



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against the South Eastern Health and Social Care Trust (Prison Healthcare)

Report Reference: 202004929

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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: 202004929

Listed Authority: South Eastern Health and Social Care Trust Prison Healthcare (the Trust)

SUMMARY

This complaint was about whether the Trust provided appropriate healthcare treatment to the complainant in line with relevant policies and guidance for the provision of opioid substance therapy (OST). The investigation looked at the period of time from the complainant's admission to prison to June 2023.

The investigation did not find any failure in the care and treatment the Trust provided to the complainant. It established the Trust followed relevant policy, procedures and guidance in the care and treatment it provided, including not referring the complainant for, or providing him with, OST on his arrival in prison.

I therefore did not uphold the complaint.

However, I made observations for the Trust to reflect upon in its practice going forward.

THE COMPLAINT

1. This complaint was about the care and treatment the South Eastern Health and Social Care Trust Prison Healthcare (the Trust) provided to the complainant from his admission to prison until June 2023.

Background

2. The complainant was committed to prison in October 2021. On 25 March 2023, the Trust referred the complainant to the Clinical Addiction Team (CAT) for re-toxification via opioid substance therapy (OST). CAT triaged the referral on 3 April 2023 and placed the complainant on the OST waiting list as low risk.
3. OST is the provision of an opiate medication to attempt to stabilise someone who has an addiction to illicit opioids. Section 2.2.3 of the Orange Book states re-toxification through OST '*can assist in reducing various health, social, crime and other problems directly related to drug misuse and work towards abstinence from main problem drugs*'.

Issue of complaint

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

Whether the Trust provided the complainant with appropriate healthcare treatment in line with relevant policies and guidance, including the provision of substance therapy.

INVESTIGATION METHODOLOGY

5. In order to investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues the complainant raised. This documentation included information relating to the Trust'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 MBBS (Lond), Fellow of the Royal College of General Practitioners, RCGP Certificates in substance misuse Parts I and II and the advanced secure environments module, with a special interest in substance misuse and prison medicine.

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

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

Relevant Standards and Guidance

8. In order 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.
9. The general standards are the Ombudsman's Principles¹ of Good Administration.
10. 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:

- Drug Misuse and Dependence: UK Guidelines on Clinical Management (minor revisions November 2017) (the Orange Book);
- The Trust's Prescribing and Management Opioid Substitution Therapy July 2022 (the Trust's OST policy);
- The Trust's Medicines Reconciliation Policy, May 2021 (SET/PtCtCare (13) 2021) (Trust's SET/PtCtCare (13) 2021 policy); and

¹ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

- Treatment for Substance Use in Northern Ireland Prisons Rapid review and consultation to inform the development of services by Dr Nat Wright commissioned by the Department for Health, September 2022 (DOH Rapid Review).
11. I outlined the relevant sections of the guidance considered in my analysis and findings below.
 12. I did not include all information obtained in the course of the investigation in this report. However, I am satisfied I took into account everything I considered relevant and important in reaching my findings.
 13. A draft copy of this report was shared with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations. I gave careful consideration to the comments I received before I finalised this report.

THE INVESTIGATION

Whether the Trust provided the complainant with appropriate healthcare treatment in line with relevant policies and guidance, including the provision of substance therapy.

Detail of Complaint

14. The complainant said he had been on OST as a recovering heroin addict prior to coming into prison. The complainant had been trying to get the Trust to place him back onto OST. However, as at the time of raising the complaint with the Trust (June 2023), he was on the waiting list for an assessment. The complainant feels the delay in starting OST has affected his mental health and is a contributing factor to his self harming. The complainant said the delay caused him to feel “*desperate*” and “*failed by the prison healthcare*”.

Evidence Considered

Legislation/Policies/Guidance

15. I considered the following policies and guidance:
 - the Orange Book;

- the Trust's SET/PtCtCare (13) 2021 policy;
- the Trust's OST policy; and
- DOH Rapid Review.

Relevant records

16. I completed a review of the copy documentation the Trust provided in response to my investigation enquiries and the documentation I received from the complainant.

The Trust's response to investigation enquiries

17. The Trust provided this Office with its response to investigation enquiries. It did not find any failings in the healthcare treatment it provided to the complainant. I outlined details of this response in my analysis and findings below.

Relevant Independent Professional Advice

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

Analysis and Findings

Admission to prison

19. I note the Trust's SET/PtCtCare (13) 2021 policy states when a patient moves from community to prison healthcare the Trust '*should*' complete '*a thorough history of all medication used... within 24 hours*'. The medical records show the Trust completed this medicine reconciliation within 24 hours, in line with this policy.
20. I further note section 5.1 of the Orange Book states '*Opioid dependence on the first day or night in prison is usually treated with continuation of community OST*'. Where there are any '*emerging withdrawal*' symptoms, these should be '*managed and any dependence disorder assessed and treated*'.
21. In its response to this Office's investigation enquiries, the Trust stated on committal to prison (20 October 2021), the complainant was not receiving an active OST prescription. I note the complainant's medical records confirm this. This meant the Trust was not required to prescribe OST to the complainant on admission to prison.

