

<b>REPORT TO:</b>	<b>ADULT SOCIAL SERVICES REVIEW PANEL</b> 1 February 2017
<b>AGENDA ITEM:</b>	<b>6</b>
<b>SUBJECT:</b>	<b>ADULT SOCIAL CARE ANNUAL COMPLAINTS REPORT FOR 2015/2016</b>
<b>LEAD OFFICER:</b>	<b>EXECUTIVE DIRECTOR FOR PEOPLE</b>
<b>CABINET MEMBER:</b>	<b>COUNCILLOR LOUISA WOODLEY, CABINET MEMBER FOR PEOPLE &amp; COMMUNITIES</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>  Supports Council aims of “Good quality, accessible and joined-up services and information” and “Better prevention and early intervention for people who are vulnerable.”	
<b>FINANCIAL SUMMARY: No implications</b>	
<b>FORWARD PLAN KEY DECISION REFERENCE NO: None</b>	

**For general release**

<b>1. RECOMMENDATIONS</b>
<b>1.1</b> Members are asked to note the content of this report

**2. EXECUTIVE SUMMARY**

- 2.1** As part of the requirements of the Local Authority Social Services and National Health Complaints Regulations (England) 2009 to make arrangements for dealing with complaints, Regulation 18 requires local authorities to produce an annual report specifying the number of complaints received, the number of complaints that were well-founded, the number of complaints referred to a local commissioner, and a summary of the nature of complaints and service improvements arising.
- 2.2** This report summarises the department’s management of complaints received in the 2015/16 financial year under the 2009 Regulations, as well as complaints about adult social care considered through the council’s local complaints procedure (also known as the corporate complaints procedure).
- 2.3** In general, the data should not be relied upon to provide a sole indicator on the quality of the service, but it can highlight specific concerns at particular times and give a guide to remedial action.

- 2.4** The total number of complaints (statutory and non-statutory) has increased from 99 in 2014/15 to 111 in 2015/16, an increase of approximately 12%.
- 2.5** After consideration by the Panel, this report will be published on the council's website as part of the council's Publication Scheme maintained under the Freedom of Information Act 2000.

### **3 DETAIL**

#### **3.1 STATUTORY COMPLAINTS PROCEDURE**

- 3.1.1** A single approach for dealing with complaints about adult social care and health was introduced on 1 April 2009, derived from the Department of Health's guidance, 'Listening, Responding, Improving.'
- 3.1.2** This approach affords organisations greater flexibility to respond to complaints and encourages a culture that seeks and then uses customer experience to drive service delivery and improve quality.
- 3.1.3** This is achieved by focusing on the needs of the customer rather than the process of managing their complaint.
- 3.1.4** The procedure is based around a single-level process whereby the department investigates and responds to the customer. It is worth noting that the Regulations do not prescriptively set out how councils or health care trusts should manage their complaints but do require the arrangements to ensure that:
- Complaints are dealt with efficiently
  - Complaints are properly investigated
  - Complainants are treated with respect and courtesy
  - Complainants receive, so far as is reasonably practical:
    - Assistance to enable them to understand the procedure in relation to complaints; or
    - Advice on where they may obtain such assistance
  - Complainants receive a timely and appropriate response
  - Complainants are told the outcome of the investigation of their complaint; and
  - Action is taken, if necessary, in the light of the outcome of a complaint
- 3.1.5** The approach taken in the Regulations is based around six principles which should underpin how complaints are managed:
- Getting it right
  - Being customer focused
  - Being open and accountable
  - Acting fairly and proportionately
  - Putting things right
  - Seeking continuous improvement

**3.1.6** There is currently only one stage to the complaints procedure. Complaints are investigated by the departments and responded to by the Complaint Resolution Team on behalf of the Executive Director. However, under the arrangements, where the council receives a more complex and/or high-risk complaint, an external investigator will be appointed to investigate the complaint. There were no instances of this happening in 2015/16.

**3.1.7** In April 2017, the council will adopt a two-stage procedure for managing adult social care complaints. First stage complaints will be dealt with by the operational service being complained about while stage 2 will be a review by the Complaint Resolution Team on behalf of the Executive Director. This approach will mirror the council's procedure for managing corporate complaints and it is anticipated that introducing a second stage will afford the council a greater opportunity to resolve complaints locally, thereby reducing the number of referrals to the Local Government Ombudsman. It is also considered that this approach will add consistency and benefit service users and staff alike.

## **3.2 STATUTORY COMPLAINTS COMMENTARY**

**3.2.1** The number of statutory complaints received during 2015/16 was 108, compared to 93 in 2014/15. This showed percentage increase of 16.10%.

