

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

Summary: Miss X complained the Council failed to properly support her as a care leaver. She complained staff were rude and the Council did not provide a proper care leaver's grant or support her with housing. We found the Council failed to consider the complaint through the appropriate statutory complaints process. However, this did not lead to significant injustice in Miss X's case. We found no fault in the support provided to Miss X.

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## **The complaint**

1. Miss X complains the Council failed to properly support and care for her while she was in care from age 15 to 21. She complained that her needs were not met in general and she moved placements too much and staff did not listen to her. She feels this set her up to fail.
2. Miss X also complained the 21plus team failed to properly support her. She stated she did not receive a full care leaver home establishment grant, members of the 21plus team laughed at her and acted unprofessionally and the Council did not adequately support her to find housing. She says she found shared accommodation difficult due to her ADHD.
3. Mrs X complained the Council's actions meant she was set up to fail and was now without accommodation, living with her mum which is difficult.

## **What I have and have not investigated**

4. We considered whether the Council's decision not to use the Statutory Children's complaints process to consider Miss X's complaint in 2022 was properly made.
5. We also considered whether the Council properly decided whether to use discretion to investigate older events; complaints Miss X made about care between the ages of 15 and 21.
6. We have not investigated all of Miss X's concerns about care prior to age 21. This is due to the length of time that has passed since Miss X was in care as a child. This is also because Miss X's engagement with the complaints process in 2019 and 2020 was limited. Miss X was also unable to be specific about the older issues that she wished to complain about. Our investigation has focussed on the support provided by the 21plus team, the issues Miss X raised about her care leaver's grant in 2021 and the support provided to Miss X to find accommodation. We obtained information from the Council about the circumstances around rent

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arrears that Miss X built up. This was to understand their relevance to her current housing situation.

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

7. 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*)
8. If we are satisfied with an organisation'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*)

## **How I considered this complaint**

9. I spoke to Miss X. I considered the complaint she made and information she provided. I asked the Council for information and I considered its response to the complaint. I considered statutory complaint handling guidance. I issued a second draft decision following comments received.
10. Miss X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

## **What I found**

### **Legal and administrative framework**

11. The guidance 'Getting the best from complaints' Social Care Complaints and Representations for Children, Young People and Others (Guidance) is based on the Children Act 1989 Representations Procedure (England) Regulations 2006. Only in exceptional circumstances can councils justify a variation from this document.
12. The Guidance sets out which complaints should be considered under children's statutory complaints procedure, who can complain and the process and timescales for considering complaints.
13. Councils do not need to consider complaints made more than one year after the grounds to make representations arose. In such cases councils should follow the process below:
  - The complaints manager should write to advise the complainant their complaint cannot be considered, explaining the reasons;
  - The letter should include an advice of the complainant's right to approach the Local Government and Social Care Ombudsman;
  - Councils should make their decisions on a case by case basis with the general presumption in favour of accepting the complaint unless there is good reason against it.
14. The time limit can be extended at the council's discretion if it is still possible to consider the representations effectively and efficiently or it would be unreasonable to expect the complainant to have made the complaint earlier.
15. Possible grounds for accepting a complaint made after one year are:

- genuine issues of vulnerability;
- benefit to the complainant in proceeding;
- sufficient access to information or individuals involved at the time, to enable an effective and fair investigation;
- where action should be taken in light of the human rights-based legislation.

