

Ombudsman Report on Prescribing in Drug and Alcohol Services

To: Adults and Health Committee

Meeting Date: 5 October 2023

From: Jyoti Atri, Executive Director of Public Health

Electoral division(s): All

Key decision: No

Forward Plan ref: N/A

The Service Director for Legal and Governance is making this report in her capacity as Monitoring Officer under Section 5 of the local Government and Housing Act 1989. The report has been sent to all members of the Council and the Chief Executive and Service Director Finance and Procurement (Head of Paid Service and Deputy s151 Officer) have been consulted. Members are obliged to have regard to this report. The Service Director – Legal and Governance is satisfied with the actions taken and recommended and that they will fully address the issues raised.

Outcome: A Committee review of the Local Government and Social Care Ombudsman (LGSCO) investigation Report into prescribing practice within the commissioned Drug and Alcohol Services.

Recommendation: Adults and Health Committee are asked to:

- a) Consider the findings and requirements of the LGSCO Report.
- b) Note the actions proposed and already undertaken by Public Health in collaboration with the provider.
- c) Recommend referral to Full Council to consider the report.

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1. Background

- 1.1 Drug and alcohol prevention and treatment services are included in the local authority Public Health Grant. The services are not specifically mandated, but the Public Health Grant conditions include the following statement: A local authority must, in using the grant, "...have regard to the need to improve the take up of, and outcomes from, its drug and alcohol misuse treatment services..."
- 1.2 The current Cambridgeshire Adult Integrated Drug and Alcohol Treatment contract is with Change Grow Live (CGL), a large third sector organisation who are one of the market leaders in this sector with over fifty local authority contracts to provide Drug and Alcohol Treatment services It commenced on the 1st of October 2018 and ends 31 March 2026.
- 1.3 The CGL Adult Drug and Alcohol Treatment Service provides all elements of substance misuse treatment including early intervention advice and support, pharmacological treatment, harm reduction services, pharmacy delivered services (including needle and syringe programmes), psychosocial support, recovery support, community/inpatient detoxification, and residential rehabilitation.
- 1.4 As a service CGL is performing well across the county compared to national average indicators and demonstrated strong resilience over the covid pandemic. The service has grown considerably over the term of the contract with additional national investment (short term grants) associated with the National Drug Strategy resulting in the expansion of the service to meet local and national ambitions.
- 1.5 This paper is to inform the Committee about the Local Government and Social Care Ombudsman (LGSCO) investigation and report into CGL's prescribing practices. The LGSCO investigates complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, it can investigate complaints about the actions of these providers.
- 1.6 The LGSCO sent a draft copy of its investigation report to the Local Authority with a request for a response which they would consider before the final report was completed. This was undertaken and the Local Authority has now received the final investigation report (Final Report and covering letter attached as Appendix 1 and 2) which includes a mandatory request for the Council to:
 - consider its findings at its full Council, Cabinet, or other appropriately delegated committee of elected members. (Local Government Act 1974, section 31(2), as amended)
 - approve the action already undertaken and proposed in response to the Report. (Detailed in this paper).
 - publish its response to the Report in two newspapers within two weeks of publication and make hard copies available free of charge at one of its offices. (Completed on publication of the Report).
 - that this report and the minutes of the meeting are sent to the Ombudsman as confirmation of any action taken to address the prescribing issues highlighted in the report.

2. Main Issues

- 2.1 This paper is a response to the LGSCO investigation Report first sent to the Local Authority in February 2023, but it is linked to an earlier investigation Report from 2022 into prescribing concerns. The first investigation started in February 2022 and was concluded in October 2022. This complaint was raised in relation to an individual client and the Council and CGL were found to be at fault because there was no review of the client's long-term prescription of diazepam, no audit of the file and a failure to deal with a request for records within legal timescales in the Access to Health Records Act 1990. There was also a failure to advise the complainant of his right to complain to the LGSCO. As requested, the Council apologised to the complainant and ensured that CGL took action to minimise the chance of recurrence namely through CGL updating its national guidance for benzodiazepine prescribing, auditing all their clients' prescribed benzodiazepines, and improving their complaints procedures. This was undertaken by CGL and there has been ongoing monitoring by Public Health commissioners.
- 2.2 In February 2023 the LGSCO informed the Local Authority of another investigation relating to prescribing that had emerged though its request that CGL audits all the prescribing records of clients treated with benzodiazepine. The Local Authority was asked to consider and respond to this draft Report. The Council's response stated that it appreciated the seriousness of the LGSCO's concerns and that it had acted in response to the Report.
- 2.3 The February draft investigative Report found that CGL acting for Cambridgeshire County Council prescribed long-term medicines in this case, benzodiazepines, against national guidance and not in line with its own prescribing policy. Further to this as the Council commissions CGL to provide drug and alcohol services under its powers in Public Health law any "fault" lies both with CGL and the Council. The LGSCO in this case found "fault" to mean a service maladministration or failure, which has had a harmful effect termed as an injustice.
- 2.4 Benzodiazepines are a type of sedative medication. They are used in the treatment of drug dependency to alleviate anxiety and stress associated with reducing drug misuse. However, there is a risk of dependency upon benzodiazepines and there are strict National Institute for Health and Care Excellence (NICE) guideline that govern their use in the treatment of drug dependency. Their use should be for a short period and carefully monitored with their reduction and termination agreed between the clinician and client.
- 2.5 The concerns had emerged when CGL provided the LGSCO with information about the audit they had completed of the small cohort of 9 clients prescribed benzodiazepines, as part of the requirements of the first investigation Report in 2022. It revealed that three of the nine CGL clients had been prescribed benzodiazepine medications over period of eleven years and furthermore there was no evidence of joint client/clinician agreement for their reduction.
- 2.6 Our immediate response was to ask CGL to further review and update its guidance for benzodiazepine prescribing in line with NICE Guidance and new National Guidance published by NHS England in March 2023, to audit all their clients' prescribed benzodiazepines and to improve their complaints procedures. This has been undertaken by CGL and there is ongoing monitoring by Public Health commissioners.

