



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against a GP practice

Report Reference: 202006812

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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.

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Case Reference: 202006812

Listed Authority: A GP practice

SUMMARY

This complaint relates to the care and treatment the Practice provided to the complainant in relation to a diagnosis of adult ADHD and subsequent treatment following the diagnosis. The complaint focused on whether the Practice was obliged to honour an agreement that it would provide medication recommended by a private consultant following a private ADHD diagnosis.

The investigation found that the Practice was not under any obligation to provide the recommended prescription and there were therefore no failings in care and treatment provided to the complainant.

However, the investigation did find failings in the Practice's communication with the complainant. This included an error in the initial communications regarding the agreement to provide the medication prescribed by the private consultant, and the rationale provided for subsequently not providing the medication. I recommended the Practice apologise to the complainant for these failings and updates its guidance on prescribing medication following private ADHD consultations.

THE COMPLAINT

1. This complaint was about the care and treatment the practice) provided to the complainant in relation to a privately obtained diagnosis of Adult Attention Deficit Hyperactivity Disorder (ADHD)¹ between February 2023 and January 2024.

Background

2. The Practice referred the complainant for an NHS ADHD diagnosis in May 2022. However, the service was not taking on any new referrals at the time. In January 2023, the complainant sought a referral letter from the Practice to enable him to arrange a private ADHD consultation. In February 2023 he contacted the Practice and asked whether the Practice would agree to fulfil a prescription for medication if he sought a private ADHD diagnosis. A GP within the Practice (GP A) advised him the Practice would facilitate providing the prescriptions.
3. The complainant then received a private diagnosis. However, upon requesting the Practice to provide his prescription, it advised on 23 January 2024 that it could not do this as guidance stated that it could not prescribe ADHD medication unless a Consultant within the NHS is monitoring the patient under Shared Care Guidelines with a GP. It stated that as a Private Consultant provided the diagnosis the Practice was unable to provide the medications.

Issue of complaint

4. I accepted the following issue of complaint for investigation:

Whether the care and treatment the Practice provided to the complainant regarding an ADHD diagnosis was appropriate and in line with relevant standards. In particular this will consider:

- Communication regarding prescription of ADHD medication.
- The decision not to prescribe the ADHD medication.

¹ ADHD is a disorder that is defined through analysis of behaviour. People with ADHD show a persistent pattern of inattention and/or hyperactivity–impulsivity.

INVESTIGATION METHODOLOGY

5. To investigate this complaint, the Investigating Officer obtained from the Practice all relevant documentation together with its comments on the issues the complainant raised. This documentation included information relating to the Practice's complaints process.

Independent Professional Advice Sought

6. After further consideration of the issues, I obtained independent professional advice from the following independent professional advisor (IPA):
 - A General Practitioner with over 30 years' experience Mb ChB DCH.MRCGP.

I enclose the clinical advice received at Appendix two to this report.

The information and advice which informed the findings and conclusions are included within the body of this report. The IPA provided 'advice.' However, how I weighed this advice, within the context of this complaint, is a matter for my discretion.

Third Party Advice and Guidance Sought

7. In addition, I also sought guidance from the Strategic Planning & Performance Group² (SPPG) regarding the application of the Methylphenidate³ - ADHD Shared Care Guideline.

Relevant Standards and Guidance

8. To investigate complaints, I must establish a clear understanding of the standards, both of general application and those specific to the circumstances of the case. I also refer to relevant regulatory, professional, and statutory guidance.
 - The general standards are the Ombudsman's Principles⁴ of Good Administration

² The Strategic Planning and Performance Group is accountable to the Minister for Health and responsible for the planning, improving and overseeing the delivery of effective, high quality and safe health and social care services for everyone in Northern Ireland within available resources.

³ Methylphenidate is a stimulant that can help treat attention deficit hyperactivity disorder (ADHD) and narcolepsy.

⁴ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

9. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative functions and professional judgement of those individuals whose actions are the subject of this complaint.

The specific standards and guidance relevant to this complaint are:

- The General Medical Council's Good Medical Practice, April 2019 (GMC Guidance);
- The British Medical Association's Prescribing in General Practice Guidance, April 2018 (BMA Guidance One);
- The British Medical Association's General Practice Responsibility in Responding to Private Healthcare, 31 August 2023 (BMA Guidance Two);
- General Medical Council's Good Practice in Prescribing and Managing Medicines and Devices Guidance, 5 April 2021 (GMC Prescribing Guidance);
- Letter from the Health and Social Care Board to Independent Sector Providers of Private Medical Treatment, 14 June 2021 (HSC Guidance);
- Health and Social Care Board's Methylphenidate - ADHD Shared Care Guideline, January 2022 (Shared Care Guideline);
- Department of Health's Responsibility For Prescribing Between Primary and Secondary /Tertiary Care Services for the Supply Of Medicines and Other Pharmaceutical Products, May 2022 (DOH Guidance);
- The Medical and Dental Defence Union of Scotland's The Medical and Dental Defence Union of Scotland Guidance, 13 July 2022 (MDU Guidance); and
- Strategic Planning and Performance Group Private (non-HSC) Prescribing Requests Guidance for Primary Care Prescribers September 2024 (SPPG Guidance).

