

The Ombudsman's final decision

Summary: Mr X complains, on behalf of his wife, about not being able to cancel a Council arranged care package and, also, about being sent invoices for the care. The Ombudsman cannot investigate the complainant's wish to terminate a care package as the decision was made by a court. And the Ombudsman will not investigate the complaint about invoices as he is unlikely to add anything satisfactory to the Council's investigation.

The complaint

1. The complainant, Mr X, complains with the consent of his wife, Mrs Y, that he is unhappy with the domiciliary care provision to Mrs Y. This was arranged by the Council. Mr X says he wishes to terminate the care package. Also, he is unhappy with the charges and being sent invoices.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended*)
4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we could add to any previous investigation by the Council.

(*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

5. I have considered the complaint information provided by Mr X. I have read the Council's complaints responses. I also sent Mr X my draft views.

What I found

6. It seems that Mrs Y was assessed as needing a care package after safeguarding had been involved.

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7. A care plan was determined in the Court of Protection as meeting Mrs Y's best interests.
 8. Mr X raises concerns about receiving invoices for the care package. He says the costs are excessive.
 9. My final decision is the Ombudsman will not investigate this complaint.
 10. Firstly, this is because the decision about the necessity of the care package was determined in the courts. As outlined in paragraph 3 the Ombudsman has no powers to intervene in a decision made by a court of law.
 11. And secondly, I have seen information showing the Council has responded to Mr X's concerns about the charges. I consider the Ombudsman is unlikely to add anything satisfactory. In June 2018, I note the Council asked its Finance Team to amend the invoices after receiving his complaint. I note it also offered Mr X and Mrs Y a financial assessment (that Mr X apparently declined). I also see it told Mr X that Mrs Y's income should be used to pay for charges.

Final decision

12. The Ombudsman will not investigate. This is because matters relating to the care package lie outside our jurisdiction. And, the Ombudsman is unlikely to add anything satisfactory to the Council's previous investigation in to the care charges.

Investigator's decision on behalf of the Ombudsman