Scottish Parliament Region: North East Scotland

Case 201003897: Grampian NHS Board

Summary of Investigation

Category

Health: Hospital; Maxillofacial

Overview

The complainant (Mr C) had a large odontogenic keratocyst removed from his jaw in October 2008. His maxillofacial consultant (the Consultant) reviewed Mr C in February 2009 and recommended that he be reviewed every six months because the cyst was aggressive and had a high rate of recurrence. The Consultant saw Mr C again in September 2009, but his appointment in March 2010 was cancelled. The Consultant saw Mr C in September 2010. It was identified that he needed surgery as the cyst had recurred.

Specific complaints and conclusions

The complaints which have been investigated are that Grampian NHS Board (the Board):

(a) failed to review Mr C within six months as recommended by the Consultant (*upheld*);

(b) delayed in notifying him of the re-scheduled appointment (*upheld*); and

(c) failed to handle his complaint adequately (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Board:	*Completion date*
(i) take steps to make relevant staff aware that the views of clinical staff must be taken into account when they are considering deferring the follow-up of a patient and that this should be clearly documented;	18 November 2011
(ii) ensure that relevant staff are aware that they should not jeopardise the health of patients in order to meet a Government target; and	18 November 2011
(iii) apologise to Mr C for the failings identified in relation to complaint (a).	2 November 2011

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

Main Investigation Report

Introduction

1. The complainant (Mr C) had a large odontogenic keratocyst removed from his jaw in October 2008. His maxillofacial consultant (the Consultant) reviewed Mr C in February 2009 and recommended that he be reviewed every six months. The Consultant saw Mr C again in September 2009, but his appointment in March 2010 was cancelled. The Consultant saw Mr C in September 2010. It was identified that he needed surgery as the cyst had recurred.

2. The complaints from Mr C which I have investigated are that Grampian NHS Board (the Board):

(a) failed to review Mr C within six months as recommended by the Consultant;
(b) delayed in notifying him of the re-scheduled appointment; and
(c) failed to handle his complaint adequately.

Investigation

3. Investigation of the complaint involved reviewing the Board's medical records for Mr C and other documents obtained from the Board. My complaints reviewer also obtained comments from the Consultant and advice from a professional medical adviser (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. An explanation of the abbreviations used in this report is contained in Annex 1. A glossary of terms used in this report can be found at Annex 2. Mr C and the Board were given an opportunity to comment on a draft of this report.

(a) The Board failed to review Mr C within six months as recommended by the Consultant

5. Mr C had a large odontogenic keratocyst removed from his jaw in October 2008. The Consultant reviewed him in February 2009 and recommended that he be reviewed every six months because the cyst was aggressive and had a high rate of recurrence. The Consultant saw Mr C again in September 2009. However, on 14 January 2010, the Board wrote to Mr C to say that they were undertaking a redesign of the maxillofacial service for out-patients. They said that as part of the review, they were looking to extend the

period between return appointments for those patients whose reviews were every six months or longer apart. The Board said that they were postponing his appointment to a later date.

6. The Board have told my complaints reviewer that their maxillofacial service had been under severe pressure. They said that there was a shortage of consultants and specialist registrar staff and they had been unable to recruit new staff. A substantial backlog of patients had developed and the maxillofacial service was the subject of a significant service redesign. The Board said that this involved all medical, nursing and administrative staff, as well as clinical and non-clinical management personnel. They said that the redesign process was orchestrated by their *Better Care Without Delay* programme, which was linked to their work around the Scottish Government's 18-week referral to treatment target. They also said that the work was undertaken to ensure that service could be offered to all of the service's patients in a safe, efficient and equitable manner.

7. The Board advised us that the redesign included a complete review of return patients. This involved:

- a review of the medical records of patients requiring a follow up appointment;
- consideration of whether the patient could be handled in a different way; and
- asking consultants to review the clinic letters of patients requiring a follow up appointment in order that they could be prioritised.

