

## **Complaint Investigation Report into concerns raised by Ridouts on behalf of ADHD 360 Ltd**

**NCT Ref No: NCT INV 2223 331**

### **1. Purpose of investigation**

The purpose of the investigation was to establish whether the performance and/or conduct of the Care Quality Commission (CQC) was appropriate, with regard to the elements of the complaint, and to determine whether any recommendations or further action is necessary.

### **2. Complaint summary and requested outcome**

You made a complaint on 11 March 2024, on behalf of your client ADHD 360 Ltd, about the service provided by the CQC following the inspection of your client's service ADHD360 Head Office in August 2023. The overall complaint relates to the conduct of the inspector, [REDACTED], the handling of correspondence by our legal team and our applied inspection methodologies.

As an outcome, you are seeking:

- Our client strongly requests a new inspection team for any subsequent inspections.
- A full explanation regarding the change service category/framework for inspection.
- A full response to the firm's letters dated 14 and 15 December 2023.

### **3. How your complaint has been investigated**

In order to look at the issues you have raised, I have reviewed/undertaken the following to determine the overall findings:

- Spoken with the lead inspector, [REDACTED].
- Spoken with [REDACTED], National Professional Advisor for Primary & Community Care and Integrated Care.
- Spoken with [REDACTED], Inspector, who accompanied [REDACTED] on inspection for experience.
- Spoken with [REDACTED], Operations Manager for your client's service in 2020.
- Spoken with [REDACTED], Operations Manager for your client's service in 2023.

- Read the inspection report for the site inspection in August 2023.
- Read the inspection report for the site visit in November 2020.
- Reviewed your client's registration history and any changes made to registration since 2021 i.e. the change in location application.
- Reviewed and took into consideration the accompanying documents sent by the providers solicitors.
- Read all correspondence relating to solicitors' letters dated 14, 15 & 18 December 2023.
- Read correspondence relating to the report of actions.
- Read correspondence relating to the ratings review.

I have provided all the information pertaining to this investigation to [REDACTED] Senior Complaints Officer, who has independently reviewed the evidence and findings related to your complaint.

#### 4. Response to your complaint

##### 4.1 The August 2023 inspection was not conducted under the same framework as the November 2020 inspection and your client was not informed of the change to the category of service/framework.

It has been stated:

*The CQC has illustrated a lack of understanding of the type of service ADHD 360 is and as a result have failed to place the service in the appropriate category. Whilst the CQC has recently moved to a single assessment framework, that does not negate CQC's obligation in August 2023 to inform our client of a change to the category of service/framework for inspection.*

From reviewing all the documentation and speaking with colleagues, I can confirm that the CQC has not changed the category of the service/framework under which your client was inspected. The lead inspector ([REDACTED]) and National Professional Advisor ([REDACTED] who accompanied [REDACTED] on the inspection site visit) reported on the correct service and correct framework. Both inspections were undertaken, as they had previously, in line with the framework for Community Services Mental Health, as described on our website.

Due to the nature of the service at the time of the 2020 inspection, it is clear in the report (ADHD 360 Admin Centre) the type of service and the numerous clinics conducted across the country. Since the change of location address, the report is clear that the service changed its model to be a more remote online type of service. This required a slightly different report template to be used to report on our findings. This in no way changed what was being inspected or how it was inspected. However, the content of the August 2023 report has been reported on in more detail than previously. The report template does state in the header, from page 11 to 20, *Community based mental health services for adults of working age*. That is just the template used. A description of the service is demonstrated on page 8 – ADHD360 Head Office provides screening, assessment, diagnosis, and treatments for ADHD in adults and children. Services are provided for both NHS and private patients.

The CQC had a number of templates that were used, prior to the implementation of the single assessment framework, for the different sectors registered with us. In order to best illustrate the type of service the template for independent doctors was used for the inspection of ADHD 360 Head Office in August 2023. The template helps to direct the report writer with regards to where specific content should sit but the framework used is still the same. The content within the report demonstrates a good understanding of the service. This was supported by our National Professional Advisor (██████████) who also attended the inspection site visit in August 2023.

Since the introduction of the single assessment framework, all report templates will be the same however, what is reported on will differ depending on the service assessment group.

I find that on the basis of the evidence considered, I do not uphold this aspect of your complaint.