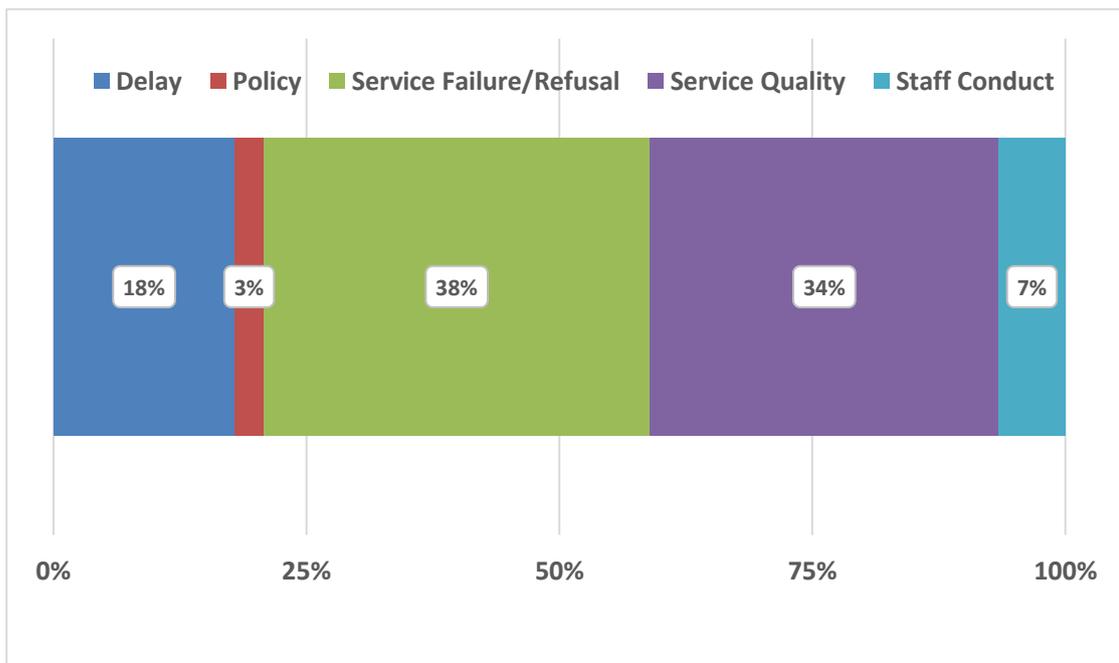
<b>Complaints received 2014/15</b>	<b>Complaints received 2015/16</b>	<b>Percentage decrease</b>
93	108	16.10%

**3.2.2** The table below shows the breakdown of statutory complaints by service and team. The data reflects the current structure for Adult Social Care.

<b>Service/Team</b>	<b>No. of Complaints</b>
<b>0 - 25 SEN &amp; Disability</b>	<b>6</b>
Disabilities	6
<b>25-65 Disability</b>	<b>32</b>
Immediate Response	5
Learning Disability	10
Physical Disability	17
<b>Assessment &amp; Care Management</b>	<b>26</b>
Assessments	11
Careline Plus	2
Hospital Discharge Team	5
Occupational Therapy	8
<b>Commissioning &amp; Brokerage - Older People (OP)</b>	<b>9</b>
Brokerage	9

<b>Disability Commissioning and Brokerage</b>	<b>2</b>
Learning Disability Commissioning	2
<b>Mental Health Social Care</b>	<b>4</b>
MHSW / AMHP workforce	4
<b>Safeguarding &amp; Quality Assurance</b>	<b>11</b>
Centralised Duty Team	3
Professional standards & Quality Assurance	1
Safeguarding Adults Social Work	7
<b>Welfare Enablement</b>	<b>18</b>
Charging and billing / direct payments	5
Financial Assessment	10
NRPF Team	3
<b>Grand Total</b>	<b>108</b>

**3.2.3** Of the 108 complaints received, 212 individual areas of complaint which were categorised. The chart below details the categorisation of complaints received. The most common grounds for complaint was service failure/refusal (38%) and service quality (34%).