8. The Board told us that a meeting attended by the Acute Medical Director, the Surgical Medical Director, the Assistant General Manager, the Unit Operational Manager and the maxillofacial service consultants took place in December 2009 to discuss the review of patient management. The consultants were invited to consider the patients they had listed for return appointments and to prioritise them clinically. It was also agreed that the Board would write to routine non-cancer patients who had been listed for six and twelve month reviews and who had already been given appointments.

9. The Board also told us that the prioritisation of review referrals had been discussed and accepted by the Senior Medical Committee as a method of ensuring that priority patients were seen promptly. They said that this was not the unilateral decision of one non-clinical manager, but part of a wider review

around patient management and service redesign. The Board also said that a review waiting list had been introduced in order to prioritise patients and avoid patients being booked and then cancelled due to annual leave, absence etc. They stated that this system provided greater transparency.

10. The Board also told my complaints reviewer that the action that deferred the patients listed for six month and twelve month reviews was agreed to by medical staff. They said that the intention was to release capacity for urgent non-cancer review patients. They said that the case reviews were undertaken by two consultants. They were asked to review their outstanding return patients; consider alternative review options; and to list those that still needed to be seen in priority order. To assist with this, suggested alternative options were given to see if the patient could be managed differently. The information was then given to a waiting list co-ordinator, who scheduled the appointments.

11. The Board sent us a copy of a letter that the Unit Operational Manager sent to consultants on 29 December 2009. In this, she said that she had attached the review letters for patients that needed a follow up appointment. She asked that they let her know if the patients could be managed in a different way. She said that the Medical Lead for the Acute Sector had spoken to staff. She stated that, on this basis, they had started to move the six and twelve month review patients to a later date. She asked that the consultants list these patients in order of priority. The Unit Operational Manager also said she had started to work on a follow up waiting list, but appreciated that it had been agreed that they would trial this.

12. The Board have told us that those with more urgent reviews were slotted into the released capacity that postponing the six and twelve month reviews had provided. They said that the slots were not taken up for new patient referrals. They also said that for every one new patient seen, two review patients were seen.

13. However, the Board have also told my complaints reviewer that Mr C's name did not appear on list of patients reviewed by the consultants. In addition, they said that the outcome of the exercise was not recorded and the reviews were merely passed to out-patient staff to allocate appointments. The Board have advised that they recognise with hindsight that documentation in relation to this should have been collected and retained. They also stated that Mr C was not escalated to the Unit Operational Manager as being a patient at risk.

14. Mr C was subsequently offered an appointment on 13 August 2010. However, he was unable to attend the appointment, as he was working away from home at that time. The Consultant saw him on 3 September 2010. It was identified that Mr C needed surgery as the keratocyst had recurred. The Consultant wrote to Mr C's GP on 29 September 2010 to inform him of this. The Consultant also said that he had apologised to Mr C on behalf of the Board that he had not been reviewed in accordance with his treatment plan.

15. The cyst was removed on 9 November 2010. On 14 December 2010, the Consultant wrote to Mr C's GP. He said that his review appointment had been deferred against his wish and Mr C had developed a sizeable recurrence of the cyst.

16. During our investigation, my complaints reviewer spoke to the Consultant. The Consultant said that the reason for Mr C's review was to monitor him for the high risk (at least 50 percent) of recurrent disease and to ensure that any surgery was carried out at an early stage to minimise surgical morbidity. The Consultant said that he was extremely disappointed that Mr C's review appointment had been delayed against his clear recommendation. He said that this delay meant the cyst had a greater time to expand and Mr C needed more extensive surgery.

17. The Consultant said that he had been informed that the reason for deferring review appointments was to tackle the Government's 18-week referral to treatment target. He said new referrals were prioritised over review appointments and this was part of the Board's overall strategy to meet waiting times. He said that consultants had repeatedly expressed concern about this at managerial meetings on the grounds of governance and safety. They said that this would disadvantage vulnerable review patients and result in significantly adverse outcomes in some of these patients.

18. The Consultant said that he did not agree with the decision to defer six month and twelve month reviews and he and others had raised concerns. He said that the consultants had agreed that the proposed system would be trialled and reviewed after three months, with appropriate modification. However, this agreement was not honoured. The Board have told us that there was no proposal to trial the postponement of previously booked six and twelve month reviews for a three-month period.

