



Northern Ireland

Public Services

Ombudsman

Investigation Report

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

NIPSO Reference: 17196

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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. She may also investigate and report 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.

Where the Ombudsman finds maladministration or questions the merits of a decision taken in consequence of the exercise of professional judgment she must also consider whether this has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. The Ombudsman may recommend a remedy where she finds injustice as a consequence of the failings identified in her report.

The Ombudsman has discretion to determine the procedure for investigating a complaint to her Office.

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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THE COMPLAINT

1. I received a complaint from a patient of the Southern Health and Social Care Trust (the Trust). The patient explained that he was electrocuted in a work accident in November 2014 which resulted in an injury to his arm and shoulder. He attended the Emergency Department of Daisy Hill Hospital, Newry on the day of the accident and was assessed, examined and discharged on the same day. He continued to experience pain in his shoulder and arm. On 16 April 2015 his GP referred him to a pain management consultant at Craigavon Area Hospital querying Complex Regional Pain Syndrome (CRPS). The pain management consultant assessed and examined him on 19 May 2015 and discharged him on the same day.
2. The patient complained about the care and treatment he received from the pain management consultant. He stated that the consultant did not identify a small partial thickness tear of the supraspinatus muscle which was identified on an ultrasound scan on 13 November 2015, and also failed to diagnose CRPS. He also complained that the pain management consultant failed to make additional referrals for him after he was discharged from his care.

Issue of complaint

3. The issue which I accepted for investigation was:

Whether the care and treatment provided to the patient at the Pain Management Clinic was appropriate and reasonable?

INVESTIGATION METHODOLOGY

4. 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 by the patient.

5. The patient also received care and treatment in the Emergency Department of Daisy Hill hospital and from his GP. His GP made referrals to physiotherapy, neurophysiology and psychiatry. For completeness, I have considered documentation in relation to these matters in order to understand the cause of the patient's medical condition, and the care and treatment he received prior to his consultation with the pain management consultant on 19 May 2015. I note, however, that the patient has not complained about the care and treatment that he received from these professionals, therefore I do not intend to make any findings in relation to that care and treatment.
6. The patient also consulted privately with a number of medical professionals. Private health care providers do not come under my jurisdiction. I therefore have no authority to investigate the conduct of any consultants engaged privately. It follows that my findings relate only to the care and treatment provided by the pain management consultant during his consultation with the patient on 19 May 2015 and his report of that consultation.

Independent Professional Advice Sought

7. After further consideration of the issues, I obtained independent professional advice from two independent professional advisors (IPA) in the areas of physiotherapy and pain medicine.
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 specific standards are those which applied at the time the events occurred and which governed the exercise of the

administrative functions and professional judgment of the Trust and the pain management consultant.

10. The general standards are the Ombudsman's Principles of Good Administration¹. The specific standard relevant to this complaint is the General Medical Council Good Medical Practice 2013.
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.

MY INVESTIGATION

Detail of Complaint

12. The patient explained that he was referred to the pain management consultant at the Craigavon Area Hospital by his GP, due to pain in the region of his shoulder. This pain resulted from an incident at work in November 2014. He was seen by the pain management consultant on 19 May 2015. The patient complained that the pain management consultant 'insulted him' by stating that his response to examination was exaggerated and that he failed to diagnose a 'torn tendon' and CRPS. He also complained that the pain management consultant failed to make additional referrals for him after he was discharged from his care.

Evidence Considered

13. I considered the General Medical Council (GMC) Good Medical Practice guidance for doctors. Section 15 of that guidance states:

¹ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

‘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’.

14. The Investigating Officer obtained the patient’s GP notes and records. These indicate that the GP made a number of referrals for the patient, including physiotherapy on 6 January 2015. The records show that he attended four appointments in January and February 2015.
15. The patient was also referred by his GP to neurophysiology on 10 February 2015 and to psychiatry on 5 March 2015.
16. The referral from the GP to the pain management consultant’s pain clinic was dated 16 April 2015. The GP expressed concern that the patient may have had CRPS of his right hand. The response from the pain management consultant indicates that he saw the patient on 19 May 2015. His report to the GP records that *‘there was evidence of exaggerated response to examination’*.
17. I note that the pain management consultant formed the impression that *‘There has been a bluish discolouration of the hand and although this may represent a mild form of CRPS I don’t believe he fulfils all of the diagnostic criteria necessary for this diagnosis’*. The pain management consultant advised the GP *‘if his symptoms don’t settle, you may wish to refer him on to orthopaedics to have a look at his shoulder’*.
18. The GP duly referred him to orthopaedics at Craigavon Area Hospital querying tendonitis/muscle tear due to sudden jerking of shoulder, on 6 August 2015.

19. There is a further referral from the patient's GP dated 17 November 2015 to Craigavon Area Hospital for pain management. The GP included an ultrasound result from 13 November 2015 which showed a *'small, high grade, partial thickness tear of the supraspinatus tendon'*. The record of the pain management consultant's response to the GP on 8 December 2015 states *'I don't believe I have anything to offer him. Any changes of Complex Regional pain Syndrome are undoubtedly secondary to his shoulder injury and will settle when this is brought under control. I don't believe there is any need to see him in relation to this'*.

