

**SCOTTISH
PUBLIC
SERVICES
OMBUDSMAN**



People Centred | Improvement Focused

The Scottish Public Services Ombudsman Act 2002

Investigation Report

UNDER SECTION 15(1)(a)

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Case ref: 201805931, Grampian NHS Board

Sector: Health

Subject: Community Nursing & Support Services / Clinical treatment / Diagnosis

Summary

Mr C complained to me about Grampian NHS Board (the Board)'s failure to assess and treat him for adult attention deficit hyperactivity disorder (ADHD - a behavioural disorder that includes symptoms such as inattentiveness, hyperactivity and impulsiveness).

In 2018, Mr C felt he was struggling to lead a balanced life and having difficulties coping within society. Mr C asked his GP about getting referred to the Board for an ADHD assessment. Mr C was told that due to service pressure, the Board had decided not to carry out adult ADHD assessments. When we made enquiries with the Board, we found that they had made that decision in 2015.

We took independent advice from a consultant psychiatrist, which we accepted. We found that the Board had unreasonably failed to provide Mr C with access to diagnostic services and treatment for ADHD. We found the Board's overall approach to adult ADHD assessments was unreasonable, as they should have assessed adults presenting with ADHD on a case-by-case basis. We also found that their approach was not in keeping with the relevant clinical guidance or the Scottish Government's mental health strategy that was in place at the time. We found that this had led to a service gap in diagnosing and treating adults with ADHD over an extensive period of time. We were critical that although the Board had acknowledged this to Mr C, they failed to take urgent action to address it and the impact it had on him. We were also critical of the explanation the Board gave to Mr C for taking this approach.

We made a number of recommendations to address the issues identified. The Board have accepted the recommendations and will act on them accordingly. We will follow up on these recommendations. The Board are asked to inform us of the steps that have been taken to implement these recommendations by the date specified. We will expect evidence (including supporting documentation) that appropriate action has been taken before we can confirm that the recommendations have been implemented.

Redress and Recommendations

The Ombudsman's recommendations are set out below:

What we are asking the Board to do for Mr C:

What we found	What the organisation should do	Evidence SPSO needs to check that this has happened and the deadline
The Board failed to take action to address Mr C's lack of access to ADHD diagnostic services and treatment, despite acknowledging the problem when responding to his complaint	Apologise to Mr C for failing to address his lack of ADHD service provision. The apology should meet the standards set out in the SPSO guidelines on apology available at: www.spsso.org.uk/leaflets-and-guidance	A copy or record of the apology By: 25 November 2019
The Board failed to provide Mr C with access to ADHD diagnostic services and treatment	The Board should carry out an urgent ADHD assessment for Mr C; if Mr C still wishes this and if his GP refers him to the Board	Confirmation that the Board will urgently assess Mr C for ADHD, if he is referred by his GP By: 25 November 2019

We are asking the Board to improve the way they do things:

What we found	What should change	Evidence SPSO needs to check that this has happened and deadline
The Board's approach in Mr C's case and adult ADHD assessments in general was unreasonable	Adults presenting with symptoms suggestive of ADHD should be assessed appropriately, taking into account the relevant clinical guidance	Evidence that the strategic review, when complete, appropriately addresses the issues my report has highlighted, including the Board's role in challenging any preconceptions surrounding mental health issues By: 23 April 2020

Evidence of action already taken

The Board told us they had already taken action to fix the problem. We will ask them for evidence that this has happened:

What we found	What the organisation say they have done	Evidence SPSO needs to check that this has happened and deadline
The Board told us that until they complete their strategic review, they have put in place interim measures to ensure that patients, presenting with ADHD, will be assessed on a case-by-case basis	Adults presenting with symptoms suggestive of ADHD should be assessed on a case-by-case basis, taking into account the relevant clinical guidance	Evidence that these interim measures are in place and are working appropriately By: 4 December 2019

Who we are

The Scottish Public Services Ombudsman (SPSO) investigates complaints about organisations providing public services in Scotland. We are the final stage for handling complaints about the National Health Service, councils, housing associations, prisons, the Scottish Government and its agencies and departments, the Scottish Parliamentary Corporate Body, water and sewerage providers, colleges and universities and most Scottish public authorities. We normally consider complaints only after they have been through the complaints procedure of the organisation concerned. Our service is independent, impartial and free. We aim not only to provide justice for the individual, but also to share the learning from our work in order to improve the delivery of public services in Scotland.

