

## Scottish Parliament Region: North East Scotland

### Case 200602579: Tayside NHS Board

#### Summary of Investigation

##### **Category**

Health: Hospital; Orthopaedics

##### **Overview**

The complainant (Mr C) raised concerns that Tayside NHS Board had refused to reimburse him for the costs of a private operation which he had arranged due to the time he would have had to wait for the operation to be funded by the NHS.

##### **Specific complaint and conclusion**

The complaint which has been investigated is that there was a delay by staff in placing Mr C's name on the waiting list for surgery (*not upheld*).

##### **Redress and recommendation**

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. On 20 November 2006 the Ombudsman received a complaint from Mr C who had raised concerns that Tayside NHS Board (the Board) had refused to reimburse him for the costs of a private operation which he had arranged due to the time he would have had to wait for the operation to be funded by the NHS. Mr C complained to the Board but was dissatisfied with their responses and subsequently he complained to the Ombudsman.

2. The complaint from Mr C which I have investigated is that there was a delay by staff in placing Mr C's name on the waiting list for surgery.

### **Investigation**

3. In writing this report I have had access to Mr C's clinical records and the complaints correspondence from the Board. I made a written enquiry of the Board. I obtained advice from one of the Ombudsman's professional medical advisers (the Adviser), who is a consultant in trauma and orthopaedic surgery, regarding the clinical aspects of the complaint.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. An explanation of the abbreviations used in this report is contained in Annex 1. Mr C and the Board were given an opportunity to comment on a draft of this report.

### **Complaint: There was a delay by staff in placing Mr C's name on the waiting list for surgery**

#### *Sequence of events*

5. Mr C's contact with clinicians was as follows:

14 December 2005

Mr C was examined by an Orthopaedic Surgeon (Consultant 1) who advised Mr C that a left shoulder surface replacement operation was required but in view of Mr C's heart valve problems, an opinion was required from a Consultant Cardiologist (Consultant 2) as to Mr C's fitness to undergo anaesthesia.

30 January 2006

Consultant 1 wrote to Consultant 2 and sought an opinion on Mr C's suitability for surgery.

2 February 2006

Consultant 2 advised Consultant 1 that he had requested an echocardiogram (test of the heart using sound waves) for Mr C and that he would then arrange to see him at his clinic.

15 February 2006

Consultant 2 wrote to Mr C. He explained the recent echocardiogram was affected by technical hitches and he would arrange a further test using a more sophisticated machine at Ninewells Hospital.

5 April 2006

Consultant 2 wrote to Mr C's GP (the GP) and advised him of the result of the second echocardiogram and that Mr C would be sent a routine cardiology review appointment.

20 April 2006

Consultant 2 wrote to Consultant 1 and the GP and explained he saw Mr C at his clinic that day (Mr C had turned up without an appointment). Consultant 2 said he advised Mr C that there were no contra-indications for anaesthesia and that the operation could go ahead.

24 April 2006

The GP wrote to Consultant 1 and asked that Mr C be placed on the waiting list for surgery at an appropriate time.

9 May 2006

Consultant 2 saw Mr C at his clinic for a cardiological review. He wrote to the GP advising that he could not see any contra-indication for the use of anaesthesia (See paragraph 6).

24 May 2006

Consultant 1 saw Mr C at his clinic and advised him that he had been placed on the waiting list for surgery. Consultant 1 sent a note to his secretary that Mr C was thinking about going abroad for surgery in view of the waiting list problems in Britain and that he was going to speak to management about trying to fast track him through the system.

8 June 2006

Consultant 1 wrote to the orthopaedic clinical manager. He explained that he had seen Mr C that day. He explained that Mr C said he could not wait six months for the operation as he had already waited a further two weeks and if the operation did not take place within a month he would arrange for the operation to take place abroad.

22 June 2006

Mr C had the operation carried out abroad.

