

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
Cornwall Council
(reference number: 19 004 581)**

3 December 2020

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs D The complainant

Report summary

Adult Social Care – Council: assessment

Mrs D complains the Council should not have stopped her Direct Payments in August 2018. Mrs D says the Council should also have allowed her daughter, who lived with her, to remain her paid carer. Mrs D complains the Council failed to put a commissioned homecare service in place to provide her care when it stopped her Direct Payments, and because of this her daughter was forced to continue to provide this care to her as an informal unpaid carer. Mrs D says the Council also failed to support her daughter in her role as her informal carer.

Mrs D says this resulted in significant distress to her and her daughter, as well as financial hardship for her daughter. Her daughter could not take up any paid employment opportunities for herself, did not have enough breaks and was therefore unable to maintain her social life, engage with hobbies and interests and have regular time off to relax.

Mrs D also complains about the financial assessment the Council carried out in November 2017, which resulted in a decision that she had to pay a contribution towards the cost of her care between November 2017 and December 2018.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To remedy the injustice caused by the faults, the Council has agreed to, within four weeks of the date of this report:

- apologise to Mrs D and her daughter for the faults identified and for the distress these caused;
- pay Mrs D's daughter an amount equivalent to what she would have received if the Council had continued to pay her for the care support she provided, from 26 January 2019 onwards until it found a care agency and offered Mrs D a commissioned care package in February 2020;
- review Mrs D's circumstances and decide if the Council should allow Mrs D a Direct Payment to pay her daughter to provide her care. If it decides to refuse this, the Council should provide a clear explanation in writing. If it approves this, the Council should provide clear information in writing about the Council's expectations for managing the payments and details of support that is available to help Mrs D with this; and
- share with its adult social care staff the lessons learned about:
 - when the Council may consider it necessary to use Direct Payments to pay a family member to provide care; and
 - how best to get medical evidence efficiently.

We also recommend the Council pay Mrs D and her daughter £500 each for the distress they have suffered since September 2018. The Council has not yet agreed to pay £500 to Mrs D.

The complaint

1. The complainant, whom I shall call Mrs D, complains the Council should not have stopped her Direct Payments in August 2018. Mrs D says the Council should also have allowed her daughter, who lived with her, to remain her paid carer. Mrs D complains the Council failed to put a commissioned homecare service in place to provide her care when it stopped the Direct Payments. As a result, her daughter was forced to continue to provide this care to her as an informal, unpaid, carer. Mrs D says the Council also failed to support her daughter in her role as her informal carer.
2. Mrs D says this resulted in significant distress to her and her daughter, as well as financial hardship for her daughter. Her daughter could not take up any paid employment opportunities for herself, did not have enough breaks and was therefore unable to maintain her social life, engage with hobbies and interests and have regular time off to relax.
3. Mrs D also complains about the financial assessment the Council carried out in November 2017, which resulted in a decision that she had to pay a contribution towards the cost of her care between November 2017 and December 2018.

Legal and administrative background

4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*). I decided to use my discretion to investigate earlier matters as the issues complained of have been ongoing since late 2017.
6. Direct payments are monetary payments made to individuals who ask for one to meet some or all their eligible care and support needs. They provide independence, choice and control by enabling people to commission their own care and support to meet their eligible needs. The Council should support people to use and manage the payment properly.
7. After considering the suitability of the person requesting direct payments against the conditions in the Care Act 2014, the council must decide whether to provide a direct payment. In all cases, the council should consider the request in as timely a manner as possible. The council must provide interim arrangements to meet care and support needs to cover the period in question. Where accepted, the council should record the decision in the care or support plan. Where refused, the council should provide the person making the request with written reasons to explain its decision (*Care and Support Statutory Guidance 2014*).
8. Regulation 3 of The Care and Support (Direct Payments) Regulations 2014 says that direct payments must not be used to pay a person living in the same household as the adult, who is the adult's son or daughter, except if the Council considers it is necessary to do so to meet the adult's care needs.

How we considered this complaint

9. We have produced this report after examining the relevant files and documents provided by both parties. We sent a draft report to the complainant and the Council and invited comments. We took the comments received into account before we finished the report.