The role of the SPSO is set out in the Scottish Public Services Ombudsman Act 2002, and this report is published in terms of section 15(1) of the Act. The Act says that, generally, reports of investigations should not name or identify individuals, so in the report the complainant is referred to as Mr C. The terms used to describe other people in the report are explained as they arise and in Annex 1.

Introduction

1. This complaint concerns Grampian NHS Board's failure to assess and treat an adult patient (Mr C) for ADHD over an extensive period of time. In addition, my enquiry into Mr C's complaint has highlighted a gap in the assessment and treatment of adult ADHD patients by the Board. This is also covered in this report.

2. In early 2018, Mr C contacted his GP because he was concerned he had symptoms of ADHD. Mr C discovered that the Board had decided not to assess and diagnose adults for ADHD.

The complaint

3. The specific complaint I have investigated from Mr C is that in early 2018, the Board unreasonably failed to assess him for ADHD (*upheld*).

Investigation

4. I and my complaints reviewer considered all the information provided by Mr C and the Board, including their complaints file. We also obtained independent advice from a consultant psychiatrist (the Adviser) on the clinical aspects of the complaint.

5. I have decided to issue a public report on Mr C's complaint because of the significant personal injustice experienced by Mr C and the clear failings in service provision by the Board. In their investigation of Mr C's complaint, the Board acknowledged they had a service gap in relation to adult ADHD assessments. I am deeply concerned that, despite acknowledging this, they failed to take urgent action to address it.

6. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Board were given an opportunity to comment on a draft of this report.

Background

7. Some years ago, a colleague of Mr C's, who worked in education services, told him that he had symptoms suggestive of ADHD. Mr C considered that he had developed good techniques to try to manage his symptoms but more recently, he felt he was struggling to lead a balanced life and he was having difficulties coping within society.

8. In January 2018, Mr C contacted his GP to ask if he could be referred for an ADHD assessment. His GP explained when they previously referred a patient, the Board had rejected it. The GP decided to contact a local consultant psychiatrist for

advice; and they were told that due to service pressure, the Board was not carrying out adult ADHD assessments. As a result, Mr C's GP did not formally refer him to the Board to be assessed for ADHD.

Complaint: In early 2018, the Board unreasonably failed to assess Mr C for ADHD

Concerns raised by Mr C

9. In May 2018, Mr C complained to the Board about their refusal to assess and diagnose adults for ADHD. Mr C told the Board that he was experiencing problems relating to ADHD on a daily basis. Mr C complained that the Board was not providing him with any support to help him manage this.

The Board's response to Mr C

10. The Board told Mr C that in 2015, they had decided not to carry out adult ADHD assessments, except for people already diagnosed with a mental health condition or a learning difficulty. The Board explained the main reason for that decision was because they felt it was inappropriate for people with autistic spectrum disorder, including ADHD, to be stigmatised as having serious mental health conditions by attending their specialist mental health service. The Board acknowledged there might be a service gap for ADHD assessments as a result. The Board apologised to Mr C that he had experienced difficulty getting help and access to diagnostic services.

The Board's response to SPSO

11. In early 2019, the Board advised my complaints reviewer that their ongoing approach was still to only carry out ADHD assessments for adults with a pre-existing diagnosis of a mental health condition or learning difficulty. The Board explained they had felt that supporting these types of patients in their specialist mental health service might not be the best approach. In addition, the Board explained that they had prioritised resources elsewhere, as they considered the percentage of the population affected by ADHD would be low.

12. The Board told my complaints reviewer that in October 2018, they had agreed to develop a proposal that would address their service gap for adult ADHD. They explained this was in response to concerns raised by the Minister for Mental Health about the service gap. The Board explained that they would be circulating a draft sustainability plan later in 2019.

Medical advice: relevant clinical guidelines

13. The Adviser explained there were recognised clinical guidelines relevant to their consideration of this complaint. In particular they referred to:

- *'Attention deficit hyperactivity disorder: diagnosis and management'* NICE clinical guideline 72 [CG72] (September 2008).

