CALDERDALE COUNCIL – OVERVIEW AND SCRUTINY

BUYING OUR CARE – OPPORTUNITIES AND CHALLENGES

A Scrutiny Review following the publication of Buying our Care – Experiences, grievances and hurdles – a report by Dr Maria-Christina Vogli and Equal Care

March 2023

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FOREWORD

We are pleased to present our report *Buying our Care – Opportunities and Challenges*. The report has been prepared following the publication of the report of Maria-Christina Vogli and Equal Cares *Buying our Car*e *– Hurdles and Grievances.* That report has been invaluable as a catalyst to us examining the way that services to adults with disabilities are commissioned and provided by Calderdale Council.

We are sure that our recommendations will be of particular interest to the Council's Cabinet, but our recommendations also have wider implications and should be considered by West Yorkshire ICB (in particular Calderdale Cares Partnership Board), Calderdale Safeguarding Adults Board, the Care Quality Commission and the Court of Protection.

As a scrutiny working party it is our role to review the commissioning and provision of services for Calderdale residents and, where we feel it necessary, to make recommendations for change. The detail of this review and our recommendations form the rest of this report.

Our report and recommendations look forward rather than back and are made in the spirit of appreciative enquiry – learning from the best, not criticising the worst.

We believe our recommendations will add to the improvement process. This is not the end of scrutiny involvement in these issues. We propose to hold a single agenda item meeting of Adults Health and Social Care Scrutiny Board by November 2023 to monitor progress on implementing our recommendations.

Councillor Ashley Evans, Chair, Buying our Care Working Party

Councillor Howard Blagbrough, Deputy Chair, Buying our Care Working Party

Councillor Dannielle Durrans

Councillor Shazad Fazal

Councillor Colin Hutchinson

Councillor Christine Prashad

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BUYING OUR CARE

Conclusions and Recommendations

Buying our Care is an important report. It has shone a light on a number of important issues. This scrutiny review has used *Buying our Care* as a catalyst to stimulate thinking and makes a number of recommendations. These recommendations are mainly addressed to the Council's Cabinet, but we believe that they should also be considered by the Council's partners in the health and care system, and by the Court of Protection.

Our report learns from *Buying our Care* and from what we have heard from Nur e Sabil, the Council, the NHS and others. Everyone we have spoken to recognises that some mistakes have been made. We recognise that the accuracy of some of the statements made in *Buying our Care* are contested by the Council and others. We have seen at first hand the anger and distress that the relatives of service users have felt as they have shared their own and family experiences and perspective with us. We also recognise that challenges that services have not been commissioned or delivered equitably have been upsetting and distressing to staff in the Adults and Wellbeing Directorate and the NHS. It is positive that the different parties are now actively working together to drive forward service improvements. Our report does not seek to attribute blame; rather it takes forward lessons learnt from our review through recommendations which support a culture of learning, one which is continuously communicated and embedded in all systems and practises.

Development of an Action Plan:

It is positive that work has already started by Adults Services and Wellbeing Directorate along with NHS partners, the Council for Mosques and the voluntary sector to develop an action plan in response to issues raised in *Buying our Care*. We are also pleased that Nur e Sabil have been working as part of this group to develop a shared approach. The Governance and Assurance Partnership Group have agreed that they will report on their work to the Health and Wellbeing Board. Our report considers the directorate Action Plan and also touches on the Action Plan that Nur e Sabil have prepared. We welcome the development of the Action Plan. We recommend that the Action Plan is adopted by Cabinet, that it is presented in an accessible and attractive format and retains a high profile.

Recommendation 1:

We recommend that Adults Health and Social Care Scrutiny Board review progress on implementing the Action Plan by July 2023.

Individual Case Issues

We have been very clear with everyone we have spoken with that it is not the role of scrutiny to deal with individual complaints. There are other processes to address service issues affecting specific individuals. We have not spoken with any service users during this review.

We have spoken with a number of relatives of service users. They have raised some serious concerns through *Buying our Care*, at the launch of the report and with us about the service their relatives have received and about their own treatment.

We have heard that there has been investigation by the Adults Services and Wellbeing Directorate of both formal complaints from relatives and concerns raised outside the formal complaints systems. The Director of Adult Services, and the Principal Social Worker have met with seven family members and have offered to meet individually with each family to listen to their personal stories and offer a review or a complaint investigation.