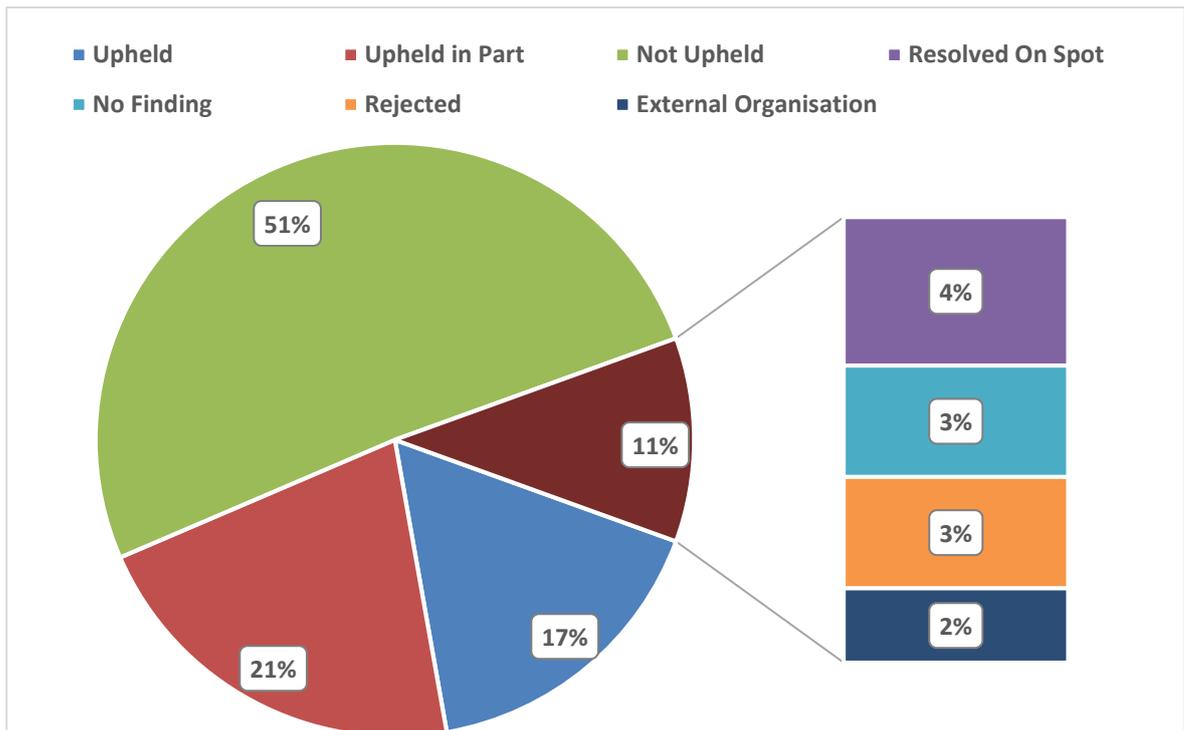


**3.2.4** More detailed information about the types of complaints received can be found at Appendix 1.

**3.2.5** There has been a noticeable improvement in the average time taken to respond to adult social care complaints (21.4 working days compared with 30.1 working days in 2014/15). The percentage of complaints responded to within the 20 working day deadline has also improved as 62% of complaints were responded to within deadline (compared with 51% in 2014/15).

**3.2.6** The percentage of complaints that were either upheld or upheld in part was approximately 41% an increase of 6% compared with 2013/14.

**3.2.7** The chart below shows the outcomes of all complaints received. Please note that percentages may not add up to 100% due to rounding.



**3.2.8** The Local Government Ombudsman referred 16 complaints during 2015/16 (an increase of six compared with 2014/15), ten of which were investigated. There were no maladministration reports issued against the council.

**3.2.9** A sample of cases referred to the Local Government Ombudsman can be found at Appendix 2.

**3.2.10** As reflected above, using complaints as a source of constant improvement to service delivery is an important theme of the 2009 Regulations. As one would expect, complaints made over the course of the year have resulted in remedial action to address an individual situation: for example, carrying out an assessment, providing information or making an apology.

**3.2.11** However, there were examples where complaints resulted in service improvements ranging from improving customer care, reviewing training and guidance for staff, reviewing of policy and procedure, and changes to service delivery. The table below lists examples of service improvements arising from complaints received during the 2015/16 financial year.

<b>Team/Service</b>	<b>Action Taken</b>
Brokerage	Review suggestion made by complainant that where there are disputes about the quality of care provided by a care agency that there should be a process in place to resolve the issues with both parties present and a senior social service manager.
LD Safeguarding Team	Review practice to ensure that when a safeguarding case is closed because the alleged victim does not want the referral investigated, that written notification is sent confirming this.
	Review the practice of agreeing/circulation of minutes arising from safeguarding meetings.
	Where there are conflicts between family members regarding safeguarding issues in respect of an adult who lacks capacity to make a key decision, ensure an IMCA is appointed who must contribute to all decision making meetings.
	Where there are grounds to believe an adult who lacks capacity may be deprived of their liberty, ensure that a DOLS assessment is made and where appropriate refer to the Court of Protection.
Learning Disabilities Team	In light of changes to the law, review practice with the SEN Service with regard to clients who transfer to LDT and wish to remain in education
	Guidance given to staff to encourage pre-meetings involving family and other professionals where there are areas of dispute.
Older People	Guidance given to staff to ensure they notify family or friends without sufficient authority/consent that they cannot share personal client information.
	Review communication on emergency respite placements to ensure that customers are clear about the process.
Operational Finance	Review of cover arrangements to ensure that the team generic email address is always manned.
	Review of cover arrangements when financial assessment officers are away from the office to ensure cases are not left.

