The ED IPA noted that the time of examination is noted on the record as 16.30 and discharge as 16.37. He advised *'Taken at face value these notes suggest that [the patient] had an initial clinical assessment, a consultant review and was discharged in a period of seven minutes. If this is true I consider the assessment would have been rushed and most likely inadequate, however, from the notes recorded I do not believe this to be the case and I expect [the doctor] completed his clinical assessment, sought advice from his consultant and only after that did he write his medical notes.'*
On enquiry the doctor stated that his notes were written at 16:30 hours.

28. The Investigating Officer asked the ED IPA if record keeping was adequate. He advised:

'I consider the detail recorded by [the doctor] to give adequate information on [the patient's] condition at that time. Examination findings and investigation results are recorded clearly, as is the advice given by the reviewing consultant. There is also clear advice for the general practitioner regarding follow -up care.'

29. The ED IPA also advised:
'Whilst [it] *should be considered best practice for [the consultant] to have recorded his own notes about his assessment of [the patient] and the discussion he had with him and his wife, it is not unreasonable for him to have asked [the doctor] to have documented the information discussed and advice given.'*

30. The ED IPA concluded:
'[The patient] was discharged back to the care of his general practitioner and later referred for elective repair as advised by the emergency department team. In view of the elective surgery waiting time [he] chose to have his hernia repaired privately.
I can find no evidence that [his] condition was compromised by not being admitted for emergency surgery on 24 April 2018. I consider the assessment and treatment provided by the Emergency department to be reasonable.'

31. The Investigating Officer asked the ED IPA if he could identify any learning or service improvements from this complaint. He advised:

'There are some aspects of the clinical documentation that could be improved. Most importantly this is documentation around pain relief or the offer of pain relief both during the initial assessment and management and at discharge.
Doctors should ensure they record times in medical notes appropriately - if the record requires the time the patient was seen, this must be recorded as it is generally different to the time the notes are actually written despite them being written contemporaneously.'

32. The ED IPA was unable to comment about staff attitude as the notes and records do not record a complaint about this.

Analysis and findings

33. The ED IPA has commented on apparent brevity of the consultation and questioned whether, as a result, it was rushed and inadequate. I note that prior to being seen by the doctor, the triage nurse had checked the patient's heart rate, blood pressure, respiratory rate, temperature and pain score. He subsequently had baseline blood samples taken for full blood count Urea and electrolytes. The patient was examined by the doctor who reported to the consultant. The consultant also examined him. I am satisfied that the care and treatment was provided in accordance with Paragraph 15 of the GMC Guidance which states:
'*You must provide a good standard of practice and care. If you assess, diagnose or treat patients, you must:*

a. *adequately assess the patient's conditions, taking account of their history (including the symptoms and psychological, spiritual, social and cultural factors), their views and values; where necessary, examine the patient*
b. *promptly provide or arrange suitable advice, investigations or treatment where necessary*
c. *refer a patient to another practitioner when this serves the patient's needs*

34. I note that the complainant was not seen by a doctor within one hour. He did not complain specifically about the wait to be seen by a doctor or the length of the consultation. I note the advice of the ED IPA about '*high work load and*

rapid pace of working' in an ED. As recorded above, the patient received appropriate tests and observation. He was examined by both a junior doctor and a consultant. There is no evidence that the wait to see a doctor or the length of the consultation compromised his care and treatment.

35. I consider that there were no indicators for immediate admission for surgery. I accept the advice of the ED IPA that his condition was not compromised by his not being admitted for an emergency hernia repair on 24 April 2018.

36. I believe that discharge was appropriate in light of the results of the investigations. I accept the ED IPA's advice that referral from his GP to see a surgeon in an outpatient clinic was the appropriate route for management of the patient's condition. I consider that this meets the GMC standard. He subsequently chose a private appointment rather than endure a lengthy wait for a referral and the risk of further bouts of pain and discomfort. I accept the advice of the ED IPA that *'The Emergency department is not a route to circumvent the normal elective referral pathways'.* I accept the advice of the ED IPA that the care and treatment provided to the patient in the ED department during this attendance on 24 April 2018, was, apart from the issue of pain relief, appropriate.

37. The patient complained that he was not offered pain relief. The ED IPA has identified the absence of '*documentation around pain relief or the offer of pain relief both during the initial assessment and management and at discharge'.* I accept the advice of the IPA that the patient ought to have been offered pain relief as his pain score was recorded as positive. I accept that he was not offered pain relief as this is not noted in the contemporaneous record which of a good standard in other respects. I uphold this failure in care and treatment.

38. The record of the admission to the ED does not address the patient's dissatisfaction with the consultant's attitude. I am therefore unable to make a finding in this regard. However, I note that the Trust wrote to the patient on 29 May 2018 stating '*[The consultant] would also acknowledge your*

disappointment that we did not meet your expectations and personally apologises that you are dissatisfied with the consultation.' I hope that this apology provides the patient with some reassurance.

The patient's response to the draft report

39. The patient responded to my draft report on 1 August 2019. He is dissatisfied that the IPA has not addressed his complaint about the consultant's 'manner and attitude' and that I have not been able to make a finding about his behaviour.

40. The patient questions the pain score of '2' that was recorded and states that he was never asked about his level of pain. He states that if he had been asked it would have been 'at least 4' increasing to 'at least 6' when an attempt was made to force the hernia back into place.

Trust response to draft report

41. The Trust agrees with the content of the draft report and accepts the findings. The Trust also accepts the recommendation that the Chief Executive apologises for the failing in relation to the provision of pain relief and the injustice of pain that could have been alleviated.

CONCLUSION

42. The patient submitted a complaint to me about the actions of the Trust.

43. I do not find failings in relation to:

i. The examination, diagnosis and advice provided to the patient in the ED
ii. The decision not to admit the patient for surgery

44. I find a failing in relation to the provision of pain relief in the ED which caused the patient the injustice of pain which could have been alleviated.

45. I therefore partially uphold the patient's complaint about his care and treatment in the RVH. I recommend that the Trust apologises for this injustice.

PAUL MCFADDEN **January 2020**
Deputy
Ombudsman

APPENDIX ONE

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.