

SPSO decision report



Case: 202207139, Lothian NHS Board - Acute Division
Sector: Health
Subject: Clinical treatment / diagnosis
Decision: upheld, recommendations

Summary

C complained about the ear, nose and throat surgery (ENT) that they received from the board. C was referred for surgery for biopsy of a nasal ulcer that would not heal, and for treatment of a nasal drip. C complained that the biopsy had not been taken as expected, which they were not aware of until making a complaint. C also complained that they had been left worse off due to a perforation being caused during the procedure. This has caused them to have an audible whistling sound when they breathe. C said that, while the risk of perforation had been mentioned at the outpatient appointment, they were led to believe it was not something they had to worry about. Furthermore, they were not told that if it happened, it wouldn't heal naturally, and surgery to fix it often fails.

The board explained that the biopsy had not been taken as the ulcer had healed by the time C attended for surgery. The board apologised for the perforation. They noted that the surgeon was not aware of one occurring before in their career but had since changed their practice to ensure it was discussed when obtaining consent.

We took independent advice from an ENT adviser. We found that C had not been reasonably consented for surgery at the outpatient clinic or on the day of surgery. We noted that the documentation did not support the reported discussions which took place about the surgery or the associated risks, or the implications should C have decided not to proceed with the procedure. We also found that the written information provided to C was unreasonable. The patient information leaflet did not provide information about the short and/or long-term implications of a perforation or that it may occur after the surgery has taken place. It did not note that it was unlikely to heal on its own, that surgery to correct it may not be an option or, if attempted, successful.

We considered that C had received reasonable post-operative care and follow-up from the board. It was reasonable to plan to see them back at 3 – 6 months, and for this to be expedited at the point of C reporting their concerns about the whistling noise that had developed. On balance, we upheld C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for the failures identified in relation to the consent process for surgery. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

What we said should change to put things right in future:

- Patients should be reasonably consented for surgery and this should be documented in the patient's medical record and on the consent form for the planned procedure.
- Patients undergoing septoplasty surgery should be given appropriate verbal and written information about the procedure. Risks and complications should be fully explained to allow patients to make an informed

decision.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.