

## SPSO decision report



**Case:** 201809148, Inverclyde Health and Social Care Partnership  
**Sector:** Health and Social Care  
**Subject:** care in the community  
**Decision:** some upheld, recommendations

### Summary

Ms C, an advocacy worker, complained on behalf of her client (Mr A) about the partnership's actions regarding his tenancy while he was resident in a care home. Mr A was moved into a care home following a hospital admission as it was considered not safe for him to return to his tenancy. Concerns were raised about Mr A's mental capacity and at times he had been assessed as not having capacity to make decisions about his welfare. Mr A had on different occasions expressed a wish to return to his tenancy. Ms C complained that the partnership failed to provide clear information to Mr A about his residency status while residing in the care home; that they failed to support Mr A to return to his tenancy as per his wishes; and that they failed to take reasonable action regarding his tenancy which led to Mr A accruing significant rent arrears. The partnership said that while Mr A was allowed to leave the care home if he wanted to, it would be against their professional recommendation and they would not support him to leave. However, if Mr A did return to his tenancy, they would put in place appropriate supports.

We took independent social work advice. We found that Mr A had been given clear information about his residency status and we did not uphold this complaint.

We found that the partnership unreasonably delayed in resolving Mr A's situation which resulted in him living in the care home without a legal mandate. We also found the partnership failed to take reasonable action in relation to Mr A's tenancy, particularly when he was deemed to not have capacity, and this resulted in Mr A accruing rent arrears. Therefore, we upheld these complaints.

### Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr A for failing to resolve his situation which resulted in him residing in the care home without a legal mandate and accruing significant rent arrears. The apology should meet the standards set out in the SPSO guidelines on apology available at [www.spsso.org.uk/information-leaflets](http://www.spsso.org.uk/information-leaflets).
- The partnership should make an appropriate contribution to Mr A's rent arrears and service charges which accrued from the day he moved to the care home up to the date he signed over his tenancy. This calculation should take into account all relevant factors, including the fact that he would not have qualified for housing benefit during this time.
- The partnership should take any necessary steps to fulfil Mr A's wishes to move to another care home without unnecessary delay.

What we said should change to put things right in future:

- The partnership should use this case as an opportunity to reflect on social work practices and their application of the relevant legislation, policies and procedures.

We have asked the organisation to provide us with evidence that they have implemented the recommendations

we have made on this case by the deadline we set.