

**Report by the Local Government
and Social Care Ombudsman**

**Investigation into a complaint against
Lancashire County Council
(reference number: 17 000 317)**

28 September 2017

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

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Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs D – the complainant

Mr D – her deceased husband

Report summary

Adult care services

Mrs D complains the Council failed to provide her husband with a chair to meet his assessed needs before he died in November 2016, despite identifying his need for a chair in February 2016.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council has agreed to carry out the following recommendations:

- apologise to Mrs D for the faults we have identified;
- pay her £750 for the distress it has caused her and the time and trouble it has put her to in pursuing her complaint;
- take action to ensure officers manage their work effectively and without delay; and
- produce a schedule for filling Occupational Therapist vacancies as soon as possible.

Introduction

1. Mrs D complains the Council failed to provide her husband with a chair to meet his assessed needs before he died in November 2016, despite identifying his need for a chair in February 2016.

Legal and administrative background

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, we 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. We 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*)

How we considered this complaint

3. We produced this report after examining relevant documents and discussing the complaint with Mrs D.
4. We gave Mrs D and the Council a confidential draft of this report and invited them to comment. We took their comments into account before finalising the report.

Investigation

5. Mr D had Parkinson's disease for 12 years. He lived with his wife at home, which had been adapted for his needs with a stair-lift and level access shower.
6. On 11 February 2016 an NHS Occupational Therapist (OT) visited Mr D. The OT noted he was having problems getting off his riser chair, as it was too low and too soft. She identified the need for an assessment for a new riser/recliner chair and any other support Mr D might need. Although Mrs D said they wanted to manage on their own, she reported back problems and was concerned about having to pull her husband off the chair. The OT sent a referral to the Council.
7. The Council registered the referral on 18 February and called Mrs D. She said she no longer needed an assessment as someone was coming the next day to assess her husband for equipment.
8. The next day Mrs D called the Council. She said they did need an assessment from the Council as she had misunderstood the purpose of a visit from NHS staff that day. The Council took down details of Mr D's circumstances, including problems with the chair. Mrs D explained that because of his condition, Mr D would slide off the chair onto the floor and she would have to help him up again. She said the chair was not comfortable for him. She explained that she looked after all her husband's care needs, including: washing and dressing him; preparing all meals; helping with mobility; and helping with continence.

9. The Council passed the referral for allocation for assessment by a Social Care Support Officer (SCSO) on 19 February.
10. The SCSO queried the referral on 14 March and the Council agreed one of its OTs, who had previously assessed Mr D, should do the assessment.
11. On 11 April Mrs D called the Council and left a message for the OT to call her back.
12. On 12 April an NHS Community Matron sent another referral to the Council identifying the need for an assessment as the recliner chair needed replacing and the narrow front door step posed a falls risk. The referral noted an NHS OT had made a similar referral earlier in the year.
13. The Council's records say its OT tried to call Mrs D on 14 April but could not get through or leave a message. Mrs D disputes this as she says there would always have been someone in with her husband as he could not be left alone.
14. The Council OT called again on 18 April and arranged to visit on 19 April to assess Mr D.
15. On 19 April Mr D received a diagnosis of vascular dementia.
16. The Council OT visited Mr D on 19 April and completed an "*occupational and daily activities assessment*" form. The note of the visit identifies the need to:
 - make changes to the front steps;
 - order an inflatable lifting chair from the Loan Store; and
 - buy a riser/recliner chair with pressure relief on the backrest, seat and leg-rest from a contractor.
17. Mrs D says the Council OT told her to call when the inflatable chair arrived so she could show them how to use it. The inflatable chair arrived quite quickly. Mrs D says she tried calling the Council but never got an answer so she gave up. She says this left her having to pick her husband off the floor whenever he slid out of his chair, sometimes with the help of neighbours. She says they had previously called an ambulance but the paramedics always wanted to take Mr D to hospital for a check over but he did not want this as he never injured himself.
18. According to the Council's case notes, the steps were altered on 25 April.
19. The Council has provided a comprehensive assessment dated 9 May which a Review and Assessment Officer completed. This addresses all Mr D's care needs, including the problems with the chair. Because of the assessment the Council arranged for Mr D to go to a day centre one day a week. The assessment says the Council OT was arranging a new chair. It says Mrs D would continue to meet Mr D's other needs.
20. On 15 August the Council OT sent an e-mail to a contractor asking:

“Have I previously asked you to visit [Mr D]??!! If I haven’t can you please visit him as soon as possible!”