14. In the 2008 NICE clinical guidance [CG72], it described ADHD as a generally persistent condition, which varies in severity. It stated that ADHD in adults can cause significant psychological, social, educational and/or occupational problems. It explained that, for example, it can lead to educational and occupational underachievement; dangerous driving; difficulties carrying out and organising everyday tasks; problems forming or maintaining friendships; excessive arguments in intimate relationships; and problems caring for children.

15. CG72 recommended that adults, newly presenting with ADHD, should be assessed by a specialist. It stated that adults diagnosed with ADHD should be given a comprehensive treatment plan to address a wide range of personal, social, educational and occupational needs. It explained that for moderate or severe impairment caused by ADHD, medication would usually be the first-line treatment.

16. The Adviser also referred to more recent clinical guidance (including NICE clinical guidance that replaced CG72 referred to above):

- *'Attention deficit hyperactivity disorder: diagnosis and management'* NICE clinical guideline 87 [CG87] (March 2018); and
- *'ADHD in adults: good practice guidelines'* Royal College of Psychiatrists in Scotland (2017).

Medical advice: approach to ADHD assessments

17. The Adviser noted that in 2015, the Board decided not to offer new diagnostic assessments to adults for ADHD in its own right. Instead, the Board decided they would only assess and treat adults with ADHD who had other mental health conditions or learning difficulties. The Adviser considered the Board's decision was unreasonable, as people with ADHD should be assessed and treated in their own right. The Adviser considered the number of adults requiring an ADHD assessment, without any other mental health condition, was likely to be small; but they would be clearly disadvantaged by the Board's approach and this was unreasonable.

18. The Adviser explained that the approach taken by the Board, in relation to adult ADHD assessments, was not in keeping with the 2008 NICE clinical guidance [CG72] discussed above. The Adviser noted it was also inconsistent with the Scottish Government's mental health strategy for 2012 to 2015, which was in place at that time; and which had emphasised the need to improve diagnosing and responding to ADHD throughout Scotland.

19. The Adviser noted the Board's decision appeared to have been based on a view that adults with autistic spectrum disorder, including ADHD, mainly experience difficulties with relationships and coping in social situations. The Adviser noted the Board considered their specialist mental health service would not be the best option for treating such patients, given it has a focus on severe and enduring mental illness. The Adviser acknowledged that specialist mental health services might not be the most suitable option for people with ADHD who are experiencing those types of relationship and social difficulties. However, the Adviser highlighted that the Board had not identified any other service that could manage them instead.

Medical advice: Mr C's concerns regarding his ADHD assessment

20. The Adviser noted that when Mr C complained to the Board in 2018, they had continued to take that approach to adult ADHD assessments (by only offering ADHD assessments to adults with other pre-existing conditions). The Adviser explained that in 2018, the Board's approach to adult ADHD assessments was not in line with the Royal College of Psychiatrists in Scotland clinical guidance or the newly published NICE guidance on ADHD [CG87]. The Adviser confirmed that the Board's continuing position to adult ADHD assessments was unreasonable at the time of Mr C's complaint to them in 2018.

Medical advice: the Board's response to Mr C's concerns

21. As discussed above, in responding to Mr C's complaint, the Board said they did not believe it was appropriate for their specialist mental health service to carry out ADHD assessments, as it is a service for people with severe and enduring mental illness. The Board went on to say they did not believe that people with ADHD should be stigmatised as having a serious mental health condition. The Adviser considered that the Board's explanation to Mr C for their approach to adult ADHD assessments was unreasonable. The Adviser explained that the clinical guidance, from the Royal College of Psychiatrists in Scotland, had discussed the specific role of specialist mental health services in assessing and diagnosing adults with ADHD. The Adviser said this is the way adults with ADHD will be managed in areas where no specialist ADHD services exist. The Adviser also raised concern that the Board's comments,

about the potential for people to experience stigma from attending their specialist mental health service, suggested a passive and accepting approach to stigma.