**4.2 CQC's report of actions is set to the wording and requirements of the original draft of the inspection report and has not been amended for the final published inspection report. When challenged, the CQC were hostile and refused on many occasions to waive the action plan deadline or acknowledge the inconsistencies between the versions, and that the required action was impossible to activate due to the inconsistencies. The requirement for the action plan was suspended and your client has no guidance as to how to proceed.**

Having spoken with ██████████, she confirmed that the report of actions is prepopulated and does match the final report, regarding the breaches of regulations. For clarity there were three actions documented on the report of actions sent to Dr Anderton on the 13 December 2023 as follows:

Report of Actions states:

*Regulation 10 Dignity and Respect.*

*The provider did not ensure patients were treated with dignity and respect.*

Final report states:

*The provider did not ensure patients were treated with dignity and respect.*

*Regulation 12 Safe care and treatment.*

*The provider did not have safe processes and procedures to manage and monitor blank controlled drug prescriptions.*

Final report states:

*The provider did not have safe processes and procedures to manage and monitor blank controlled drug prescriptions.*

The sentence in the original draft report - *The provider did not ensure prescribing practice's met legal requirements* was removed from the breach on page 22 of the report following the factual accuracy process. The factual accuracy response did not state it would remove both statements as this would have removed the breach which has not changed.

### *Regulation 17 Good governance*

*The provider did not ensure staff were treated with respect. The provider did not ensure structures, processes, and systems were in place to support good governance to identify and manage risks to patients.*

Final report states:

*The provider did not ensure staff were treated with respect. The provider did not ensure structures, processes, and systems were in place to support good governance to identify and manage risks to patients.*

Whilst CQC acknowledges the inconsistencies (minor changes to wording between the draft report and final report), this did not change the judgements, or breaches of the regulations.

The final report and report of actions was sent to the provider on 13 December 2023. The report of actions deadline was the 18 January 2024, which was deemed sufficient time to respond to the three actions required.

However, on the 10 January 2024, your client requested that the CQC revisit the statements within the action plan, in line with the final inspection findings that had been published and requested that the Report of Actions was placed on standstill until such time that the rating review was finalised. Whilst the exchange between Operations Manager, ██████████, and the provider, Dr Anderton, in response to the request demonstrates that there may be some miscommunication, ██████████ was correct in that the ratings review is conducted by a separate team within CQC, looking at the process and procedure CQC followed and therefore was independent of the inspection process itself. The report of actions would under normal circumstances still be requested at the same time as the final report was sent to a provider and the report being published.

The grounds for ratings review are set out in the guidance 'How CQC monitors, inspects and regulates independent healthcare services', which states: The only grounds for requesting a rating review after the factual accuracy process and publication are that we have failed to follow our process for making ratings decisions. You cannot ask for a review of ratings on the basis that you disagree with our judgements. Any request for a review must relate solely to the latest final inspection report. We cannot consider references to previous reports or those for other providers or locations.

Therefore, whilst ██████████ did not refer to the report of actions in her reply to Dr Anderton, the report of actions and final report remained current at that time. It would only be where the ratings review process concluded that a change to the report was needed that a new report would be generated. Within the same email exchange, ██████████ ██████████, Deputy Director, responded on 16 January 2024 explaining the process for submitting the report of actions. ██████████ stated:

*In relation to the report of actions, there is no need to submit this to the CQC at this stage. If there are amendments required to the report of actions, this can be reviewed, and the necessary amendments made. Due to your application for a Rating Review, I am content for any amendments that may be required to be finalised once the Rating Review process has ended and a decision made. If the need remains for a report of actions, a reviewed/amended version will be sent to you post Rating Review along with a new date of submission to the CQC.*

Following the Ratings Review outcome which concluded that there were no applicable grounds for challenge and as such did not proceed, there was no further communication/confirmation on how to proceed with the report of actions or revised submission date. However, I understand the amendments to the final report have since been processed and have been sent to Dr Anderton on the 15 May 2024. A new report of actions template was also sent with the final report along with a submission date.

I find that on the basis of the evidence considered, I partially uphold this aspect of your complaint.

#### **4.3 It is felt that the Lead Inspector ( [REDACTED] ) acted unprofessionally.**

It has been stated:

- The Lead Inspector led the previous inspection of the service on 17 November 2020 and displayed similar behaviour then. The Lead Inspector is determined to maintain negative assumptions about the service, despite being presented with evidence to the contrary.

[REDACTED] did not attend the onsite visit on 17 November 2020, this was conducted by colleagues, [REDACTED] (inspector) and [REDACTED] (inspector) who collected the evidence and [REDACTED] wrote the report.

I can find no evidence that supports this part of the complaint, and I am not aware that a complaint was made following the last inspection either formally or informally. This was confirmed by the [REDACTED]' line manager at that time, [REDACTED].

The inspection conducted in August 2023 was not a planned inspection but one based on concerns received by CQC, as was the inspection conducted in November 2020. This is clearly documented in both inspection reports.

Having spoken with two of the colleagues who supported the inspection site visit, [REDACTED] and [REDACTED], neither voiced any concern with [REDACTED]' conduct. Both expressed that they would raise any concerns about colleagues if they were required to and if they observed any unprofessional behaviour. None have been raised at either inspection. [REDACTED] only stated that [REDACTED] challenged appropriately and, whilst thorough in her work, remained professional throughout.