What we found

Financial assessment

10. Mrs D said the Council failed to properly carry out a financial assessment in November 2017. She said it failed to consider her mortgage, electricity bill and cleaning products as disability related expenditure (DRE). If it had done this, she would not have had to make a contribution. Following a more recent financial reassessment, she now does not have to pay a contribution. She says the Council was wrong to ask her to pay a weekly contribution of £30 between November 2017 and December 2018, which she could not afford.
11. The Council says it asked Mrs D for evidence of her DRE expenses, but she did not provide this. It did however include mortgage payments of £123 a month in the assessment.
12. In November 2017 the Council wrote to Mrs D with its decision. The letter said if she did not agree with the charge, she could ask the Council to reconsider. The Council has never received such a request.
13. Mrs D told me that she was not well enough to fully take part in the financial assessment or to provide further evidence of this at the time.
14. The Council's financial assessment in December 2018 decided that Mrs D's contribution should be nil as:
 - her mortgage payments had increased to £336 a month; and
 - Mrs D had DRE's of £13.85 per week, as verified by an electricity bill shown to the officer.

Conclusions on the financial assessment

15. The Council provided Mrs D with general information about what expenses it could consider as Disability Related Expenses. It was up to Mrs D to describe any extra expenses she believed she had due to her disability. Mrs D did not raise the cost of cleaning products at the financial assessment in November 2017 and did not provide the necessary bills about her extra costs of electricity. It was not fault the Council did not include these costs as DRE.
16. The Council told Mrs D how to challenge its assessment, including the mortgage amount used, but she did not. When Mrs D eventually provided a copy of her bills, the Council immediately took this into account, as a result of which her contribution reduced to nil, from then onwards.

The Council's initial decision to stop Mrs D's Direct Payments

17. Mrs D had been receiving Direct Payments (DPs) for several years. She had employed her children as her Personal Assistants (PAs) and had been paying them from her DPs for the care support they provided. A council officer met Mrs D in spring 2018 to review her DPs. After the visit, the officer emailed Mrs D to say she should provide evidence that all three PAs were registered with HMRC and had Public Liability Insurance in place. If she did not do this the Council would

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- stop the direct payments. Mrs D also received an email with the contact details of an organisation (Disability Cornwall) who could help her with managing her DPs.
18. The officer also raised their concerns about the way Mrs D was managing her DPs, in an internal email sent after the meeting. As well as the points above they also said Mrs D did not keep timesheets and did not have any evidence to show what support she received from her PAs. She had also not been paying her assessed weekly client contribution of £30.61 a week. The officer noted Mrs D had agreed for a third-party organisation to manage her DPs going forward.
 19. In mid-2018 the Council told Mrs D that, as it had not received her information, it would discontinue her Direct Payments from mid July 2018. The Council said a Social Worker would carry out an assessment and help in providing a commissioned service.
 20. At the end of July 2018, Mrs D provided the evidence the Council had asked for, and clarified she only had one PA at the moment, her daughter who lived with her. Despite this, the Council stopped the DPs in early August 2018. In October 2018 it told her why it had done this, saying this was because of:
 - her failure to pay her assessed contribution; and
 - she found it difficult to manage her DPs and did not keep any records for her PA(s) so the Council could not verify what she was spending the money on.
 21. The letter also said that a DP could not be used to pay a close relative living in same household, unless the Council has agreed there were 'exceptional circumstances'

Conclusions on stopping the direct payments

22. The Council stopped the DPs even though Mrs D had provided the information it had asked for and without ensuring it had alternative care support in place. It had not yet carried out the needs assessment and had not yet identified a care agency who could take over her care, as promised in July 2018. This was fault.
23. It also failed to tell her in August 2018 why it had decided this, so causing uncertainty and distress to Mrs D. This was also fault.

