

Scottish Parliament Region: Mid Scotland and Fife

Case 200500977: Stirling Council

Summary of Investigation

Category

Local Government: Social Work; Policy

Overview

The complainant considered that Stirling Council's position to introduce a charge of £1 per week for a medical emergency care service alarm installed in her home was unfair and unreasonable and breached the Scottish Executive 'free personal care' policy.

Specific complaint and conclusion

Care services (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendation to make.

Main Investigation Report

Introduction

1. On 11 July 2005, the Ombudsman received a complaint from the complainant, Mrs C.
2. The complaint I have investigated is that the decision made by Stirling Council (the Council) to introduce a charge for its medical emergency care service alarm was unfair and unreasonable. Mrs C argued that the service should be provided free because it was deemed to be 'personal care'.

Background

3. Mrs C's husband (Mr C) has Parkinson's disease and Mrs C is his primary carer. In 2002, after surgery to alleviate his symptoms, Mr C was assessed by the Council's Social Work Department and a mobile emergency care system (MECS) was installed in Mr and Mrs C's home.
4. Crisis calls can be received via MECS by the Council's contact centre on a 24 hour per day, 365 day per year basis. MECS carers respond as required to emergency calls.
5. On 17 March 2005, the Council's Community Services Committee agreed to introduce a charge for MECS, to be applied from 11 April 2005, at a rate of £1 per week with service users being asked to pay quarterly in arrears. The Committee agreed to develop other flexible payment methods.
6. On 5 April 2005, the Council wrote to Mr C notifying him of the decision to implement the charge with effect from 11 April 2005.
7. That letter explained that demand for the service had grown over the years and that the decision to introduce a charge was to enable the Council to deliver the same level of service.
8. The letter invited Mr C to discuss any issues raised and gave a helpline number for him to do so.

9. When Mrs C first approached the Ombudsman's office, her complaint had not been considered formally by the Council and she was advised to complete the Council's own complaints procedure.

10. Mrs C duly progressed her formal complaint with the Council and returned to the Ombudsman in November 2005.

Investigation

11. My investigation involved examining all documents and correspondence provided by Mrs C, and written and telephone enquiries were made of the Council. Relevant legislation was also examined.

12. I have not included in this report every detail investigated, but I am satisfied that no matter of significance has been overlooked. Both Mrs C and the Council were given the opportunity to comment on a draft of this report.

13. In her complaint to the Council, Mrs C expressed concern about the implementation of the charge for an MECS system and also about the position of the most vulnerable in society, who she felt might be adversely affected. Mrs C said:

'In order to save the Council money and not to have to supply carers on a daily basis an MECS alarm was installed. In the new budget for the Council we now have to pay. I know it is £1 per week but that, I feel, will be like Topsy and 'grow'.

The decision discriminates against the most at risk in the community and, speaking to others, some feel blackmailed into paying for the service in order to feel safe. This really contradicts the 'free personal care' law passed by the Scottish Executive.

I appreciate that it does cost to supply the service but I don't think the Council could stoop any lower than this, by attacking the most vulnerable in our society. Perhaps 1p on the Council Tax would cover the £1 charge.'

14. In their response, the Council's Community Services explained that the purpose of the MECS system was not to prevent supplying carers on a daily basis. It could either be part of an agreed package of care or stand on its own as a support to those service users who did not need access to the broader range of services. The Council stressed that access to the system was not based on a care needs assessment, but was available to service users on the basis of an expressed need. Demand for the service was, therefore, very high.

15. The Council stated that the implementation of even a modest charge would, in their view, assist the Council in maintaining and expanding the service to meet continuing demand. The Council enclosed for Mrs C a copy of the report detailing the charges and I have examined that report carefully. The report demonstrates that MECS was one of a range of care at home services which attracted charges and, until 2005/2006, was one of the few services which did not have a charge.

16. The letter went on to address Mrs C's points about free personal care. The Council stated:

'You make the point that this new charging policy contradicts the Scottish Executive's 'free personal care' policy. 'Free personal care', as defined by the Scottish Executive, relates to the provision of direct care services which are provided regularly and which are put in place as a result of a care needs assessment. As noted above, access to the MECS system is much broader and is, in effect, available on request in response to an expressed need. We therefore feel that the implementation of this charge does not, in fact, contravene Scottish Executive policy or legislation.

You also expressed concerns about the position of the most vulnerable people in society. We share those concerns. The approach to the implementation of the charges has been designed to take account of the concerns of service users. Risk and financial assessments will be undertaken, to satisfy ourselves that vulnerable people are not being adversely affected.'

17. Mrs C remained unhappy and pursued her complaint.

18. In their final response to her formal complaint, the Council wrote again to Mrs C on 4 October 2005. Mrs C had previously been visited at home by the Council's social work complaints officer.

19. The letter dated 4 October 2005 was written by the Council's corporate complaints officer (Officer 1). Officer 1 reiterated many of the points made previously in writing in response to Mrs C. With regard to Mrs C's concerns about those whom she considered the most vulnerable in society, Officer 1 stated that he agreed with the response by Community Services' officers. He also drew Mrs C's attention to a statement contained in the Council report (previously copied to Mrs C), regarding the chief social work officer's discretion to reduce or waive the MECS service charge in cases of individual hardship caused as a result of the change.

20. Officer 1 noted that Community Services had provided a written response to Mrs C's assertion that the MECS charge contradicted free personal care legislation.

21. Officer 1 stated that, although he recognised Mrs C felt very strongly about the charge and respected her views, the Council had the legal power to charge for the service and had decided to implement a charge. Officer 1 said that a monitoring report on the introduction of the charge was to be submitted to the Council's Community Committee in November.

22. In the course of my investigation, I asked the Council for details of how the decision to implement the charge was taken and I examined the relevant Committee report. I also examined the detailed monitoring report submitted to the Community Committee in November 2005.

23. That monitoring report set out the basis for charging for services. Specifically, the report explained that local authorities are empowered to charge for social work services, such as MECS, under Section 87 of the Social Work (Scotland) Act 1968. I have confirmed that legislative position. The recent Scottish Executive (Free Personal Care) Legislation does not alter this position with regard to MECS.

24. The report also confirmed that, within the current Scottish Executive framework, Councils have the power to charge for a number of adult, non-residential care services including lunch clubs, domiciliary services, including meals-on-wheels, wardens in sheltered housing, laundry services and community alarms of the MECS type.

25. The report concluded that, following the introduction of the charge, some citizens had sought a review of their need for the service and a small, but significant, number had identified that the service was no longer required due to changes in circumstances. This assessment had been carried out where appropriate.

Conclusions

26. I fully recognise Mrs C's strength of feeling about the Council's decision to introduce the charge for MECS and her strong desire to provide the fullest care possible for her husband. I also recognise her strong desire to ensure that vulnerable members of society are supported and not disadvantaged as a result of the implementation of this charge.

27. However, having considered all the evidence in connection with Mrs C's individual complaint, I am satisfied that the Council's position to introduce the charge was one they were legally entitled to take. I am also satisfied the decision was taken properly, after careful consideration of all relevant factors. I am satisfied too that the Council have taken all reasonable steps to ensure that vulnerable citizens are not disadvantaged by carrying out risk assessments and considering a range of payment methods. I also note that the Council have the discretion to waive the charge in circumstances where they deem it necessary.

28. Accordingly, I do not uphold Mrs C's complaint.

29 August 2006

Explanation of abbreviations used

Mrs C	The complainant
Mr C	The complainant's husband
The Council	Stirling Council
MECS	Mobile emergency care system
Officer 1	The Council's corporate complaints officer