	Review of the wording of invoices to make them more customer-friendly.
	Review of practice to ensure that when financial evidence/information is returned to a customer that there is a cover letter enclosed.
	Review of arrangements for contacting clients who have not provided evidence for their financial assessment.
	Reminder to staff about how to manage telephone calls from rude/aggressive members of the public and importance of recording clear, accurate notes on the client file.
Physical Disabilities Team	Reminders to staff to ensure they are routinely checking appointments in their calendars which have booked by Centralised Duty and to keep calendars updated in the event that appointments are cancelled or rescheduled.
	Guidance to staff on appropriate sharing of information with health agencies.
START	Review practice of leaving case information affixed to hospital beds.

### 3.3 NON-STATUTORY COMPLAINTS COMMENTARY

- 3.3.1** Complaints received which do not relate directly to social care provision are considered through the council's local (or corporate) complaints procedure.
- 3.3.2** The local complaints procedure has two stages; the first stage is an investigation by the service being complained about. If complainants are not satisfied they can request a review by the Complaint Resolutions Team who will investigate the complaint on behalf of the Chief Executive
- 3.3.3** There were three non-statutory complaints received in 2015/16, compared with six in 2014/15.
- 3.3.4** The table below shows the breakdown of corporate complaints by service and team. The data reflects the current structure for Adult Social Care.

Service/Team	No. of Complaints
<b>Assessment &amp; Care Management</b>	<b>1</b>
Assessments	1
<b>Welfare Enablement</b>	<b>2</b>
Charging and billing / direct payments	1
NRPF Team	1
<b>Grand Total</b>	<b>3</b>

- 3.3.5** The average length of time taken to respond at stage 1 was seven working days (compared with 29.5 working days in 2014/15) and all three complaints were responded to within deadline (compared with 33% in 2014/15).
- 3.3.6** One complaint was upheld, one was resolved on the spot and one was not upheld.
- 3.3.7** One complaint related to service quality, one to staff conduct and one to delays.
- 3.3.8** One complaint was considered at stage 2 of the local complaints procedure. This was a complaint from a provider who was complaining about poor customer service. The complaint was upheld in part.

#### **3.4 PLANNED IMPROVEMENTS FOR 2017**

- 3.4.1** The following have been identified as planned improvements for 2017 as part of the council's overall strategy for managing statutory (and non-statutory) complaints.
- As part of the adoption of the two-stage procedure for adult social care complaints, update all relevant literature (complaint forms, website etc.) to ensure all information in the public domain is up to date.
  - Review the joint-working protocol for managing health and social care complaints in the Croydon borough area.
  - Commission training from the Local Government Ombudsman for investigating social care complaints for tier three and four managers.
  - Explore how the learning from adult social care complaints can be used to feed into the council's People Gateway project.
- 3.4.2** These actions are by no means exhaustive and improvements for the management of complaints are very much ongoing.

#### **4 CONSULTATION**

- 4.1** Although not consultation as such, complaints are an excellent source of customer feedback that can be used to improve and change service delivery.

#### **5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- 5.1** Complaints should be resolved quickly, effectively and used to identify, drive and monitor service performance. If this does not consistently happen, there is a real risk that customers can remain or become dissatisfied with the organisation.

#### **6 COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER**

- 6.1** The Council Solicitor comments that there are no direct legal implications beyond the requirements of the Regulations already detailed in the body of the report
- 6.2** Approved by: Jacqueline Harris-Baker, Acting Council Solicitor and Monitoring Officer.

## **7 HUMAN RESOURCES IMPACT**

**7.1** Where complaints are investigated and upheld in relation to Council employees, this will be addressed through the relevant normal HR practice, policy and procedure. There are no other immediate HR considerations that arise from this report for LBC staff.

**7.2** Approved by: Deborah Calliste, HR Business Partner.

## **8 EQUALITIES IMPACT ASSESSMENT**

**8.1** The Complaint Resolution Team ensure that data is collected for age, disability and gender, as recommended by Department for Health guidance, and it is used to identify an accurate picture of users, highlight where take-up of services could be improved and ensure that the complaints procedure is fully accessible.

