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

Report Reference: 202005344

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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, 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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Appendix 1 – The Principles of Good Administration

Case Reference: 202005344

Listed Authority: Belfast Health and Social Care Trust

SUMMARY

I received a complaint about care and treatment the Belfast Health and Social Care Trust (the Trust) provided to the complainant's late mother, (the patient) across two admissions.

The complaint related to how nursing staff met the patient's personal hygiene needs (specifically hair care) during an admission from 5 August 2022 to 5 October 2022. It also related to clinicians' decisions not to carry out a planned Nephrostomy tube procedure during a second admission from 26 October 2022.

The investigation found there were no failures in the patient's care and treatment. I acknowledge the Trust identified failings in its administration of pain medication for the patient, which was separate from this investigation, and implemented learning. However, I would like to highlight, that although we may never know if the patient would have continued with the Nephrostomy tube procedure had the Trust controlled her pain effectively, the Consultant independent professional advisor advised the patient's distress *'…appeared to influence her decision to refuse consent for nephrostomy replacement…'* Understandably, the patient's family will also remain concerned that this was the case.

THE COMPLAINT

1. I received a complaint about care and treatment the Belfast Health and Social Care Trust (the Trust) provided to the complainant's late mother (the patient) from 5 August 2022, during two admissions to the Royal Victoria Hospital (the Hospital).

Background

2. In January 2019 clinicians diagnosed the patient with cervical cancer, and she underwent concurrent chemo/radiotherapy[1] with brachytherapy[2]. Following completion of this treatment, the patient had ongoing outpatient oncology reviews.

3. In April 2022 the patient developed significant bilateral lymphoedema[3], as well as continuing abdominal pain and constipation. Due to the patient's new symptoms, clinicians were concerned about the presence of recurrent disease and arranged a CT scan[4]. However, before the patient had her CT scan, she presented to the Emergency Department (ED) of the Hospital on 11 April 2022 with worsening symptoms. Clinicians inserted a bilateral nephrostomy tube[5] for hydronephrosis.[6] The patient also received input from the acute pain team and palliative care team. However, despite this input, the patient was unable to tolerate a PET scan[7] or an MRI[8] as an inpatient. Clinicians discharged the patient on 9 May 2022 as her pain and lymphoedema had improved.

4. The patient continued to have ongoing oncology investigations as an outpatient as well as an inpatient stay at the Belfast City Hospital, Cancer Centre, from 19

[1] Chemotherapy may be given together with radiation to enhance the effectiveness of radiation treatment. In some cases, chemotherapy is given together with radiation to enhance the effectiveness of radiation treatment. This is known as concurrent chemo-radiation therapy.
[2] A type of internal radiotherapy. A small radioactive material called a source is put into the body, inside or close to the cancer. Or into the area where the cancer used to be before having surgery.
[3] A long-term (chronic) condition that causes swelling in the body's tissues. It can affect any part of the body, but usually develops in the arms or legs.
[4] A diagnostic imaging procedure that uses a combination of X-rays and computer technology to produce images of the inside of the body
[5] A tube tha.t lets urine drain from the kidney through an opening in the skin on the back.
[6] A condition where one or both kidneys become stretched and swollen as a result of a build-up of urine inside them.
[7] Positron emission tomography (PET) scans produce detailed 3-dimensional images of the inside of the body. The images can clearly show the part of the body being investigated, including any abnormal areas, and can highlight how well certain functions of the body are working.
[8] Magnetic resonance imaging (MRI) is a type of scan that uses strong magnetic fields and radio waves to produce detailed images of the inside of the body.

May to 7 June 2022, because of uncontrolled bilateral leg and pelvic pain and significant bilateral leg oedema. The patient had a further admission from 30 June 2022 to 7 July 2022 after attending the ED of the Hospital with increased lower leg pain and reduced mobility. On 5 August 2022 the patient again attended the ED of the Hospital. She was subsequently admitted to Ward 7c with infected pressure sores and blocked nephrostomy tubes. During her admission the patient received multiple blood transfusions for anaemia and underwent nephrostomy tube exchange. Following a CT CAP[9], clinicians informed the patient of the progression of her cervical cancer. Clinicians than subsequently agreed a DNACPR[10] and ward ceiling of care with the patient. On 5 October 2022 clinicians discharged the patient to the Northern Ireland Hospice (the Hospice) for pain management with the ultimate aim to discharge her home.

