

Fact Sheet – S1

Complaints about adult care services

This fact sheet is aimed primarily at adults or their carers who have a problem with their adult care services complaint and may be considering making a complaint to the Ombudsman.

I have a problem with my adult care services complaint. Can the Ombudsman help me?

- Sometimes, yes. If you are a user of personal care services for adults, act for someone who is, or are otherwise affected by the actions of the provider/commissioner of the care, you can bring your complaint to the LGO.
 - If a council has provided or commissioned the services for you, you will normally have the right to use the special complaints procedure which the law says councils must run to deal with these kinds of complaints. The LGO expects you to have done this before you bring the complaint to us.
 - If you have a direct contract with the care provider who supplies your personal care, you should first put your complaint to the provider concerned. The regulator – the Care Quality Commission (CQC) – requires all registered providers to have an effective complaints process.
- If you've made a complaint and the council or care provider has looked into it, but you're unhappy with the result or with the way your complaint has been dealt with, you can complain to us.
- There are some kinds of social services complaints and complaints about care providers that we can't deal with. We can't look into complaints about anything that a court has considered. And we can't stop a council or care provider from taking court action that will affect you, for example if the council or care provider starts proceedings to recover unpaid care charges.
- In the same way, you can't use a complaint to us as a way of appealing against a court decision. If you want to change a decision a court has taken you need to seek legal advice, and we can't help you with that.

How do I complain?

- You should normally complain to the council or care provider first. We will not normally consider a complaint until they have had the opportunity to consider and resolve it locally.
- When you complain to the council or care provider, they should give you information about what will happen to your complaint and how long this will take.
- As the social services complaints procedure for councils can take some time to complete, the council should agree with you a plan for how it will deal with your complaint, including a timescale. Generally, the time to complain to us is if you're not happy with the result once the council or care provider has completed its consideration of your complaint. You should normally make your complaint to us within 12 months of realising the council or care provider has done something wrong.

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- To complain to the Ombudsman phone our helpline on 0300 061 0614 (8.30am to 5.00pm, Mondays to Fridays). You will be able to discuss your complaint with one of our advisers. You can text us on 0762 480 3014.
- You can complete an online complaint form at www.lgo.org.uk/making-a-complaint/.

If you can consider my complaint what will the Ombudsman look for?

We consider whether the **council** has done something wrong in the way it went about dealing with your complaint which has caused you problems. Some of the issues we can look at are if the council:

- failed to give you information about how it would deal with your complaint and how long this would take
- did not look into all the important issues that you wanted to complain about, even though they're issues it could consider
- failed to keep to the timescales set down for your complaint
- asked someone to deal with your complaint who is biased against you, or who hadn't got enough knowledge or experience to do the job properly
- didn't check evidence available to it that could support what you say
- produced a report on your complaint that contained mistakes, or that came to conclusions that aren't justified
- upheld your complaint, but then didn't take the action needed to try to put things right for you, or
- in any other way, didn't follow Government guidance that says how social services complaints have to be handled.

We consider whether the **care provider** has failed to meet your reasonable expectations of the service you have contracted for because it:

- failed to deal with your complaint properly or in a timely way
- didn't meet the requirements agreed in the care contract
- provided services that fell short of CQC's "Essential Standards", or other recognised good practice requirements, or
- upheld your complaint, but then didn't take the action needed to try to put things right for you.

What happens if the Ombudsman finds that the council or care provider was at fault?

A lot depends on what kinds of faults we find and how we think they affected you. We evaluate what injustice has been caused to the service user, or others affected, because of what went wrong:

- if we decide that the council or care provider hasn't dealt with your complaint properly but that the result would have been the same if it had handled it well, then we probably won't ask it to do more than apologise to you, and perhaps make a payment to recognise your wasted time and inconvenience, but
- if we decide that the council or care provider should have recognised that your complaint was justified, we then look at how the original faults you complained about affected you, and how the council or care provider might now put things right for you.

Sometimes things have happened that can't be undone. But if we believe something the council or care provider has done wrong has harmed you, we will ask them to take action to make up for this, so far as is possible. As examples, we can ask the council or care provider to:

- apologise
- make sure any services you're receiving are up to standard and meet your needs

- take prompt action to provide you with any help that you've been waiting too long for, for example home care or respite care, aids and adaptations to your home, or support for a carer
- make up to you for any financial loss and, if appropriate, pay you compensation, or
- in the case of councils – assess your needs properly if it hasn't done that so far.

Where we find fault with a council's or care provider's procedures we will often ask it to make changes so that the same problem doesn't happen again in the future, to you or anyone else.

Examples of some complaints we have considered

Mrs X complained after the care provided for her sister, who has learning disabilities, was changed without the family, her carers, being informed. A health trust was responsible for part of the care (speech and language therapy), but the council didn't tell Mrs X that it couldn't deal with that part of her complaint under the social services complaints procedures.

The Ombudsman criticised the council and recommended that it should fund an independent assessment of Mrs X's sister's needs, pay Mrs X to recognise her distress, and for the time and trouble she took in pursuing her complaint, and review its arrangements for dealing with complaints made jointly against it and the health trust.

Miss J complained that a care provider failed to provide her with the correct amount of care and failed to respond to her complaints about this matter.

The provider accepted that there had been some failings and agreed to reduce its charges. The Ombudsman decided that the provider had (belatedly) responded constructively to the complaint and offered a reasonable way of resolving it. There was therefore no need for the Ombudsman to pursue the complaint.

Other sources of information

- The Care Quality Commission's standards on complaints procedures are set out in the publication "Guidance about compliance – essential standards of quality and safety", in Outcome 17. See their website www.cqc.org.uk for more information.

Our fact sheets give some general information about the most common type of complaints we receive but they cannot cover every situation. If you are not sure whether we can look into your complaint, please call 0300 061 0614.

The Local Government Ombudsmen provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice and that a person has suffered as a result the Ombudsmen aim to get it put right by recommending a suitable remedy.

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