Local Government & Social Care OMBUDSMAN

Report by the Local Government and Social Care Ombudsman

Investigation into a complaint about Cambridgeshire County Council (reference number: 22 010 218)

28 July 2023

The Ombudsman's role

For almost 50 years we have independently and impartially investigated complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

- apologise
- pay a financial remedy
- improve its procedures so similar problems don't happen again.

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Report summary

Corporate and other services: public health

Change Grow Live (CGL), acting for Cambridgeshire County Council prescribed long-term medicines (benzodiazepines) against national guidance and not in line with its own prescribing policy.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. **(Local Government Act 1974, section 31(2), as amended)**

We recommend CGL and the Council provide us with a report of the national clinical audit CGL is currently doing. We also recommend the Council ensures CGL improves record keeping, updates its policy to include recent guidance from NHS England and completes yearly audits of Cambridgeshire CGL clients who are on long-term prescriptions of benzodiazepines.

The Council and CGL have accepted our recommendations, which we welcome.

The complaint

1. Cambridgeshire County Council (the Council) commissions Change Grow Live (CGL) to provide drug and alcohol services for people living in Cambridgeshire. 50 other councils in England also commission CGL to provide drug and alcohol services with a prescribing service.

2. The complaint is about CGL prescribing a type of medicine for long-term use in a way that was not in line with guidance or its policy.

The Ombudsman's role and powers

3. We investigate complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, we can investigate complaints about the actions of these providers. **(Local Government Act 1974, section 25(7), as amended)**

4. The Health and Social Care Act 2012 amended the NHS Act 2006, placing a duty on local authorities to improve the health of people in their area. Since this change in the law, councils have been responsible for improving public health by providing drug and alcohol treatment services. As the Council commissions CGL to provide drug and alcohol services under its powers in public health law, we can investigate CGL and any fault we find in its services is fault by the Council.

5. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. **(Local Government Act 1974, sections 26(1) and 26A(1), as amended)**

6. We may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. **(Local Government Act 1974, section 26D and 34E, as amended)**

7. When investigating another complaint (21 011 449) about another client of CGL in Cambridgeshire, we discovered there were others in the service receiving prescriptions for benzodiazepines long-term. Those people had not complained to us. We considered there may be fault by CGL, which acts for the Council, causing injustice to members of the public. We decided to investigate those cases using our powers under section 26D of the Local Government Act 1974 because we had identified a specific group of people beyond the original complaint, who are potentially affected by the same or similar fault and injustice.

8. We normally expect complainants to use a council's complaints procedure before we start an investigation. This is because the law says a council should have a reasonable opportunity to respond to the complaint. However, we may decide not to apply this rule if we do not think it reasonable for a council to respond. **(Local Government Act, section 26(5))**

9. We investigated this complaint even though the Council and CGL have not received or had an opportunity to respond to individual complaints through the local complaint procedure. We do not consider it reasonable for those affected by this issue to have complained to the Council or CGL or for either body to have responded. We have considered that those affected are a vulnerable group, typically not well-versed in NHS guidance or in good practice. The Council and CGL can respond to the issues through this investigation.

10. Where we identify fault in an investigation, we may make recommendations not only to remedy injustice sustained already, but also to prevent injustice in the future in consequence of similar fault. **(Local Government Act 1974, section 31(2B), as amended)**

How we considered this complaint

11. We produced this report after examining relevant documents.

12. We gave the Council and CGL a confidential draft of this report and invited their comments. We took their comments into account before issuing the final report.

Investigation

Background

13. Benzodiazepines are a class of medicines to relieve nervousness, tension and other symptoms of anxiety and are generally prescribed short-term. They include diazepam (Valium). Information in CGL's policy explains people use them for anxiety, insomnia, to enhance opiate effects, to deal with mental health issues, improve confidence and to reduce psychotic symptoms like hearing voices. Benzodiazepine dependence syndrome is a condition associated with long-term use in which someone has developed one or more of the following: tolerance, withdrawal symptoms, drug-seeking behaviour or continued use despite harmful effects.

