



Northern Ireland

Public Services

Ombudsman

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

Report Reference: 202003564

The Northern Ireland Public Services Ombudsman

33 Wellington Place

BELFAST

BT1 6HN

Tel: 028 9023 3821

Email: nipso@nipso.org.uk

Web: www.nipso.org.uk



@NIPSO_Comms

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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Case Reference: 202003564

Listed Authority: Southern Health & Social Care Trust

SUMMARY

This complaint is about care and treatment the Southern Health and Social Care Trust (the Trust) provided to the complainant.

The complainant raised concerns that following a consultation with Orthopaedics in October 2019 regarding ongoing pain in her hips, the Trust did not add her to the waiting list for Total Hip Replacement (THR) surgery. The complainant believed the Trust did place her on the list at that time. She became aware that the Trust had not added her to the list in July 2022 following a further referral to Orthopaedics. The complainant said her condition deteriorated considerably during this time.

The investigation found that while the x-ray indicated that the complainant was not a suitable candidate for surgery in October 2019, the Trust should have undertaken additional investigations to confirm its decision. The investigation could not determine if this would have changed the outcome for the complainant in 2019. However, it found the complainant lost an opportunity to undergo further investigations needed to make this decision. I considered this a failure in the complainant's care and treatment.

I have recommended that the Trust issue an apology to the complainant. I also recommended action for the Trust to take to prevent reoccurrence of the failure.

I am pleased to note that the complainant had right hip surgery in February 2024.

THE COMPLAINT

1. This complaint is about care and treatment the Southern Health and Social Care Trust (the Trust) provided to the complainant in respect of hip replacement surgery.

Background

2. The complainant has a history of osteoarthritis in both hips. This causes her significant mobility issues leading to her having to walk with a stick. She also experiences significant pain in both hip joints.
3. The complainant's GP referred her to the Orthopaedic Integrated Clinical Assessment and Treatment Service¹ (ICATS) on 15 August 2018 for a routine appointment for '*severe right hip pain*'. The complainant attended a Consultant Orthopaedic Surgeon on 9 October 2019. The Trust discharged her back to her GP having not considered her a suitable candidate for total hip replacement (THR) surgery. The Trust did not add the complainant to the waiting list for surgery at that time.
4. The complainant's GP referred for her to Orthopaedic ICATS a second time on 15 August 2022 for a routine appointment for '*Advanced OA right hip, moderate OA left hip. Severe pain both hips.*' During the complainant's consultation on 18 November 2022, and following discussion with the Consultant Orthopaedic Surgeon about surgery, the complainant was placed on the waiting list for THR surgery.
5. The complainant said her mobility has deteriorated considerably from the time she believed the Trust placed her on a waiting list for total hip replacement in 2019, to date.

Issue of complaint

6. I accepted the following issue of complaint for investigation:

¹ The Orthopaedic Integrated Clinical Assessment and Treatment Services (ICATS) are a team of registered health care professionals who assess a patient's condition at the request of their GP. This service provides specialist assessment and appropriate management of patients with orthopaedic conditions.

Whether the Southern Health and Social Care Trust's decision not to place the patient on the waiting list for total hip replacement surgery in October 2019 was appropriate and in accordance with relevant guidance.

INVESTIGATION METHODOLOGY

7. To investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues the complainant raised.

Independent Professional Advice Sought

8. After further consideration of the issues, I obtained independent professional advice from the following independent professional advisor (IPA):
 - A Consultant Trauma and Orthopaedic Surgeon (O IPA) with over 15 years' experience in clinical orthopaedics.

I enclose the clinical advice received at Appendix two to this report.

9. I included the information and advice which informed the findings and conclusions within the body of this report. The IPA provided 'advice'. However, how I weighed this advice, within the context of this complaint, is a matter for my discretion.

Relevant Standards and Guidance

10. To investigate complaints, I must establish a clear understanding of the standards, both of general application and those specific to the circumstances of the case. I also refer to relevant regulatory, professional, and statutory guidance.

The general standards are the Ombudsman's Principles²:

- The Principles of Good Administration.
11. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative

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

functions and professional judgement of those individuals whose actions are the subject of this complaint.

The specific standards and guidance relevant to this complaint are:

- The General Medical Council's Good Medical Practice, updated 2019 (The GMC Guidance);
- The General Medical Council's Guidance: Decision making and consent, September 2020 (The GMC Consent Guidance); and
- The National Institute for Health and Care Excellence's Joint Replacement: (Primary): knee, hip and shoulder, NICE Guideline 157 (NICE NG157).

I enclose relevant sections of the guidance considered at Appendix four to this report.

12. I did not include all information obtained in the course of the investigation in this report. However, I am satisfied I considered everything relevant and important in reaching my findings.
13. I shared a draft copy of this report with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations. I carefully considered the responses and, where appropriate, have included some of the comments within the report.