We also heard that some of the relatives remain dissatisfied.

Recommendation 2:

We recommend that there is an independent review of those cases. That review should focus on whether procedures have been correctly followed in these cases and to identify whether there are any changes need to those procedures.

Personalised Care

Personalised care is the bedrock of good social care, and this has been the objective in both social care for children and for adults in Calderdale for many years. This includes ensuring that people's cultural and religious needs are met. Most of the adults who receive social care services arranged by the Council live on their own or with their families. For those who live in residential settings or shared accommodation with other people, it is important to make sure that the organisations providing that care make sure that personalised care is a constant theme of that care and incorporates the wider aspects of a person's identity, heritage and culture.

Recommendation 3:

We recommend that Adult Services and the NHS at least annually review the care provided by commissioned organisations to ensure that appropriate personalised care is given to service users. Adult Services and the NHS should welcome and respond to feedback from relatives.

Culture and Religion

Ensuring that the cultural, religious and dietary needs of individual service users are supported has played a significant part in our discussions. Everybody agrees that this should happen, but it seems that this is not always the case. We recognise that

mistakes can sometimes happen, but we consider that this particular area needs to be embedded strongly in the commissioning process and in the monitoring of service provision. We give more details in the body of the report.

Ensuring the offer and provision of a halal diet for Muslim care users seems to us to be a simple thing to achieve and should be an absolute requirement on those organisations that the Council or the NHS commissions to provide services.

The Council and the NHS have a duty to respect the personal choice of all care users, with respect to culture, religion and diet where that individual is assessed as having mental capcity to make that decision.

Recommendation 4:

We recommend that any dietary and/or religious needs raised or identified are recorded on an individual's care plan. We further recommend that there is active review as to whether an individual's dietary and/or religious needs are being met. Where there is evidence that those needs are not being met, every effort should be made to resolve the situation as quickly as possible.

Families

The working group recognises the importance of involving families. Families have in depth knowledge and understanding of the needs of their relative and have provided significant care and support to them. Of course, the wishes of individuals may be different from that of their families and that is one of the challenges that care providers face. But, more often, families can play an important part in monitoring the care that is provided for their relatives and can provide advice and support to care-givers.

All family members in a caring role have a right to be offered a carer's assessment and Adults Services and Wellbeing should ensure that this offer is always made.

Recommendation 5:

We recommend that the wishes and views of the family are recorded in all service users' care plans and, wherever possible, that those wishes, and views are recognised and acted upon.

Commissioning

Most care for Calderdale adults is commissioned from other organisations. This means we have less direct control, but the Council has a quality assurance process with all adult social care providers In Calderdale. Through discharging our equality duty through contract specifications and the use of social value frameworks, we can use our organisational leverage and spending power to ensure that high quality and appropriate services are provided to meet the needs of all Calderdale residents.

Recommendation 6:

We recommend a review of commissioning processes both by the Council and the NHS locally to provide assurance that we are building religious and cultural needs into all commissioning and that through internal quality assurance processes, contract monitoring and independent CQC inspection we have effective ongoing oversight of the care provided. We recommend that this review is completed within 6 months. The Adult Health and Social Care Scrutiny Board should consider this review when it has been completed.

The Court of Protection

Some of the cases that featured in Buying *our Care* have included involvement of the Court of Protection. We heard from some of the families involved that they sometimes found the Court difficult to access and understand and it can be difficult for family members to represent the interest of their relative.

We understand that, on occasion, the Council or the NHS and families of care receivers may be pursuing different interests through the Court of Protection. But even in these cases, we consider that the health and care system should be able to give clear advice on how families can find support.

Cases involving the Court of Protection should have sufficient senior level oversight. As well as the impact on the lives of individual Calderdale citizens and their families, they also incur significant costs, particularly in instructing counsel.

Recommendation 7:

We recommend that families are supported throughout the Court of Protection process. The procedures of the Court should be explained to them in a clear manner, and, if necessary, in the first language of the family. Independent advocacy Services should always be clearly signposted to family members. The Adults Health and Social Care Scrutiny Board should consider a report on the use of the Court of Protection and the Mental Capacity Act at least once a year.