19. My complaints reviewer asked the Adviser for his comments on how often Mr C should have been reviewed after the cyst was excised in October 2008. In his response, the Adviser said that the probability of recurrence in Mr C's case would have been in the region of 50 percent to 70 percent. He said that many clinicians would review at six months, twelve months and probably 18 months. He stated that this is not entirely evidence based. However, where the cyst is extensive, as in Mr C's case, many clinicians would favour more frequent review. He said that there are a number of factors to consider and no one protocol would be appropriate for every patient.

20. My complaints reviewer also asked the Adviser if it was reasonable for the Board to postpone the review appointment arranged for March 2010 until August / September 2010. In his response, the Adviser said that he believed it is entirely wrong and dangerous for a non-clinician to defer follow-up of a patient without seeking the permission of the clinician who decided on the original review date. He said that such a policy shows disrespect for the clinical staff and can only lead to a poor working relationship between managers and clinicians.

21. The Adviser also said that it is an easy matter for the manager to send the records to the clinician just to check that it would be safe to defer the follow-up for a further substantial period. He commented that most reasonable clinicians would agree to this as long as the patient was not deemed to be at risk. He said that delaying a review might result in more extensive surgery with an associated increased morbidity.

22. However, in Mr C's case, the Adviser did not consider that the morbidity would have been very different had the procedure been carried out six months earlier. He said that Mr C does not appear to have been significantly worse off than if the recurrence had been treated six months earlier.

(a) Conclusion

23. It is clear that the Board failed to review Mr C every six months as recommended by the Consultant in February 2009. The Board have told us that the action that deferred the patients listed for six month and twelve month reviews was agreed to by medical staff and that the case reviews were undertaken by two consultants. However, I do not consider that they have been able to provide any clear objective evidence that this was done in Mr C's case.

24. The Consultant has told us that he did not agree with the decision and that he and others had raised concerns. I have seen that he wrote to Mr C's GP on 14 December 2010 and said that the review appointment had been deferred against his wish. In view of this, I am satisfied that the decision to postpone Mr C's review appointment arranged for 12 March 2010 was made without the agreement of the Consultant.

25. I am also concerned to note the Consultant's comments that he was informed that the reason for deferring review appointments was to tackle the Government's 18-week referral to treatment target and that new referrals were prioritised over review appointments in order that the Board could meet the target. I recognise that the maxillofacial service had been under severe pressure and they had been unable to recruit staff. I also appreciate that the point of the exercise was to try to improve the service by adopting a risk-based approach. However, it was not acceptable for non-clinical staff to effectively disregard the views of the clinician who decided on the original review date. Nor is it acceptable for NHS Boards to jeopardise the health of patients in order to meet a Government target. Fortunately, in this case, Mr C does not appear to have been significantly worse off despite the Board's decision to postpone his review appointment.

26. I uphold this complaint.

(a) Recommendations

27. I recommend that the Board:	*Completion date*
(i) take steps to make relevant staff aware that the views of clinical staff must be taken into account when they are considering deferring the follow-up of a patient and that this should be clearly documented;	18 November 2011
(ii) ensure that relevant staff are aware that they should not jeopardise the health of patients in order to meet a Government target; and	18 November 2011
(iii) apologise to Mr C for the failings identified in relation to this complaint.	2 November 2011

(b) The Board delayed in notifying him of the re-scheduled appointment

28. When the Board wrote to Mr C on 14 January 2010 to inform him that his appointment for 12 March 2010 had been postponed, they said they would write to him again in early 2010 to let him know the revised appointment date.

29. Mr C wrote to the Board on 4 May 2010. He said that he had telephoned the maxillofacial service in March 2010 and they told him they were waiting for the service redesign to be completed. He said that he had not received any further information about his next appointment.

30. The Board responded to Mr C on 10 June 2010. They said that the maxillofacial service was going through a period of redesign, which lead to the postponement of a number of routine review appointments. They said that the Consultant was carrying out additional clinics to see review patients and they hoped to be able to offer him a date in the very near future. The Board also offered their apologies for the delay.