5. On 26 October 2022, the Hospice transferred the patient to Ward 4a of the Hospital for a bilateral nephrostomy tube replacement. The Hospice provided the Hospital with information about the patient's care and medication including prescribed pain medication. The procedure was due to take place on 27 October 2022. However, on the morning of 27 October 2022, the patient made the decision not to go ahead with the procedure and the Locum Consultant Urologist discharged her backed to the Hospice on the same day. When back in the Hospice the patient declined and, she sadly passed away on 8 November 2022.

6. Following the patient's discharge, the complainant made a complaint to the Trust. As a result, the Trust carried out an investigation (which included a Clinical Record Review) and identified errors in both the prescribing and non-administration of some the patient's pain medication following her admission on 26 October 2022. It also identified and implemented learning because of the errors found.

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[9] A CT scan (a test that uses x-rays and a computer to create a detailed picture of the inside of your body) of the chest, abdomen and pelvis.

[10] DNACPR stands for 'Do not attempt cardiopulmonary resuscitation (CPR)'. It means that if a person has a cardiac arrest or dies suddenly, there will be guidance on what action should or shouldn't be taken by a healthcare professional, including not performing CPR on the person.

Issues of complaint

7. I accepted the following issues of complaint for investigation:

   Issue 1: Whether the Trust met the patient's personal hygiene needs (specifically hair care) adequately from 5 August 2022 to 5 October 2022.

   Issue 2: Decision of the Trust not to perform the patient's Nephrostomy tube procedure.

INVESTIGATION METHODOLOGY

8. In order to investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues the complainant raised. This documentation included information relating to the Trust's complaints process.

Independent Professional Advice Sought

9. After further consideration of the issues, I obtained independent professional advice from the following independent professional advisors (IPA):

   - A Consultant Urologist with 33 years' experience (C IPA); and
   - A Senior Nurse with 23 years' experience across primary and secondary care (N IPA)

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

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

Relevant Standards and Guidance

11. In order 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 Principles[11]:

    - The Principles of Good Administration

12. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative 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 April 2014 (the GMC Guidance);
    - The General Medical Council's Professional Standards: Decision Making and Consent, November 2020 (the GMC Consent Standard);
    - The Belfast Health and Social Care Trust's Policy to be followed when obtaining consent for examination, treatment and care in adults and children (2018) (the Trust's Consent Policy);
    - The Nursing and Midwifery Council's: Standards of proficiency for registered nurses, May 2018 (the NMC Standards); and
    - The Nursing and Midwifery Council's: Professional standards of practice and behaviour for nurses and midwives, 2018 (the NMC Code).

13. I did not include all information obtained in the course of the investigation in this report. However, I am satisfied I took into account everything I considered relevant and important in reaching my findings.

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

14. A draft copy of this report was shared with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations. Both parties accepted the findings of the draft report.

THE INVESTIGATION

Issue 1: Whether the Trust met the patient's personal hygiene needs (specifically hair care) adequately from 5 August 2022 to 5 October 2022.

Detail of Complaint

15. The complainant said upon her return to the Hospice, staff had to cut the patient's hair. This was because the patient's hair was *'…knotted/matted so badly…'* that Hospice staff were unable to untangle it. He also said Hospice staff questioned whether Hospital staff had washed the patient's hair during her admission. The complainant believed that the patient having her hair cut impacted her *'…emotionally…'* as she longer felt like herself.