Listening to and Understanding Communities:

It became apparent that some members of the Asian and Muslim communities have felt disengaged and undervalued by the Council. They felt that there is an imbalance of power in their relationship with the Council, that the Council did not listen to their concerns and that the workforce is not representative of the communities that it serves. The first steps to resolve this are already being taken through the development of an Action Plan.

The Directorate acknowledges that the workforce of the Directorate does not reflect the population of Calderdale. The workforce needs to be more diverse, particularly at management level.

Recommendation 8:

The Council's revised workforce strategy should address the need for the Council's workforce to be more diverse and representative of the communities it serves. A report on actions proposed should be presented to the AHSC Scrutiny Board by July 2023 and a further report presented to the Scrutiny Board in March 2024 on improvements achieved through the workforce strategy.

Complaints Procedures:

Both the Council and the NHS confirmed that they had not seen many complaints about issues raised in the Buying Our Care report. This contrasts significantly with observations from Healthwatch and relatives of service users, both of whom referred to numerous complaints and concerns being raised.

Members of both Adults Health and Social Care Scrutiny Board and Children and Young People Scrutiny Board have expressed concerns that complaints reports they receive focus on complaints received through formal procedures and so do not reflect broader areas of concern that service users may have. We request that Strategy and Performance Scrutiny Board undertake a review of complaints procedures across the Council and make recommendations on how those procedures should be amended.

Recommendation 9

The working party recommends that the complaints procedures and the whistleblowing policy and procedures are actively reviewed and that it is recognised that complaints can be made in different ways and not just using a formal complaints procedure. A robust mechanism needs to be established to capture all concerns when they are raised so that patterns and trends can be identified and resolved. Strategy and Performance Scrutiny Board are requested to undertake a review of complaints procedures and the whistleblowing policy and procedures.

Advocacy

The boundaries between healthcare and social care are often indistinct and an individual may often be receiving both simultaneously, however concerns that are raised are progressed separately within these two systems, which can be confusing for complainants and can obscure patterns and trends of adverse occurrences.

Recommendation 10

Both Healthwatch and CloverLeaf should have a specified point of access to the Adults Services and Wellbeing Directorate to report of complaints and concerns, and their resolution. It is recommended that ways to coordinate complaints handling in both health and social care systems are explored.

Conclusions:

As soon as the Buying our Care report was published, senior management within the Adults Services and Wellbeing Directorate took a lead on responding, established the Governance and Assurance Group and worked with Nur e Sabil, and partner organisations on preparing an action plan. The implementation and delivery of the action plan provides a strong platform to build a service that is increasingly culturally competent, person-centred, and diverse. This is a continuing journey of improvement and one that needs to be driven at pace.

Taking forward the action plan and giving this work a high profile is important to develop confidence from the community in the progress that is being made.

The Council has a positive attitude to staff and team development which forms a solid basis for taking forward learning arising from the issues raised in *Buying our Care*, particularly around cultural competency. Opportunities for cross learning across the Council, in particular involving Adults and Wellbeing Directorate, Children and Young People Directorate and the Safeguarding Team should continue to be taken and advanced. Learning from outside the organisation should continue to play an important part in testing our own practice.

Finally, *Buying our Care* talks about the “imbalance of power”. Social work and social workers are very aware of this; it forms the basis for much of their practice. It equally affects decisions about commissioning, the use of the court and the design of services. Reducing imbalances in power is not an easy task. People working in social care are in powerful positions and sometimes have to take unpopular decisions. But awareness of these imbalances and accountability for our actions should be a golden thread through our approach to all our social care work.

Development of an Action Plan:

Following the publication of the Buying our Care report and alongside but separate to this review, the Directorate of Adults Services and Well-being has established a governance group consisting of the Cabinet Member for Adults Services, Officers from the Adult Services and Wellbeing Directorate, Nur e Sabil, the chair of the Council of Mosques and officers from the NHS. Representatives of Nur-e Sabil are now working alongside the Adult Services and Wellbeing directorate to develop an action plan. It is acknowledged that the development of an Action Plan is the first step of many to address the issues raised by Nur e Sabil and families who have spoken out.

There are opportunities for shared learning across the Council, particularly across those services that provide social care, including Adult Services and Wellbeing, Children and Young People, and Safeguarding. In particular, many of the values, practice and professional base of social work with children and with adults is shared. We hope that every opportunity for shared learning is taken.

