

**Wiltshire Council**

**Standards Committee**

**26 September 2018**

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**Local Government and Social Care Ombudsman Complaint**

**Purpose of Report**

1. The purpose of the report is to inform the Standards Committee of the findings and recommendations in the report of the Local Government and Social Care Ombudsman (“the Ombudsman”) published on the 27 April 2018 and to note the Council’s response.

**Background**

2. Mr. and Mrs. N have an adult son, Mr P, who has complex needs that are eligible for support. Mr N. is disabled and Mrs. N is the carer for both Mr. N. and Mr. P. Mr P attended a day care facility on weekdays and the same respite centre for many years. The Council has provided transport and residential respite care
3. In June 2016, Mr P’s transport funding was reduced, further to a house move, with a request that Mrs. N undertake two journeys per week between her home and the day care centre or alternatively fund the trips at a cost of £30 per trip. A further decision was taken to reduce respite care from 104 nights per year to 68 nights per year. Mrs N complained, initially under the Council’s Complaints Procedure, both in relation to transport and respite care provision. Mrs N subsequently complained to the Ombudsman.

**Ombudsman’s Conclusions**

4. The Ombudsman concluded that the Council was at fault in the way in which it reduced the level of respite and transport provision. The request that transport be provided or funded by the family, was not based upon an assessment of need and therefore, in breach of the requirements of the Care Act.
5. The Ombudsman further concluded that the Council was at fault in the use and application of the Matrix Assessment Tool and for introducing the reduction in respite care as quickly as it did. The Matrix Assessment Tool involved a four-stage assessment process, that assisted in the assessing of needs and allocation of available resources.
6. The Ombudsman also concluded that the Council was also at fault for having processed the complaint by way of a two-stage complaint process, rather than as a one stage process as required under the statutory scheme for adult care complaints.
7. A copy of the Ombudsman’s report is attached at **Appendix 1**.

## Ombudsman Recommendations

7. The Ombudsman's recommendations are set out in paragraph 101 – 103 of the Ombudsman's report and are included for ease of reference below:

- Apologise to Mrs N.
- Restore the previous level of respite care pending a reassessment compliant with the Care Act 2014.
- Confirm it will offer her 24 days' respite care, to be taken at a time of her choosing, in recognition of the respite care wrongly withdrawn.
- Pay Mrs N £747.50 in recognition of the money she paid the Council for transport.
- Pay Mrs N £500 in recognition of distress and time and trouble.
- Review its policy and procedure on respite care, to reflect the requirements of the Care Act 2014.
- Review other files for evidence of use of the Matrix Assessment Tool. It should write promptly to anyone similarly affected and review their cases.
- Review the files of anyone whose transport was cut, to ensure these cuts were compliant with the Care Act.
- Inform the Ombudsman of the numbers of people involved and undertake to review all cases, within a further three months.
- Ensure all staff receive training in the requirements of the Care Act and the relevant guidance.
- Review all relevant documents to ensure they reflect the current law.

8. This matter was reported, as required, to Cabinet on 3 July 2018 setting out the actions taken and being taken in response to the recommendations. A copy of the Cabinet report and minute is included as **Appendix 2** and may be found on the [following link](#).

9. Cabinet resolved to:

*a) Note the findings and recommendations in the Ombudsman's report published on 27 April 2018;*

*b) Confirm the Council's acceptance of the Ombudsman's findings and recommendations and the actions to remedy the injustice as set out in the report.*

*c) Authorise the Director of Adult Care Services in consultation with the Cabinet Member for Adult Social Care, Public Health and Public Protection to take the necessary steps to address the issues raised in the Ombudsman's report.*

*d) Require that a progress report is made to the Standards Committee and to the Health Select Committee within 6 months.*

10. On 25 July 2018 I wrote as required in my role as Monitoring Officer to the Ombudsman to report on the action taken by the Council. A copy of my letter is attached at **Appendix 3**. Further updates on progress will be provided to the

Ombudsman as appropriate.

11. The latest position regarding the review of cases will be reported at the meeting.

### **Recommendation**

12. The Standards Committee is asked to note the report and the actions taken by the Council in response to this complaint.

**Ian Gibbons**  
**Monitoring Officer**

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Appendices 1. Local Government and Social Care Ombudsman Report 12 April 2018

2. Cabinet Paper dated 3 July 2018 and Minute

3. Letter to the Ombudsman dated 25 July 2018