Evidence Considered

Policies/Guidance

16. I considered the following guidance:
    - the NMC Standards; and
    - the NMC Code.

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

Trust's response to investigation enquiries

17. The Trust explained nursing staff reviewed the patient's notes, and these highlighted the *'…patient's hygiene needs where frequently attended too. However there was no specific mention of hair care. The Trust sincerely apologies if there was concern in relation to [the complainant's] mother's hair.'*

Hospice's response to investigation enquiries

18. In response to enquires about the condition of the patient's hair upon her return, the Hospice said on review of the records it could *'…only find reference to [the patient] having her hair washed on 07 October 2022 in a nursing entry. The record states "… [Patient] assisted with personal care and got hair washed …"*

    Clinical nurse leaders who managed the In-Patient Unit did not have any further recollection in relation to the patient's hair.

Trust Records

19. I completed a review of the relevant Trust records. I enclose relevant extracts from the records at Appendix four (a) to this report.

Relevant Independent Professional Advice

20. The N IPA advised: nursing staff should assess patient's hygiene needs, which should include hair brushing and washing, and help if needed. In this case nursing staff assessed the patient's needs on admission. Based on the nursing evaluations this *'…patient would have been able to brush her own hair (noting that she had the ability to eat and drink independently); but would have needed assistance to wash her hair…'* The patient was also *'…able to express her needs*…' (for example, on 26 September 2022, nursing staff assisted her to shave her legs). She also would have been able to *'… request additional support with hair care (hair washing) if it was needed…'*

21. From the Trust records it is not possible to say if nurses assisted the patient with hair care and, *'…it is not common practice to document this within the acute hospital ward environment…'* However, it is common practice to document *'…'hygiene needs attended to' to summarise all elements of hygiene provision…'* The Hospice records reference '*…the patient's hair being washed two days after transferring to the Hospice…However, there is no reference to this being difficult due to matted or tangled hair…'*

Analysis and Findings

22. The complainant said when the patient returned to the Hospice, staff had to cut her hair because it was badly knotted and matted. He believed that having her hair cut impacted the patient *'…emotionally…'* as she no longer felt herself.

23. I examined the Trust records and note hospital nursing staff assessed the patient's needs at admission. They evidenced that the patient required full assistance with personal care, including washing her hair. However, the N IPA advised it was likely the patient could '*brush'* her own hair.

24. The N IPA also advised the patient was able to voice her needs. Therefore, she could have asked nursing staff to brush or wash her hair. While I identified multiple occasions during the patient's stay when nursing staff attended to her personal and hygiene needs (Appendix 4(a), paragraph 3), they did not document that the patient requested haircare.

25. The N IPA advised that staff usually document that they attended to patients' *'hygiene needs'*, which they did. However, it is not common practice to specifically record that they assisted with patients' hair care. Therefore, I would not expect to find such an entry in the records. Consequently, I cannot determine if staff washed or brushed the patient's hair during her stay in the Hospital.

26. The complainant said that given the condition of the patient's hair when she returned to the Hospice, staff questioned whether Hospital staff washed her hair during her stay. I reviewed the Hospice's records to help me make a finding on this issue. The records document that staff washed the patient's hair on 7 October 2022. However, they do not contain any other reference or concern as to the condition of the patient's hair. I also note the clinical nurse leaders who managed the Hospice's In-Patient Unit, could not recall any concerns staff raised about the patient's hair. I therefore accept the N IPA's advice that the patient's Hospice records do not evidence that washing the patient's hair was '…*difficult due to matted or tangled hair…'*

27. I acknowledge the complainant's concerns about the condition of the patient's hair and the impact on her when it was cut. I have no reason to doubt the complainant's account. However, the documentary evidence available does not indicate what actions staff took (or did not take) to care for the patient's hair during her admission. Furthermore, given the Hospice's records do not evidence the patient's hair was in a poor condition when she returned from hospital, I have no reason to conclude that nursing staff failed to provide an appropriate level of haircare. Therefore, I do not uphold this element of complaint.

28. I welcome the Trust's comment to my office that it *'…sincerely apologises if there was concern in relation to [the complainant's] mother's hair.'*

Issue 2: Decision of the Trust not to perform the patient's Nephrostomy tube procedure.

Detail of Complaint

29. The complainant said he disagreed with the Trust's position that the patient declined to have the Nephrostomy tube procedure. Rather, he said, she did not want to have it because she was not physically able *'…because of her pain levels…'* He said the patient agreed to the procedure while in the Hospice and *'…wanted to live as long as possible…'* He said the Trust's acceptance of failures in both the prescription and administration of some the patient's pain medication indicated the patient's version of events was correct.