6. Mr C complained to the Board that it took 26 weeks from the initial consultation with Consultant 1 where it was identified there was a need for surgery to his name being added to the waiting list. That could then have potentially meant a wait of a further 26 weeks for the surgery to take place. In addition, that period could also have been extended had Mr C not taken action himself and seen Consultant 2 on 20 April 2006 as his scheduled review appointment had been made for 30 September 2006. (Note: the actual cardiology review appointment took place on 9 May 2006). Mr C said he told Consultant 1 on 24 May 2006 that he was not prepared to put up with the pain and lack of sleep. Mr C believed he should have been put on the waiting list on 14 December 2005 as that was when Consultant 1 said the operation was required. He said he would arrange a private operation abroad and reclaim the money from the NHS if the operation did not take place by 7 July 2006. As he did not receive confirmation of an estimated date for the operation on the NHS he went ahead on a private basis. Mr C sought reimbursement of the costs of the private operation of £4824.

7. The Board's Medical Director (the Director), responded that Mr C was pronounced fit for surgery by Consultant 1 on 24 May 2006 and his name was added to the waiting list on that date. He added that the operation would have taken place within the Scottish Executive guidelines of 26 weeks. However, as Mr C had chosen to undergo the operation privately within four weeks of the decision date and the Board had not given permission for the operation to take place then the request for reimbursement had to be refused.

8. In response to my enquiry the Board's Chief Executive (the Chief Executive) said that Consultant 1 had deemed Mr C to be considered as a 'routine' candidate for surgery and that Mr C had been informed on 24 May 2006 that he would have to wait six months for surgery. However,

when Mr C said he was considering the possibility of surgery abroad Consultant 1 advised him that he would explore any possibility of the surgery being carried out sooner. Consultant 1 contacted the orthopaedic clinical manager to enquire about waiting times in general at that time to see if it was shorter than six months. He said there was no clinical reason for Mr C to have the operation carried out in a shorter timescale. If that had been the case Mr C would have been added to a more urgent waiting list.

9. The Adviser told me that it was entirely appropriate for Consultant 1 to contact Consultant 2 for an opinion on Mr C's fitness for surgery in view of his heart condition. It was also good medical practice that Consultant 2 arranged for the second echocardiogram so that he would be in the best position to make an informed opinion. The Adviser saw no evidence that time was wasted by the clinicians involved in reaching the decision that Mr C was fit for surgery.

#### *Conclusion*

10. Mr C complained about the time taken by clinicians to reach a decision on his suitability for surgery. Due to the pain which he had to endure he arranged to have the operation carried out on a private basis and sought recovery of his costs. The advice which I have received and accept is that there were no undue delays and that the action taken by the clinicians in establishing whether Mr C was fit to undergo surgery was entirely appropriate. While the first echocardiogram was unreliable and I can appreciate Mr C's frustration at this, the advice which I have received is that it was reasonable to arrange a second echocardiogram and I have seen no evidence of undue delay in doing so. I have also been advised that it would not have been appropriate to add Mr C's name to the waiting list earlier than 24 May 2006 date as this was when Consultant 1 was satisfied that that surgery was clinically justified in that Mr C was fit to undergo surgery. Once that decision had been taken it was up to Consultant 1 to decide on the priority of the operation. Consultant 1 had taken into account the symptoms shown by Mr C and assessed his priority status as routine.

11. I note that Consultant 1 did consider the possibility of whether the waiting time for Mr C could be reduced but this was because Mr C had intimated he was considering a private operation rather than on the basis of clinical need. I am satisfied that Mr C was advised that the operation would be carried out within Scottish Executive guidelines of 26 weeks and that it was his decision to arrange the private operation. I have seen no evidence of undue delay in the

way medical staff dealt with the matter of placing Mr C on the waiting list for the operation and accordingly I do not uphold the complaint.

*Recommendation*

12. The Ombudsman has no recommendations to make.

18 July 2007

**Explanation of abbreviations used**

Mr C	The complainant
The Board	Tayside NHS Board
The Adviser	The Ombudsman's professional medical adviser
Consultant 1	Consultant Orthopaedic Surgeon
Consultant 2	Consultant Cardiologist
The GP	Mr C's GP
The Director	Medical Director, Single Delivery Unit
The Chief Executive	The Board Chief Executive