Listed Authority's Response

20. My Investigating Officer asked the Trust to describe the assessments carried out in the Emergency Department of Daisy Hill on 26 November 2014. The Trust responded on 13 April 2017, stating *'There was found to be no clinical evidence of injury and no clinical evidence of electric shock. There were no signs of burn marks to the stated point of electrocution. The patient did not complain of any shoulder pain and there was no clinical evidence of injury, which would have been evident had this been an acute injury'*.
21. I note that the Trust responded to the patient's complaint about the pain management consultant on 21 March 2016. The Trust referred to sections of the consultant's report and concluded *'In relation to your right shoulder symptom, [his] comment to the GP was that the referral to Orthopaedics is the appropriate pathway and this is indeed the case'*.
22. My Investigating Officer also asked the Trust to address the complaint that the pain management consultant failed to diagnose the patient or offer him any treatment. The consultant replied directly to my Office on 20 January 2017, explaining that investigation of the nature of the shoulder injury *'is not through the pain clinic but instead through the Orthopaedic Service as I outlined in my letter to the GP'*. He also stated *'I am satisfied that at the time that I assessed the patient he did not fulfil the diagnostic criteria that are necessary for a*

diagnosis of CRPS. For the diagnosis to be made there must be no other cause that would explain the symptoms going into the hand. In this case this gentleman's pain was from the shoulder and I felt that his symptoms going into the hand were secondary to the shoulder injury'.

Relevant independent professional advice (IPA)

23. The patient received care and treatment in the Emergency Department of Daisy Hill hospital and from a physiotherapist. As well as obtaining pain management IPA I obtained IPA in relation to his physiotherapy attendances in order to understand the aetiology of his medical condition, and the care and treatment he received prior to his consultation with the pain management consultant.

Physiotherapist IPA

24. The physiotherapist IPA has confirmed that the patient's GP referred him to a physiotherapist on 6 January 2015. The physiotherapist diagnosed 'nerve injury from electric shock'. The IPA has confirmed that there were '*no other diagnoses in the initial assessment or subsequent follow-up appointments*'.

Pain management IPA

25. I asked the pain management IPA for advice regarding the allegation that the pain management consultant did not identify a small partial thickness tear of the supraspinatus which was later identified on an ultrasound scan. He referred to the records of the consultation and advised that '*there is nothing in these to suggest that the initial review and assessment was incomplete or unreasonable.*' He also advised '*I would expect that specialist physiotherapists who are skilled at the assessment of musculoskeletal conditions would note findings suggestive of a supraspinatus tear if these were present. There is nothing to suggest that these were present when they saw the patient.*

26. In response to the complaint that the pain management consultant failed to diagnose CRPS, the IPA explained that *'the diagnosis of CRPS is not an exact science and many patients exhibit some of the symptoms and signs without fulfilling the diagnostic criteria'*. The IPA advised that the pain management consultant diagnosed *'localised shoulder injury with the possibility of a mild degree of CPS'*.
27. The patient also complained that the pain management consultant failed to make additional referrals for him after he was discharged from his care. The PM IPA advised *'there is nothing to indicate that further opinion or treatment in a Pain Management Clinic would be appropriate at that stage'*.
28. I asked the pain management IPA if the pain management consultant's advice that *'a proper pathway was for referral to Orthopaedics'* was appropriate. He advised *'It was not only reasonable to leave it to the GP, but the GP may be in a much better position to inform the orthopaedic department of other relevant factors which may not be known to the Pain Clinic staff'*.
29. The patient complained about the pain management consultant's conclusion that he was *'exaggerating'*. The pain management IPA advised that it is *'neither surprising nor uncommon for an individual in the patient's situation to object strongly to the opinion given. He is perfectly entitled to disagree – what he is not entitled to is to insist that the opinion, genuinely given, must be changed'*.

ANALYSIS AND FINDINGS

30. I am unable to determine if the patient was demonstrating signs of a tear of the supraspinatus tendon (torn tendon) when he presented at the Emergency Department of Daisy Hill on 27 November 2015 because this is not recorded in the Trust's notes and records.
31. I accept the advice of the Physiotherapist IPA that the Trust's physiotherapist concluded that the pain in his arm was *'possibly due to nerve injury caused by the electric shock'* and that the physiotherapist did not diagnose a torn tendon.

32. I have been provided with no evidence to suggest that the patient had been given a diagnosis of a torn tendon prior to his consultation with the pain management consultant. I note that a diagnosis of a partial tear was made by a consultant radiologist following an ultrasound scan on 13 November 2015, as part of ongoing investigations into his condition.
33. I accept the advice of the pain management IPA that the pain management consultant examined and assessed the patient appropriately on 19 May 2015 and documented his findings accordingly. I note that he recorded that he may have a mild form of CPRS but did not meet the full diagnostic criteria at that time. I consider that it was reasonable and good practice that he suggested that his GP refer him to orthopaedics to have a look at his shoulder if his symptoms did not settle. I am pleased to note that the GP acted on that advice.

CONCLUSION

34. In the light of the available evidence and the IPA advice, I conclude that the pain management consultant demonstrated 'Good Medical Practice' and that his actions were in line with the Principles of Good Administration (see Appendix). I am satisfied that the consultant exercised his professional judgement reasonably. **I do not, therefore, uphold the patient's complaint.**

MARIE ANDERSON
Ombudsman

July 2018

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.