## **9 ENVIRONMENTAL IMPACT**

**9.1** There are no environment impacts.

## **10 CRIME AND DISORDER REDUCTION IMPACT**

**10.1** There is no implication for the reduction of crime and disorder.

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### **CONTACT OFFICER:**

**Doreen Thomas, Interim Complaints Manager**

**BACKGROUND DOCUMENTS: None**

## Appendix 1 – Complaint Categorisation Breakdown

Complaint Category / Sub-Category	No. of Complaints
<b>Delay</b>	<b>38</b>
Delay in Delivering a Service	7
Delay in Making a Decision	1
Delay in Providing Information	3
Delay in Returning Phone Calls	1
Delay in Taking Action	26
<b>Policy</b>	<b>6</b>
Cost of Service	2
Council Policy	4
<b>Service Failure/Refusal</b>	<b>81</b>
Failure or Refusal to Deliver a Service	18
Failure or Refusal to Meet with Customer	7
Failure or Refusal to Provide Information	10
Failure or Refusal to Respond to Letters or Emails	9
Failure or Refusal to Return Phone Calls	7
Failure or Refusal to take Action	29
Other Failure or Refusal Problem	1
<b>Service Quality</b>	<b>73</b>
Breach of confidentiality	1
Disagree with Assessment	6
Inadequate or Incorrect Advice Given	2
Inappropriate Action Taken	18
Incorrect Action Taken	8
Incorrect Decision	7
Lost Documents or Files or Correspondence	1
Phones	1
Poor Communication	5
Service Provided but then Changed or Withdrawn	4
Unclear Information Provided	1
Unreasonable Decision	15
Other Quality Issue	4

<b>Staff Conduct</b>	<b>14</b>
Lack of Knowledge or Training	1
Late for Appointment or Visit	1
Poor Customer Care	3
Rude or Aggressive Behaviour	7
Unhelpful Attitude	2
<b>Grand Total</b>	<b>212</b>

## **Appendix 2 – Complaint Case Studies**

### **Case Study 1**

#### *Grounds for complaint*

Miss A complained that the council failed to properly assess her needs as a carer and also failed to respond to letters she sent to the council.

#### *Circumstances of the case*

Miss A's mother, Mrs B, has speech and movement difficulties following a stroke while Miss A's son, Mr C, has cerebral palsy and is paraplegic. Mr C receives a direct payment which he uses to employ a personal assistant for 40 hours a week. Miss A also cares for Mr C. Prior to December 2012, the council provided a weekly sitting service to give Miss A a break from caring for Mr C.

In December 2012, the worker who was providing the sitting service left the care agency. The council says that Miss A then cancelled the sitting service because she did not want a different carer. Miss A denies this.

In February 2013, Miss A's advocate contacted the council to ask it to reinstate the sitting service. She asked the council to give Miss A a direct payment so she could arrange the sitting service herself.

The council refused the request. It told the advocate that a sitting service was not necessary because Mr C could stay on his own for periods of time and he had a personal assistant for 40 hours a week.

A sitting service had been provided to give Miss A a break from caring for Mr C since 2009. This is because it had been identified that Miss A needed this respite. The council then refused to reinstate the service in February 2013 without undertaking a proper reassessment and identifying that respite was no longer necessary.

Miss A is also Mrs B's main carer. Following a previous complaint to the Ombudsman, the council said that it would consider awarding a direct payment to Miss A so that she could pay for a sitting service to give her a break from caring for Mrs B. The council asked Miss A to provide a plan detailing how she would spend the direct payment. This was provided in January 2013.

Miss A wrote to the council several times about getting a direct payment to give her respite from caring for Mrs B and about getting a direct payment to give her respite from caring for Mr C. The council did not respond in writing to her letters. In March 2013, Miss A sent two completed carer's self-assessment forms to the council.

In April 2013, Miss A made a formal complaint that the council was not responding to her letters and was not providing her with enough respite from her caring duties. In its response, the council explained that it had spoken to Miss A about the issues she had raised in her letters but accepted that it should have responded in writing. The council also explained that its Older People team had agreed in principle to a direct payment to pay for Miss A to have a break from caring for Mrs B. It said that its Physical Disability

team accepted that a direct payment could also be provided to pay for Miss A to have a break from caring for Mr C and that the teams would work together to identify how a sitting service direct payment would work in practice.

Miss A was then awarded a direct payment in July 2013 by the Older People team to enable her to have a break from caring for Mrs C. The award was backdated to January 2013. Miss A was not told whether she would receive a direct payment from the Physical Disability team to pay for her to have a break from caring for Mr C.

On 8 November 2013, Miss A's advocate complained to the council that its Physical Disability team had not given Miss A a direct payment to pay for her to have a break from caring for Mr C.

In the council's response, dated 5 February 2014, it explained that it would not be agreeing to Miss A's request for a direct payment. It said that one reason was that she had received a Time4Me payment of £500 to enable her to have respite from her caring duties for Mr C. It said the other reason was because Mr C was out of the house with his personal assistant for over 40 hours a week. It considered that this was giving Miss B sufficient respite.

### *Analysis*

The council was wrong to say that Miss A had received a Time4Me payment of £500; she had not received any Time4Me payments during that financial year. Miss A says that the council is also wrong to say that Mr C is out of the house for over 40 hours a week.