THE INVESTIGATION

Whether the Southern Health and Social Care Trust's decision not to place the patient on the waiting list for total hip replacement surgery in October 2019 was appropriate and in accordance with relevant guidance.

Detail of Complaint

14. The complainant raised a concern that the Trust did not place her on a waiting list for hip replacement surgery following a consultation she had in the Trust area in 2019. The complainant said she only found out the Trust did not place her on the list in 2022 when she queried the waiting time with the hospital.

15. The complainant believed that had she been on the list from 2019, she would have already had her surgery. This would have resulted in a considerably improved quality of life.

Evidence Considered

Legislation/Policies/Guidance

16. I considered the following guidance:
- The GMC Guidance;
 - The GMC Consent Guidelines; and
 - NICE Guidance NG157.

The Trust's response to investigation enquiries

17. The Trust said the complainant was referred to ICATS at Craigavon Area Hospital (CAH) in 2019 with advanced osteoarthritis (OA) in her right hip, and moderate osteoarthritis in her left hip, causing pain.
18. The Trust said the complainant attended its Consultant's Orthopaedic Clinic on 9 October 2019, where a *'full orthopaedic assessment was undertaken'*. On discussing the complainant's condition with her, the Consultant did not feel she required hip replacement surgery at that time. However, he felt she may need it in a few years' time, and he indicated he would be happy to see her again then.
19. The Trust said the Consultant did not advise the complainant at that time that he would add her to the waiting list for this surgery. This was because her condition did not meet the relevant criteria. Its assessment documented that the complainant's right hip joint showing some degenerative change in keeping with arthritis, in addition to showing it had some preserved joint space³. The Trust said it advised the complainant that she was not, at that time, at the stage where she should undergo hip replacement, although she would require this in the future.

³ A preserved joint space suggests the joint is still functioning properly without significant degenerative changes.

20. Following the complainant's appointment, the Trust discharged her back to the care of her General Practitioner (GP) with no further options of treatment offered.
21. The Trust said the GP again referred the complainant to ICATS as she experienced pain in both hips, which disturbed her sleep, with pain being greater in her right hip. ICATS referred her to the Orthopaedic Team on 15 August 2022.
22. The Trust said during the consultation on 18 November 2022, the Consultant agreed to add her name to his waiting list for right THR surgery, as he felt she now met the threshold for surgery. The Trust said a review of the complainant's x-rays indicated to the Consultant there was a deterioration in the complainant's condition and quality of life.
23. The Trust said having reviewed the complainant's x-rays, the Consultant she attended in November 2022 agreed with the decision made in 2019 not to put the complainant on the waiting list for surgery at that time.
24. In response to the draft report, the Trust stated the Consultant's clinical letter dated October 2019 had been '*misinterpreted somewhat*'. The Consultant documented in the letter, '*some arthritic changes were present on x-ray, and this was explained to [the complainant] during her appointment.*' The Consultant also explained to the complainant that '*the arthritis was likely to be the cause of her hip pain.*'
25. The Trust believed the patient's osteoarthritis was '*mild, not bone on bone*', and an MRI '*would not have added anything.*'
26. The Trust accepted it could have offered the complainant a cortisone injection to identify the source of her pain and provide pain relief. However, it '*cannot be known if this would have made a difference to [the complainant].*'
27. In response to the draft report, the Trust said it agreed a THR should be offered to a patient '*if symptoms are severe enough to justify major surgery and the radiology has reached a threshold level of arthritic change.*' However, it was

not taken into account that the patient had '*multiple pains elsewhere*'. Its clinical letter, issued in October 2019, made this clear.

28. The Trust stated there was '*much more convincing evidence of arthritis compared to the x-rays presented...in October 2019.*' Had the complainant had the same level of arthritic change in the October 2019 x-rays, '*she would have been offered a THR.*'

Relevant Chronology

29. I enclose a chronology of the complainant's involvement with the Trust at Appendix four to this report.

Relevant Independent Professional Advice

30. The O IPA advised the complainant's x-rays from 9 October 2019 showed '*moderate osteoarthritic degenerative changes⁴ in both hip joints, with joint space narrowing⁵ more prominent on the right.*' Based on these x-rays alone, he did not consider the complainant was at the stage where she should undergo hip replacement at that time.
31. The O IPA advised that when a GP refers a patient with musculoskeletal pain, a Trust should investigate the patient fully, and '*all attempts made to identify the source of their pain before being discharged back to their GPs.*' X-rays do '*not always correlate well with OA symptoms*', and '*other modalities like MRI scans and diagnostic injections should be used to identify source of pain.*'
32. The O IPA advised that MRI is accepted as a '*more definitive radiological means of excluding OA*'. The Consultant could have obtained an MRI to '*further investigate the level of arthritis before discharging her.*'
33. The O IPA referred to the narrowing of joint space in the complainant's hip at that time. He also referred to the complainant's need to use a stick to assist her walking and the pain she experienced. He advised that because of this, the

⁴ Moderate osteoarthritic degenerative change is the result of normal wear which is associated with ageing and general use.