THE INVESTIGATION

Issue: Whether the care and treatment the Practice provided to the complainant regarding an Attention Deficit Hyperactive Disorder (ADHD) diagnosis was appropriate and in line with relevant standards. In particular this will consider:

- **Communication regarding prescription of ADHD medication.**
- **The decision not to prescribe the ADHD medication.**

Detail of Complaint

10. The complainant said he requested a referral letter from the Practice to enable him to seek a private ADHD consultant. He said that the Practice subsequently informed him that if he obtained an ADHD diagnosis it would then agree to provide any medication prescribed on foot of the diagnosis.
11. The complainant explained he obtained the private diagnosis and a prescription for medication. However, when he provided the prescription to the Practice, it informed him it could not provide it. He said the Practice told him that as the medication requested was an amber list medication it could not prescribe it without a shared care arrangement with an NHS Consultant.
12. The complainant said he was completely devastated by this '*knock back*' and feels that the Practice should have honoured the original agreement to provide the ADHD medication.

Practice response to investigation enquiries

13. The Practice accepted that GP A (locum GP) provided the complainant with incorrect advice when they spoke to him on 8 February 2023 and stated it apologised to the complainant for the confusion.
14. It stated upon receipt of the private prescription from the psychiatrist the Practice Pharmacy wrote to the complainant to state that it could not provide the prescription. A GP from the Practice (GP B) spoke to the complainant on 23 January 2024 and 5 February 2024 to reiterate its position that it could not fulfil the prescription for Methylphenidate.
15. In its written response to the complaint it informed the complainant that it was '*unable to prescribe these medications to you as they are requested by a Doctor working within the private sector*' and explained that '*ADHD medication must be monitored by a Consultant within the NHS under Shared Care Guidelines and without this it is not*

within the level of competence and scope of practice of a GP to prescribe these medications. This is for patient safety reasons.'

16. The Practice stated to this office that Methylphenidate is an *'Amber list'* medication which the Practice could only prescribe if there was a *'formal arrangement for ongoing patient monitoring under NHS Shared Care Guidelines, which there is not as it is within the private sector'*. It stated that the *'Methylphenidate - ADHD Shared Care Guideline'* (Shared Care Guideline) does not apply to a specialist practicing within the private sector.
17. The Practice stated that *'GPs within the Practice consider Specialist Amber List drugs to be outside their level of competence and scope of practice and so these cannot be prescribed to ensure optimal patient safety. This is a decision made with patients' safety as the primary consideration.'*
18. The Practice stated the *'[complainant] has also been referred to NHS Adult Psychiatry, and has been referred by them to a pilot scheme which we hope may not have a very long waiting time'*.
19. The Practice also stated that it has provided information on its website since 22 September 2023 confirming its policy regarding ADHD medication prescribed by private consultants confirming that, *'As there are no Shared Care guidelines in the private sector, unfortunately we are unable to prescribe Amber List medication and the responsibility for prescribing medication for the treatment of ADHD remains with the private clinic / consultant.'* It also stated that prior to this particular complaint it introduced a patient information leaflet informing patients that they should not expect that that *'medication recommended by a clinician within the private sector will be prescribed within the NHS'*.

Practice records

20. I reviewed the records provided by the Practice which included the patient's GP records for the relevant period, Shared Care Guideline, and details of the complaint to the Practice.

Relevant Independent Professional Advice

21. I enclose the IPA's advice at Appendix two to this report. I have outlined my consideration of the advice in my analysis and findings below.

