

13 August 2018

Complaint reference:
17 015 479

Complaint against:
London Borough of Havering

The Ombudsman's final decision

Summary: There was some fault in the service provided to Mr X regarding homecare delivery. I have recommended the Council apologise for this fault and take steps to ensure it keeps a record of the information provided to service users about the time slots for care staff arrival.

The complaint

1. Mr X complains about the quality of the care provided to him by the Council. Specifically, Mr X complains about:
 - the large number of care workers who have visited him to provide care;
 - care workers arriving later than scheduled;
 - care workers only having online training in relating to washing;
 - not receiving his six month follow up assessment in November; and
 - the decision of the care provider to give notice to the Council on Mr X's care.
2. Mr X is being represented by his wife Mrs X.

What I have investigated

3. I have considered the Council's actions from November 2016 until Mrs X made her complaint to the Council. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. I have decided to exercise discretion to consider Mrs X's complaint about the lateness of care workers and the number of care workers from November 2016 due to the ongoing nature of the issues.

The Ombudsman's role and powers

4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

-
5. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
 6. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
 7. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
 8. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Care Quality Commission (CQC), we will share this decision with CQC.

How I considered this complaint

9. I have considered information provided to me by both Mrs X and the Council and discussed the complaint with Mrs X. I also provided Mr and Mrs X with an opportunity to comment on my draft decision and provided the responses I received.

What I found

10. Mr X received care from a homecare agency. This was organised by the Council. The care was part funded by Mr X and part funded by the Council. The arrangement was for a carer to visit Mr X for half an hour each weekday morning. Mr X's care plan explains that during these visits the carer should assist with transferring Mr X out of bed. It also says the carer should supervise or assist Mr X's transfer from his bed to his wheelchair. It also says the carer should transfer Mr X in his wheelchair and supervise a transfer onto the toilet. It says the carer should support Mr X with washing and dressing and assist with creaming his legs and putting on compression stockings.

Lateness of Mr X's carers

11. Mrs X complained to the Council about the lateness of the carers who attended Mr X throughout 2016. Specifically, she complained to the Council that on 7 November 2017 the care worker arrived 30 mins late and the following day the care worker arrived forty minutes late.
12. Mrs X also complained that on 17 November the care worker arrived over an hour late and ultimately did not complete the visit. The Council has explained that the recording of this visit as "cancelled" was incorrect and it should instead have been recorded as a "frustrated visit". The Council has confirmed that Mr and Mrs X were not charged for this visit.
13. Mrs X was not made aware that the care workers would be arriving late. Mrs X has explained to me that Mr X suffers from anxiety and this is exacerbated when the care workers arrive late. She has also explained to me that this impacts on Mr X's routine and means that she has to provide the care herself.
14. I have considered the records of care worker visits from November 2016. On a number of occasions, the care workers arrived before or after the scheduled time and on a further number

-
15. Care workers have a half an hour window before and after the scheduled start and end times of their visits. This allows care workers to have flexibility should the previous call take longer, if there has been an emergency with the previous service user, if there are issues with traffic or if the care worker is unable to find the address.
 16. Mrs X said she was not aware that the care workers have a half an hour window before and after the designated arrival time. The Council has said that this would have been explained at assessment stage by the care provider and was reiterated to Mrs X when she telephoned the office to complain about the lateness of carer's.
 17. The Council has provided me with a copy of the contractual agreement made between the homecare provider and the Council. It says that "As consistency is a vital aspect of each client's care arrangements, late attendance is strongly discouraged. However, providers will ensure that, where a staff member is unable to arrive within 30 minutes of the agreed time, the client is contacted and advised of the staff member's expected time of arrival."
 18. When Mrs X complained to the agency about the lateness of care staff, it said that it was unable to pass information onto service users if their care staff do not make them aware. It advised her to contact Social Services to change the agency to one that could better fulfil Mr X's needs. Mrs X has expressed dissatisfaction with this solution.
 19. The care agency also sent a message to all staff to remind them of the importance of informing the office when they are running late and apologised that Mrs X was not informed of lateness previously.

Lateness of Mr X's carers - analysis

20. Based on the evidence, I cannot be satisfied that Mrs X was properly made aware of the half an hour window for care workers to arrive. This was fault. The Council should apologise for this and take steps to ensure there is a written record of service user's being made aware of this.
21. The care agency has acknowledged that it was at fault when it did not inform Mrs X of care workers being late, over and above the half hour window. It said this was because of care staff not informing it in order for it to pass the message on. The care agency apologised for this and took action to remind staff of the importance of informing the office of lateness. This was an appropriate response.

The number of care workers

22. Mrs X complains that in two and a half years of homecare being provided to Mr X, he has had 43 different care workers attend. She explained the importance of continuity of care workers due to Mr X's anxiety.
23. The Council has explained that the homecare provider does not have any policies in place regarding the number of different carers that attend a client. It acknowledged that it is good practice for continuity of care worker to client is allocated as far as is possible.
24. The homecare provider faces restrictions to providing continuity of care workers as it is influenced by staff turnover as well as staff availability because of annual leave or illness.
25. The Council has said that the homecare provider carries out regular checks with service users regarding continuity through six monthly telephone reviews, six monthly quality reviews and annual quality assessments.