Relevant law and guidance

14. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (the 2014 Regulations) set out the requirements for safety and quality in health and social care services which the Care Quality Commission (CQC) regulates. When investigating complaints about health and social care services, we consider the 2014 Regulations, the CQC's Fundamental Standards and Guidance

15. Regulation 17 of the 2014 Regulations requires a regulated health and social care provider to keep accurate, complete and contemporaneous records of care and treatment provided and of decisions taken about care and treatment. CQC's Guidance on Regulation 17 explains records must refer to discussions with people who use the service.

16. National Institute for Health and Care Excellence (NICE) issued guidance called 'Guidance on Medicines optimisation: the safe and effective use of medicines to enable the best possible outcomes' (March 2015). It recommends adults taking multiple medicines and/or adults who have a long-term condition have a structured medication review. This is a

> 'critical examination of a person's medicines with the objective of reaching an agreement with the person about treatment, optimising the effect of medicines, minimising the number of medication-related problems and reducing waste.'

17. NICE 'Guidance on Medicines associated with dependence or withdrawal symptoms: safe prescribing and withdrawal management for adults' (April 2022) recommends the following.

- Offering regular reviews to people taking benzodiazepines and other dependence-forming medicines.

- During reviews, discussing the benefits and risks of continuing with the current dose, adjusting it or stopping it. Taking into account the person's preferences and any signs of problems associated with dependence.
- Agreeing and updating a management plan after each review.
- Shared decision-making about reducing or withdrawing medicine if it is no longer beneficial, if problems have developed, or the condition has resolved or if harm outweighs benefits. Agreeing a schedule of reduction in dose that is acceptable to the person.

18. CGL's 'Management of Benzodiazepines Procedure', which applies across all its services in England, includes guidelines on assessment and treatment of benzodiazepine dependence syndrome. It says:

- benzodiazepines are generally not suitable long-term, but they are for short-term relief in severe anxiety and insomnia and in some neurological conditions. NHS guidelines recommend use for no more than two to four weeks for those with an anxiety disorder;
- for patients who have been using benzodiazepines on a regular prescription and who have been using them consistently over six months, follow national clinical guidelines to reduce the dose by between one tenth and one quarter each week or fortnight. For patients on doses of 30 mg or more, reduce by 5 mg weekly or fortnightly. If severe withdrawal symptoms occur then increase slightly until improvement, but only for two to four weeks with a robust plan to restart reduction. The aim should be to prescribe a reducing regime for a limited period. Maintenance treatment with benzodiazepines will not be offered. There is no evidence to support routine substitute prescribing (prescribing to replace harmful or illicit drug use);
- the clinician should encourage the patient to work with their key workers to develop a specific benzodiazepine relapse prevention plan;
- if the patient receives a long-term methadone prescription for opioid (heroin) dependency as well, benzodiazepine withdrawal should be considered first. The methadone dose should remain stable throughout the benzodiazepine reduction period;
- patients should be informed the rate of dose reduction will be increased if drug screens indicate any other illicit use of Class A drugs (including heroin);
- the clinician should aim for the lowest dose to prevent withdrawal symptoms. The rate of withdrawal is often determined by the patient's ability to tolerate symptoms. Patients should be made aware withdrawal symptoms are usual during the reduction process and encouraged to seek increased psychosocial support (help to address a person's psychological and social needs); and
- CGL's services should strive to do three to six monthly benzodiazepine audits to check everyone is on a reduction regime and if someone is on a static dose this should be documented on the electronic record and should not be more than 14 to 28 days. A robust review plan should be in place to restart reduction after the stabilisation period.

19. CGL amended its 'Management of Benzodiazepines Procedure' in September 2022 as one of the agreed recommendations to our investigation of complaint reference 21 011 449. The amendment deals with exceptional cases where people are kept on long-term prescriptions of benzodiazepines. The amended

procedure says such cases must have a clear rationale for departing from the usual guideline to reduce dosage with the aim of stopping.

What happened

20. In September 2022, as an agreed action for the linked complaint, one of CGL's clinicians audited the records of the nine clients in its Cambridgeshire service who were prescribed long-term benzodiazepines. The result of CGL's audit was six cases had a clear rationale for their long-term prescription. The six cases had received a clinical review and were either on an agreed reduction plan or there was an appropriate reason for the prescription.

21. CGL's clinician noted three cases did not have a recorded rationale for the prescription. We asked the Council and CGL about these three cases as we considered there may be fault and injustice as CGL was not following its revised procedure. CGL carried out clinical reviews and shared a summary of those reviews.