21. The Council OT says this followed several phone calls to the contractor over several weeks. But she made no record of these calls.
22. Mrs D says the Council OT told her she had asked a contractor to provide a quote for a chair but he would not contact her for a couple of weeks as he was away. Mrs D says when the contractor contacted them he proposed visiting on a day when her husband would be at the day centre. She says the contractor agreed to visit the following week. However, Mr D went into hospital on 6 September after falling in the bathroom and banging his head. He was in hospital for five weeks. The contractor visited Mr D on 16 September, while he was in hospital, taking a chair for him to try out. Mrs D says her husband was very happy with the chair and they offered to buy it. However, the contractor said that was not possible as they needed to make one which would meet her husband’s need for pressure relief.
23. On 20 September the Council received a quote to make a chair from the contractor. This was for £1,634.93 and was valid until 19 November 2016.
24. On 3 October the Council OT sent the quote to her Manager and another officer.
25. Mr D came out of hospital on 3 October. An NHS OT told Mrs D her husband should not use his chair as it was not safe for him to do so.
26. On 15 October an NHS OT asked for an urgent call back from the Council’s OT about progress with the referral for a specialist chair. She said Mr D had been in bed most of the time since returning home due to the lack of suitable seating.
27. On 21 October the Manager told the Council OT the quote had been “*overlooked*” as she should have sent it to a dedicated e-mail address for the Council’s Funding Panel. The Manager asked for more information about the funding application before deciding whether to fund it.
28. Mr D died on 12 November.
29. On 30 November the NHS contacted the Council for an update on Mr D’s chair. It noted Mrs D was going to make a complaint. The Council OT told a Manager she had not responded to the request for more information due to the pressures of her other workload.
30. On 28 January Mrs D complained to the Council about the failure to provide her husband with a chair.
31. When the Council responded to Mrs D’s complaint it said the OT accepted she had delayed in communicating with Mrs D and wanted to apologise. It said there had been a “*change between seating companies*” which “*may have added to the delay in getting a visit about the chair*”. But the Council now says this was not correct. It said the OT’s hands had been tied as she had to wait for approval for the chair. It said its OT service was under considerable pressure and had many vacancies. It said it was taking steps to

recruit more OTs as soon as possible. It also identified the need for organisational changes to improve the process of getting equipment.

32. We asked the Council to explain what action it is taking to ensure the delay Mr D experienced does not happen again. It says:
- the funding panel will now meet weekly, rather than fortnightly;
 - it is working with the community equipment service to look at ways of providing a more timely service; and
 - it is undertaking an extensive recruitment campaign to address staff shortages.
33. The Council OT is very sorry about the delay. She says she could not resolve all the issues in a timely manner due to the pressure of work at that particular time.

Conclusions

34. The Council was alerted to the need for an assessment for a new chair in February. It took a month for the officer asked to do this to question whether they were the right person. Mrs D waited another four weeks for someone to contact her before chasing the Council. The Council OT then visited and identified the need for changes to the front steps, an inflatable chair, and a new riser/recliner chair. The Council OT arranged for changes to the front steps which were completed quickly. However, she also delayed before taking any action over the riser/recliner chair. This was fault by the Council. There was no reason why it should have taken any longer to request a quote for a riser/recliner chair than it took to ask for changes to the front steps.
35. The Council OT did not keep any records of telephone calls to the contractor. It seems likely the Council OT did not contact the contractor until August, six months after the NHS referral and four months after her own assessment. That was also fault and was the main cause of the delay.
36. Although Mr D went into hospital in September the contractor was able to fit Mr D for a chair and provide a quote while he was there. According to the Council's records, the Council OT sent a funding application to the wrong e-mail address. However, given that she sent it to two officers, it is difficult to understand why it was "*overlooked*" for over two weeks. The Council OT was asked to provide more information about the application but did not do this. That was also fault. It meant the Council did not approve the application before Mr D died.
37. When the Council responded to Mrs D's complaint it failed to identify the cause of the delay in providing her husband with a new chair. Similarly, when responding to our enquiries it proposed increasing the frequency of the panel meetings, although this had not been the cause of the delay. However, the Council now accepts the problem in getting a chair for Mr D was "*down to human error and pressures of work*".

38. The Council needs to consider what action it can take to ensure human error does not prevent someone from receiving the services they need. It also needs to fill the vacancies for OTs to ease the pressure on those currently employed.

Injustice

39. The Council's faults caused injustice to Mr & Mrs D. They left Mr D without a suitable chair for the last few months of his life. At first this caused him discomfort and indignity through sliding on to the floor. This also caused injustice to Mrs D as she had to help him up again, which was difficult for her because of her bad back. After Mr D came out of hospital he could no longer sit in a chair and spent the last weeks of his life in bed, which should not have been necessary. This caused further injustice to Mrs D in having to witness her husband's distress. Unfortunately it is no longer possible to remedy the injustice to Mr D because he has died.

Decision

40. The Council was at fault because it:
- delayed in taking action to get Mr D a new chair;
 - failed to get a new chair for Mr D before he died; and
 - failed to identify the cause of the problem when responding to Mrs D's complaint.

Recommendations

41. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council or Cabinet and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
42. In addition to the requirements set out above, the Council has agreed to take the following actions to remedy the injustice identified in this report and prevent a repetition of its faults:
- apologise to Mrs D for the faults we have identified;
 - pay her £750 for the distress it has caused her and the time and trouble it has put her to in pursuing her complaint;
 - take action to ensure officers manage their work effectively and without delay; and
 - produce a schedule for filling OT vacancies as soon as possible.