## What Happened

### How Miss X's complaints were considered

16. In 2019 Miss X complained about a period in care when she was aged 15 to 21. Miss X stated she never really got any support, was moved around a lot and staff made allegations about her and neglected her. She complained a house was taken away from her when she was aged 17 and she was forced to claim benefits when she was 18, living in shared accommodation. The complaint also stated that an after-care worker in the 21plus team put the phone down on her and treated her less favourably than other people. Miss X was concerned about her housing situation and support she had to find accommodation.
17. The Council tried to speak to Miss X to discuss the complaint and understand her concerns. It wrote to Miss X stating that it would not be able to investigate any matters further back than 12 months because it was unlikely an investigation about those matters would be successful. The Council agreed to consider more recent issues. It asked for more detail to her complaint and stated it could not progress the complaint unless it was provided. The Council told us Miss X did not make any further contact, so the complaint was closed. The Council had intended to investigate the complaint through the Statutory Children's Complaints Process.
18. The Council stated Miss X made a further complaint in 2020 which also was not investigated because Miss X did not respond to requests for information.
19. In 2021, Miss X complained about a home establishment grant. The Council responded to this complaint and confirmed Miss X had received more than the £2000 that the Council set as a maximum. It considered the support provided by the 21plus team and set out what this had been. The Council referred to the support it had provided.
20. In 2022 Miss X raised a further complaint to the Council about her time in care from age 15. Miss X stated she was concerned about her housing situation and that accommodation she was staying in was unsafe. Miss X stated the 21plus team did not listen to her and were rude to her when she declined things they offered because they were not for her. The Council re-iterated to Miss X that it could not investigate issues that occurred over 12 months ago. It did investigate her complaint about the 21plus team and issues around accommodation. Miss X's 2022 complaint was considered via the Council's Adult Social Care (ASC) complaints process and responded in August 2022.
21. Miss X's advocate challenged the use of the ASC complaints process in September 2022. The Council discussed the situation with the advocate and explained it would consider using the Statutory Childrens Complaint Process if Miss X wished them to. However, the investigator would expect Miss X to engage directly in the complaint process. As Miss X was (then) 25 and the key issues related to her current housing situation, the Council proposed continuing to consider the complaint under the ASC process. The Council sent a final response on 25 October 2022 on that basis.

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## **The Issues**

### **Care Leaver's Grant**

22. The Council provided a breakdown of the amount paid to Miss X as a Care Leaver's Grant. This was in excess of the £2,000 that is usually the maximum.

### **Support with Accommodation/Rent Arrears**

23. Miss X complained that the Council had not provided appropriate support with accommodation and had not listened to her preferences for housing.
24. The Council explained the background and support it had provided to Miss X over a number of years. I have taken account of this but not repeated this in this statement as it is detailed.
25. The Council told us that rent arrears built up when Miss X had two properties. The first was obtained through a district council. The Council told us Miss X did not reside at the property which meant that she could not claim the relevant benefits to help her pay the rent and other costs. As a result, rent arrears of £1753.70 accrued. The Council stated that both the district council and the 21plus team had difficulty contacting Miss X about the situation and because Miss X refused permission for the Council to speak to the DWP or district council on her behalf, it could not advocate for her.
26. In other accommodation provided through the district council, Miss X refused to pay the rent charge and built up £400 of arrears. In YMCA accommodation Miss X refused to pay the weekly service charge, accruing a debt of £122.75.
27. Miss X is not able to join the housing register with the district council until her rent arrears are significantly reduced and applicants demonstrate they are committed to repaying the arrears. The Council told us that its 21plus team worked with the district council and a specialist homelessness prevention officer to support Miss X to start a payment plan and to look for future accommodation. One of the options offered was self-contained supported accommodation, to avoid Miss X having shared facilities. However, Miss X declined all the options offered.
28. Miss X told us the Council offered to pay 75% of her rent arrears, but this did not happen. The Council confirmed to us that it made this offer and the district council accepted it, provided that Miss X also committed to repaying the remaining arrears. On this basis, the district council would have been able to assist Miss X to move forward with a tenancy with a fairly high degree of housing priority. The Council stated Miss X would not commit to a payment plan for the remaining arrears, which was why this did not happen.
29. The Council told us that at times of crisis, emergency accommodation was offered including the 21Plus Service funding a hotel overnight when the district council discharged its homelessness duties.

### **21plus team support**

30. The Council reviewed recordings and interactions between the 21plus team and Miss X and it concluded there was no evidence that the staff in the team were rude or unprofessional. The Council noted, at times, Miss X was frustrated or did not agree with information or options being discussed. The Council acknowledged that when staff presented options that Miss X did not want, this could be perceived as the staff not listening, but the Council stated staff had listened and tried to recognise how she was feeling.

