

Complaint reference:
16 008 782

Complaint against:
London Borough of Bromley

The Ombudsman's final decision

Summary: The Council made suitable arrangements for the transfer of Mr X's care package but failed to comply with statutory guidance about the transfer of equipment. That caused confusion and more stress for Mr X. A care agency was, however, in place for the date of Mr X's move. The complaint is upheld.

The complaint

1. The complainant (whom I shall call Mr X) says the Council delayed in notifying the new council of his intended move and caused him stress and anxiety by the delay.

The Ombudsman's role and powers

2. 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

3. I considered the written information provided by the Council. I spoke to Mr X. I also made enquiries of the neighbouring council into whose area Mr X moved. Both Mr X and the Council had the opportunity to comment on an earlier draft of this statement before I reached a final decision.

What I found

Relevant background information

4. The Care Act 2014 gives local authorities a legal responsibility to provide a care and support plan (or a support plan for a carer). The care and support plan should consider what the person has, what they want to achieve, what they can do by themselves or with existing support and what care and support may be available in the local area.
5. The Council's own ordinary residence policy says, "*LBB will not allow the existence of a dispute to prevent, delay, interrupt or affect the meeting of the needs of the adult or carer. In pursuing a resolution to any dispute about a person's ordinary residence status, LBB will give priority to meeting those needs of the person over resolution of any dispute. LBB is always promoting the individual's independence and well-being with its arrangements for need assessment, support planning and provision of care and support.*"

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6. The Care and Support statutory guidance says “*People with care and support needs may decide to move home just like anyone else, such as to be closer to family or to pursue education or employment opportunities, or because they want to live in another area. Where they do decide to move to a new area and as a result their ordinary residence status changes....., it is important to ensure that care and support is in place during the move, so the person’s wellbeing is maintained*”.(Ch 20.1)
 7. The guidance goes on, “*Local authorities are expected to achieve continuity of care by ensuring that the second authority has completed a needs assessment and developed a care and support plan for the individual prior to the day of the move. It is possible that the second local authority might be unable to complete a needs assessment prior to the day of the move due to the logistics of assessing a person a long distance away or because they want to assess the adult in their new home. If the second authority has not carried out the assessment prior to the move, it must continue to meet the needs and take into account outcomes identified in the adult’s current care and support plan until it has carried out its own assessment.*”
 8. The Care and Support statutory guidance also says, “*Many people with care and support needs will also have equipment installed and adaptations made to their home. Where the first authority has provided equipment, it should move with the person to the second authority where this is the person’s preference and it is still required and doing so is the most cost-effective solution. This should apply whatever the original cost of the item. In deciding whether the equipment should move with the person, the local authorities should discuss this with the individual and consider whether they still want it and whether it is suitable for their new home.*”(Ch 20.35)

What happened

9. Mr X received a care package funded by the Council to support him with personal care, meal preparation, mobility needs and domestic help. He has the use of a wheelchair and standing hoist to assist with transfers, a bed with air mattress, and a shower chair.
10. Mr X notified the Council on 27 July 2016 that he intended to move into the neighbouring area for greater support from his family. The Council’s record of the duty officer’s conversation with him noted that the Housing Association which was his landlord had found an available property to which he could move on 1 September. Mr X asked what would happen about his equipment as he could not manage without it. The duty officer told him (after seeking advice from the Occupational Therapy (OT) service) that the Council’s policy was to assess someone once they had moved into the borough and she expected the new council’s policy would be the same. Mr X was unhappy and wanted to make a complaint.
11. The Council’s records show that on 2 August the OT service contacted the District Nursing staff who agreed to take responsibility for ordering new equipment.
12. On 10 August the Council responded in writing to Mr X’s complaint. It explained that he could not take his existing equipment (which belonged to the Council) out of the area but said the District Nursing staff were organising the provision of new equipment, which would be the responsibility of the new council.

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13. On 15 August a social worker contacted Mr X about the transfer. She contact a social worker at the new council on 19 August to inform him that Mr X would be moving on 1 September. She agreed to send a copy of Mr X's current care and support plan.
 14. The social worker forwarded a copy of Mr X's plans on 23 August but due to a technological fault it did not arrive. She re-sent it on 24 August. Discussions between the OT staff and District Nurses show that the District Nurses were prepared to order the bed/mattress and stand which were deemed to be pressure-relieving equipment and therefore health responsibilities, but not a shower chair.
 15. On 25 August the social worker contacted the new council to check the referral for Mr X had been received. Staff at the new council said it had not. The social worker emailed the new council again, "*I have confirmed with team leader....that London Borough Bromley will be funding transferred care package for above client for 6 weeks starting from 1/9/16*". She also confirmed this to Mr X.
 16. On 26 August the District Nursing staff told the social worker that they could not order Mr X's new equipment until he registered with a GP in the new council area, as they worked to individual GPs. When Mr X's mother telephoned the new council (as advised by the social worker) to check arrangements, the member of staff at the new council said they did not have details of Mr X.
 17. Mr X registered with a new GP on 30 August.
 18. On 30 August the social worker contacted the team at the new council and reminded them of the email referral she had sent on 24 August. The new council staff traced the email in a secure email inbox.
 19. On 31 August the social worker requested a service from a new care agency to begin on 1 September.
 20. Mr X complained about the new care agency on 8 September and said he wanted a new agency immediately. He said the carer had locked his keys in the key safe and left with Mr X's keys: Mr X's mother had been unable to gain access. The carer had also used household wipes instead of toilet wipes.
 21. The Council's records show the social worker contacted the care agency directly who had already received the complaint from the new council. She contacted Mr X but he was angry and asked her not to contact him again. She arranged through the brokerage team for a new agency to start the following day to support Mr X.
 22. Mr X complained to the Ombudsman about the length of time the Council had taken to transfer his care to the new council. He said the social worker had only given the new council three days' notice of his transfer. He said the care agency had missed the first call because it had been given the wrong address, but the Council had tried to say it was his mother who had given the agency that address. He is now happy with the care service he receives.
 23. The Council says it does not have a policy for moving adults from one area to another, but says it will add this to the list of tasks to be completed by its Editorial Board which meets quarterly.

Analysis

24. The Council arranged to fund Mr X's care package for six weeks to enable the new council area to complete an assessment of his needs. It properly referred his existing support and care plans to the new council.
25. However, the Council failed to ensure the smooth transfer of Mr X's essential equipment in accordance with the statutory guidance. That was fault on its part, which caused additional stress and confusion for him at a time which was already stressful. In addition it failed, in its response to his complaint, to take account of the guidance or recognise that it had a responsibility in respect of moving his equipment.
26. The Council says it does not have a specific policy for people moving from one area to another. However, that is no reason why the Council should not have followed the statutory guidance.
27. After receiving my draft decision statement, Mr X was aggrieved that the Council had continued to charge him a contribution for the six weeks for which it funded his care. He said it only charged him because it had delayed in transferring his case to the new council. As Mr X received the care for which he was charged a contribution, however, he did not suffer any injustice as a result of the charge.

Agreed action

28. The Council agrees to ensure its staff are aware of the statutory guidance which pertains to adults moving from the area, specifically in respect of equipment needs.
29. In recognition of the additional distress caused to him by its failure to follow the guidance, the Council agrees to make a payment of £250 to Mr X

Final decision

30. There was fault on the part of the Council which caused injustice to Mr X.

Investigator's decision on behalf of the Ombudsman