

The Ombudsman's final decision

Summary: Mr X complained the Council did not ensure he had adequate care support and left him in unsuitable accommodation. We found no fault in the Council's decision making on Mr X's care. But we found fault in the Council's delay in securing Mr X new accommodation. We recommended the Council apologise and pay Mr X £300 for distress and uncertainty.

The complaint

1. Mr X complains the Council did not ensure he had adequate 1:1 support and left him in unsuitable accommodation. Mr X says this caused him distress and affected his health.

What I have investigated

2. I have investigated Mr X's complaint dating back to March 2021. At the end of this decision I have set out why I have not investigated earlier matters.

The Ombudsman's role and powers

3. 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*)
4. 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*)
5. 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

6. I spoke to Mr X and I reviewed documents provided by Mr X and the Council. This included:

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- Complaint correspondence
 - The Council's social worker case notes for Mr X
 - The Council's chronology of actions in finding accommodation for Mr X
7. I gave Mr X and the Council an opportunity to comment on my draft decision. I considered any comments before making a final decision.

What I found

Care and support

8. A council carries out a care needs assessment to decide whether an individual has care needs that it must meet. It then completes a care and support plan which sets out how it will meet those needs.
9. In (R (Davey v Oxfordshire CC) the Court of Appeal decided:
- A council's duty under section 9 of the Care Act 2014 is not to achieve the person's desired outcomes but to assess whether the provision of care and support would contribute to those outcomes
 - The wishes of the person may be a primary factor but they are not an overriding consideration.
10. A council should review a care plan every 12 months. If a service user requests a review earlier than planned a council must consider this request. However, a council is entitled to refuse the request if it considers the current plan remains appropriate.

What happened

11. In March 2021 Mr X lived in a residential care home funded by the Council to enable him to continue his rehabilitation and become independent since losing his eyesight. This was shared accommodation with people who had mental health difficulties and because of this Mr X wanted to move to another property.
12. At this time Mr X received 8 hours of 1:1 support per week. 7 hours was for someone to read to him and 1 hour was for help accessing the community
13. The Council's case notes of March 2021 show Mr X and the Council had considered one property may be suitable. However, there was a disagreement over care provision. The Council could arrange care at the new property however Mr X was not happy with its offer. Mr X was therefore looking to arrange his own care however the landlord decided to let the property before this was possible.
14. In summarising the position on accommodation to Mr X, his social worker said:
- he did not want supported living [as he did not want to live in a place where other people had mental health issues or learning disabilities];
 - general needs housing was not suitable and would not provide the level of security that would allow him to be and feel safe at least in the short term.
 - They were now exploring extra care. Due to short timeframes he would have to move into any property with Council arranged care and could then source his own personal assistant later.
15. Mr X asked for an increase to his 1:1 hours.

