

## SPSO decision report



**Case:** 201703417, North Ayrshire Health and Social Care Partnership  
**Sector:** health and social care  
**Subject:** home helps / concessions / grants / charges for services  
**Decision:** upheld, recommendations

### Summary

Mr C, a solicitor, complained on behalf of his client (Mrs A) and her power of attorney that the partnership failed to act reasonably in relation to the assessment of capital. Mrs A and her late husband (Mr B) purchased a property, the title of which was subject to a survivorship destination (a property that is jointly owned and on death of one of the owners, their share will pass to the survivor). Mrs A was diagnosed with dementia and moved into residential care. Mr B was diagnosed with terminal cancer and shortly before his death, he evacuated the destination meaning his share of the property would no longer go to Mrs A on his death. The partnership considered that Mr B's actions were a deliberate attempt to deprive Mrs A of capital due to the timing and circumstances of it, and began charging Mrs A for residential care from the date of Mr B's death. Mr C argued that as a survivor destination the property only ever potentially belonged to Mrs A, and it was possible for Mr B to change his intentions on inheritance at anytime.

We took independent legal advice in our consideration of this complaint. We concluded that the partnership did not fully consider the relevant guidance in relation to their financial assessment of Mrs A's capital, nor did they properly assess the value of that capital. We upheld Mr C's complaint.

### Recommendations

What we asked the organisation to do in this case:

- The council should carry out a new financial assessment on the basis of our findings.