

Scottish Parliament Region: Mid Scotland and Fife

Case 200600838: Perth and Kinross Council

Summary of Investigation

Category

Local government: Sheltered housing issues/residential homes

Overview

The complaint concerns allegations made on behalf of Mr and Mrs C by their MSP (Mr D) that the care received by their daughter (Ms C) from social work staff, prior to her death, was both ineffective and inappropriate.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) Ms C was placed in care contrary to her wishes, and regardless of the fact that she had carers to look after her in her own home (*not upheld*); and
- (b) Council officers failed to respond to voice and email messages (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 16 June 2006, Mr and Mrs C's MSP (Mr D) complained to the Ombudsman on their behalf as they were concerned about the treatment their daughter (Ms C) received from Perth and Kinross Council (the Council) officers prior to her death. In particular, they considered that the service Ms C received from social work staff was both ineffective and inappropriate. They alleged that Ms C was placed in care contrary to her wishes and regardless of the fact that she had carers to look after her in her own home. They further complained that social workers failed to respond to voice and email messages left on 23 and 24 January 2006.

2. The complaints from Mr D which I have investigated are that:

- (a) Ms C was placed in care contrary to her wishes, and regardless of the fact that she had carers to look after her in her own home; and
- (b) Council officers failed to respond to voice and email messages.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr and Mrs C and Mr D, and between Mr D and the Council. I have also had sight of the Council's guidelines for dealing with vulnerable adults; their multi-agency protocol; Ms C's social work case notes; relevant internal emails; interview notes of meetings involving Ms C dated 18, 19 and 20 January 2006; notes of an internal meeting dated 23 January 2006; and an internal memo from Tayside Police dated 1 August 2006. On 7 July 2006 I made a written enquiry of the Council and their detailed response was provided by the Chief Executive on 23 August 2006.

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

(a) Ms C was placed in care contrary to her wishes, and regardless of the fact that she had carers to look after her in her own home

5. Ms C's medical condition was such that she had complex needs but, with the aid of a care package from the Council, she lived in her own home with 24 hour support. It is understood that Ms C was in receipt of a Direct Payment

which allowed her to exercise choice and preference with regard to her care. Ms C also had the support of her parents (Mr and Mrs C), an advocate and a personal assistant. The Council's records show that over the years preceding this complaint, the care package (provided by an external agency) broke down on a number of occasions, with different care providers withdrawing their service.

6. Mr and Mrs C said that in late 2005 they learned that their daughter had begun to wean herself off an anti-depressant drug which had been prescribed to her. At about the same time, she began alleging that her carers were allowing access to her flat during the night when she was being assaulted. Mrs C said that her daughter was uncertain whether this was real or not and went to see a doctor. Matters were then reported to the Social Work department and the police.

7. Mr and Mrs C said that on 19 January 2006, because of these allegations, a social worker visited Ms C at her home and told her that she could either go into respite care or the carers could be doubled up at night. Ms C advised that she wanted to stay at home. However, Mr and Mrs C said that on 20 January 2006 they found their daughter in a distressed state as it had been decided that she would be put into respite care for two weeks. Even although Mrs C volunteered to stay with her daughter at night, she said her offer was refused by social workers. Mr and Mrs C alleged that their daughter was placed into care despite her wishes.

8. From information sent to me by the Council as a consequence of my enquiry to them on 7 July 2006, I understand that a locum GP called the Duty Social Worker on 18 January 2006 about a meeting she had with Ms C the previous day. She had told her that she was being assaulted during the night and that this had happened on several occasions. The locum GP said that he had asked Ms C if she wanted the police involved but she had said no. Ms C's allocated social worker visited her on the same day to discuss this with her, and advised that she would have to contact the care agency and the matter would probably be followed up in accordance with the Vulnerable Adults Protocol.¹ Ms C told her social worker that she wanted a medical examination and the social worker contacted Ms C's GP (not the same GP as referred to above) but that the GP declined to undertake such an examination. On the same day

¹ A multi-agency approach to working with vulnerable adults who have been identified at risk.

Ms C, her carer and two social workers met and Ms C told them of her concerns and that she wanted an examination to confirm whether or not she had been assaulted.

9. In the meantime a management decision was taken to commission two carers, from her existing provider, to stay with Ms C overnight for her reassurance and safety.