Analysis and Findings

Shared Care

22. Having reviewed the patient's medical records, I note the private psychiatrist wrote to the Practice on three occasions dated 27 December 2023, 12 January 2024 and 4 February 2024. The Practice received these letters on 19 January 2024, 17 January 2024 and 19 March 2024. In the letter of 27 December 2023, the psychiatrist noted the complainant had traits of both ADHD and ASD⁵ and he recommended a diagnostic interview for adult symptoms of ADHD. In the correspondence dated 12 January 2024 the psychiatrist referred to the completion of a diagnostic test and stated that in his opinion the complainant met the criteria for adult ADHD and recommended a trial of medication, Methylphenidate. In this correspondence the psychiatrist enclosed a copy of the Methylphenidate – ADHD Shared Care Guideline. The psychiatrist completed the sections of the guideline required by the specialist. In the letter dated 4 February 2024 the psychiatrist reiterated the diagnosis of ADHD and the recommendation for a trial of Methylphenidate. The psychiatrist stated that he would review the patient again in three to six months, noting that he appreciated this was in a private capacity, but he would endeavour to adhere to this to the best of his ability.
23. I note the Practice informed the patient and this Office that it could not prescribe this for patient safety reasons as the request came from a doctor working in the private sector. I note it explained a Shared Care Arrangement did not apply to the private sector.
24. DOH guidance defines shared care as *'a particular form of the transfer of clinical responsibility from a hospital or specialist service to general practice in which prescribing by the primary care prescriber is supported by a shared care agreement.'*

⁵ Autism spectrum disorder (ASD) is a developmental disability caused by differences in the brain.

The guidance goes on to state that *'Shared care requires the agreement of all parties, including the patient.'*

25. In relation to shared care arrangements with private providers, GMC guidance states that, *'Shared Care with private providers is not recommended due to the general NHS constitution principle of keeping as clear a separation as possible between private and NHS care. Shared Care is currently set up as an NHS service, and entering into a shared care arrangement may have implications around governance and quality assurance as well as promoting health inequalities.'* The GMC guidance also states that, *'All shared care arrangements are voluntary, so even where agreements are in place, practices can decline shared care requests on clinical and capacity grounds. The responsibility for the patient's care and ongoing prescribing then remains the responsibility of the private provider.'*
26. In relation to Methylphenidate, which is an *'amber list'* medication, HSC guidance refers to the DOH guidance and states that, *'The Red Amber List of specialist medicines and regionally agreed Shared Care Guidelines have been expressly designed to ensure patients commenced on specialist medications remain under the direct or shared care of the HSC Trust speciality that initiated treatment.'* The guidance advises independent providers not to ask GPs to *'Provide HSC prescriptions for 'amber list' drugs in the absence of a shared care arrangement which outlines ongoing prescribing and monitoring arrangements and has been agreed by both the independent sector provider and agreed with the GP directly'*.
27. The regionally agreed Shared Care Guideline for Methylphenidate clearly outlines the responsibility of the GP and of the Specialist. The Shared Care Guideline does not explicitly state that the specialist must come from within the NHS. I sought guidance on the application of the guidelines from the SPPG who stated that, *'The guideline does not specify that the specialist must come from within the NHS. The guideline was commissioned by, and approved for use by, the Regional Group on Specialist Medicines (SPPG) for use within the HSCNI context. It carries the SPPG logo.'* I asked whether the Shared Care Guideline could apply to a private consultant and the SSPG stated that *'The Scope has not been defined. However, governance arrangements in the guideline, and in NICE, refer to primary, secondary and community care settings in which NHS funded care is provided for people with ADHD.'*

28. Having reviewed these standards together, I consider that while the guidance does not exclude a shared care arrangement with a GP and a private specialist, it is clear the intention for the use of the Shared Care Guidelines is that both the GP and the specialist come from within the NHS.
29. In addition, guidance on shared care arrangements makes clear that such arrangements are voluntary and must have the agreement of all the parties involved.
30. I note, however, when the Practice informed the complainant that the Shared Care Guideline did not apply to a doctor from the private sector it did so in error. As stated above the scope of the guideline is not defined and could therefore potentially apply to a specialist within the private sector and an NHS GP.
31. The Practice also confirmed that it could not prescribe the Methylphenidate for the complainant because it was not within their level of competence to do so.
32. GMC guidance for doctors' states that *'You are responsible for any prescription you sign, including repeat prescriptions for medicines initiated by colleagues, so you must make sure that any repeat prescription you sign is safe and appropriate.'* The guidance also states that doctors must *'recognise and work within the limits of your competence.'*
33. In its response to this office, the Practice stated that *'GPs within the practice consider Specialist Amber List drugs to be outside their level of competence and scope of practice and so these cannot be prescribed to ensure optimal patient safety. This is a decision made with patients' safety as the primary consideration.'*
34. I also note the IPA's advice that the decision about whether to prescribe the ADHD medication for the complainant was *'entirely the GP/Practice's decision'* because if they did so *'they would be responsible for the prescription they sign'* and *'legally liable should anything go wrong'*. I accept the IPA's advice.

I acknowledge the complainant's position that he took action on foot of the Practice's assurances at the outset it would prescribe this medication, and therefore it should honour its undertaking. It is understandable for the complainant to be frustrated and to seek this outcome. However, I also acknowledge the Practice stated it does not feel that it is within its competence to prescribe the medication for the complainant.

