

SPSO decision report



Case: 202406507, Midlothian Council
Sector: Local Government
Subject: Assessments / self-directed support
Decision: upheld, recommendations

Summary

C, an advocate, complained on behalf of their client (A) about the social care assessment carried out by the council, and the council's handling of A's complaints. A has several long-term health conditions and requested a social care assessment due to concerns about gaps in their care arrangements. The complaints raised regarding the assessment included the timescales taken for completion of the assessment, whether A's needs were fully and reasonably assessed, whether legal standards and good practice were appropriately taken into account, and whether the conclusions of the assessment were reasonable.

We took independent advice from a social work adviser. We determined that the social care assessment was unreasonable. This was because it was not carried out within a reasonable timescale, risks ratings appear to have been changed from 'substantial' to 'moderate' without explanation, and there was evidence on file to suggest that A's financial means may have been a factor in assessing their needs and risks. Therefore, we upheld this part of C's complaint.

We also found that the council's handling of A's complaint was unreasonable, as they failed to appropriately log and respond to complaints, failed to contact A to discuss the complaints, failed to read documentation provided by A prior to a complaint meeting, and failed to respond to C and A's outstanding concerns. We upheld this part of C's complaint.

Recommendations

What we asked the organisation to do in this case

Apologise to A for the failure to carry out a reasonable social care assessment, and the failures in complaint handling. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/meaningful-apologies. The council should also provide an explanation of the evidence on file that suggests A's financial means may have been a factor in assessing needs and risks.

The council should offer A a re-assessment of risks and needs. This should be carried out by someone not previously involved in A's case. If there is disagreement as to whether risks meet the critical/substantial eligibility criteria, the council's position should be fully explained.

What we said should change to put things right in future:

- Care assessments should be clear, comprehensive, in line with relevant legislation and guidance, and completed in a timely manner. If risk ratings are changed or there is disagreement as to whether risks meet the critical/substantial eligibility criteria, the council's position should be fully explained. An individual's financial position should not influence their needs assessment.
- In relation to complaints handling, we recommended
- Complaint handling should be in line with Model Complaint Handling Procedures. Complaints should be fully addressed, and if there is uncertainty about the issues being complained about, these should be clarified with complainants. Where failures have occurred, these should be acknowledged and apologised.

for. Where information is provided to inform a complaint meeting, this should be read or an explanation given as to why it will not be read. We offer SPSO accredited Complaints Handling training. Details and registration forms for our online self-guided Good Complaints Handling course (Stage 1) and our online trainer-led Complaints Investigation Skills course (Stage 2) are available at <https://www.spsso.org.uk/training-courses>.