The Council's failure to put appropriate care support in place

24. At the end of August 2018, the Council told Mrs D her case would be re-allocated for a reassessment. In mid-September Mrs D was allocated a new social worker.
25. At the end of October 2018, Council records say Mrs D called in tears saying she was currently bedbound, and her daughter, as her unpaid carer, was on the verge of a nervous breakdown.
26. The social worker eventually contacted Mrs D on 7 November 2018. She noted Mrs D said:
 - she feels bad that her daughter continues to care for her without receiving a payment. She had to give up work to carry out this caring role, which left her daughter without any money;
 - a care agency would not be able to provide the level of care her daughter gives, especially when she needs support at night and needs items to be exceptionally clean due to the risk of infection and ill health; and
 - her husband would not tolerate strangers in the house, which meant it would be virtually impossible to receive support from a care agency

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27. In November 2018, three months after the Council had stopped Mrs D's DPs, the social worker carried out a needs assessment and a carer assessment. This found that:
- Mrs D has significant and complex health needs and needs support with all aspects of daily living: cooking, mobility, toileting, personal care, dressing, cleaning, correspondence and attending appointments. Mrs D is prescribed oxygen for day and night use due to difficulties with her lungs;
 - Mrs D's daughter provides a significant amount of support every day. She feels she is the only one who can support her mother adequately. She worries about trusting her mother's care to anyone else (an outside personal assistant or a care agency) as they do not know her and worries they will not be able to pick up signs she may be declining; and
 - Mrs D's daughter feels overwhelmed with her significant caring role and struggles financially. She is low in mood and frustrated. The carer role is not sustainable as she is unable to engage with any of her own ambitions or have time off while being assured her mother is well supported
28. The outcome of the assessment was the Council would put formal care in place to meet Mrs D's needs and enable her daughter to take up paid employment and improve her quality of life. Meanwhile, Mrs D would receive a one-off payment of £400.
29. An internal record from the social worker, dated 16 November 2018, states that:
- Mrs D and her daughter were reluctant to accept support from a care agency. They felt that agencies are unreliable and often late. The social worker reiterated the Council would not offer a direct payment and would look for a care agency instead. This made Mrs D and her daughter very upset. Mrs D's daughter was very worried her mother would not receive proper care from strangers;
 - Mrs D said due to her breathing condition she could not have people supporting her who smoke, have perfume, have pets, or have dusty / musty clothes, because it would impact heavily on her; and
 - the daughter said she supported her mother 24/7 and did not mind that she always provided more hours of support than the Direct Payments paid for.
30. The social worker then started to get medical information from professionals involved in Mrs D's care. She did this to determine if there were, as Mrs D claimed, any exceptional circumstances that showed the care could not be provided by a care agency or an outside PA. The social worker emailed Mrs D's GP surgery in late November 2018 with a request for a call back to discuss Mrs D's complex health difficulties. The GP surgery confirmed that Mrs D had complex medical needs, including hypersensitivity allergic reactions to certain substances, which affected her lung function. The GP also said they were not aware of any care homes Mrs D could go for respite where all potential triggers could be avoided.
31. At the end of November 2018, the social worker agreed with Mrs D they would contact her GP to get reports detailing her diagnosis and how this affected her. The same day they emailed the GP asking for the most recent reports detailing all of Mrs D's diagnoses and information about known triggers to Mrs D's allergies. At the start of January 2019, the social worker emailed the GP to chase up the response, but did not receive it.

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32. The Community Matron visited Mrs D to assess her health. She completed a checklist and sent this to the Council at the start of December 2018. This confirmed Mrs D's breathing problems, which resulted in an inability to move around and put her at high risk of pressure sores, which would need to be monitored during personal care. It also noted Mrs D had depression for a long time and this had become much worse recently.
33. Meanwhile, the Council decided to reinstate Mrs D's DPs for six weeks, so she could pay her daughter to provide support to her, while "*clarity was sought from health around clinical need to inform support required*". This was to allow the Council some time to consider evidence "*in relation to [Mrs D's] assertion that her complex needs cannot be met by a commissioned service*". The Council could then decide if her situation met the criteria for being considered an "exceptional circumstance".
34. The DP payments were backdated to the date they had stopped earlier in the year, so Mrs D's daughter was paid for the support she provided between August 2018 and 25 January 2019.
35. In mid-January 2019, the social worker sent an email to the Council's service manager saying the GP's response did not mention specific triggers for Mrs D's breathing problems. The social worker also said -
- "My only reservation with recommending a care provider is the lack of resources and potential for her to be without care waiting on the no capacity list."*
36. A few days later Mrs D met with her social worker. The record says Mrs D:
- would try to speak to her GP and the District Nurse to get medical information to show how her health impacts her daily life and what environmental factors impact this;
 - said that if her home wasn't cleaned thoroughly by her daughter, her health at home would decline even further;
 - said she often needed support through the night and early hours of the morning. Some days she wanted to stay in bed with minimal support. If she decided that she and Mr D wanted to stay in bed, it would be intrusive to have a stranger come into their personal space to support her; and
 - that strangers in the house would have a negative effect on her husband. Mrs D said his mental health would worsen, which would impact on his ability to be a source of company and support for her.
37. Mrs D's daughter said she felt she could not trust a stranger to pick up on signs when her mother is declining. Both she and Mrs D said as her mother's condition fluctuates, she never knows how she will feel, so her needs could not be met by a pre-determined weekly-timetable.
38. The social worker knew Mr D was currently supported by the Community Mental Health Team. This meant risk to others would need to be considered should an external agency be commissioned.
39. The record says that, due to the issues Mrs D and her daughter had identified, it was not possible to proceed with detailed support planning. Mrs D was insistent that her situation was an exceptional circumstance, and the social worker noted that more work would be needed to look into this.