22. In addition, the IPA advised the clinical records do not provide any evidence of the complainant displaying opiate withdrawal. I note this means the Trust had no reason to consider the complainant for OST on admission to prison. The IPA further advised it was appropriate and in line with relevant standards for the Trust not to prescribe OST to the complainant on his arrival in prison.
23. On 21 October 2021, the Trust referred the complainant to AD:EPT², reporting his drug use in prison included crack cocaine and pregabalin. The IPA advised the complainant's addiction to these drugs would not qualify him for consideration for OST treatment.
24. Having reviewed all relevant records, I accept the IPA's advice and consider the Trust acted in line with the guidance and its own policies in not prescribing OST to the complainant or referring him for OST treatment on his admission to prison. I therefore do not uphold this element of the complaint.

Decision to refer the complainant for an OST assessment

25. Section 4.2.2 of the Orange Book says *'Before prescribing substitute drugs the clinician should conduct a suitably comprehensive assessment for this purpose'*.
26. I note at a meeting on 24 March 2023 with prison nursing staff, the complainant disclosed he was using an illicit opioid, buprenorphine (known as "sub") and wanted to be put back on OST as he *'does not want to revert to old ways'*.
27. The Trust stated those not on an active prescription for OST are required to be referred and assessed for their suitability for it prior to commencing any OST treatment. The Trust referred the complainant to CAT for re-toxification via OST the following day (25 March 2023). This is evidenced on the complainant's medical records. I am satisfied this shows the Trust dealt with the complainant's referral in a timely manner.

² Alcohol and Drugs: Empowering People Through Therapy - drug and alcohol treatment service for adults.

28. Although the IPA observed the records did not include details on the complainant's illicit usage – frequency, length of time using, withdrawal symptoms, corroborative screening results - the IPA had sufficient information to advise:
- the half a tablet of illicit sub *'suggests a considerable habit'*; and
 - the Trust's actions were appropriate.
29. The Trust triaged the CAT referral on 29 March 2023, allocating the complainant for assessment for re-toxication via OST. The Trust clinically risk assessed the complainant as low risk when it triaged the referral and placed the complainant on the waiting list.
30. The IPA advised the complainant's reporting of misuse of illicit opiates would not qualify him to immediately start OST. He advised *'proper assessment and diagnosis'* by the relevant substance misuse team is required before considering a patient for OST. The IPA further advised the referral to the Trust's CAT was the most appropriate course of action for the Trust to take at the time, and it fell within the expected standard.
31. Having reviewed all relevant documentation, including the IPA's advice, I am satisfied the Trust's actions in this respect were reasonable, appropriate and in line with relevant standards. I therefore do not uphold this element of the complaint.

Delivery of the OST Service – Need for a Waiting List

32. Before I consider whether the Trust appropriately prioritised the complainant on the waiting list, it is important to first address the need for a waiting list.
33. I note under section 5.4 of the Orange Book, the Trust has a duty to provide the *'additional and particular attention'* required to *'deliver a safe service'* in the prison system for effective OST assessment. It stated treatment requires *'suitably skilled'* *'professionals and allied staff'* and *'skilled risk assessments are essential'*.
34. Section 5.4.1 The Orange Book continues to say *'It is the responsibility of any commissioners and of managers to ensure clinicians within prisons are adequately resourced and supported in their roles to meet service demand'*.

35. I note the DOH Rapid Review states the number one recommendation is the need to build capacity *'to facilitate OST initiation in prison, according to clinical need and without any significant waiting times.'*
36. The Trust stated CAT has seen a significant increase in the demand for their services, including OST assessment, with finite resources and capacity. This has resulted in the need to categorise patients and prioritise them on a waiting list. A risk has been raised on the Healthcare in Prison directorate risk register regarding the pressures on the Trust's CAT service.
37. The IPA advised it is *'more dangerous and detrimental to place people on OST when there are insufficient trained resources to administer the program'*. I accept the IPA's advice the Trust must deliver a safe service. I accept this required the Trust to establish a waiting list based on priority because of its finite resources and service capacity.
38. I appreciate the complainant's concerns about the Trust waiting for his OST assessment, and that this must be frustrating and worrying for him. However, having reviewed all relevant documentation, including the IPA's advice, I am satisfied the Trust's actions were reasonable and appropriate to maintain the complainant's required safety and wellbeing and in line with relevant guidance.

Prioritisation of OST

39. The Trust stated the waiting list *'is clinically led by the consultant psychiatrist'*. It explained it determines the prioritisation based on *'clinical need'* and the *'associated clinical risk of the individual patient'* rather than the chronological order of the OST referral.
40. The Trust said the consultant psychiatrist *'regularly reviews'* the waiting list based on the changing:
- prison population requiring assessment and OST; and
 - clinical needs of the people on the waiting list.
41. I note this regular review of the OST assessment list would include any changing clinical needs of the complainant.