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16. In April the Council told Mr X it had reviewed his care and support needs regularly and it considered the current level of 1:1 appropriate to meet his assessed needs within the residential care placement.
 17. In June the social worker contacted Mr X to discuss a referral for extra care housing. However, Mr X no longer wanted to work with that officer.
 18. On 10 June the Council agreed to transfer Mr X to another social worker who would carry out his annual review of care needs and look at accommodation options.
 19. In July a new social worker visited Mr X to start his review. The Council's case notes show Mr X wanted four hours of 1:1 support per day to complete administrative tasks, including raising complaints, and to access the community. During this visit the social worker explained the timing of finding an appropriate placement and then recruiting a personal assistant. They explained sometimes it had to bridge the gap with another provider until a personal assistant could start. Mr X refused this as an option.
 20. In August Mr X chased for an update on his increased hours.
 21. The Council's case notes show a social worker tried to call Mr X to update him at the end of August but could not reach him by phone.
 22. On 30 September a social worker visited Mr X to explain the Council would fund an additional 2 hours 1:1 per week for him to access social activities.
 23. On 21 October Mr X complained the social worker made no effort to increase his 1:1 hours following their meeting in July and these were still not provided. The social worker replied to direct Mr X to the Council's complaints process.
 24. On 26 October the social worker completed a referral for Mr X to extra care housing. The case notes say Mr X had only just agreed to this.
 25. The Council's chronology notes the extra care team were not accepting new placements in November 2021.
 26. On 2 November the social worker completed their care plan review. The notes of this meeting say Mr X wanted 4 hours support per day but only an additional 2 hours were agreed. Mr X wanted more hours for social activities, shopping and some for further administrative support. Mr X said he did not have enough hours for community access eg the gym and shopping. Mr X said he needed at least 6 hours administrative time to deal with his legal claim. The Council said the support workers were not trained to complete administrative duties in relation to legal matters. Mr X said that he needed staff to be able to use the computer programme that can read letters/emails to him but only several staff were trained to use the computer. The Council said solicitors should send legal documents in a format Mr X could access.
 27. On 12 November 2021 Mr X told the social worker he disagreed with the care review outcome as he felt he did not have enough hours of support.
 28. The Council issued the updated care and support plan on 16 November. This said the care home provided meals and drinks, launders and set out clothes, and kept his accommodation clean. Mr X was to have one hour per day of 1:1 support for reading, correspondence and internet access. The care home was to provide an additional 2 hours per week to support Mr X to access the community. Mr X would now receive 7 hours 1:1 support per week for reading etc and 3 hours per week for community access. The plan also noted Mr X wanted to move. It said the

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- Council had explored options such as Supported Living, Extra Care and an alternative Residential care placement. These were unsuccessful either because the placement rejected the referral or because Mr X rejected it.
29. The Council's case notes of January 2021 show Mr X still wanted an increase in support hours.
 30. The Council allocated Mr X a new social worker. They met with Mr X on 23 February and confirmed they would help him find new accommodation.
 31. On 7 March 2022 Mr X complained to the Ombudsman about problems with the Council prior to March 2021 and current issues, namely that his current accommodation was unsuitable and he did not receive enough support hours. The Ombudsman asked the Council to investigate this complaint.
 32. On 8 March Mr X added to his complaint that his new social worker was late to meet him on 23 February; did not know how to progress with a move and; had no records of his contact with his previous social worker.
 33. The Council responded to the complaint on 8 April. It said:
 - It apologised the social worker arrived later to meet him than expected;
 - His new social worker could not comment on whether minutes taken by his last social worker were accurate as they were not at meeting;
 - The care home had served notice on his support hours so it would look for a new provider;
 - It did hold records of Mr X's interactions with staff;
 - He currently had 11 hours' 1:1 support;
 - A new officer would work with him on finding accommodation.
 34. The Council's case notes show it allocated a new officer in April 2022 to help look at supported living accommodation for Mr X. One vacancy arose that the officer considered but then discounted as unsuitable. There were no other vacancies at that time.
 35. Mr X complained again he needed more support hours and kept asking why he could not get more but still had no explanation. He also said he was unhappy with the complaint response. He received 10 hours weekly support not 11, but he needed 20. And the Council said he had refused four offers of accommodation but that was incorrect as he accepted two.
 36. The Council provided a further complaint response on 6 May 2022.
 - It confirmed Mr X received 10 hours per week 1:1 support and also base line support from the care home. There had been several meetings to discuss in detail core hours, what they were used for and what the additional 1:1 hours were for.
 - It assessed Mr X as being independent in most aspects of care. His areas of needs were around reading, writing, dealing with mail along with some social hours. This was initially 8 hours 1:1 however that was increased to 10 hours last year to include social networking/activities. It apologised for its error referencing 11 hours.
 - Base line support was the same for all individuals in the house. These hours are the shared hours which all residents have a right to share as and when

needed. However, they are not classed as 1:1 hours and should not be used for 1:1 support.