The council had also failed to carry out a proper assessment of Miss A's needs as a carer. Miss A completed two carer's assessment forms in March 2013 but there is no evidence to suggest any analysis of the information was carried out. The council has reached different decisions about whether Miss A needs respite from caring for Mr C when there has been no apparent change in their circumstances. The decision to not award a direct payment was not made properly because the decision was made without carrying out a proper assessment.

Miss A received a Time4Me payment in respect of her caring role for Mrs B in November 2012 and a further Time4Me payment in respect of her caring role for Mr C in February 2013. One year after receiving each payment, she applied for another one. Miss A wrote to the council several times asking about the Time4Me payments but the council did not respond to her letters.

The council explained that one reason it did not make the Time4Me payments was because demand had exceeded budget and that it prioritises payment requests for carers who have not previously received a Time4Me payment or have not received a payment for a considerable period of time. However, this is not detailed within the procedural guidance. The council also failed to explain to Miss A why it did not make the payments or when she could reapply.

The council says that another reason it did not make the Time 4Me payment in respect of Miss B's caring role for Mrs G was because Miss B had failed to submit quarterly

returns with details of how she had spent the direct payments she was receiving but failed to explain this to Miss B.

The Ombudsman considered it likely that Miss A would have been awarded the Time4Me payments once funds were available if she had been told that she needed to submit her quarterly returns to receive them.

Taking into consideration the number of hours Mr C employs a Personal Assistant, The Ombudsman did not consider it likely that the council would have reinstated the sitting service for Mr C if it had properly carried out an assessment of Miss A's respite needs. However, the failure to carry out an assessment caused Miss A avoidable time and trouble.

### *Remedial Action*

The council agreed to take the following actions to remedy the failings identified:

- Carry out a review of its Time4Me procedure to ensure guidance is included on how to process requests where demand exceeds budget;
- Pay £250 to Miss A to recognise the time and trouble she has been put to as a result of the failings identified;
- Pay £500 to Miss A to reflect the Time4Me payments that she may have been eligible for in April 2014, once funds were available;
- Offer to carry out a full assessment of Miss A's needs as a carer, taking into consideration her caring duties for both her mother and her son; and
- Write to Miss A with the outcome of its assessment and develop a care plan if she has eligible needs.

## Case Study 2

### *Grounds for complaint*

Mrs D's advocate, Mr E, complaint that the council:

- Carried out a flawed assessment of Mrs D's needs in September 2013 in that the social worker made inappropriate remarks and failed to consider Mrs D's needs properly. Mrs D was upset and she received a reduction in her personal budget; and
- Failed to investigate her complaint about this properly or take appropriate steps afterwards.

### *Circumstances of the case*

Mrs D has Crohn's disease, double incontinence and is partially sighted. She has mobility problems. Her home has an upstairs bathroom. Mrs D also has a walk in-shower downstairs provided by the council because an Occupational Therapist said there were risks to Mrs D if she used the stairs to get to her bath. In April 2013 her care package was £243.75 a week to fund 19.5 hours of care a week. Mrs D used direct payments to buy in help with washing, dressing, feeding and administration of her medication.

In September 2013, a social worker, officer F, assessed Mrs D's needs at Mrs D's home. Records show Officer F advised Mrs D that the council would reduce her package. Officer F noted that Mrs D had a shower downstairs so she did not consider Mrs D needed help to use a bath to maintain her personal hygiene. Officer F's assessment does not show Mrs D told her about taking medication in the bath. Officer F stated told she had difficulty remembering the assessment in detail but she put the information Mrs D gave her in the assessment.

Mrs D said Officer F told her she should bear in mind that in other cultures people with a condition such as Mrs D's are supported by their family. Officer F denies saying this. Mrs D said Officer F completed the assessment form in 20 minutes, which she took away. Officer F cannot recall how long the assessment took but considers she completed it fully. The council did not send Mrs D a copy of the assessment or seek her signed agreement it was correct.

Officer F's manager approved the reduction in care package of two hours a week and Officer F completed an independence plan from the information she obtained at the assessment. Mr E explained that the independence plan does not contain key details that Officer F should have asked Mrs D, about her activities and culture, her eligible needs, safety and support. The council did not send Mrs D a copy of the independence plan to sign or comment on.

When the council implemented the assessment in December 2013, it cut Mrs D's budget by £25 to £218.75. Mrs D said she could no longer afford to travel to church.

Mr E submitted a complaint on behalf of Mrs D requesting a meeting to discuss the assessment and reduction to the care package. A few weeks later, Officer F left the council. The council acknowledged Mr E's complaint and said he would receive a reply by 2 January 2014. The council replied to Mrs D's complaint in February 2014. It apologised for any offence Officer F may have caused but said it could not interview her about the complaint as she no longer worked for the council. It allocated a senior social worker, Officer G, to meet Mrs D and Mr E "to discuss the review". Mr E said the council only gave him a copy of the assessment and independence plan when he asked for it during the complaint process in February 2014.

