

SPSO decision report

Case: 201304359, West Lothian Council
Sector: local government
Subject: mental health issues
Outcome: some upheld, recommendations

Summary

Mr C complained about a complaints review committee (CRC) hearing, which considered his complaint about the actions of social work services in relation to the care of his elderly mother.

Mr C complained that the CRC did not warn him before the proceedings that they would only consider those parts of his complaint that he raised in oral argument, that he was not given an opportunity to call council officers as witnesses, that his complaint was not summarised by the CRC chair as required by the council's procedures, that the CRC was biased towards the council, that the CRC unreasonably prevented him from presenting additional evidence, that the CRC did not seek an independent expert opinion on the complex technical issues involved, and that the CRC's decision notice failed to include relevant representations made by the council. Mr C also raised concerns that the council did not properly follow their procedure when reporting the CRC's findings to their Health and Care Committee, because they did not include Mr C's comments (as required by the procedure).

After investigating Mr C's concerns, we found that the CRC did not follow some parts of the procedure set out in the council's policy. The council explained that this happened because the policy was not consistent with the procedural guidance used in the hearing. We upheld two of Mr C's eight complaints and recommended that the council apologise to him and review their policies and procedures on CRCs to ensure consistency.

In relation to Mr C's other complaints, we found no evidence that the CRC had otherwise failed to follow its own procedures, that it was biased, or that Mr C was prevented from presenting evidence at the hearing or calling any witnesses he wished. We also found it reasonable that the CRC did not seek independent expert opinion on the complaint.

Recommendations

We recommended that the council:

- demonstrate to us that the discrepancies between the complaints handling procedure and their Note of Procedure have now been addressed;
- take steps to ensure that discrepancies do not arise in future between the different guidance documents relevant to CRCs;
- provide us with evidence that the discrepancies between the complaints handling procedure and the Scottish Government guidance and directions have now been addressed; and
- issue a written apology to Mr C for the failings our investigation found.