

Scottish Parliament Region: Mid Scotland and Fife

Case 200502631: Fife Council

Summary of Investigation

Category

Local government: Social Work; Homecare and Support Services; Policy; Administration

Overview

The complainant (Mr C) raised a number of concerns against Fife Council Social Work Department (the Council) that they refused to pay transportation costs of Home Care staff to attend his mother-in-law (Ms D), at the property Mr C specifically leased for Ms D, when she was discharged from hospital.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council acted incorrectly when they advised Mr C he had to pay privately for the transportation costs incurred by the Home Care staff in attending to Ms D (*not upheld*);
- (b) the Council's decision not to pay transportation costs resulted in an impasse that meant no home care was provided for Ms D over a considerable period (*not upheld*); and
- (c) the Council refused to allow their carers to attend the elderly who live in off-main-road accessed accommodation, due to the possibility of vehicle damage occurring (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 21 December 2005, the Ombudsman received a complaint from Mr C that Fife Council (the Council) refused to pay the transportation costs of their Home Care staff when attending to Ms D after she was discharged from hospital. According to Mr C, he had leased a property (the Property) for a minimum period of six months for both his family and Ms D. Mr C stated that he specifically arranged the property lease so that his family could personally look after Ms D and provide her with a family environment when she was discharged from hospital care.

2. As part of the Home Care provision assessment, the Home Care Manager and Team Leader undertook a risk assessment of the road access to the Property. This resulted in the Council classifying the access route as 'hazardous'. Thereafter, the Council advised Mr C that they could provide a Home Care service to Ms D, however, Mr C or Ms D would have to arrange and pay for a private taxi service to transport the Home Care staff to visit Ms D at the Property. In Mr C's view the Council's suggestion was unacceptable, as he believed that the provision of home/personal care for the elderly was a free service and 'on no account should a transport charge be asked for nor paid for services provided'.

3. The complaints from Mr C which I have investigated are that:

- (a) the Council acted incorrectly when they advised Mr C he had to pay privately for the transportation costs incurred by the Home Care staff in attending to Ms D;
- (b) the Council's decision not to pay transportation costs resulted in an impasse that meant no home care was provided for Ms D over a considerable period; and
- (c) the Council refused to allow their carers to attend the elderly who live in off-main-road accessed accommodation, due to the possibility of vehicle damage occurring.

Investigation

4. The Investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and the Council. I also examined the Council's Homecare Services Care Plan, Needs Assessment Documents and Risk Assessment Documents. I had sight of a

copy of the Risk Assessment undertaken on 19 August 2005, by the Home Care Manager, regarding the access road of the Property. I wrote to the Council on 27 February 2007 and I received their reply on 5 April 2007. Following my review of the Risk Assessment policies and procedures, I conducted a telephone interview with the Council's Service Manager of Homecare Services on 14 May 2007.

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

(a) The Council acted incorrectly when they advised Mr C he had to pay for the transportation costs incurred by the Home Care staff in attending to Ms D

6. According to Mr C, when he and his family decided to personally look after his mother-in-law, Ms D, following her discharge from hospital, it took some time to find suitable accommodation. Mr C and his family found the Property and moved in on 3 August 2005. According to Mr C, at a meeting he subsequently attended with the Council, they stated that 'had we asked the Council to inspect the property, they would have confirmed that it was unsuitable for the Home Carers visits'. Mr C told us that 'it did not come to our minds that suitability would be a Carer issue, but only that the property would suit family needs'.

7. In a letter to the Council dated 19 October 2005, a lawyer acting for Mr C stated that, regarding the condition of the access route to the Property:

'the track is about three quarters of a mile long and 10 - 15% of it is rough. The road is surfaced with loose hardcore and there are no major pot holes. Both [Mr and Mrs C] have normal vehicles and have never experienced any damage to them. The Postman comes up the road in a normal vehicle to deliver mail and the Council's refuse vehicle comes up once a week to empty bins.'

8. The lawyer concluded that the Council had a duty to provide care at Ms D's home and 'it appears that your reasons for refusing to do so are based on inconvenience rather than any real issue'.

9. In Mr C's letter to the Council dated 26 October 2005, he stated that, although the Council had not refused Home Care, to receive it his family had been requested by the Council to provide transport (such as a taxi) for Home

Care staff to use from the main road to the property and the provision of this transport was to be at the family's expense.

10. In their response to my enquiries, the Council stated that Mr C arranged to lease the Property without reference to the Council Social Work Service as to the practicality of providing a Home Care service to the house. A Home Care Manager visited Mr C at the Property and agreed on the necessary level of care for Ms D but pointed out the difficulty of accessing the Property. The Council specified that the relative remoteness of the Property was not a concern, it was 'the fact that the approximate 1.5 mile of unsealed road leading to [the Property] had a pot-holed surface was the issue, which prevented our staff from reliably and safely accessing the property in their own vehicles'.

11. According to the Council, the Team Leader of Home Care visited the Property and Mr C's family, to discuss the Council's position and to explain the reasons (see paragraph 9) why they were unable to insist that their staff use their own vehicles to access the property. There was also a concern that Home Care staff vehicles could be damaged by using the access road. He also advised that the Home Care service would not be able to provide their staff with other vehicles to access the property.

12. As the Council were unable to provide transport or pay for transport costs, the Team Leader of Homecare suggested to Mr C's family that if they organised and paid for a taxi service, this would then enable the Home Care staff to visit and attend to Ms D.