22. The Adviser explained that in 2012, the Scottish Government's Mental Health Strategy for Scotland set out the need for health boards to develop specialist services for adults with ADHD. Therefore, the Adviser stated the Board was aware of their requirement to develop these services in 2012. By 2019, the Board still did not have these services in place. The Adviser acknowledged that given the pressure on the NHS, it is inevitable that the Board will have to make difficult decisions about how they provide health services. The Adviser also acknowledged that some adults with ADHD are high-functioning and if treatment is of limited value to them, it might be appropriate for the Board to prioritise their resources elsewhere. However, the Adviser stated that a decision of that type should be made on an individual basis after the Board has assessed the person first. The Adviser considered it was unreasonable that the Board decided not to diagnose and treat any adults with ADHD, without carrying out any assessment of the severity of their condition.

Addressing the ADHD assessment service gap

23. The Board had told my complaints reviewer that their strategic review was ongoing and it would address their service gap in relation to adult ADHD assessments. My complaints reviewer asked the Board to provide me with details of how they will manage an adult patient presenting with ADHD until that strategic review is completed.

24. In their response, the Board confirmed they did not yet have a full pathway for adult ADHD in place. They said they would be working to close their service gap in an effective and sustainable way through their strategic review. The Board explained that until it has been completed, patients presenting with ADHD will be considered on a case-by-case basis. The Board went on to explain that depending on the area, adults can be diagnosed with ADHD by their community mental health teams or managed by specialist mental health services.

Medical advice: the Board's interim plan

25. The Adviser reviewed the Board's interim plan to address their service gap in relation to ADHD, until they have completed their strategic review. The Adviser noted the Board had changed their position by agreeing to assess adults with ADHD on an individual basis. The Adviser considered this was a reasonable approach for the Board to take until they have formulated a plan to address their service gap, in relation to assessing and diagnosing adult ADHD.

Decision

26. The basis on which I reach conclusions and make decisions is reasonableness. My investigations consider whether the actions taken, or not taken, were reasonable in view of the information available to those involved at the time in question. I do not apply hindsight when determining a complaint.

27. In 2015, the Board decided they would only assess and diagnose adults for ADHD, if they had other pre-existing mental health conditions or learning difficulties. The advice I have received and I accept is that this approach was unreasonable; and it was not in keeping with the relevant clinical guidance in place at that time or with the Scottish Government's mental health strategy. I was advised that the number of adults requiring an ADHD assessment, without any other mental health condition, was likely to be small. However, the advice I also received and I accept is that those patients would experience a clear disadvantage by the Board's approach and this was unreasonable.

28. The Board explained to Mr C that they took that approach to adult ADHD assessments because they did not consider specialist mental health services should carry out ADHD assessments, as it is a service for people with severe and enduring mental illness. The advice I have received and I accept is that the Board's explanation was unreasonable, as the relevant clinical guidance set out the clear role of specialist mental health services in assessing and treating adults with ADHD.

29. Also, in their response to Mr C's complaint, the Board commented that they had concerns that people with ADHD could be stigmatised as having a serious mental health condition if they attended specialist mental health services. I share the Adviser's concerns about those comments.

30. The Board should be recognising and embracing their role and responsibility, as a public health provider, in challenging any stigma associated with ADHD and mental health conditions. The Board's statement does not provide assurance that this role is recognised and embraced. It also suggests that ADHD is not a serious condition. This is despite the fact that the relevant clinical guidance clearly explains that ADHD can cause significant difficulties to people's daily functioning; both on a personal level and how they function within society. I am deeply concerned that the Board do not appear to have acknowledged or accepted this when they responded to Mr C's complaint. I am, overall, extremely troubled by the Board's statement.

31. In light of the above, I consider the approach taken by the Board in relation to Mr C was unreasonable. I also consider their overall approach to adult ADHD

service provision has been unreasonable. As acknowledged by the Board, that approach led to a service gap in relation to assessing and diagnosing adults with ADHD, which I am extremely critical of. Mr C was clearly disadvantaged by the Board's approach, as he was denied any opportunity to get treatment for ADHD. I am very concerned that despite acknowledging the problem to Mr C and apologising for it, the Board then failed to take urgent action to address the lack of ADHD provision for Mr C and the wider service gap.

