

15 May 2018

**Complaint reference:**  
17 018 470

**Complaint against:**  
London Borough of Havering

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

Summary: Mr X, who complains on behalf of his mother, says the Council is at fault because it did not complete a financial assessment before charging her for care she received. The Ombudsman has found some evidence of fault by the Council. He considers the Council's offer to waiver charges incurred by Mr X's mother for attending a day centre adequately addresses the injustice caused to her. For this reason, he has ended his investigation of this complaint.

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## **The complaint**

1. Mr X, who complains on behalf of his mother (Mrs Y) says the Council did not complete a financial assessment advising her of the amount she would need to contribute towards her care. He also says the Council charged his mother for attending a day centre when it said it would not do so.

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

2. 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*)
3. If we are satisfied with a council'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**

4. As part of my investigation I considered the details of the complaint and discussed it with Mr X. I also obtained background papers and information from the Council and I considered its comments. I set out my initial thoughts on the complaint in a draft decision statement and I invited Mr X and the Council to comment.

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## **What I found**

### **Background**

5. Mrs Y is a pensioner. She has been diagnosed with dementia. She also suffers from arthritis, emphotymia and glaucoma. Mrs Y lives with her daughter.
6. In 2016 Mrs X received a care package, which included domiciliary care and day centre attendance. As part of this process the Council undertook a financial assessment in December 2016 to see what contribution she needed to make towards her care.
7. Mrs Y stopped receiving care in February 2017
8. In May the Council carried out a new assessment of Mrs Y's needs. The assessment concluded that Mrs Y required domiciliary care during the week.
9. The Council used the financial assessment it completed in December 2016 when assessing the contribution Mrs Y should make towards the care she was now receiving. As part of the process Mrs Y was issued with a booklet explaining how the Council charges for care. The booklet set out that attending a day centre incurs a charge of £40 per day.
10. The Council notified Mrs Y of the financial assessment it had undertaken in a letter of 13 July. The letter set out that if the cost of Mrs Y's care changed the Council would amend her bill accordingly.
11. Mrs Y began to receive care again in July.
12. Following a review of Mrs Y's care plan in September the Council agreed to increase the care provided to Mrs Y by including a weekly visit to a day centre. Mrs Y's social worker told her that she would not be charged for the attending the day centre until a new financial assessment had been undertaken.
13. However, Mrs Y was charged for attending the day centre during this period.
14. In November Mrs Y's family contacted the Council's financial assessment team with the outcome that a new financial assessment would be undertaken. The Council sent a form to Mrs Y's family in early December but it has not yet been returned.
15. Meanwhile Mrs Y's family complained to the Council about the charges Mrs Y was incurring for attending the day centre. In its reply the Council acknowledged that Mrs Y's social worker had wrongly advised her family that there would be no charge for attending the day centre until a reassessment had been undertaken. It apologised to Mrs Y and her family for its mistake. It said that the issue would be highlighted with its staff to ensure similar incidents did not occur.
16. Mrs Y's family remained unhappy and approach the Ombudsman. In response to the Ombudsman's initial enquiries on the complaint the Council offered to waiver the day centre fees incurred by Mrs Y for the period from 29 September 2017 (the date of her first attendance at the day care centre) to 3 February 2018 (the date when her complaint was responded to).

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## **Analysis**

17. The Council assessed Mrs Y's needs in May 2017. As part of the process it also undertook a financial assessment for her using the details it gathered as part of the financial assessment carried out in December 2016. The Council shared the details of its assessment with Mrs Y during the assessment of her needs in May and prior to care services recommencing in July. I do not find fault by the Council up to this point.
18. In September it was agreed that Mrs Y had a need to attend a day centre. The Council accepts that its social worker advised Mrs Y that she would not be charged until a new financial assessment was carried out. However, Mrs Y was charged from September onwards. This is fault by the Council.
19. I also note that despite saying a new financial assessment would be undertaken the Council did not instigated this process until Mrs Y's family made contact in November. I consider this process should have commenced in September once Mrs Y's additional care need was recognised.
20. As a result of the fault I have identified Mrs Y has incurred charges that she was not expecting. While I note the Council has charged Mrs Y in accordance with its charging policy this does not alter the fact that she was not expecting to pay for day centre care until a new financial assessment had been carried out. For this reason I consider she has been caused an injustice. The Council has offered to waiver the fees from the commencement of Mrs Y's attendance at the day centre until February. I consider this adequately addresses the injustice caused to Mrs Y.

## **Final decision**

21. I have ended my investigation of this complaint as I consider the Council's offer adequately addressed the injustice caused to Mrs Y by the fault I have identified.

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