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40. The DPs stopped after six weeks despite the Council having not yet completed its needs assessment and care planning.
 41. The social worker asked Mrs D and her daughter to keep a diary of how Mrs D felt and what support her daughter provided. Mrs D agreed to do this and send it to the social worker after 10 days.
 42. Mrs D says her daughter called Mrs D's GP for extra information. The social worker chased Mrs D for the GP information on 6 and 19 February 2019. Mrs D said she had been poorly and would send the diary by email. She said the Community Matron would do a report. The social worker received the daily logs on 1 March.
 43. Mrs D asked the social worker to put her "somewhere where I can be looked after properly until things are sorted out". However, the social worker offered Mrs D some support from a care agency to enable Mrs D's daughter to have some respite. Mrs D said she did not want 'a sticking plaster' but wanted matters sorted immediately. The Council decided that Mrs D had refused its proposal for interim care by a care agency.
 44. In early March 2019 the Council's service manager said the Council should continue to "*try and gain medical evidence to support exceptional circumstances*". The Council contacted Mrs D's GP shortly after. The GP replied they did not have any further knowledge of specific triggers. Rather than calling the GP to discuss this further, and get further clarifications, the social worker responded by email asking for a medical judgement about ongoing daily care and if support can only be provided by the daughter.
 45. The social worker also emailed the Matron to chase up on the report that Mrs D asked her to provide to get medical evidence to support the request for extenuating circumstances.
 46. The social worker met again with Mrs D and her daughter in mid-March 2019. Mrs D said she and her daughter would help with chasing the medical evidence to support what Mrs D had said. Mrs D's daughter said she could not cope with the amount of support. Mrs D asked the social worker for support, by an agency, with cleaning and ironing. I have not seen any evidence the Council progressed this. Instead, the Service Manager sent an email to Mrs D on 20 March, in which he incorrectly stated that Mrs D had not agreed to interim support.
 47. Mrs D was admitted to hospital in April 2019. Hospital staff told the hospital social worker that Mrs D was independent on the ward with her care needs. However, Mrs D explained that this was due to the sterile environment because of which her breathing improved. Mrs D mentioned again that she wanted a care agency to come twice a week to give the house a deep clean and for ironing tasks, to give her daughter a break.
 48. In April 2019, the Council decided there was not enough evidence Mrs D's support could not be appropriately delivered by paid carers other than the daughter. It said that as Mrs D's circumstances were not exceptional, she should not have a DP to pay her daughter.
 49. The Council offered an interim package of 22¼ hours per week, while Mrs D could try to get more evidence to support her case. This would consist of three visits per day and three hours a week to maintain the home. Mrs D confirmed in early May the Council could go ahead with this and asked for the name of the care agency. Mrs D's social worker asked Mrs D on 8 and 14 May to discuss this further; I am unclear why there was a need to discuss anything further.