Adult Services and Wellbeing Action Plan

The ASW action plan lists nine key points to action:

- Ensuring service users and/or representatives are being invited to meetings pertaining to their family members needs for Continuing Healthcare and subsequent reviews
- Ensuring service users receive culturally appropriate food
- Making sure service users are receiving personal care in line with values and beliefs
- To have a culturally focused audit of ASW casefiles
- To understand safeguarding concerns/MCA Dols BAME applications
- To have a culturally informed workforce
- To understand and improve the workforce profile
- To ensure learning from ASW complaints/compliments/safeguarding adult reviews
- To ensure provision of halal food.

Within each of these key actions, the ASW Directorate have listed steps to be taken to ensure the key actions materialise. Further there are inbuilt mechanisms which measure progress, the timescale, the individuals responsible, the result achieved and lastly a RAG (red, amber, green) rating.

The Joint Working Party would like to see more of a focus on helping families understand the different complex processes involved. For example, clearly explaining the role of, and how to become an individual's Relevant Persons Representative, the Court of Protection process, the Mental Capacity Act, Deprivation of Liberties etc etc.

The Adults Health and Social Care Scrutiny Board will review the ASW Directorate's progress on the implementation of the Action Plan.

Nur e Sabil's Action Plan

Nur e Sabil have created their own action plan which the ASW Directorate have taken on board and built into their own action plan. Nur e Sabil's Action Plan sets out 30 different objectives around the themes of the complaints system, ensuring family member involvement, the workforce being culturally informed, for families to be supported in processes including the Court of Protection, ensuring cultural needs are met including the provision of halal food, for funeral arrangements to be in line with faith, interpreters to be provided and single gender care staffing provision.

Nur e Sabil state that these actions will help ensure that the ASW service provision meets the diverse needs of service users and ensure fairness and equity in access and service outcomes.

The working group welcome the ASW directorate working with Nur-e Sabil on the ASW Action Plan.

Individual Case Issues:

The working group has not considered substantively the facts behind any individual case. Nevertheless, considerable concerns have been raised by family members as to whether the service users' needs have been met and whether the correct processes have always been followed.

It should be acknowledged that there may be times when there is a conflict between the wishes of the individual service user and relatives or the wider community. Where such conflicts have arisen, it is important that they are acknowledged and the steps taken to resolve them are clearly documented in the service user's record.

Cases where a court (such as the Court of Protection) is involved should have sufficient senior management oversight.

Personalised Care:

The care given to service users should not only be tailored to their care requirements but also reflect their needs as individuals. This should include meeting their religious, cultural, dietary, spiritual and emotional needs.

Services providing care are usually commissioned from independent providers. This care can sometimes be out of the Borough, away from families and communities of identity. This makes it even more important that care plans are personalised and tailored to the needs of the individual, that the provider understands the importance of sticking to those plans and that this is effectively monitored both by the council in that locality and by Calderdale Council or the local NHS.

Equality Impact Assessments should be carried out as standard practice as a means of establishing that an individual's cultural and religious needs could be met by the provider.

The working party need to be assured that individual's cultural and religious needs are adequately considered. The Council should undertake strong performance and monitoring checks as to the working practices of service providers and evidence of this occurring should be reported to the Adults Health and Social Care Scrutiny Board within the next 12 months.

Culture and Religion:

The Working Party sought assurance that cultural and religious needs are met for each service user. After reading the Buying Our Care Report and discussions with Nur e Sabil we became aware that these needs have not always been met. Of course, individual service users may choose not to follow the religious beliefs and practices in which they were raised, but this needs to be an informed choice and care settings need to be mindful of this.

For those whose heritage, culture or religion may differ from that of the mainstream culture in which they are placed when they live away from the family home, cultural identity and religious challenges may present and pose a risk to behavioural and psychological adjustment, especially when the person has learning difficulties or disabilities.

The offer of and provision of halal food in care settings for Muslim care users is imperative. Whilst conducting this work the Working Party understand that the Adults Directorate have emailed providers to ensure halal food is being is being given to care users who identify as Muslim, but Nur e Sabil have continued to raise concerns that in some cases halal provision is still not being provided. The Working Party would like to ensure that staff in care settings understand that if there isn't a halal option currently available that a vegetarian or pescatarian option should be offered as an alternative until halal provision can be sourced where it is requested.

