

## SPSO decision report

**Case:** 201104742, The Moray Council  
**Sector:** local government  
**Subject:** calls for general assistance  
**Outcome:** not upheld, recommendations

### Summary

Mrs C told us that following the early birth of her baby, who has disabilities, she was supported by a social worker who provided a range of helpful information and advice. Mrs C said that the social worker told her that costs for travel to work, meals and childcare could be deducted from her earnings when calculating the upper earnings threshold for carer's allowance. Mrs C made a claim for carer's allowance when she started working. Some six years later her claim was reviewed by the Department for Work and Pensions (DWP). Mrs C was told that she was not entitled to deduct expenses for meals and travel to work from her earnings and that she had earned more than she was entitled to while claiming carer's allowance. Mrs C was told that she had to pay back £14,888 in overpaid carer's allowance.

Mrs C complained that the council had provided incorrect advice. The council said that they were not providers of expert advice in relation to DWP benefit claims. They said that they provided support, in good faith, to help people navigate their way through systems which could be complex. We did not uphold Mrs C's complaint, as the records held by the council confirmed that advice and support, including advice in respect of benefit entitlement, had been provided but there was no evidence that specific and incorrect advice about earnings disregards had been given. As there was no evidence to show whether the council had provided incorrect advice we could not substantiate the complaint. We did, however, make a recommendation to try to make the council's responsibilities clearer to clients in future.

### Recommendations

We recommended that the council:

- issue written guidance to staff working directly with members of the public, particularly where there is a degree of dependence or vulnerability, to clarify what kinds of advice can legitimately be given by council staff and when clients should be signposted for specific and detailed advice from professional experts in welfare benefits.