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50. In May 2019, Mrs D's GP wrote to the Council confirming what Mrs D had told the Council – her condition varied from day to day, she needed the flexibility of a live-in-carer, which is exactly what her daughter provided. They confirmed Mrs D needed a particularly clean house as she is prone to picking up infections and her daughter spends four hours a day cleaning; anything less would be inadequate.
51. The social worker wanted to know more information from Mrs D about her fluctuating needs. Mrs D said the GP had told the social worker to contact them directly if there were any further questions. The social worker then contacted the GP, who was on leave until the end of July. There is no evidence the social worker tried to contact the GP again after that.
52. In late June 2019 the Council told Mrs D *“The decision about the possibility of reinstating the direct payment has gone to management and they will be communicating a decision to you”*.
53. In July Mrs D told the social worker that, although she could go ahead with arranging carers, she did not want to have carers going in and out, three times a day. Also, she would need more hours a week for cleaning. In response, the Council said it expected all members of a household to contribute to cleaning.
54. At the end of July, Mrs D told the Council she was desperate and willing to try somebody to visit her once a day for three hours. In response, the social worker asked Mrs D to confirm at what time she would want the carer to come, there was no response, even though the social worker chased Mrs D up.
55. Since mid-September the Council has been searching for a package of care. It has been unable to identify a care provider for months. Despite being unable to find a care agency, the Council did not consider setting up a DP for Mrs D again to enable her daughter to provide her care instead (at least in the interim), as had happened in the past. I suggested this to the Council, but this did not happen despite several reminders.
56. The Council has since told me that Mrs D refused an offer to receive support by a care agency, at the end of February 2020.
57. The Council is in the process of adopting a new Direct Payments Policy. This says:
- “A decision to agree that a close family member who lives in the same household can be employed but can only be made by a Service Director within the Council. Issues that will be considered could include:*
- Your care needs are intermittent and unpredictable to an extent that recruiting someone else to meet their needs is not possible.*
 - You are unable to cope with unfamiliar people and there is professional evidence to support this.*
 - Significant effort has been made to find alternative means which has been unsuccessful, and this is the only way for you to receive support.”*

Conclusions on the provision of care

58. The Council decided to stop Mrs D's DPs in August 2018, even though it had not yet carried out a needs and carer assessment and had not yet identified a care agency who could take over the paid care provided by her daughter. As such, the Council in effect forced her daughter to continue to provide Mrs D's care support. It also prevented Mrs D's daughter from being able to find paid employment. This was fault, which caused Mrs D and her daughter significant distress.

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59. Even though the Council knew it did not have enough information yet to make a decision about Mrs D's exceptional circumstances, and there was no alternative care in place, it stopped the DPs again in January 2019. This was fault.
 60. Since November 2018, the Council has been trying to gather information to decide how it can provide the care and support it accepts Mrs D needs. It reinstated the DPs for a short period, and backdated them, so Mrs D could be supported by her daughter. This remedied the financial injustice Mrs D's daughter had experienced between August 2018 (when the DP first stopped) and January 2019.
 61. Since February 2019, the Council has not provided Mrs D with the support she needed. As a result, her daughter was in effect forced to continue to provide this support on an informal basis. This was despite the carers' assessment concluding this was unsustainable. This is fault. This resulted in significant distress to Mrs D's daughter, as well as distress to Mrs D. The Council only provided a one off £400 carers payment during this time.
 62. While some of the delay in providing information was caused by Mrs D, it is ultimately the responsibility of the Council, and not the client, to get this information as part of a needs assessment. Some of the delays could have been avoided if the Council had tried to clarify points by phone rather than in writing.
 63. There has been considerable discussion about what care could be provided. The Council said it took until 11 September 2019 before Mrs D said she was willing to accept interim commissioned support. However, it is clear in mid-March 2019 that Mrs D said she wanted support with cleaning and ironing, and she reiterated this in the hospital discharge summary in April. She also indicated she would try outside support if it could be delivered in one long visit, rather than several visits spread out over the day.
 64. The Council has not considered reinstating Mrs D's direct payments in the interim to ensure it fulfilled its duty to meet her eligible needs. This is fault.
 65. Since September 2018, the Council has been considering if Mrs D's situation could be treated as an "exceptional circumstance". This would mean she could receive DPs to pay for a family carer who lives in the same property (her daughter). According to the records the Council's view was it had not received enough evidence to be able to conclude that any of the concerns raised by Mrs D meant that a care agency would never be able to provide Mrs D's care support.
 66. The Council had to determine whether it was necessary to allow Mrs D's daughter to be her paid carer. The Council failed to use its discretion and consider all the concerns Mrs D raised together. Even if there was no single issue that provided a decisive reason, the Council failed to consider if all the issues combined showed there was a clear enough case that it was necessary to make an exception, in terms of the quality of Mrs D's care support, her overall wellbeing, and the wellbeing of her daughter and husband. This was fault.
 67. The Council has raised valid concerns in the past about the way Mrs D has managed her direct payments. However, she no longer has to pay an assessed contribution. The other concerns could be addressed by an outside agency managing the direct payments, which she already agreed to in 2018, and making it clear that its decision to try DPs one last time would be subject to her keeping suitable records and the Council reviewing this periodically.
 68. The faults identified above have meant Mrs D's daughter has been acting as an unpaid carer for over a year. This has had a negative impact on her wellbeing and