To guarantee provision of halal food, we would like the Adults and Wellbeing directorate to undertake active enquiry, for example spot checking providers to ensure the providers are offering halal options to their Muslim care users.

This would not only create assurance for the council but it would create a system that works for service users and build back confidence in the system within the Muslim community.

The working party would also like care settings to take into consideration service users' cultural and individual religious and faith needs. This may include issues around alcohol, TV programmes, codes of dress etc.

This attention to personalised care should also extend to people of all faiths and cultures and to the dietary requirements of vegetarians and vegans.

Families:

It is normally in the best interests of the individual and relatives for an individual to remain within their family unit and this is what happens in the vast majority of cases.

Human behaviour is shaped according to cultural institutions, norms, values, language, history and traditions. Different cultures have different types of family systems. In some cultures, the nuclear family, father, mother and children appears to predominate whereas in other cultures the extended family – grandparents, father, mother, children, but also aunts, uncles, cousins and other kin are considered to be

“family”. This is an important factor to consider when communicating with the extended family.

It is important that the initial assessment of the individual should include a detailed exploration of the family within which they have been living. In extended families the principal carers may not always be as obvious as in more nuclear families. Wherever possible, the objective should be to provide support for the individual to continue to be cared for within their family unit.

Removing someone from their family unit only happens rarely, when it is not possible to provide care in the family setting, or there is a substantial risk to an individual if they remain in the care of their family and it is in the best interests of the individual. Families should always be fully informed about why these decisions have been reached. Continuing support should be given to the family so that, wherever possible they can continue to participate as fully as possible in their family member’s life, to attempt to resolve any concerns regarding the quality of care, and the family signposted to services that can provide support during any legal process.

We are mindful of the requirements of Article 8 of the European Convention on Human Rights as it pertains to an individual’s right to a family life and seek assurance that in all cases where removal from a family is contemplated that Article 8 is fully considered as part of that process.

Commissioning:

The Care Act 2014 sets out the law on market development in adult social care. It enshrines in legislation duties and responsibilities for market-related issues for the Department of Health, CQC and for local authorities.

Section 5 - sets out duties on local authorities to facilitate a diverse, sustainable high-quality market for their whole local population, including those who pay for their own care and to promote efficient and effective operation of the adult care and support market as a whole.
Market management for services for adults in need of social care services in order to meet the duty set out above presents a series of challenges, particular at the current time when the market is fragile.

Ensuring a diverse, sustainable high-quality market for a smaller segment of that market, such as adults with learning disabilities, presents different challenges. Ensuring those services are able to meet the needs of people with respect to their religion and culture add to those challenges.

We note that Nur e Sabil have proposed co-development of a specialist facility between Bradford and Calderdale so that there is a larger demographic “footprint”.

We wonder whether there would be benefits from commissioning at a greater scale, possibly across West Yorkshire for some, more specialist services and so we recommend that this is explored by the Directors of Adult Services across West Yorkshire. Ideally, of course, people should live as close as possible to their family

and the community where they grew up. In developing different models of commissioning, the Council needs to be mindful that access to this specialised provision remains a choice and access to wider provision is also offered and able to provide fair and equitable outcomes.

Once the contract to provide care is agreed it is difficult to monitor the daily provision of that care. Independent providers often have a high turnover of staff or employ agency staff which can lead to an uneven daily delivery of care. There are currently no mechanisms to monitor the diversity of care providers' workforce and no statutory requirement for this information to be provided. High turnover of care staff means that staff members may not have had adequate cultural and religious training and as such be less able to fully meet those needs of service users. Regular visiting by family members can help to reinforce the importance of these cultural and religious needs upon the managers and staff of such residential settings.

We would like to see the Council working with independent providers to support them improve the diversity of their workforce. This will not be straightforward, particularly given the current challenges in social care recruitment, but we would like to see a range of approaches adopted, such as including adding social value objectives in contracts and offering training and development opportunities.

The Council's Equality and Diversity Policy Statement states that we will make sure our selection and tendering processes address and include equality considerations. It states we will do this by ensuring that all contractors and organisations providing services on our behalf have equality policies covering employment and service delivery that are compliant with the Equality Act 2010 and that where relevant equality and diversity considerations are built into the procurement process.