30. The complainant queried why clinicians discharged the patient back to the Hospice instead of rearranging the nephrostomy procedure once her pain was under control. He said that as a result of not having the Nephrostomy tube Procedure, the patient had to live with a declining kidney. He believed the patient *'…rapidly declined…'* following her discharge back to the Hospice and *'…went from being fit medically for an operation on 27 October 2022 to dying 12 days later…'*

Evidence Considered

Policies/Guidance

31. I considered the following policies/guidance:

- The GMC guidance;
- The GMC Consent Standard
- The Trust's Consent policy;
- The NMC Standards; and
- The NMC Code.

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

Trust's response to investigation enquiries

32. The Trust explained it agreed the patient's *'…pain was not adequately controlled while an inpatient...'* The Doctor discussed with the patient her decision not to proceed with the nephrostomy procedure. The records document that the patient did not want the procedure because she was *'…very uncomfortable here compared to whilst in the Northern Ireland Hospice…'* The medical notes, written after the morning ward round on 27 October 2022, also document the patient was in *'…a lot of pain overnight...'*

33. The Trust explained the usual steps a clinician should take when a patient indicates they have changed their mind about having a procedure. The clinician should firstly ensure the patient has *'…capacity to make an informed decision'.* The clinician then explains the '…*procedure, the benefits and risks of having the procedure as well as not going ahead with the procedure'.* In doing so, the clinician *'must ensure the patient has understood this information and document the decision.'*

34. On 27 October 2022 at 05:52, the Doctor was informed the patient *'…wanted something to eat and didn't want the Nephrostomy tube change...'* The Doctor

immediately came to the ward to see the patient and saw staff had given her *'…a cup of tea'*. The Doctor spoke with the patient and was satisfied she had capacity to make the consent decision. He discussed the risks associated with not replacing the nephrostomy tube, which she *'understood'.* The Consultant discussed the situation with the patient during the ward round. He took the patient's '*wishes into consideration and agreed she could return to [the Hospice].*'

35. The Trust also explained it was difficult to provide *'a definitive answer'* on the impact this decision had on the patient's prognosis due to *'…other factors pertaining to her overall condition...'* As its records showed the nephrostomy tube was leaking, this indicated the patient 'still had kidney function'. However, it recognised that *'a leak is often uncomfortable and distressing for the patient and requires medical intervention.'*

36. The Trust said it *'…sincerely apologises'* for the impact the admission had on the patient and for the *'possible negative impact this may have had on her and her family during the remaining weeks of her life.'*

Trust Records

37. I completed a review of the relevant Trust records. I enclose relevant extracts from the records at Appendix four (b) to this report.

Relevant Independent Professional Advice

C IPA

38. The C IPA advised: when a patient withdraws consent, clinicians cannot perform the planned procedure '*without causing criminal assault'.* Therefore, it was *'reasonable'* for the clinician to discuss the patient's reasons with her and *'ask whether anything could have been done to change her decision.'*

39. In this instance, the decision to return the patient to the Hospice was *'appropriate'*. It would have also been *'reasonable'* for the clinician to *'reassure the patient'* that she could return for the procedure if she *'changed her mind in*

the future'. Furthermore, it would have been '*good practice'* for the clinician to telephone the Hospice to *'discuss the patient's decision.'*

40. Clinicians did not document any reasons for not rearranging the patient's procedure. The C IPA did *'…not regard this as necessary or appropriate'.* This was because clinicians could only rearrange it if the patient or the Hospice requested it.