- 2.7 Public Health discussed the report with CGL, they provided further information and clinical files that had not been shared with the LGSCO. In addition, we commissioned a pharmacy specialist to review the findings of the LASCO Report.
- 2.8 Each of three clients had been on benzodiazepine medications for many years and had been receiving treatment for at least 11 years. In all 3 cases, CGL did not instigate the prescription of benzodiazepine. The cases were transferred to CGL for care in response to their long-standing dependency on benzodiazepines.
- 2.9 The specialist clinical pharmacist concluded that CGL's prescribing policy had always been compliant with NICE Guidance. In relation to the three clients its prescribing rationale was appropriate and in line with its policy. The additional clinical files provide evidence that conversations between the clients and their clinicians (or case worker) about benzodiazepine prescribing, potential reductions, and associated benefits and risks did happen and have continued to take place, in line with the recommended shared decision-making approach required by NICE Guidance and CGL's own policy.
- 2.10 However a recommendation was made for improvements in CGL's client plan recording that included clear documentation of prescribing decisions and their rationale throughout the clinical record. More specifically the organisation should clearly document the joint discussions held with cases along with clear clinical management plans that include details of risk factors and the implications of long-term prescribing of benzodiazepine medication which would have evidenced a personalised care approach. Following this review, we concluded that although that CGL's benzodiazepine prescribing for the 3 cases was in line with NICE Guidance and their own policy, the client notes provided to the LGSCO did not contain all the supporting information suggesting that CGL's clinical recording is not consistent.
- 2.11 The final Report which included the LGSCO's findings was released in August 2023. It included the request described above to ask the appropriate Council Committee to consider its findings at a public meeting. In addition, the Local Authority must publish its response to the Report in two newspapers following its publication by the LGSCO, which has been undertaken. Copies of the Report are also available free of charge on request at New Shire Hall.
- 2.12 This final Report concluded, based on the investigation, that there was fault because in the clinical client summary information provided to the LGSCO by CGL in September 2022 there was no clear record of the clinical reason for long-term prescribing. The review by our commissioned specialist pharmacist that record keeping was inadequate was acknowledged and noted.
- 2.13 The LGSCO upheld the finding of maladministration and injustice, as CGL which acted for the Council, caused unavoidable uncertainty about the management of clients prescribed long-term benzodiazepines. The Report made recommendations and noted that these were agreed by the Council and CGL and that an appropriate "remedy" was in place.

LGSCO's Recommendations

1. 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)

2. It stated that 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 fault was found with CGL, the LGSCO made recommendations to the Council to ensure that its concerns were addressed.
3. It was recommended that the Council will ensure CGL acts to improve record keeping, reviews its policy to include that latest policy advice (March 2023) from NHS England and completes a yearly audit of clients on long-term benzodiazepines.

2.14 In addition LGSCO welcomed the CGL report of its national clinical audit of benzodiazepine prescribing as it will not only identify cases where injustice may already have been sustained, but it will also ensure any further or continuing injustice is minimised. The LGSCO noted that it has the power to recommend action to prevent injustice which has already happened, but also to minimise the chance of future injustice.

3. Alignment with ambitions

3.1 Net zero carbon emissions for Cambridgeshire by 2045, and our communities and natural environment are supported to adapt and thrive as the climate changes.

- There are no significant implications for this ambition.

3.2 Travel across the county is safer and more environmentally sustainable.

- There are no significant implications for this ambition.