Those delivering a service to customers on behalf of the Council inherit the 'duty to promote' equality. Their staff must acknowledge and behave as though they themselves were Council employees. In effect a contractor must take on the responsibilities of a public authority – and must ensure that this is reflected in all the services that they deliver and in all their dealings with Council customers and staff. Dependent on the type of contract and size of the provider, contract schedules can include the monitoring of services which are provided on behalf of the Council and monitoring and reporting on the workforce.

The Public Services (Social Value) Act requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

The Social Value model outlines five core themes, and diversity and inclusion is closely related to many of them. Theme 2 (tackling economic inequality) focuses on creating new businesses jobs, and skills, as well as increasing supply chain resilience and capacity. Theme 4 (equal opportunity) focuses on tackling workplace inequality and reducing the disability employment gap.

Before they start the procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders

The Court of Protection:

The Court of Protection (COP) makes decisions on financial, or welfare matters for people who can't make decisions themselves at the time they need to be made (they 'lack mental capacity'). The Council uses the Court of Protection as a last resort when it cannot be agreed what actions should be taken for someone receiving or needing care and who the Council has assessed as lacking mental capacity to make relevant and appropriate decisions regarding that care.

In Calderdale there are currently 22 active COP cases, 19 are white British, 2 are British Asian families. There are 7 Section 21 appeals, (Section 21A Mental Capacity Act 2005 proceedings take place when someone who is deprived of their liberty has expressed objections) 6 are white British, 1 person is Asian British. There are 2 community Deprivation of Liberty applications, both White British.

When the Council pursues an application that results in a hearing at the Court, it is likely that the Council, will instruct a specialist barrister to represent the Council. We heard that relatives of service users feel that they cannot access representation for the Court of Protection. They are often ineligible for Legal Aid to assist in obtaining representation or cannot afford it, costs being prohibitively high. Families fed back that when they attend court in person, they can sometimes feel marginalised, intimidated and do not understand the procedures, due to the complexity of the system and sometimes the language barriers. Families report feeling as if the process is very much biased towards the Council. Where there is an understanding of the representation, families complain that they are not allowed to be a Relevant Person's Representative and that the reasons for that are not explained or are not understandable. Relatives of service users also commented that they do not understand the processes that lead cases to be heard in the Court of Protection. Information is often not provided or when it is provided it is in a language which families advise do not readily understand.

The working party recognises that relatives of service users can feel bewildered and intimidated by the Court of Protection and the processes by which cases arrive there. The Scrutiny Board acknowledges that the Court of Protection is essentially an adversarial process and that the Council is a party to proceedings, but the objective of the Court must surely be to achieve the optimum care and safeguarding of the individual before them and it must serve that objective if all relevant parties are able to participate in the process. The working party recommends that relatives of service users are better informed by the Council as to the processes of the Court of Protection. Many councils provide information booklets explaining the workings of the Court of Protection and Calderdale is recommended to do likewise. This support also needs to include interpretation of letters and processes being explained in the

relevant family language (using a qualified interpreter if necessary and in line with the council's Translation and Interpretation Policy.). The Council should also signpost relatives to external organisations that might be able to provide independent advice or support such as Cloverleaf. The number of individuals subject to the Court is small enough that this should not be unduly burdensome on the Council.

Listening to and Understanding Communities

Those who find themselves excluded from society, discriminated against, or lacking power and control because of a disability or poor English language proficiency, can be the least likely to be able to access and navigate services or systems.

We believe that people understand better than anyone else what's needed in their communities.

We recognise that co-production, delivering services in an equal and reciprocal relationship between professionals, people using services and their families can make services a better fit and accessible for the people that use them, however, we also understand it requires time and resources and can often be difficult to attain due to lack of trust and effectiveness of engagement.