Furthermore, I note entering shared care arrangements is voluntary. I therefore consider that the Practice's decision to not enter a shared care arrangement with the private psychiatrist to prescribe the requested medication was in line with relevant standards. On that basis, I do not uphold this element of the complaint.

Communications

35. I note that the Practice acknowledged the error in communication on 8 February 2023 when a locum GP mistakenly informed the complainant the Practice could provide any ADHD medications the private psychiatrist prescribed.
36. I note that the IPA advised that while the communication provided to the complainant on 8 February 2023 was in error it was nonetheless *'given in good faith by the Locum GP after seeking advice from the Practice Pharmacist'*. I do not dispute that the Practice provided the advice in good faith. However, the advice was nonetheless incorrect, and the complainant made decisions with a financial aspect on foot of that advice.
37. I note also that the Practice informed the complainant that the Shared Care Guideline did not apply to the private sector which I have outlined above to be a mistaken belief.
38. I note in its response to this office the Practice stated that they have had a statement on their website from 22 September 2023 confirming that they will be unable to provide any prescriptions for ADHD medication as the Shared Care Guidelines do not apply to the private sector. While I believe that the Practice's actions in communicating their position are positive, I believe the wording is inaccurate, based on the mistaken belief that the Shared Care Guideline does not apply to the private sector at all when the guidance does not explicitly exclude this. I also note that the statement is not immediately apparent on the Practice's website. I consider the Practice should review the statement's wording and its placement on the Practice's website to ensure it is more prominent.
39. The Practice provided this office with recently published guidance from SPPG on this issue (September 2024). The SPPG Guidance provides directions for prescribers in making informed decisions when they receive a request for a prescription following private consultation. The new guidance also includes a patient information leaflet

entitled '*Guidance on Prescriptions after seeing a Private Practitioner*' which provides clarity for patients in relation to private prescriptions. I consider this guidance may be helpful for the Practice in reviewing and updating its information for patients regarding prescriptions arising from private consultations, including those relating to ADHD assessments.

40. On foot of the above, I find failures in the Practice's communication with the complainant, which constitute service failures. The Practice failed to give the complainant the correct information initially and then provided an inaccurate explanation to the complainant for its decision not to honour its initial undertaking.
41. The Second Principle of Good Administration, '*being customer focused*' requires public bodies to accurately inform customers of what they can expect when using their services. It also requires public bodies to deal with customers helpfully and promptly. In addition, the Third Principle, '*being open and accountable*' requires public bodies to be open and clear about their policies, and to ensure that any information and advice provided is clear, accurate and complete. Furthermore, the Fifth Principle, '*putting things right*' requires public bodies to acknowledge mistakes, and put them right quickly and effectively. I consider the Practice failed to adhere to these Principles when it miscommunicated with the complainant about his access to this medication and the parameters of shared care arrangements. I consider this constitutes maladministration which caused the complainant to sustain the injustice of distress, uncertainty and frustration.

CONCLUSION

42. I received a complaint about diagnosis of adult ADHD and subsequent treatment following the diagnosis. Specifically, the complaint focused on whether the Practice was obliged to honour an agreement that it would provide medication recommended by a private consultant following the diagnosis by the same consultant. I did not uphold the complaint in relation to the Practice's decision not to enter into a shared care arrangement with a private psychiatrist and not to provide the recommended prescription. However, I did uphold the element of the complaint that relates to the Practice's miscommunication with the complainant about this, which I consider to be maladministration.

43. I recognise that the complainant finds himself in a difficult position with a recommended course of treatment that he cannot follow unless he opts to meet the costs of the prescription and treatment himself. I note that the Practice referred the complainant to NHS Adult Psychiatry, and it is hoped that as he has been referred for a pilot scheme, he may not have a long waiting period to be seen.

Recommendations

44. I recommend the Practice provides to the complainant a written apology in accordance with NIPSO's 'Guidance on issuing an apology' (July 2019), for the injustice caused as a result of the communication failures identified within one month of the date of the final report.
45. I also recommend that the Practice reviews and updates its guidance regarding prescribing of medications following private consultations in line with the recently published SPPG guidance and ensure that this guidance is in a prominent location on the Practice's website within one month of the date of the final report.
46. I further recommend the Practice brings this report and the findings within it to the attention of the staff who communicated with the patient about his private appointment and medication, so they can reflect on the learning set out within one month of the date of the final report.
47. The Practice accepted my findings and recommendations.

MARGARET KELLY
Ombudsman
March 2025

Appendix 1 - PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and relevant guidance, 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.

