

SUMMARY REPORT

Case Reference Number: HSCOB/2023/116

Regulation 24(6) of the Complaints Regulations 2022 requires the HSCOB to publish reports of its reviews and investigations on its website. Regulation 24(7) also requires the Body to give due regard to data protection legislation and the general duty of care and confidence.

Reports are therefore presented in a format that summarises the nature of the complaint together with the relevant key findings, conclusions and recommendations. They do not however contain any personally identifiable data or information.

Complainants receive a copy of the original unredacted report prior to their publication in a summary format. Reports intended for publication must be posted on the HSCOB website within one month of the unredacted original version being sent to the complainant.

Summary reports are intended to inform the public about the work of the HSCOB and raise awareness of the Body's role in contributing to the transformation and improvement of health and care services on the Isle of Man.

Manx Care Service(s) Complained About

Noble's Hospital Maxillo-Facial Surgery Out Patients Department (Secondary Care)
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The Complaints

A belief that a biopsy was performed on the wrong side of the mouth, with the result that a cancer on the opposite side was found too late and was terminal.

The singular reliance of Manx Care on the evidence provided by the clinician responsible for carrying out the biopsies in its initial investigation; further evidence sought by Manx Care only when prompted to do so.

Claim there was negligence on the part of Manx Care and an attempt to cover this up in the manner in which it dealt with the complaint, due to the lack of independence in the investigation.

The Complainant's Desired Outcomes

Wish for the matters raised to be investigated " for the sake of others".

Review Findings & Conclusions

The Review undertaken by HSCOB established the following findings:

- Documentation relating to the referrals to the Maxillo-Facial service and subsequent biopsies confirmed that these had both been carried out in the correct location.
- Manx Care did not comply with its statutory obligations under Part 2 of the Complaints Regulations 2022 with respect to meeting with complainants when acknowledging complaints, and as part of the complaint investigation at which time a person familiar with the complaint and qualified to answer questions should be involved.
- There were no terms of reference for either the initial or subsequent investigation, description of methodology or identity of an investigator independent of the service area complained about.

Review Outcome

There was not sufficient evidence, on the balance of probability, to support the belief that the delay in diagnosing the cancer was due to the first biopsy being carried out on the wrong side, or that there was an attempt to cover up any mistake. This decision was based on review of material provided by the complainant, Manx Care (Noble's Hospital), community dentist and specialist consultant at Liverpool NHS Hospital Trust.

Review Recommendations

The following recommendations have been made to Manx Care:

Acknowledgements of complaints to include a summary of the complaint and an unambiguous invitation to the complainant to meet to discuss the nature and substance of the complaint;

Investigations of complaints to be conducted independently of the service area complained of, have clear terms of reference and produce an investigation report;

A meeting with complainants forms part of the investigation methodology and includes a person who is familiar with the complaint and is qualified to answer any questions from the

complainant; every effort to be made to ensure this happens, particularly in the case of bereavement.

The review acknowledged that a different regime was in place at the time this complaint was considered by Manx Care i.e. prior to the implementation of the NHS (Complaints) Regulations 2022. Recommendations were made to assist Manx Care with adjusting to the new regulations.