When co-production works well it can promote anti-racism within organisations, as it avoids designing services based on a paternalistic or privileged viewpoint. Institutional Racism was defined in the Stephen Lawrence enquiry by Judge William Macpherson as "the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin" This can either be direct or indirect discrimination. The Judge found that this form of racism is "processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people"

Adult Services and Wellbeing Directorate do not recognise their practice as discriminatory or Islamophobic, as challenged by Nur e Sabil members. They felt that their approach might be better described as Eurocentric. They defined Eurocentrism as: "focusing on European culture or history to the exclusion of a wider view of the world; implicitly regarding European culture as pre-eminent: So, by virtual definition that a 'white' culture / belief system predicated on a European idealism is better and therefore no or minimal interest or respect paid to cultures or histories which don't reflect these ideals – a blinkered view of the world where no consideration is made towards others beliefs and systems"

Relatives of service users we spoke to have raised that they feel discriminated against by the Council. This has led to some members of the Asian and Muslim communities losing confidence in the Council's effectiveness and its willingness to meet cultural and religious needs which has also caused some unwillingness of these communities to engage with the Council. We understand that minority communities can feel marginalised, and it has been acknowledged that Adult Services and Wellbeing has taken a Eurocentric approach.

This report has focused on one particular part of the work of Adult Services and Wellbeing Directorate. As in any area of activity there will be variations in the way that services are delivered – some will be excellent and other areas may need some development. We think it is unlikely that if a Eurocentric approach has been adopted in some of this very specialised area of work that it has not been adopted also, on occasion, in other areas of the Directorate's activity or indeed across other areas of the Council's work.

We are pleased that the Council is engaging with Nur e Sabil and wider communities to strengthen relationships. Adults Health and Social Care Scrutiny Board should review community engagement by the end of 2023 to assure themselves that the Eurocentric approach has moved on to a more inclusive approach and that "due regard" is given to equality in decision making, policy development and commissioning. Equality Impact Assessments (EIAs) increase transparency and public confidence. Where EIAs have previously been carried out they should be reviewed to ensure that lessons learnt from this review are captured and that services and delivery is fair and accessible for all protected equality groups.

It is recognised that the Council needs to take a proactive approach to improving public confidence in the Council on these issues. The Council has a responsibility to serve all its communities in a way and manner that leads to equity of outcome. Our communities need to feel that the Council understands their needs and actively works to support those needs.

Complaints Procedures:

Both the Council and the NHS confirmed that they had received few complaints about issues raised in the Buying Our Care report. This contrasts with observations from Healthwatch and relatives of service users, both of whom referred to numerous complaints. Healthwatch indicated that they had no direct point of contact within Adult Services directorate to raise concerns and that addressing this gap would be welcomed. It would seem that the application of a narrow definition of what constitutes a "complaint" may be the reason for this discrepancy. "Concerns" and "informal complaints" seem to fall outside that definition.

Council procedures would dictate that when a concern is raised, efforts are made to resolve that concern as quickly as possible. This means that whilst the majority of individual concerns are dealt with at the time, possibly wider areas of concern are not recognised as complaints and/or problems by the Council and consequently not systematically recorded. The opportunity to spot patterns and trends of concern may be lost, and with them, the opportunity to prevent escalation to more serious adverse events. There can be great value to an organisation to welcome all comments, both complimentary and critical, and to actively seek such feedback.

Adult Services indicated that individuals needed to raise a complaint before that complaint could be investigated. We heard from Nur e Sabil that there is some lack of confidence in the Council as an institution and this may directly impact whether individuals from the Muslim community feel willing to raise a complaint. A fear that

raising a complaint could result in retaliatory behaviour against the service user or their family can be a further deterrent: another aspect of a perceived imbalance of power in the care system.

We are concerned by the differences between the Council's record of complaints and the experience of Healthwatch and relatives of service users. The Board recommends that the Council's complaints procedure is actively reviewed, taking on board the lessons learnt from this review and recognising that complaints can be made in different ways and not just by using a formal complaints procedure.

The Scrutiny Board further recommends the possibility of introducing a single point of contact for both Healthwatch and Cloverleaf to refer concerns is examined.

Advocacy

The Working Party met with Healthwatch and discussed its advocacy function. Healthwatch is commissioned to provide advocacy services for healthcare only, not social care, as it holds the NHS advocacy complaints contract. Healthwatch provided examples of feedback that it receives including that many individuals often do not understand the social care systems and don't know where to go for help.