- Case A had recently completed a medical detoxification from alcohol and had agreed to start a reduction programme for diazepam in January 2023.
- Case B's priority was to reduce methadone and was reluctant to reduce diazepam at the same time. The outcome of the review in September 2022 was that reduction of diazepam would eventually need to take place, but the service would seek support from the mental health team first.
- Case C had a review in November 2022 and had been on diazepam for many years. The agreed plan was a gradual reduction starting one month after the review to allow the person to prepare.

22. We asked CGL to provide us with an anonymised breakdown of the number of clients on long-term benzodiazepines for each council area where it ran services. These figures showed 343 clients were on long-term benzodiazepine prescriptions in the services commissioned by 50 other councils in England. CGL told us its Medical Director had started a national clinical audit focussing on benzodiazepine prescribing across the organisation. CGL said it was willing to share the findings of that audit with us.

Action taken by CGL and the Council during this investigation

23. In response to a draft of this report, the Council discussed the three clients with CGL which provided the Council with additional clinical files. We did not ask for individual clinical information for data protection reasons. The Council told us the following.

- It had obtained specialist pharmacist advice to review the cases against policy and guidance. The specialist's view was the prescribing was appropriate and in line with NICE guidance in each case.
- The specialist considered rationale for prescribing decisions was recorded but recommended improvements to record keeping in case plans to evidence a personalised care approach. Specifically, the specialist recommended CGL needed to document joint discussions along with clear management plans which include details of risks and implications of long-term prescribing.
- The three cases all had benzodiazepine dependence syndrome and had been using the medicine for many years. CGL did not originally prescribe it and the cases came to CGL because of their dependency on benzodiazepines.

- The clinical records provided evidence that discussions between the clients and their case worker or clinician did take place about prescribing, potential reductions, associated benefits and risks in line with a shared approach to decision-making.

24. The Council said it would:

- work with CGL to ensure records are comprehensive and contain the evidence and rationale for prescribing decisions;
- ask CGL to review its benzodiazepine policy to ensure it fully reflects NICE guidance and recent NHS England guidance issued in March 2023 ('Optimising personalised care for adults prescribed medicines associated with dependence or withdrawal symptoms: Framework for action for integrated care boards and primary care'), acknowledging some patients will need maintenance treatment; and
- ensure CGL does yearly audits for those on benzodiazepines.

Conclusions

25. CGL's initial review by one of its own clinicians concluded the three cases did not have recorded cogent rationale for departing from usual practice. Our view is this was fault because as of September 2022 there was no clear record of the clinical reason for long-term prescribing. A second review, commissioned by the Council by a specialist pharmacist concluded prescribing was in line with NICE Guidance, but recommended improvements to CGL's record-keeping.

26. We expect councils and providers they commission to keep accurate, contemporaneous and complete records of care and treatment, in line with Regulation 17 of the 2014 Regulations. The failures, highlighted by the Council and by CGL, are fault. The fault in record-keeping causes uncertainty about what was discussed and agreed with three cases to evidence a personalized care approach. The three cases have now been reviewed and this is an appropriate response.

Recommendations

27. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. **(Local Government Act 1974, section 31(2), as amended)**

28. When a council commissions another organisation to provide services on its behalf it remains responsible for those services and for the actions of the organisation providing them. So, although we have found fault with CGL, we made recommendations to the Council.

29. CGL has offered to share with us the report of its national clinical audit of benzodiazepine prescribing. This is an action we would likely have recommended had CGL not offered it and we welcome it. Where we identify fault in an investigation, we have the power to recommend action to prevent injustice which has already happened, but also to minimise the chance of future injustice. We consider CGL's national audit will not only identify cases where injustice may already have been sustained, but it will also ensure any further or continuing injustice is minimised. This is because individual cases of inappropriate

prescribing will be identified and a plan of action put in place to reduce usage where the risks of continuing with the prescription outweigh the benefits.

30. The Council will also ensure CGL acts to improve record keeping, reviews its policy to include March 2023 advice from NHS England and completes a yearly audit of clients on long-term benzodiazepines. We welcome these actions.

Final decision

31. There was fault by CGL which acted for the Council. This caused avoidable uncertainty about the management of clients prescribed long-term benzodiazepines. The Council and CGL have agreed to our recommendations.