13. During my discussion with the Service Manager of Home Care services, he told me that both the Manager and Team Leader of Home Care individually inspected the access to the Property and they both considered that the pot holes were too hazardous for their Home Care staff vehicles. Furthermore, a year previously, a care worker's vehicle was damaged in an unrelated case. The Council's Legal Services Department ruled that, as the Council was not legally liable for such damage, a risk assessment regarding access to property must always be carried out and recommendations followed.

14. The Service Manager of Home Care services also told me that, as Ms D was assessed for nursing home in-patient care, in such cases the Social Work and Occupational Therapy Departments offered advice on home suitability when patients are ready to be discharged into the community. According to the

Service Manager of Home Care services, neither Mr C nor any family members appear to have sought this advice.

(a) Conclusion

15. It is clear that, for the reasons stated in paragraphs 9 and 10, the Council had neither provided transport nor paid for alternative transport for the Home Care staff to attend to Ms D at the Property. Having given careful consideration to all the documentation I have seen (see paragraph 3), I am satisfied that there is no evidence that the Council acted incorrectly or unreasonably, when they would not allow their Home Care staff to use their own vehicles to visit Ms D on a route to the Property, assessed as hazardous. Also, I have not seen any evidence that the Council acted incorrectly by not paying for the transport cost of taxis or any other private vehicles, to enable the Home Care staff to access the Property. Furthermore, it was reasonable that the Council followed the guidance they received from their Legal Services Department about such matters. Having carefully considered all these aspects, I do not uphold the complaint.

(a) Recommendation

16. The Ombudsman has no recommendation to make.

(b) The Council's decision not to pay transportation costs resulted in an impasse that meant no home care was provided for Ms D over a considerable period

17. According to Mr C, as a consequence of the decision taken by the Council at (a) not to pay transportation costs, no Home Care was provided to Ms D by Home Care services, for a considerable period.

18. In their response to my enquiries, the Council refuted this allegation. They told me that the Team Leader of Home Care services visited Mr C's family, when the family decided not to pay privately for transporting Home Care staff from the main road to the Property. During this visit, the Team Leader of Home Care services offered to organise for the family to be visited by staff from the Council's Direct Payment Scheme, so that Mr C's family could make plans for their own provision of care. According to the Council, Mr C turned this suggestion down, on the grounds that he was previously dissatisfied with this scheme and also, in Mr C's view, private individuals were reluctant to journey from a neighbouring town to the Property for episodic visits.

19. In their letter dated 4 April 2007, the Council provided me with a timeline of attendances and action they took regarding Ms D as follows:

'[Ms D] was visited at her home on 19 August 2005, following a referral on 15 August 2005. [Mr C] then consulted a Lawyer who wrote to the Department on 26 September 2005. An immediate response to this letter by the Team Leader was followed by a visit by the Team Leader of Homecare Services on 17 October 2005, at which the offer of a Direct Payment was made. At that time [Ms D] required hospital treatment and subsequently did not return to this house. [Ms D] returned to live with another daughter and a Home Care Service was provided there.'

(b) Conclusion

20. In Mr C's view, the Council did not provide Home Care for Ms D over a considerable period, as a result of the Council's decision not to pay transportation costs for Home Care staff. However, I have seen no evidence from either Mr C or the Council to support this opinion. Furthermore, I consider that the Council, specifically in their meetings with Mr C and his family, suggested ways to find a workable solution to this impasse, regarding the problems that arose from the access issues. In my view, these suggestions were reasonable and the Council cannot be held responsible for Mr C's decision to reject them. I do not uphold this complaint.

(b) Recommendation

21. The Ombudsman has no recommendations to make.

(c) The Council refused to allow their carers to attend the elderly who live in off-main-road accessed accommodation, due to the possibility of vehicle damage occurring

22. In Mr C's view, the Council's decisions at (a) and (b) led him to opine that the Council did not permit their carers to attend to the needs of the elderly who live in off-main-road accessed accommodation.

23. In their response to me, the Council commented that this is a generalisation 'which is not supported by our practice' and they stated that all aspects of providing care must be assessed on an individual basis as follows:

'Where the risk of damage to an individual or their property is present, it is imperative our service reduce or negate this risk. Not all off main road accommodation is dangerous to access and it is possible to make alternative arrangements with families, to provide means of access, which

do not threaten our staff's capacity to maintain their vehicles. Our Service in this area makes a number of such arrangements with Service Users and their representatives. On all such occasions the cost of this is borne by the family.

In order that personal care may be provided it is imperative that safe access to the property be available. It is regrettable that this was not possible in this case but realistic resolutions were offered by the Service.'

(c) Conclusion

24. Mr C did not provide any evidence to support his complaint that the Council refused to allow their carers to attend the elderly, who live in off-main-road accessed accommodation. His complaint emanated from his experiences, as detailed at complaints (a) and (b). In my view, the Council have commented reasonably about how they must prevent, as far as possible, any risk befalling their staff, while simultaneously ensuring that personal care is provided and individually assessed. I have carefully reviewed all the available documentation and find no evidence to support Mr C's allegation that the Council refused to allow their carers to attend the elderly who live in off-main-road accessed accommodation. I do not uphold this complaint.

(c) Recommendation

25. The Ombudsman has no recommendations to make.

19 September 2007

Explanation of abbreviations used

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| Mr C | The complainant |
| The Council | Fife Council |
| Ms D | Mr C's mother-in-law |
| The Property | The house leased by Mr C for Ms D |

List of legislation and policies considered

Fife Council Homecare and Support Services Pack

Fife Social Work Homecare Services Care Plan Booklet

Fife Council Charges for Home Care Services Booklet