⁵ When joint space narrowing occurs, the cartilage no longer keeps the bones a normal distance apart. This can be painful as the bones rub or put too much pressure on each other. Joint space narrowing can also be a result of conditions such as osteoarthritis (OA).

Trust should have explored interventions other than surgery with the complainant. This may have assisted with her mobility and pain at that time, before discharging her back to her GP.

34. The O IPA further advised the Trust could have offered the complainant an *'image guided injection of cortisone and local anaesthetic to her right hip to ascertain the source of her pain as well as provide some possible pain relief.'*
35. The O IPA advised any decision to proceed with this surgery should be a shared decision between a patient and the surgeon. He outlined the commonly accepted criteria, also referring to NICE Guideline NG157. When a Trust places a patient on a waiting list, it does not guarantee surgery, as a patient is still required to undergo further checks to ensure their suitability for anaesthesia and surgery.
36. The O IPA advised that based on his review of the medical notes and x-rays, he did not believe the Trust adequately investigated the complainant's symptoms prior to discharging her back to her GP following the consultation in October 2019. While the complainant was of a young age for this surgery, surgeons do, on occasion, perform THR on younger patients *'if clinically indicated'*.
37. In response to the Trust's view that the patient had *'multiple pains elsewhere'*, the O IPA reiterated that without performing an MRI, this was difficult to conclude. Given the multiple pain elsewhere, *'an injection of steroid and local anaesthetic into the hip joint would have helped to isolated [sic] pain arising from the hip joint.'*

Analysis and findings

38. I note the complainant's x-ray report from October 2019 indicated she still had some preserved joint space. The O IPA advised the x-ray indicated she was not a suitable candidate for surgery at that time. I accept this advice. However, he raised concern with the Trust's decision to discharge the complainant back to her GP without undertaking further investigation.

39. The records evidence that the complainant used a stick to help her walk and that she experienced pain in her spine as well as her hip. The O IPA advised that based on this, and the findings from the x-ray, the Trust should have conducted further investigations before making its decision not to treat the complainant at that time.
40. NICE NG157 does not specify what investigations clinicians should conduct prior to deciding on treatment. However, the O IPA advised they commonly perform an MRI scan, as it is a '*more definitive radiological means of excluding OA [osteoarthritis]*'. The O IPA further advised that the Trust could have offered the complainant a cortisone injection and local anaesthetic to ascertain the source of her pain and provide some possible relief. I acknowledge the Trust's view differs from that of the O IPA's. However, based on my consideration of the patient's presenting symptoms, I accept the O IPA's advice that '*at the least, these options should have been discussed with her and her response to these options should have been documented in the notes and acted upon.*'
41. Standard 15 (b) of the GMC Guidance requires clinicians to arrange suitable investigations for patients where necessary. Furthermore, both NICE NG157 and the GMC Guidance on Consent place a focus on shared decision making (to include the patient). I am disappointed the Trust did not explore the patient's reported symptoms with her further before discharging her back to the care of her GP. I consider this a failing in the Trust's care and treatment of the complainant.
42. The O IPA advised it is difficult to establish if the complainant would have been suitable for surgery in 2019 had the Trust undertaken further investigative tests. I consider this caused the complainant to sustain the injustice of uncertainty. I am also satisfied the complainant sustained the injustice of a loss of opportunity to undergo appropriate investigations to determine if she could have received earlier treatment.

CONCLUSION

43. I received a complaint about the Trust's decision not to place the complainant on the waiting list for THR surgery in October 2019.
44. The investigation established that the Trust did not undertake further investigative tests in October 2019 to establish if the complainant was a candidate for surgery at that time. Had these investigations been performed in 2019, the results may have indicated the patient required THR surgery and her name placed on the waiting list for surgery at that time. I am satisfied this represents a failure in the complainant's care and treatment that caused her to sustain the injustice of a loss of opportunity and uncertainty.
45. The complainant advised this office that she has now had surgery on her right hip, but was unable to have the procedure carried out on both hips due to other medical complications. Although I recognise that this is a disappointment for the complainant, I welcome the fact that some progress has been made.

Recommendations

46. I recommend the Trust provides to the complainant a written apology in accordance with NIPSO's 'Guidance on issuing an apology' (July 2019). This apology should acknowledge the injustice caused to her as a result of the failures identified (within **one month** of the date of this report).
47. I further recommend for service improvement, and to prevent future recurrence, that the Trust:
 - i) Brings this report to the attention of the relevant medical clinicians involved in the complainant's care, ensuring they have the opportunity to consider the findings in this report and demonstrate that they have reflected on how they can improve their practice in future. The Trust may wish to discuss the findings of this report as part of their next appraisal; and
 - ii) Provides training to relevant staff to include consideration of whether further investigation and/or intervention is necessary for those patients who may be candidates for THR surgery.

MARGARET KELLY
Ombudsman

July 2024

Appendix One

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and relevant guidance, 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.