In February 2014, Officer G met Mrs D and Mr E at Mrs D's home. Officer G understood that she would be carrying out a fresh review of Mrs D's needs and not what had happened at the previous assessment because she had not been there and was not Officer F's manager.

After the meeting, Officer G completed a review form. Officer G noted that Mrs D said she could no longer have a daily bath and using a shower instead would have an adverse effect on her health. Officer G noted Mrs D said she could no longer use a prescribed liquid antibiotic to ease the symptoms of Crohn's disease which she added to bath water.

Mrs D says that she did not say what Officer G recorded about her medication. Mr E explained that Mrs D said she needed to use liquid steroid medication that she applied in the bath. Mr E said Mrs D needed to sit or lie in the bath because she cannot bend easily. Mr E said Officer G agreed to have the hours put back as Mrs D's medication needs warranted this. Officer G denies this; she says she would agree to review the hours with her manager as she cannot agree an increase by herself. Mrs D explained that she lies down in the empty bath to apply her medication for pain relief. She then adds warm water to wash the area.

In March 2014, Officer G contacted Mrs D's GP surgery to verify what Mrs D had said. Mrs D's own doctor was not available but another doctor told Officer G that the surgery had not prescribed antibiotics for Mrs D, and did not know of an antibiotic that could be added to bath water. He said Mrs D used prescribed medicated shampoo. Officer G was not satisfied from what the doctor told her that Mrs D needed to use the bath for medication.

In April 2014, Officer G's manager confirmed she would not agree to alter Mrs D's care package following a discussion with Officer G. Officer G told Mrs D and sent her and Mr E a copy of the February 2014 review.

Mr E complained that he and Mrs D had not been able to discuss Mrs D's concerns about the first review with anyone from the council. When Mr E received officer G's review of Mrs D's needs he said it did not reflect what Mrs D said about her medication.

The council accepted it was good practice to seek a client's comments on their assessment and that there was a degree of fault because it had not done so sooner in this case. The council said it sent the assessment and independence plan to Mrs D in December 2013. The council also stated that Officer G had contacted Mrs D's doctor but this was incorrect as records show that Officer G spoke to a different doctor.

Mr E provided a letter and new prescription from Mrs D's doctor. This said she should administer pain relief when she needed to by lying in the bath. However, the letter and new prescription did not show:

- Mrs D had been prescribed this medication when it assessed/reviewed her needs;
- how often Mrs D was to use the medication; or
- why Mrs D had to use a bath to administer the medication.

### *Analysis*

Mrs D and Officer F hold different views about what Officer F said at the meeting and how long it was. There is no corroborative evidence to show what happened. Mrs D found an advocate and complained about Officer F's remarks before the council wrote to her to say it was reducing her budget. While this suggests Mrs D was unhappy about the meeting, it does not indicate that Officer F's conduct was unacceptable.

Officer F considered Mrs D did not need a personal budget for care to do with taking a bath as she could take a shower and not put herself at risk using the stairs. There is no record that Mrs D told Officer F she used the bath to take her medication. Officer F and her manager exercised professional judgement in deciding to reduce Mrs D's personal budget because she had acceptable alternative bathing.

The council accepts that it should have sent Mrs D a copy of her assessment and independence plan. As Mrs D did not get a copy of these documents, she did not have the opportunity to comment on any omissions in them or complain about them for several months. During this time she had a reduced personal budget.

The assessment and the independence plan are different documents. When using the assessment to complete the independence plan the social worker did not have sufficient detail to complete all of the questions.

The council was at fault in the way it handled the complaint insofar as it unduly delayed in responding and stated in its response that the issues raised would be discussed at a review when this was not what it intended. This caused confusion and annoyance, as Mrs D and Mr E tried to get answers from Officer G who could not realistically provide them.

Mrs D did not tell Officer G what the medication was called or that she added water to the bath after administering it. Therefore, Officer G recorded her mistaken understanding and tried to clarify the wrong things with the doctor. The prescription Mrs D recently provided suggests Officer G recorded the wrong information.

It took the council a further two months to send Mrs D a copy of the review. This undue delay meant that Mrs D was unable to correct the errors about her medication and method of administering it.

## *Remedial Action*

The council agreed to take the following actions to remedy the failings identified:

- apologise to Mrs D for the faults identified;
- pay Mrs D £250 for her time and trouble due to the confusing way the council handled her complaint, and her uncertainty that she may have been able to resolve incorrect documents sooner if she had received copies of them when the council created them;
- contact Mrs D's GP to clarify its queries about Mrs D's recent prescription to verify Mrs D's need to use a bath to administer her medication; and
- Conduct a review of policy/practice to:
  - ensure the assessment form contains sufficient information to complete the independence plan
  - provide copies of assessments, reviews and independence plans to service users as soon as possible after they have been produced and to actively seek and incorporate their comments.

