

## **The Ombudsman's final decision**

Summary: Ms C complained that the final bill she received from the Council in March 2018, about her mother's care home fees, was too high. Ms C says the bill indicated her mother's respite care home placement became permanent on 25 February 2016. However, Ms C says this only happened several weeks later. The Ombudsman found there was a lack of communication with Ms C by the Council. The Council has agreed to apologise to Ms C and revise the final bill.

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## **The complaint**

1. The complainant, whom I shall call Ms C, complains on behalf of her late mother, whom I shall call Mrs D. Ms C is unhappy about the final bill she received from the Council in March 2018. Ms C says she only found out in March 2018 that the Council had changed her mother's respite care placement into a permanent placement on 25 February 2015. However, Ms C believes the duration of the respite care should have been longer, which would have resulted in a reduction of the total cost.

## **The Ombudsman's role and powers**

2. 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*)
3. 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*). I decided to use my discretion to investigate what happened in 2015, because there was sufficient evidence to show that Ms C was not aware at the time when the respite care stopped.

## **How I considered this complaint**

4. I considered the information Ms C and the Council provided to me. I also carried out a telephone interview with a manager of the Council. I shared a copy of my draft decision statement with Ms C and the Council and considered any comments I received, before I made my final decision.

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## What I found

### What should have happened?

5. The Statutory Care Act Guidance says that when a temporary care home placement becomes permanent, the financial assessment of the person as a permanent resident: *should only be from the date that the care plan is amended and agreed with the person and/or their representative.*
6. The regulations under the Care Act 2014 also require Councils to disregard the value of a person's main or only home for 12 weeks when they go into permanent care. This gives people twelve weeks to decide what they will do (with their property) to pay the contribution towards the cost of their care.

### What happened?

7. Ms C called the Council on 28 January 2015, to say an ambulance crew had visited her elderly mother in the morning following a fall. Ms C said she and the paramedics felt her mother would need an emergency placement in a care home, with a view of it becoming permanent.
8. An internal email showed the Council subsequently approved a 7 days emergency placement to enable the Council to carry out an assessment of her needs. The Council's record states a social worker subsequently discussed the placement with Ms C the same day, after which her mother moved into the care home. However, the records do not state what the social worker explained about the placement. At this stage, it was not clear if Mrs D would remain in residential care or return to her home at a later date.
9. Mrs D's case was allocated to another social worker, who met with Ms C and her sister on 3 February 2015 to start Mrs D's needs assessment. Ms C says the social worker told her that her mother was at the home for a respite care stay, which would be reviewed after six weeks. As such, Ms C believed that her mother's respite care stay would last (for a minimum of) six weeks.
10. The records made by the social worker that day do not provide a lot of detail. They only say that Mrs D said she would like to go home, but her daughters felt she needed 24 hours care.
11. Following the meeting, the social worker requested a further week of respite care to enable her to complete the assessment and present the case to panel. I have seen no evidence she shared this information with Ms C. The additional week expired on 11 February and was not extended further at the time.
12. The social worker met with Ms C again on 13 February 2015. The records state that:
  - Ms C said she would be visiting a potential "Extra Care Scheme". This is different than a care home. It usually consists of self-contained adapted flats or bungalows located together, with on-site 24-hour care and support staff providing personal care and domestic services.
  - The social worker informed the daughter of 12 weeks property disregards, and the daughters said they were willing to sell the property to pay for a placement.
13. The records related to this meeting do not sufficiently confirm again what was explained, agreed or decided. The Council told Ms C, as part of its complaint response, that the social worker told her at the meeting: *that the case would be presented to panel for a 12 weeks property disregard and following this a charging booklet was sent.* However:

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- There is no evidence that the social worker decided at this meeting, and told Ms C, that she would recommend that her mother's needs should be met in a care home (rather than Extra Care accommodation).
  - In addition, Ms C was still pursuing other options (Extra Care), which would not require the social worker to make a request to panel to approve a 12-week property disregard.
14. A Council record by the social worker dated 5 March 2015, states Ms C had left a telephone message for the social worker during the week of 16 February 2015. The social worker was on leave at the time. The message said the family wanted Mrs D to remain in the care home, while sorting out a permanent care home placement. The social worker also recorded, referring to the past: "*I advised Ms C the case will be presented to panel to request for a 12 weeks property disregard and a booklet advising of charging for placement has been sent to her*". Ms C told me her message also asked the social worker to contact her. However, the social worker did not return the call or update Ms C. Ms C also told me she never received the booklet.
  15. On 11 March 2015, it had been six weeks since Mrs D had gone into the care home. As such, Ms C said she contacted the Council D to ask what would happen with her mother's placement and the six weeks care review. Ms C says she was concerned her mother could be sent home without the review. Ms C says the officer she spoke to told her not to worry and the six weeks respite could be extended. The Council does not have a record of such a telephone call.
  16. Mrs D's case went to the Council's Funding Panel on 11 March 2015. The social worker requested a (backdated) two-week extension of the respite stay from 11 February 2015, and for Mrs D's residential care to become permanent as of 25 February 2015. The panel agreed both requests, which meant the twelve-week property disregard started on 25 February.
  17. The social worker did not inform Ms C that the panel had agreed to provide a twelve-week property disregard. She also did not tell Ms C that the twelve-week property disregard started on 25 February 2015 (two weeks ago).
  18. The Council reallocated Mrs D's case to another social worker on 30 March 2015, to carry out a review of Mrs D's placement at the care home. The review took place on 16 April 2015. The record states that: *She appears to be happy and settled in the home. The home is also meeting her needs. Placement to be made permanent.* Ms C says this was the first time the Council told her that her mother's care home placement would (change from respite to) become permanent. However, the social worker did not tell her, nor was it mentioned in the review document, that her respite care had already changed to permanent residential care on 25 February 2015.
  19. Ms C says her mother's respite placement should end on 16 April 2015, rather than 25 February, as this was the date the Council first said her mother would remain in residential care permanently.
  20. During the interview, the manager acknowledged there had been a lack of communication:
    - There was insufficient evidence to conclude the social workers clearly explained to Ms C what would happen and how long the respite placement would last.

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- Other than on 16 April 2015, there was insufficient evidence to conclude if / when the social worker told Ms C that she would recommend a permanent care home placement and/or when Mrs D's care plan was amended and agreed with Ms C.
  - The social worker also failed to inform Ms C when the panel made its decision.
21. The manager also told me the Council usually starts a permanent placement, and therefore a twelve-week property disregard, on the date the panel decides that a person should have permanent residential care.

### **Assessment**

22. There was a failure by the Council to effectively communicate with Ms C. As a result, she was not aware until 16 April 2015, that the nature of her mother's care home placement had changed.
23. Taking paragraph 5 and 6 into account, I decided that Mrs D's placement should only change from 'respite care' to 'permanent care' as of 16 April 2015.

### **Agreed action**

24. I recommended that, within four weeks of my decision, the Council should:
- Provide a written apology to Ms C for the lack of communication she experienced and the time, trouble and distress she experienced dealing with this.
  - Recalculate the final bill by changing the date of permanent care to 16 April 2015.
  - Share the lessons learned with staff carrying out care needs assessments and reviews and remind staff of the importance to keep sufficiently detailed records and keep their clients up to date of relevant developments.
25. The Council has told me that it has accepted my recommendations.

### **Final decision**

26. For reasons explained above, I have upheld the complaint. I am satisfied with the actions the Council will carry out to remedy this and have therefore decided to complete my investigation and close the case

### **Investigator's decision on behalf of the Ombudsman**