3.3 Health inequalities are reduced.

The following bullet points set out details of implications identified by officers:

- Drug and Alcohol service users experience health inequalities and have poor health outcomes. This new investment improves access and continuity of to address these outcomes of this population group.

3.4 People enjoy healthy, safe, and independent lives through timely support that is most suited to their needs.

The following bullet points set out details of implications identified by officers:

- Drug and Alcohol service users experience health inequalities and have poor health outcomes. This new investment acknowledges their specific needs and aims to improve the access and care that best addresses them.

3.5 Helping people out of poverty and income inequality.

The following bullet points set out details of implications identified by officers:

- The holistic services will improve treatment outcomes which is associated with increased skills and employment opportunities.

3.6 Places and communities prosper because they have a resilient and inclusive economy, access to good quality public services and social justice is prioritised.

The holistic drug and alcohol services will improve treatment outcomes and provide opportunities for access to skills development/employment and housing and decreases the risk of entering the criminal justice system.

3.7 Children and young people have opportunities to thrive.

The following bullet points set out details of implications identified by officers:

- This service will improve the health, income, and social outcomes for service users, and this will benefit their families including children and young people.

4. Significant Implications

4.1 Resource Implications

There are no significant implications within this category.

4.2 Procurement/Contractual/Council Contract Procedure Rules Implications

See wording under 4.1 and guidance in Appendix 2.

The following bullet points set out details of significant implications identified by officers:

- Any contract variations arising from the LGSCO Report will be made with the support and approval of the Procurement team and conform to Contract Procedure Rules

4.3 Statutory, Legal and Risk Implications

THIS IS A STATUTORY REPORT UNDER S 5 OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989 CONSEQUENTLY MEMBERS ARE OBLIGED TO HAVE REGARD TO THE CONTENTS.

The following bullet points set out details of significant implications identified by officers:

- Any implications for procurement/contractual/Council contract procedure rules arising in the future from the LGSCO Report will be agreed with the appropriate officers from these Departments and where necessary presented to the Adult and Health Committee before proceeding.

4.4 Equality and Diversity Implications

The report above sets out details of significant implications in 2.12, 2.13.

4.5 Engagement and Communications Implications

The report above sets out details of significant implications in 1.6.

4.6 Localism and Local Member Involvement

The following bullet points set out details of significant implications identified by officers:

- We will work with members to ensure that they are fully informed about the actions arising from this report.

4.7 Public Health Implications

The following bullet points set out details of significant implications identified by officers:

- The “fault” on behalf of the provider and the responsibilities of the Local Authority detailed in this report puts service users at risk of poor treatment outcomes.

4.8 Climate Change and Environment Implications on Priority Areas

4.8.1 Implication 1: Energy efficient, low carbon buildings.

Status: Neutral

Explanation: Not influenced by the Service

4.8.2 Implication 2: Low carbon transport.

Status: Neutral

Explanation: Not influenced by the Service

4.8.3 Implication 3: Green spaces, peatland, afforestation, habitats, and land management.

Status: Neutral

Explanation: Not influenced by the Service

4.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.

Status: Neutral

Explanation: Not influenced by the Service

4.8.5 Implication 5: Water use, availability, and management:

Status: Neutral

Explanation: Not influenced by the Service

4.8.6 Implication 6: Air Pollution.

Status: Neutral

Explanation: Not influenced by the Service

4.8.7 Implication 7: Resilience of our services and infrastructure and supporting vulnerable people to cope with climate change.

Status: Positive

Explanation: Increasing the number of people in services increases the opportunity to enable them to adapt to climate change

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Justine Hartley 31/8/23

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the Head of Procurement and Commercial? Yes

Name of Officer: Claire Ellis 30/8/23

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or Pathfinder Legal? Yes

Name of Legal Officer: Emma Duncan 31/8/23

Have the equality and diversity implications been cleared by your EqIA Super User?

Yes

Name of Officer: Jyoti Atri 21/9/23

Have any engagement and communication implications been cleared by Communications?

Yes

Name of Officer: Simon Cobby 31/8/23

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Jyoti Atri 21/9/23

Have any Public Health implications been cleared by Public Health?

Yes

Name of Officer: Jyoti Atri 24/8/23

If a Key decision, have any Climate Change and Environment implications been cleared by the Climate Change Officer?

Name of Officer: Not applicable

5. Source documents guidance

5.1 Source documents

[Overview | Medicines associated with dependence or withdrawal symptoms: safe prescribing and withdrawal management for adults | Guidance | NICE](#)

<https://www.england.nhs.uk/long-read/optimising-personalised-care-for-adults-prescribed-medicines-associated-with-dependence-or-withdrawal-symptoms/>