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31. The Council noted that on occasions, staff ended calls. However, it noted that this had occurred because Miss X had become verbally abusive. The Council did not agree there was evidence that staff had acted inappropriately.

### **Was there fault by the Council**

#### **Support provided by the Council**

32. I found that the 21plus team had provided appropriate support to Miss X. The Council set out work with other organisations to help Miss X with housing and options that were offered. The Council also confirmed support was provided at times of crisis. It provided a detailed chronology of contacts with Miss X that we shared with her.
33. I recognise Miss X considered the team did not listen to her and that staff were rude. The Council stated, at times, telephone contacts became difficult and staff ended calls. I cannot reach a view on whether verbal encounters between staff and Miss X were unprofessional.
34. While I recognise that some of the options being presented by the Council were not what Miss X ideally wished to pursue, the options being presented to Miss X appear to have been appropriate and reflected some of the concerns that Miss X had. I found, on balance, it was likely that the Council was promoting options which were in Miss X's best interests to consider.
35. Miss X told us, at times, she felt forced to claim benefits that she did not wish to claim. It is good practice for those who are supporting individuals to ensure that they are aware of and are claiming benefits that they are entitled to. This does not represent fault by the Council.
36. In its response to our enquiries, the Council agreed to stand by its previous offer to pay 75% of Miss X's rent arrears (£1315.28) provided that she agrees to make an arrangement to clear the remaining arrears within the next twelve months. This is a positive offer by the Council to assist Miss X. It would likely give Miss X more housing options and potentially enable Miss X to progress an application for housing with the district council.
37. The Council told us the 21plus team provided a higher level of support to Miss X than would usually be the case. The team would generally reduce support as young people gain more independence. The Council's approach recognised that Miss X had a diagnosis of ADHD. It stated the team had a discussion with Miss X and her advocate about how best it could provide support and it had recognised this in its dealings with Miss X.
38. The Council provided a breakdown of the amounts spent as part of Miss X's Care Leaver's Grant. The amount paid was slightly in excess of the grant usually paid, so we found there was no evidence of fault by the Council in this respect.

#### **Complaint Process**

39. The guidance 'Getting the best from complaints' sets out complaints that should be considered through the Statutory Children's complaints process.
40. The guidance also states that councils do not need to consider complaints made more than one year after events of the complaint arose. It gives councils discretion to consider older complaints if it considers there are good reasons to do so. Councils should not adopt a blanket approach to declining older complaints without properly considering, in each case, whether to exercise this discretion.

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41. As Miss X's 2021 and 2022 complaints were about her time as a care leaver, I found it was fault that the Council did not consider them through the childrens' statutory complaints process. However, I note that the Council offered to use this process when addressing the 2022 complaint with Miss X's advocate.
  42. Although it was fault not to use the statutory complaints process, in the circumstances, I found that not using the correct process did not cause injustice to Miss X. This is because the Council did consider the issues raised by Miss X appropriately, albeit using the ASC complaints process and I found it unlikely that considering the complaint afresh through the Statutory Children's process would now achieve more for Miss X given the Ombudsman's investigations are carried out independently.
  43. When considering previous complaints from Miss X, the Council attempted to speak with Miss X to establish details of her complaints. When it was unable to speak to her it wrote asking for more information. Miss X did not make contact. Without more detailed information, the Council could not reach a view about what or how far back it should investigate. It could not proceed with an investigation and the complaint investigations did not proceed.
  44. I found it was not fault that the Council decided against investigating the older events Miss X raised. This is because it did not have sufficient information from Miss X to do so, because Miss X had not engaged with the complaints processes when she initially raised these issues and due to the difficulty of investigating as the events became older.
  45. Overall, I found that the council were at fault for not using the correct complaints process in 2021 and 2022. However, no injustice was caused, in this case. There was no fault in the support provided to Miss X.

## **Final decision**

46. There was fault by the Council. We found this did not cause injustice to Miss X.

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