her ability to earn and engage with any of her own ambitions. Mrs D has had the distress of seeing this, as well as the distress, time and trouble of having to deal with the Council over an extended period.

69. In response to our draft report, the Council disagreed with some of our findings. It said:
- the medical information it received did not support Mrs D's view that only her daughter could provide her care;
 - it used its discretion and considered all the issues and concerns combined;
 - it has since found a care agency in early 2020 who are able to provide support to Mrs D; and
 - Mrs D is not a suitable candidate to manage a direct payment, considering the way she managed it before.
70. While the Council did get and consider medical information, it failed to come to a view on some of the concerns Mrs D raised. Furthermore, for reasons explained above, the Council's records do not show it considered the weight of all the concerns and issues raised by Mrs D together.
71. As such, the Council initially told us it would not carry out the Ombudsman's recommendation to review Ms C's exceptional circumstances or if it should allow Mrs D a DP to pay her daughter to provide her care. It said it would also not share the lessons identified above with regards to this issue.
72. Furthermore, the Council told us it would not pay Mrs D for any distress, because it says the delays were to a large extent caused by her and her refusal to accept commissioned care. The Council asked the Ombudsman to explain how we had arrived at the recommendation to pay Mrs D £500 for distress, so it could reconsider this matter further. The Ombudsman responded to the request in writing. However, the Council informed the Ombudsman that it would not change its position on this matter.
73. Since then, Mrs D has told us the Council offered a care package to them which she reluctantly accepted to try. However, her husband could not cope with strangers visiting regularly. Her daughter has continued to provide her care but no longer lives with her; she lives nearby. This means that the restriction mentioned in the Care Act Guidance, that direct payments must not be used to pay a daughter or son living in the same household as the adult, no longer applies. Mrs D also confirmed again that she would agree for the DP to be managed by an outside agency.

Recommendations

74. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
75. In addition to the requirements set out above, the Council has agreed to, within four weeks to:
- apologise to Mrs D and her daughter for the faults identified above and the distress these caused;
 - pay Mrs D's daughter an amount equivalent to what she would have received if the Council had continued to pay her for the care support she provided, from

26 January 2019 onwards until it found a care agency and offered Mrs D a commissioned care package in February 2020;

- review Mrs D's circumstances and decide if the Council should allow Mrs D a Direct Payment to pay her daughter to provide her care. If it decides to refuse this, the Council should provide a clear explanation in writing. If it approves this, the Council should provide clear information in writing about the Council's expectations for managing the payments and details of support that is available to help Mrs D with this; and
 - share with its adult social care staff the lessons learned about:
 - when the Council may consider it necessary to use Direct Payments to pay a family member to provide care; and
 - how best to get medical evidence efficiently.
76. The Council should also pay Mrs D and her daughter £500 each for the distress they have suffered since September 2018. I note that while it has agreed to pay Mrs D's daughter, it has not yet agreed to pay Mrs D. As stated in paragraph 74 it should decide within three months if it will provide this remedy, and if not tell us why.
77. The Council should provide us with written evidence that it has taken the steps listed above.

Final Decision

78. We have found evidence of fault causing injustice to Mrs D.
79. We welcome that the Council has agreed to take most of the actions described above to remedy that injustice and urge it to make the payment of £500 to Mrs D. This, with the other actions, will provide a satisfactory remedy to the complaint.
80. Notwithstanding the outcome of this remedy, we have published this report because we consider it in the public interest to do so, given the significant fault, the injustice caused to the complainant and the Council's refusal to make the suggested payment.