-
26. The contract in place between the council and the homecare provider for this period states: "Providers should treat clients with dignity and respect; this includes recognising the clients are individual, have preferences and appreciate continuity of staff. Providers should therefore endeavour to minimise the volume of carers attending individuals and should promote, where possible, continuity of staffing."
 27. The council has also explained that it regularly collects feedback from a random sample of those receiving homecare to understand if they are getting a good service and continuity of care.
 28. I have reviewed a telephone monitoring form from 30 August 2017 where the Council has recorded that Mr X is always satisfied with the continuity of staff.

The number of care workers- analysis

29. At this time, I am satisfied that the Council has adequate processes in place for reviewing this. I would not have expected it to address the issues before as it was not made aware of the issue despite asking specific relevant questions. While I appreciate that Mr X has had a large number of different staff caring for him over the last two and a half years, my investigation has not found that the Council was at fault.

Online training

30. Mr X complains that the care workers who visited Mr X had only had online training relating to the washing of clients which impacted on the level of care provided.
31. The Council has explained to me that each new care worker is given a care-workers handbook and undertakes face to face training as part of their induction followed by four elements of e-learning training. It also explained that care workers must complete shadowing with an experienced care worker until they are competent to undertake lone working. The Council has confirmed that this would have been completed in all instances for carers visiting Mr X.
32. The contract between the homecare provider and the Council states the training standards required but not specifically how the training is to be delivered.

Online training - analysis

33. I appreciate that Mrs X feels that the training may be inadequate, which has impacted on the level of care provided to Mr X. However, at this time, my investigation has found no evidence to suggest that the training provided falls below the standards expected by the Council in its contractual arrangement or the legislation relevant to homecare provision. The Council made a decision to give the homecare provider discretion in how it trains its staff, this is a decision it was entitled to make. Without fault in the way the decision was made, I cannot question the decision itself.

Follow up assessment

34. Mrs X complains that the Agency did not complete a follow up assessment. The Council has explained that The Quality Review and Medication Review are undertaken every six months and Care Assessment reviews are completed annually. The Council has told me that the Quality Review was completed by telephone on 30 August 2017.
35. It also told me that a Medication Review was completed on 11 May 2017. However I have not found any evidence to suggest that a further Medication Review was completed.

-
36. I would have expected both the Care Review and Medication Review to be completed around 11 November 2017. I understand that the care package was terminated on 17 November, however this was after the reviews were due and so I would have still expected them to have taken place.
37. In response to my enquiries, the Council has acknowledged that an Annual Care Review did not take place in November 2017. It explained that normal practice would be that once the review had taken place in November 2016, this would be diarised forward on the Adult Social Care database system for a review to be undertaken in November 2017. However, this was not done on this occasion.

Follow up assessment – analysis

38. Not conducting an annual care review appears to be fault. With regards to the Medication Review, it appears that no further Medication Review was conducted. This also appears to be fault.
39. I must determine whether this fault has caused Mr or Mrs X any injustice. The Council has said that Mrs X was contacted on 23rd April 2018 to offer a review of Mr X's care needs. It said that she declined a review and said she was managing to support her husband alone. The Council said it then provided Mrs X with information about. The Council's understanding was that Mrs X would consider the information and make contact if she felt she wanted to take this forward.
40. As a review of Mr X was not conducted and Mrs X declined a review when offered, I cannot determine if had the Council conducted the reviews as it should have done, what impact this would have had on the care provided to Mr X. It is however frustrating for Mr and Mrs X that the Council did not conduct the reviews as it should have done. The Council should apologise to Mr and Mrs X for not conducting the relevant reviews when it should have done. It is also open to Mrs X to request a review in the future.

The decision of the care provider to give notice to the Council on Mr X's care

41. Following Mrs X's complaint, the homecare provider gave notice on the care it provided to Mr X. It said that it was unable to continue providing care long term due to the number of staff available.
42. Mrs X has also complained that following the termination of the contract, the homecare provider sent a care worker to complete a visit on 1 December. This happened because the Council notified the homecare provider late. The Council has confirmed that no charge was incurred for this visit.

The decision of the care provider to give notice to the Council on Mr X's care - analysis

43. The contract in place between the council and the homecare provider said "Without prejudice to another right or remedy it may have, either party may terminate the service contract by giving the other party at least one calendar weeks' notice in writing unless a shorter period of notice has been agreed between parties."
44. While I appreciate it is frustrating for Mrs X that the homecare provider made a decision to terminate the care package following her complaint, this was a decision it was entitled to make. Without fault in the process, I cannot question the decision itself.
45. The late notification from the Council to the homecare provider which resulted in a carer attending was fault.

Agreed action

46. To remedy the fault, the Council has agreed to:
- Apologise for not ensuring that Mrs X was properly made aware of the half an hour window for care workers to arrive.
 - Take steps to ensure there is a written record of service user's being made aware of the half an hour window for the staff from the homecare agency attending service users.
 - Apologise for not completing the Annual Care Review or Medication Review as it should have done.
 - Apologise for the delay in updating the homecare provider which resulted in a care worker attending when they were not scheduled to do so.
 - Remind relevant staff that reviews for service users must be appropriately diarised.
47. The Council should do this within one month of my final decision.

Final decision

48. There was some fault in the service provided to Mr X regarding homecare delivery. The Council has agreed to apologise for this fault and take steps to ensure it keeps a record of the information provided to service users about the time slots for care staff arrival.

Investigator's decision on behalf of the Ombudsman