- When approached by the Head of Operations outside within the grounds of the building they did not introduce themselves or show their ID until they were inside the building and let into a meeting room. In particular....the Head of Operations went outside and politely asked if they required any help, to which the Lead Inspector sharply responded "No". Met with such an abrupt and abrasive response, the Head of Operations asked "Can I ask who you are?", to which the lead inspector responded "I am waiting for another colleague to arrive and we will identify ourselves once we have crossed the threshold." The Head of Operations returned inside the building and waited for the individuals to enter. It was not until the individuals were inside the building and let into a meeting room that they introduced themselves as inspectors and showed their ID.....to

enable Provider's to uphold their regulatory obligations regarding premises security, Inspectors should not wait until they are in a meeting room before identifying themselves.

Following discussion with [REDACTED] and [REDACTED] they described that they were waiting in the car park for other colleagues to park their cars. They said that whilst they were waiting the Head of Operations approached them to ask who they were. As there was a team of 4 for the onsite visit [REDACTED] stated they were waiting for colleagues and would introduce themselves once they had crossed the threshold. This was not challenged, and the Head of Operations replied okay and went back into the building.

[REDACTED] believes that they both had their CQC ID lanyards on at the time. [REDACTED] stated that the conversation was brief and polite and does not recall any abruptness or rudeness from [REDACTED]. He explained that they had been waiting for everyone to arrive before entering the building together, as is normal practise prior to attending an unannounced inspection of a service.

Once they entered the building [REDACTED] introduced the team and the reason for their visit. [REDACTED] did state however that upon reflection perhaps the use of the word threshold was not overly helpful at the time and would be more conscious of the wording used in future.

I find that on the basis of the evidence considered, I do not uphold this aspect of your complaint.

#### **4.4 The handling of response to letters dated 14 December 2023 and 15 December 2023 was felt to be unprofessional and have not been fully responded to.**

It has been stated:

- The CQC makes unnecessary critical comments to stifle a Provider raising concern. The CQC criticising correspondence of 15 December 2023 (Annex 4) by stating, *"the tone of which we note is not constructive or helpful"* is unnecessarily combative.

The correspondence between the two lawyers is deemed to be appropriate to the content and professionalism of the lawyers involved. I do not feel it appropriate to comment on this part of the complaint about the standard/content of correspondence between two professionals issued in their professional capacity, either Ridouts or CQC. However, I have noted the comments and the interpretation of the wording used and this will be shared with the appropriate persons to reflect upon.

- The following statement in the CQC's letter dated 18 December 2023 (Annex 7) is unprofessional, especially after commenting on the tone of our correspondence:

*"In your letter you refer to some CQC staff members being on leave and appear to question the propriety of our previous response. This is despite you sending*

*correspondence out of hours in the very late evening of 14 December 2023, demanding a response before 12 noon the following date, 15 December 2023. One of CQC's employees attended a meeting to discuss the response notwithstanding that they were on leave."*

As the investigating officer it is not for me to comment on this point in the complaint as stated above.

- Our letters dated 14 and 15 December 2023 (Annexes 4 and 5) have not been fully responded to. It has been over two months and we have still not received a full response to our letters. There has been no update in the interim, and no explanation for the delay.

The issues raised in the letter sent on 14 December had been addressed in CQC's response from the CQC Lawyer, [REDACTED], on the 15 December 2023. It was confirmed that your client's submissions and evidence were fully considered in line with the factual accuracy process. It was further explained that in line with established processes, the inspection report had already been submitted for processing, alongside the factual accuracy response and copy of the final inspection report being sent to your client. The request for delaying the publication was noted but it was explained that as this was received by CQC outside of office hours we were unable to consider the request prior to publication. As such the report was published that morning having progressed through an automated system and we advised that your client had the option to request a Ratings Review should they wish to utilise this recourse.

A response was provided by a CQC Lawyer, [REDACTED], on the 18 December 2023. *in response to the solicitor's letter of 15 December 2023 where additional points were raised.*

Having reviewed the response, it is noted that not all of the issues raised were responded to and there was the commitment that CQC would respond substantively in due course, once the relevant members of the team had returned from leave and were able to take full instructions. I note that this was not actioned due to colleagues' annual leave over the Christmas and New Year period. As such, further correspondence was unfortunately not then followed up. I apologise on behalf of CQC for this oversight and will respond in turn to those outstanding matters:

*Point 5. We require clarification of the statement "In line with established processes, the inspection report had already been submitted for processing alongside the FAC and copy of the final inspection report being sent to your client. Publication of the report progressed through an automated system and as such, the inspection report was published on CQC website this morning." and if the automated process could be overridden, and if so, at what stage.*

CQC would only suppress publication of a report in exceptional circumstances. Your letter of the 14 December 2023 was not deemed an exceptional circumstance.