41. As the patient's condition deteriorated following her return to the Hospice, *'…it is unlikely that she would have been well enough to undergo rearranged replacement of the nephrostomies'.*

42. The action taken did not have any '*impact on the patient's clinical course'.* This was because the patient's right kidney *'continued to drain urine alongside the nephrostomy tube.* Therefore, it was *'unlikely'* that blocked drainage affected that kidney's function, or that it *'had any impact on [the patient's] survival.'*

43. The C IPA advised the patient had difficulty with her pain management during the night before the planned procedure. This '*appeared to influence her decision to refuse consent for nephrostomy replacement…'* However, the patient *'…died from overwhelming metastatic cervical cancer'.* Therefore, the difficulties she experienced with the nephrostomy replacement *'did not influence her final outcome.'*

N IPA

44. The N IPA advised: If after a patient informs a nurse that she wishes to withdraw her consent for a procedure *'…the nurse should either reiterate the risks and the benefits or inform the medical team'.* In this instance, the nursing staff escalated the patient's comments to the 'hospital at night' staff immediately. The Doctor then spoke with the patient promptly. The N IPA considered the nursing staff's actions *'were appropriate…'*

Analysis and Findings

45. The complainant questioned why clinicians discharged the patient back to the Hospice instead of rearranging the nephrostomy procedure once her pain was under control. The complainant also said that as a result of not having the Nephrostomy tube procedure, the patient had to live with a declining kidney. He believed the patient *'…rapidly declined…'* following her discharge back to the Hospice.

46. The records evidence that the patient told nursing staff she did not want to proceed with the procedure, asked for a cup of tea and *'…didn't want to wait until any of the doctors are available to explain.'* Nursing staff escalated the matter to the clinical staff. The N IPA advised this action was appropriate.

47. Both the Trust's Consent Policy and the GMC's Consent Standard recognise the requirement for clinicians to respect patients' rights to make decisions, which includes refusing treatment. The C IPA advised that in these circumstances, clinicians should establish if the patient has capacity to make the decision. They should then discuss the patient's reasons for their decision and inform them of the risks of not proceeding. The records evidence that the Doctor took these steps with the patient. Therefore, I consider the Doctor's actions, in this respect, appropriate and in accordance with relevant guidance.

48. I note the C IPA's advice that clinicians cannot carry out planned procedures if the patient refuses consent. I consider it clear that the patient withdrew her consent on this occasion. Therefore, I consider the Doctor's decision not to continue with the replacement of the patient's Nephrostomy tube appropriate.

49. I further note the C IPA advised it was appropriate to send the patient back to the Hospice, but it would also '…*have been reasonable to reassure the patient that if she changed her mind in the future, the hospital would be willing to rearrange replacement of the nephrostomy tubes. It would have been good practice to telephone and discuss the patient's decision with the carers at the Hospice*.' It is not clear if the Trust took this action as it is not recorded in the patient's clinical record. However, the C IPA advised he would not expect the

Trust to record this level of information. I would ask the Trust to consider this advice and remind its staff to ensure they provide sufficient information to patients to allow them to make informed decisions about their care.

50. Based on the evidence available, I consider the Trust's decision not to perform the procedure appropriate. Therefore, I have not identified a failure in the care and treatment provided to the patient. As such, I do not uphold this element of the complaint.

51. I understand the patient's condition quickly deteriorated and she sadly passed away 12 days later. Therefore, it is unlikely there would have been a further opportunity to reschedule the procedure. I note the C IPA's advice that the clinicians' actions did not impact the patient's clinical course. I hope this provides some reassurance to the complainant.

52. I note the Trust's comment that its internal investigation found the patient's *'…pain was not adequately controlled while an impatient on Ward 4A….'* My investigation did not consider this specific issue. However, I note the C IPA's advice that the patient's distress *'…appeared to influence her decision to refuse consent for nephrostomy replacement…'* I acknowledge the complainant's understandable uncertainty that we will never know if the patient would have continued with the procedure had the Trust controlled her pain effectively.

CONCLUSION

53. I received a complaint about care and treatment the Trust provided to the patient during two admissions in the Royal Victoria Hospital.

54. I did not uphold the complaint for the reasons outlined in this report. I acknowledge the Trust identified failings in its administration of pain medication for the patient, which was separate from this investigation, and implemented learning. I welcome the learning identified.

55. I wish to acknowledge the complainant's devotion to the patient, and I hope this report provides him with some reassurance in relation to the care and treatment provided to the patient.

MARGARET KELLY
Ombudsman **December 2024**

Appendix 1

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.