### **Case Study 3**

#### *Grounds for complaint*

Ms H complained that the council failed to provide direct payments to her son, Mr I, from his 18<sup>th</sup> birthday and refused to backdate payments. Ms H also complained that the council has not offered her and her younger son carer's assessments.

#### *Circumstances of the case*

Mr I has learning and physical disabilities. Before he was 18, the council's Children's Services made direct payments to Ms H to employ a carer for Mr I. The direct payments stopped on Mr I's 18<sup>th</sup> birthday.

Approximately five months prior to Mr I's 18<sup>th</sup> birthday, Children's Services assessed Mr I and referred him to the council's Transitions Team. The council has acknowledged that there was a delay in allocating Mr I's case to an officer which meant he did not receive a service from the council following his 18<sup>th</sup> birthday. The council has said the delay in allocating Mr I's case to an officer was due to a high level of cases within the team at that time.

Three months after Mr I's 18<sup>th</sup> birthday the council referred Mr I to an agency to draw up a support plan for him. The council was unhappy with the support plan produced by the agency as it did not reflect its assessment of Mr I's needs and its eligibility criteria. The plan requested a higher level of support than the council considered Mr I was entitled to.

The council produced its own support plan. Ms H was unhappy with the support plan as she did not consider it offered enough support to meet Mr I's needs so she did not sign it. The council wrote to Ms H offering to backdate direct payments at the rate Mr I received from Children's Services if Ms H signed the support plan. This amounted to £75 per week. Ms H continued to refuse to sign the support plan as she did not consider it would meet Mr I's needs.

During this time Ms H completed a carer's assessment. The council has said that it did not provide any services for her as the information given by Ms H reflected Mr I's needs rather than Ms H's as a carer. The council has acknowledged it did not explain this to Ms H. The council's records show that Ms H was invited to complete a further carer's assessment but did not submit these to the council.

Ms H's representative requested a carer's assessment for Ms H's younger child. A council officer made a referral to Children's Services but was advised that Ms H had to make the referral or provide consent for the officer to do so. The council notified Ms H of this when it responded to Ms H's complaint.

Some eight months later, the council approved direct payments of £296 per week but was unable to make the payments as Ms H had not provided her bank details. The council does not consider it refused to backdate the payments to Mr I's 18<sup>th</sup> birthday but it has no record of why it did not offer to do so. Ms H signed the support plan for Mr I. This was 21 months after Mr I's 18<sup>th</sup> birthday.

The council has acknowledged the delay in providing direct payments for Mr I but considers Ms H contributed to the delay by refusing to sign the support plan.

The council also acknowledged that:

- it should have explained to Ms H that she could still challenge the support plan even if she had signed it and this would have ensured direct payments were in place were in place for Mr I;
- it should have given greater consideration to commissioning a service for Mr I while the support plan was under dispute; and
- it delayed in responding to Ms H's complaint.

Ms H strongly disagrees that she contributed to the delay. She has said she did not sign the support plan as she did not consider it would meet Mr I's needs and it did not reflect changes in his health. She also said she provided documents to the council for Mr I's support plan, which were not passed to the relevant officers and that the council did not respond to her complaint.

It is understood that Ms I's carer continue to provide care to him throughout this period but was not paid for this.

### *Analysis*

The council delayed in allocating an officer to Mr I to plan his transition to plan his care from when he turned 18. The council has said that this was due to the demand on the responsible team. But the council had a duty to ensure services were available to Mr I from his 18<sup>th</sup> birthday. The delay in allocating his case to an officer prevented services from being in place.

The agency which initially drew up Mr I's support plan was at fault in failing to produce an appropriate support plan which reflected the council's eligibility criteria. The agency was carrying out this work on behalf of the council so the council should have ensured that the agency was aware that the support plan should reflect its eligibility criteria. This added to the delay in producing a support plan and also unreasonably raised Ms H's expectations of what support the council could provide.

The council acknowledged that its communication with Ms H could have been better. Officers should have told Ms H that she could sign the support plan while challenging the level of support contained in the plan. This would have ensured some support could have been provided for Mr I. The council also failed to notify Ms H of the outcome of her carer's assessment.

The Ombudsman rejected the complaints about the council not responding to the complaint or that it failed to offer carer's assessments to Ms H and her younger son.

### *Remedial Action*

The council agreed to take the following actions to remedy the failings identified:

- Backdate Mr I's direct payments to his 18<sup>th</sup> birthday; and
- Send a written apology to Ms H for its poor communication with her.