*Point 6. We also require full transparency as to the time the final inspection report appeared on the CQC's website today.*

Updates to our external website usually take place around midnight each day.

*Point 7. The final inspection report contains errors, not just errors identified within our Client's FAC, but errors when the CQC made amendments to the draft inspection report to upload the final inspection report. The final report states on page 2:*

*"The provider did not have safe processes and procedures to manage and monitor blank controlled drug prescriptions. We were told on the day of inspection that several staff*

*We were told on the day of inspection that more than one person had access to the key safe....."*

*This statement in the final inspection report is a direct contradiction of the amendment that the CQC said it would make in its response to the FAC, at row B1. This error alone justifies the report being removed from the website immediately. The CQC is known to temporarily remove final inspection reports from its website to address errors such as this. A failure to do so in this case is capable of further legal challenge.*

CQC has identified that not all changes had been made to the final report following the factual accuracy process in light of the complaint. This was an error on CQC's part and apologises it was not corrected sooner. This has now been corrected and the final report sent to the provider Dr Anderton. There was no change to the judgements made or ratings awarded. A new report of actions has also been sent on 15 May 2024.

*Point 8. Your letter does **not** provide clarity as to the CQC's consideration of our Client's FAC submission. In fact, it highlights further concerns regarding the CQC's internal processes. These will be exposed should our Client pursue a Judicial Review claim, which it is considering. We also, as previously put you on notice that a formal complaint will be submitted as well as a challenge via the CQC's Rating Review process.*

I am unable to comment on all the specifics relating to the factual accuracy submission, but this investigation has addressed the issues relating to amendments and how these were resolved. I note that a ratings review was submitted which involved checking whether or not CQC followed its process for making ratings decisions, as explained in the guidance published on our website. In this case the review was undertaken by an independent team and Dr Anderton informed of the outcome via e-mail on 21 February 2024.

- It remains unclear why the CQC produced and published an erroneous report, why publication was not suspended despite our letter dated 14 December 2023 and why the erroneous report remains on the CQC's website despite our letter dated 15 December 2023.

You were informed that the report had been published the morning of the 15 December 2023 and reasons why. On further examination of the report, it is noted that some minor wording changes had not come through onto the final report as agreed in the factual accuracy responses. The ratings and breaches of regulations remain in place as no



change to the judgements were made as part of that process. The amended inspection report and report of actions were sent on 15 May 2024.

I find that on the basis of the evidence considered, I partially uphold the outcome of this aspect of your complaint that the letter of 15 December 2023 did not fully respond to all the points raised while there was a commitment.

## **5. Our Findings**

Taking account of all the information and evidence I have reviewed, I partially uphold your complaint overall.

It is acknowledged that there was no further communication/confirmation on how to proceed with the report of actions or a revised deadline date following the ratings review outcome.

CQC did not follow through on the commitment to respond substantively to the letter of 15 December 2023, once the relevant members of the team had returned from leave to be able to take full instructions.

## **6. What we will do / have done**

In terms of the outcome you are seeking:

- Our client strongly requests a new inspection team for any subsequent inspections.
- A full explanation regarding the change service category/framework for inspection.
- A full response to the firm's letters dated 14 and 15 December 2023.

Having reviewed this complaint and identifying where errors were made and subsequently rectified, I do not feel that a new inspection team is required for the future. However, I can clarify, the health and social care landscape is changing and so has CQC. We have implemented a strategy and new approach to how we regulate providers now under the single assessment framework. Operational roles have changed, which means that future assessments and inspections will be carried out based on available resources.

We want inspections to be positive. Staff within our Integrated Assessment and Inspection Teams are experienced professionals who undergo a range of training to ensure they conduct their inspections/assessments in a way that causes minimal disruption to everyone involved. They have to balance this with our statutory duties to protect people who may be at risk from unsafe services.

- A full explanation regarding the change service category/framework for inspection.

This has been detailed in the response under point 4.1. There has been no change in service category. The only change made was the template used to report on the

inspection due to the changes in how the service is provided i.e. more remote assessments.

- A full response to the firm's letters dated 14 and 15 December 2023.

This has been addressed under point 4.4.

CQC recognises and acknowledges when mistakes have been made. I hope that, in respect of your key concerns, I have reassured you that the CQC has carried out a full and thorough investigation into the circumstances of your client's complaint. The outcome of this review will be shared with the staff involved to reflect on and learn from your experience. We hope that you can accept CQC's apology for the mistake made in this case.

Signed: [REDACTED]  
Role: Operations Manager  
Date: 5 June 2024