31. The Board told my complaints reviewer that they apologised for the delay in informing Mr C of his revised appointment date. They said that they had written to him in January 2010 and had indicated that a further letter would be sent in the early part of the year. However, the redesign of the maxillofacial service took longer than expected. The Board said that they accepted that a further letter should have been sent to patients to update them. They also said that with hindsight, they should have also told patients to contact their GP if they had any clinical concerns in order that further contact could be made with the maxillofacial service. The Board also acknowledged that they had not provided reassurance or further advice to Mr C in their letter dated 10 June 2010.

(b) Conclusion

32. The Board wrote to Mr C in January 2010 and said that they would write to him again in early 2010 to let him know the revised appointment date. However, they failed to contact Mr C and he had to telephone and write to the Board about this. Mr C was eventually allocated an appointment on 13 August 2010. I, therefore, uphold the complaint.

33. However, in view of the fact that the Board have accepted that a further letter should have been sent to patients to update them and have apologised to Mr C for the delay, I have no recommendations to make in relation to this aspect of Mr C's complaint.

(c) The Board failed to handle his complaint adequately

34. Mr C wrote to the Unit Operational Manager of the maxillofacial service to complain on 4 May 2010. He said that he had still not been told when his next appointment would be. The Board wrote to Mr C to acknowledge receipt of the letter on 9 June 2010. They said that it had been received on the previous day (the letter has been stamped as being received by the complaints team on 8 June 2010, but it is not clear when it was first received by the Board).

35. The Board responded to Mr C's complaint on 10 June 2010. They said that the maxillofacial service was going through a period of redesign. This had led to the postponement of a number of routine review appointments. They said that the Consultant was carrying out additional clinics to see review patients and they hoped to offer Mr C a date in the near future. They also apologised for the delay.

36. Mr C wrote to the Unit Operational Manager of the maxillofacial service to complain again on 4 September 2010. Mr C said that he found it difficult to understand how non-clinical staff could cancel an appointment that had been made in response to a clinical decision made by the Consultant. He said that review patients were not counted for the waiting time targets and their appointments were being cancelled to accommodate new referrals. Mr C also said that the Consultant had always put his patients first. He stated that it was appalling that government targets were affecting patient care.

37. Mr C wrote to the Unit Operational Manager again on 10 November 2010. He referred to his letter dated 4 September 2010 and said that he had not received any correspondence or an explanation about why his appointment was cancelled.

38. The Board responded to Mr C on 16 December 2010. They said that the Unit Operational Manager had not received his letter until 1 December 2010. They said that they had apologised for the delays on 10 June 2010 and had provided an explanation. The Board said that their patient information system indicated that Mr C had been allocated an appointment on 13 August 2010, but could not attend on that date. He had been seen on 3 September 2010 and his name was added to the in-patient waiting list. They said that he was admitted to hospital on 8 November 2010 and had also attended an out-patient clinic on

3 December 2010. The Board again apologised for the length of time he had waited to be seen.

(c) Conclusion

39. In their letter of 16 December 2010, the Board clearly failed to respond to the comments in Mr C's letter dated 4 September 2010. It is, therefore, understandable that he was unhappy with the way that the Board dealt with his complaint. However, the Board's complaints team have told my complaints reviewer that they did not receive Mr C's letter.

40. Although Mr C referred to the letter dated 4 September 2010 in his subsequent complaint dated 10 November 2010, there is no evidence that the Board did receive the letter dated 4 September 2010. I consider that the Board did respond to Mr C's other complaints adequately. I do not uphold this complaint.

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

Annex 1

Explanation of abbreviations used

Mr C	The complainant
The Consultant	Mr C's maxillofacial consultant
The Board	Grampian NHS Board
The Adviser	The Ombudsman's medical adviser

Annex 2

Glossary of terms

Keratocyst	A thin-walled, tooth-forming cyst lined by keratinizing epithelium
Maxillofacial	Relating to or involving the maxilla and the face
Odontogenic	Developing in tissues that produce teeth