42. The Trust stated its assessment and categorisation of the complainant as low risk meant the complainant was part of the cohort of *'people waiting the longest for [an OST] assessment'*. As such, the Trust was unable to provide an accurate timeframe to the complainant on when CAT will assess him for OST.
43. The IPA advised *'OST for patients in prison must be delivered within the context of an appropriately commissioned and delivered service, with appropriately trained and skilled staff to ensure a safe service is provided'*.
44. The IPA advised the Trust followed its own policies and procedures in assessing the complainant's reported substance misuse and these practices fell within the expected standard. The IPA did not raise any concerns on the complainant's categorisation and prioritisation for an OST assessment as low risk.
45. I accept the IPA's advice the Trust's actions in prioritising patients generally, and the complainant's specific prioritisation, were in line with relevant standards.
46. Based on the evidence available, I consider the care and treatment the Trust provided to the complainant following his admission to prison regarding use of a waiting list, and prioritisation based on clinical need was reasonable, appropriate and in line with relevant standards. As such I do not uphold this element of the complaint.

Whilst on OST Waiting List

47. I note the guidance in 5.4.1 The Orange Book states *'There should be access to suitable psychosocial interventions to support treatment and recovery'*.
48. The Trust said it informed the complainant he was on *'a waiting list for consideration for OST re-toxification'*. However, CAT *'was not taking on any patients due to the pressures on the service with transfers in from other prisons'*.

49. The records evidence between April and June 2023, the Trust had monthly meetings with the complainant. In those meetings it provided updates on the assessment waiting list and it recommended the complainant to *'try to focus on alternatives to OST'* while on the waiting list. Whilst the complainant awaited assessment, the Trust offered other support services/processes to him, including:
- a Mental Health Team comprised of mental health nurses / occupational therapists, psychologists, psychiatrists as well as the Trust's Engagement Team individually or via the Trust's led ASK HIM Peer Mentor Support;
 - AD:EPT services; and
 - Supporting Person at Risk Evolution (SPAR-Evo) process.
50. On this basis, I am satisfied the Trust engaged in regular communication with the complainant, setting his expectations on his OST referral, and it signposted him to OST alternatives while waiting for his assessment.
51. In particular, I note the records show the Trust made a:
- Mental Health Team referral on 19 April 2023 and 16 June 2023; and
 - An AD:EPT referral on 16 June 2023.
52. The Trust stated the complainant had engaged with the services provided by the Trust's Mental Health Team and AD:EPT and had the support of SPAR-Evo if he was in crisis.
53. I accept the Trust's actions, and the services it made available to the complainant while waiting for his assessment, were in line with The Orange Book guidance. I note the IPA did not raise any concerns regarding the alternative therapies and services the Trust provided to the complainant. I am satisfied, therefore, the Trust's actions were reasonable and appropriate to meet the complainant's needs whilst he awaited his assessment.

Summary

54. I acknowledge the concerns the patient passionately raised regarding access to treatment for his drug dependencies. However, having considered all relevant evidence, including the IPA's advice, I am satisfied the care and treatment the Trust provided to the patient was reasonable, appropriate and in line with relevant standards. I therefore do not uphold this complaint.

Observations

55. Whilst the IPA was satisfied the care and treatment the Trust provided to the patient regarding OST was reasonable and appropriate, he made some observations regarding the use of Urine Drug Screening (UDS)³ and Clinical Opiate Withdrawal Scale (COWS)⁴. The IPA advised the Trust could have conducted UDS and applied the COWS to the complainant as part of its monitoring of his illicit drug use.

56. Whilst I note applying COWS and conducting UDS are not mandatory for the Trust under the guidance in the Orange Book, and the IPA did not identify it as a failing, I nonetheless encourage the Trust to reflect on the IPA's advice regarding their use in monitoring prisoners' illicit drug use.

57. I welcome the Trust's comment that it will reflect on these observations. I also acknowledge its position that it must do so in the wider context of service demand and available resources.

CONCLUSION

58. I received a complaint about whether the Trust provided appropriate healthcare treatment in line with relevant policies and guidance, including the provision of OST from the complainant's admission in prison to June 2023, the time of his complaint to the Trust.

³ The UDS identifies people with undeclared substance misuse issues; corroborates declared substance misuse; and assists in confirming the taking of certain prescribed medications, especially opiates.

⁴ Clinical Opiate Withdrawal Scale (COWS) is a clinical scale to assess a patient's opiate withdrawal intensity.

59. Although it is regrettable not all people who would benefit from OST are able to access it immediately, it is important the Trust delivers the service in the *'context of an appropriately commissioned and delivered service, with appropriately trained and skilled staff to ensure a safe service is provided'*. Unfortunately, the existing resources can only safely manage a finite number of patients. This has resulted in the need to prioritise the patients on clinical need, and in delays in assessment for those, like the complainant, who have been categorised as low risk.
60. While the complainant is waiting for his OST assessment, the Trust are providing other services to him, in which he is engaging. It is also regularly reviewing his place on the waiting list as part of the overall prioritisation of the clinical need.
61. I therefore did not uphold the complaint for the reasons outlined in this report.
62. The Trust accepted my findings and will reflect on the observations made.

MARGARET KELLY
Ombudsman

October 2024

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.

