



Northern Ireland

Public Services
Ombudsman

Investigation Report

Investigation of a complaint against a Dental Practice in County Down

NIPSO Reference: 201916322

The Northern Ireland Public Services Ombudsman

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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.

Issue of complaint

1. The complainant raised concerns about treatment that she had received from the Practice between 28 March 2018 and the 17 April 2018. In particular, the complainant believed her repeated requests to have her tooth extracted were ignored by dentists even when it was clear her infection was extreme and extensive. She further believed that dentists failed to appropriately identify her symptoms including infections and the onset of paraesthesia¹ during appointments. The complainant also stated that the treatment and advice received at appointments and during emergency telephone calls was not appropriate and was inadequate. She further stated that there was a failure to prescribe antibiotics when it was clear an infection was present. The complainant also raised concerns about the record keeping within the dental notes.
2. The Practice provided the complainant's relevant dental records as well as a response to investigation enquiries. The Practice explained it was '*...extremely sorry [the complainant] has suffered. We all ... place a great emphasis on providing the best care. Unfortunately, on rare occasions, unforeseeable events happen. Despite our best efforts this has occurred with [the patient] informing us of her paraesthesia.*'
3. I also obtained independent professional advice (IPA) from a Registered Dentist, BDS MBA MPH FDS RCPS (Glasg) MJDF RCS (Eng); with 31 years' experience working within Primary Care Dentistry.
4. The IPA provided advice on the complainant's initial presentation at the Practice including subsequent appointments until her visit and referral on 17 April 2017 to the Ulster Hospital (UH). The IPA reviewed the examinations carried out; the findings of the examinations and the treatment provided in person and by telephone for appropriateness. The IPA considered the appropriateness of the potential removal of the tooth at each stage of

¹ Involves a situation where tissues or structures in or around the mouth experience prolonged or possibly permanently altered sensation as a result of nerve trauma.

treatment. The IPA also reviewed the standards of record keeping within the medical notes and considered any proposals for follow-up treatment. The IPA concluded that the advice and treatment given was both reasonable and appropriate.

5. In relation to the prescribing of antibiotics, the IPA advised he did not *'...consider that the complainant should have had antibiotics prescribed prior to the 15th of April 2018...'* He further advised that in relation the complainant's telephone call with the Practice on 15 April 2018 *'Dr U treated the complainant on the 14th... and...would therefore have been aware of the condition of the tooth, when the complainant phoned on the 15th, and prescribing the antibiotics, as an adjunct to the treatment carried out less than 24 hours earlier, following the discussion with the patient, would fit with the FGDP advice. It is therefore reasonable for not to have requested to see the patient, since the antibiotics could be considered part of the same treatment episode.'*
6. The IPA advised that there was no evidence within the notes that the complainant requested to have her tooth extracted. He also advised that the quality of some of the patient's notes was below the expected standard and that treatment options, discussions about those options and requests for treatment should be recorded in the notes as reasonable practice.
7. The IPA considered whether extraction should have been considered as a treatment during the period under investigation. He advised that during the complainant's appointment on 12 April 2018, he considered an extraction would have been a drastic option. He went on to advise that extraction should have been a consideration in the telephone consultation on 15 April, following the deterioration in the patient's presentation, although *"pulp extirpation (removal of the nerve) would have been the prime choice in order to keep the tooth."* The IPA further advised that *'The appointment on the 16th of April involved the initial stage of a root treatment, including the removal of the nerve from the tooth. This is an appropriate treatment to conserve the tooth, but extraction would now be considered as the alternative and ultimate option. The tooth was*

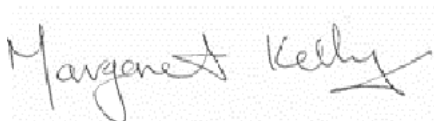
extracted on the 17th of April...I do not consider that the complainant should have had a tooth extracted between 28 March 2018 and 17 April 2018.'

8. The IPA further advised '*...,tooth extraction, like any type of treatment, requires agreement of both the patient and dentist. A patient, therefore can choose not to have a tooth extracted, even in extremis, and, equally, a dentist can refuse to carry out an extraction if the dentist does not think it is in the patient's best interest...*'
9. The IPA was asked to clarify what he meant by '*...ultimate option...*' He advised '*...the ultimate option is the option of last resort. Under normal circumstances, the initial stage of root treatment is the appropriate treatment, and extraction would only be carried out if this treatment failed. There can be other complicating factors that can make extraction more appropriate at this stage, none of those complicating factors were present in this case.'*
10. The IPA concluded '*Each one of the steps taken by the dentists in this case is an appropriate, conservative approach for the condition that the complainant presented with on those dates. The symptoms during this series of appointments appear to move from reversible to irreversible pulpitis, and the treatments carried out by the dentists fit with the guidance on treatment of pulpitis...As such, the complainant received appropriate care and treatment.'*
11. I shared a draft copy of this report with the complainant and the Practice for comment on factual accuracy and the reasonableness of the findings.
12. The complainant re-iterated that she made repeated requests to have her tooth extracted and believed no protection was afforded to patients if notes were incomplete. She stated if her tooth had been extracted on 16 April 2019 this would have saved her the distress of emergency surgery. The complainant also stated that she was not reassured that the same outcome, of permanent nerve damage/numbness, would not happen to another patient as the same course of action would be taken again by the Practice.

13. I acknowledge and accept the complainant's comments that she requested to have her tooth extracted though I was unable to corroborate this. However I note the advice of the IPA that a dentist does not have to carry out requested treatment if they do '*...not think it is in the patient's best interest...*' I further note his advice that he did '*...not consider that the complainant should have had a tooth extracted between 28 March 2018 and 17 April 2018...*' Given the available evidence I accept the advice of the IPA and conclude that the complainant received appropriate care and treatment from the Practice between 28 March and 17 April 2018. Therefore I do not uphold the complaint. Although I have not upheld the complaint I wish to acknowledge the clear pain and distress the complainant underwent and continues to experience as a result of her tooth removal during emergency surgery and treatment for infection and paraesthesia.

14. I acknowledge the IPA's advice in relation to some of the patient's dental records being below expected standards. While I do not consider this a failure in the patient's care and treatment, I do consider it a service failure and would therefore ask the Practice to reflect on the comments of the IPA and ask it to remind dental practitioners about the importance of maintaining adequate records in line with relevant standards

15. The Practice accepted the report findings and I note its commitment to staff training and record-keeping audits as outlined in its response to my draft report. I would ask the Practice to provide reassurance to this office, that these commitments and the IPA's comments have been implemented.



MARGARET KELLY
Ombudsman

8 March 2022

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.

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.

- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.