32. I welcome the fact that the Board have confirmed that they are currently working on a strategic review, which they have said will address their service gap in relation to adult ADHD and that in the meantime, they will assess adults presenting with ADHD on an individual basis. The advice I have received and I accept is that approach is reasonable, until the Board has completed their strategic review.

33. In light of the failings identified, I uphold this complaint.

34. In determining the recommendations required to address the situation, I have taken into account the Board's confirmation that they are working on a strategic review and that they have put in place interim measures. I have therefore asked for evidence that these interim measures are in place and working appropriately. I have also recommended that the Board: apologise to Mr C for their failure to address the lack of ADHD provision for him personally, despite acknowledging the problem; and to carry out an urgent ADHD assessment if Mr C still wishes this and if he is referred via his GP. Finally, I have asked for evidence that the strategic review, when complete, appropriately addresses the issues my report has highlighted, including the Board's role in challenging any preconceptions surrounding mental health issues.

35. All my recommendations for action by the Board are set out below. The Board have accepted the recommendations and will act on them accordingly. We will follow up on these recommendations. The Board are asked to inform us of the steps that have been taken to implement these recommendations by the date specified. We will expect evidence (including supporting documentation) that appropriate action has been taken before we can confirm that the recommendations have been implemented.

Recommendations

Learning from complaints

The Ombudsman expects all organisations to learn from complaints and the findings from this report should be shared throughout the organisation. The learning should be shared with those responsible for the operational delivery of the service as well as the relevant internal and external decision-makers who make up the governance arrangements for the organisation, for example elected members, audit or quality assurance committee or clinical governance team.

What we are asking the Board to do for Mr C:

What we found	What the organisation should do	What we need to see
The Board failed to take action to address Mr C's lack of access to ADHD diagnostic services and treatment, despite acknowledging the problem when responding to his complaint	Apologise to Mr C for failing to address his lack of ADHD service provision. The apology should meet the standards set out in the SPSO guidelines on apology available at: www.spsso.org.uk/leaflets-and-guidance	A copy or record of the apology By: 25 November 2019
The Board failed to provide Mr C with access to ADHD diagnostic services and treatment	The Board should carry out an urgent ADHD assessment for Mr C; if Mr C still wishes this and if his GP refers him to the Board	Confirmation that the Board will urgently assess Mr C for ADHD, if he is referred by his GP By: 25 November 2019

We are asking the Board to improve the way they do things:

What we found	Outcome needed	What we need to see
The Board's approach in Mr C's case and adult ADHD assessments in general was unreasonable	Adults presenting with symptoms suggestive of ADHD should be assessed appropriately, taking into account the relevant clinical guidance	Evidence that the strategic review, when complete, appropriately addresses the issues my report has highlighted, including the Board's role in challenging any preconceptions surrounding mental health issues By: 23 April 2020

Evidence of action already taken

The Board told us they had already taken action to fix the problem. We will ask them for evidence that this has happened:

What we found	Outcome needed	What we need to see
The Board told us that until they complete their strategic review, they have put in place interim measures to ensure that patients, presenting with ADHD, will be assessed on a case-by-case basis	Adults presenting with symptoms suggestive of ADHD should be assessed on a case-by-case basis, taking into account the relevant clinical guidance	Evidence that these interim measures are in place and are working appropriately By: 4 December 2019

Terms used in the report

Annex 1

ADHD	attention deficit hyperactivity disorder - a behavioural disorder that includes symptoms such as inattentiveness, hyperactivity and impulsiveness
Autistic spectrum disorder	a range of developmental conditions that can affect social interaction, communication, interests and behaviour
Consultant psychiatrist	a specialist in the diagnosis and treatment of mental illness
Mr C	the complainant
NICE	National Institute for Health and Care Excellence
the Adviser	a consultant psychiatrist who provided medical advice on Mr C's care and treatment
the Board	Grampian NHS Board

List of legislation and policies considered

Annex 2

ADHD in adults: good practice guidelines Royal College of Psychiatrists in Scotland (2017)

Attention deficit hyperactivity disorder: diagnosis and management NICE clinical guideline 72 (September 2008)

Attention deficit hyperactivity disorder: diagnosis and management NICE clinical guideline 87 (March 2018)

Mental Health Strategy for Scotland 2012-2015 the Scottish Government (2012)