Regarding social care, Healthwatch are able to sign-post individuals to CloverLeaf, an advocacy organisation that does help with social care issues. However, often cases are not clear-cut social care, or healthcare and it can be difficult to untangle them. Healthwatch also pointed out that they receive numerous complaints and concerns around social care but do not have a contact point withing the council to feed this information in.

Currently there is no system in place to check if those individuals who have complained about social care issues to Healthwatch have put in a formal complaint to the Adult Services and Well-being Directorate. A system of quarterly reporting from Healthwatch would enable the Adults Directorate to be able to see if number of complaints fit with the number the directorate are receiving.

The Working Party have been told by the Adults Services and Wellbeing Directorate that currently the only social care advocacy firm being used in Calderdale is CloverLeaf. This is a commissioned service and has to fit the procurement guidelines and contractual regulations.

Methodology

The *Buying our Care* report was published in September 2022 and two Councillors requested that there should be a scrutiny review relating to the issues arising from the report. Following a discussion with the Council Chief Executive, it was agreed that a joint working party made up of Councillors from the Adult Health and Social Care Scrutiny Board and the Children and Young People Scrutiny Board should be established. The working party began its work on 11 November 2022 and this report is the result of that review.

In undertaking a scrutiny review, councillors investigate services and strategic issues; examine how policies are being implemented, what people think of them and what changes, if any, are needed.

Councillors carrying out a scrutiny review can question Cabinet members and senior Council staff about their decisions and service performance, they can also undertake visits and research and hear from and gather evidence from staff, other organisations and members of the public.

Scrutiny does not make decisions, investigate individual complaints or resolve individual people's problems, but it can seek to better understand those problems and the impact they have had on people's lives, and try to understand if those problems have wider implications.

The outcome of the review is the publication of a report which outlines the scrutiny board's key findings and recommendations. Cabinet (or another relevant body) should respond to the scrutiny report and decide whether to accept any recommendations.

The working party has met with members of Nur-e Sabil twice. They described to us with passion their worries, concern and anger. We are grateful for their attendance and commitment to sharing their concerns.

The working party has also met with senior leaders of Calderdale Council, officers of the Council, representatives of the NHS, partner organisations and the relevant Cabinet member. These meetings have consisted of open enquiry allowing all parties to provide evidence and to have the opportunity to clarify or expand that evidence. Details of the working party's meetings can be found in Appendix 2 of this report.

In addition, the working party has received written evidence and presentations. The working party has also considered appropriate legislation and the legal process by which cases are considered at the Court of Protection.

There are some things that we have not done as part of this review.

- We have not investigated individual cases or spoken directly to services users. That is not our role and would only cut across other processes.
- Some of the statements in the *Buying our Care* report are contested and we have not sought to verify those statements or otherwise. Rather, we have used the report to inform our thinking about those issues we have examined.
- We have not sought to allocate blame. Service delivery is never perfect, and mistakes are sometimes made. That is inevitable.

Acknowledgements

We would like to thank Nur e Sabil for meeting with us and sharing their stories with us, which we know, at times, was a very distressing experience for them.

We would like to thank Council Members, officers, and colleagues from partner organisations for giving us their time. Again, we appreciate that this is not easy when strong challenge has been made to the previous policies and service decisions.

And we would like to thank everybody to the great start that has been made to working together with a common purpose of making improvements.

We would also like to thank Tahira Iqbal and Sail Suleman whose advice throughout our review has been invaluable.

Glossary

Court of Protection A court that deals with the decisions of action taken under the Mental Capacity Act.

Deprivation of Liberty A Supreme Court judgement deciding to take away a patient or resident's freedom who lacks capacity to consent to their care

Eurocentric Focusing on European culture or history to the exclusion of a wider view of the world; implicitly regarding European culture as pre-eminent: So, by virtual definition that a 'white' culture / belief system predicated on a European ideal is better and therefore no or minimal interest or respect paid to cultures or histories which don't reflect these ideals – a blinkered view of the world where no consideration is made towards others' beliefs and systems"

Institutional Racism The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin

Mental Capacity Act 2005 Applies to everyone involved in the care, treatment and support of people aged 16 and over living in England and Wales who are unable to make all or some decisions for themselves. The MCA is designed to protect and restore power to those vulnerable people who lack capacity.

Section 21

Section 21A Mental Capacity Act 2005 proceedings take place when a person who is deprived of their liberty has expressed objections.

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