- It would arrange a review of Mr X's care needs given he was unhappy.
 - It noted Mr X was engaging with a current worker to find suitable accommodation that would meet his eligible needs. Previous workers made efforts to explore alternative accommodation but unfortunately have been unable to secure this or he had not felt the options were appropriate.
37. The Council reviewed Mr X's care and support plan in May 2022. Its records show the social worker felt that 10 hours 1:1 support was adequate for Mr X while in his current accommodation, as he had enough support from the shared hours from home staff when his 1:1 was not present.
38. On 12 May Mr X raised queries with the Council's response.
39. On 27 May the Ombudsman decided to investigate.
40. On 22 June the Council told the Ombudsman it had placed its complaints process on hold pending our investigation
41. When I spoke to Mr X I asked why he did not complain to us about earlier issues sooner. He said he did complain to the care provider but they did not do anything. They later told him he would have to complain to the Council first which he did. Mr X said he was now moving but this should have happened sooner.
42. In comments on a draft decision the Council said it had tried to find a solution to support Mr X's long term accommodation needs. The difficulty had predominantly been in meeting Mr X's desires and wishes. It offered a commitment and personalised approach to supporting Mr X. It listened to him, accepted his opinions, responded to his requests and worked in a strength-based way. At all times it maintained the upmost professional approach to supporting his needs. Mr X and the Council did not always agree on the best way forward. This did not reflect an unwillingness to find solutions and compromises but, staff had to follow clear procedure and policy. It offered sincere apologies that it had been unable to find a solution and it remained committed to doing so.

Findings

43. Mr X made clear he wanted more support hours from March 2021. The Council initially decided his hours were appropriate and a review was not necessary. The Council was entitled to reach such a decision.
44. In July 2021 the Council agreed to review Mr X's support plan but it appears to have delayed completing this until November 2021. This delay amounts to fault. During this time Mr X suffered uncertainty as to whether the Council would increase his hours. He also lost the benefit of receiving the agreed two hour increase sooner. This is injustice.
45. The Council considered Mr X's request for more 1:1 hours but decided his current support with an additional two hours per week would meet his needs. I appreciate Mr X disagrees with the Council's view but this does not mean there was fault in its decision making. I cannot question the Council's decision where there is no fault in its decision making process.
46. Mr X also made clear from March 2021 that he wanted to move accommodation. The Council agreed with a move in principle however there was a lack of any progress from March to June 2021. This is fault. I note extra care housing remained an option but Mr X did not agree to this until the end of October 2021.

The Council has said there were no extra care placements available in November 2021. However, there is a lack of evidence of any further consideration of accommodation for Mr X from then until April 2022. This is fault. I cannot say Mr X would have moved accommodation sooner but for this fault, however he has suffered distress and uncertainty as to whether he could have. This is injustice.

47. In August 2022 Mr X told the Ombudsman he was moving to new accommodation. If this did not occur or if Mr X has further complaints not addressed here, these would be premature.

Agreed action

48. To remedy the injustice set out above I recommend the Council carry out the following actions:
49. Within one month of the date of my decision:
- Provide Mr X with an apology;
 - Pay Mr X £300 for distress and uncertainty.
50. Within three months:
- Review its actions in supporting Mr X to move accommodation from March 2021 to April 2022, consider whether additional monitoring is necessary to ensure cases are progressed and consider whether to update service users on any progress more regularly. Notify the Ombudsman of the outcome of its review and actions taken.
51. The Council has accepted my recommendations.

Final decision

52. I found no fault in the Council's decision making on Mr X's care but I found fault as the Council delayed in securing Mr X new accommodation. The Council has accepted my recommendations and I have completed my investigation.

Parts of the complaint that I did not investigate

53. I did not investigate Mr X's complaints arising more than 12 months before he contacted the Ombudsman. This is because Mr X could have contacted the Ombudsman about these matters in time if he wished and there is no good reason to exercise discretion to investigate.

Investigator's decision on behalf of the Ombudsman