10. A case discussion was held with Ms C the next day (19 January 2006). Her carer and a social worker were also in attendance. The Vulnerable Adults Protocol was explained and Ms C was informed that an investigation of her allegations would be undertaken in line with this. Ms C maintained her allegations and said that she had been assaulted again, but said that she did not wish any change in her care, stating that she would stay up all night in the sitting room and that would keep her safe. Meanwhile, several calls were made to the police and a psychiatric referral was made by a local GP. A joint visit, in terms of the Protocol, was arranged for 30 January 2006 and that night (that is, 19 January 2006) two care workers from another agency were at home with Ms C.

11. On 20 January 2006, Ms C was still insisting that she was being assaulted although she now had two care workers from a different agency with her. In the circumstances, another meeting was arranged that day with her, her personal assistant and a social worker. The social worker explained that they were concerned for her safety but that there were difficulties in sustaining the cost of an extra care worker at night (in excess of £300) while the matter was being investigated. As the allegations were continuing, the social worker said that the Council felt unable to protect Ms C at home. The decision was reached, having made reference to the Vulnerable Adults Protocol (see paragraph 13), that the only way the Council could consider increased payments, and ensure her safety, was if a care home placement was arranged. A care home was identified as suitable for Ms C and arrangements were made for her to move there. However, Ms C was very unhappy at the prospect and said she wished it noted that she was going into respite without her permission. The Council said that she did understand why it was necessary. Sadly, while she was in care, Ms C's physical condition declined and, early on 30 January 2006, she was

admitted to hospital where she died later that day.²

(a) Conclusion

12. Ms C was placed in temporary care while the Council conducted investigations. This was contrary to her wishes. The Council have recorded that this was in order to ensure her safety and in view of the increased costs (see paragraph 11). In their report to me of 23 August 2006, they explained that the package of care offered to Ms C at her home (of two overnight care workers) was financially unsustainable. Even with the presence of the care workers Ms C was still complaining of being abused and it was the social workers' view that events were having a significant physical and emotional effect on Ms C. It was the officers' considered view that Ms C's continuing allegations needed to be addressed and investigated in a different environment (that is, one outside her home) which had no association with the experiences she claimed.

13. I have consulted the Vulnerable Adults Protocol which deals with circumstances when the person concerned does not give consent. This records the necessity of the vulnerable adult's wishes being respected unless, amongst other things, s/he is at risk or a criminal offence has taken place. This would appear to have been the case with Ms C and, while costs were also a consideration (see paragraph 11), I do not criticise the Council for moving Ms C to a place where they felt they could ensure her safety to allow investigations to be carried out. I am satisfied that they acted in what they considered to be Ms C's best interest. However, I cannot begin to imagine the distress this must have caused Ms C and her family. The situation was then made much more difficult for Mr and Mrs C by Ms C's tragic death. Nevertheless, in all the circumstances, I do not uphold this aspect of the complaint.

(b) Council officers failed to respond to voice and email messages

14. Mr and Mrs C said that because of their concern about their daughter, on 23 and 24 January 2006, they telephoned the social worker and her team leader leaving messages with other staff and voice mail messages. They complained that none of these messages received a reply.

² Mr and Mrs C also complained of the actions of care home staff which, they believe contributed to her death. These matters were under consideration by the Care Commission and were not the subject of this investigation.

15. The Council's response to my enquiries dated 23 August 2006 reported that Mrs C's messages to the team leader of the 23 January 2006 were picked up, but, because of meetings, she was not able to respond immediately. The Council said, however, that the team leader called the C's home twice that day, but that there was no answer or facility to leave a message. She said that Mrs C's mobile was also switched off. The team leader was involved in meetings between 9.30 am and 1 pm on 24 January 2006 and so she was unable to check her voice mail, although during a meeting the team leader was informed of an urgent message from Mrs C. The team leader then left the meeting to call and speak to Mrs C. The Council's response makes no reference to calls to the social worker (rather than to the team leader); neither do Ms C's case notes refer to them. Nor is there reference to emailed messages from Mrs C.

(b) Conclusion

16. The Council's response and their client case notes make no reference to any calls from Mrs C to the social worker (see paragraph 14). Therefore, I cannot confirm whether they were received, although I have no reason to doubt Mrs C's recollection. Reasons have been given for the team leader's inability to speak with Mrs C on 23 January 2006 and it is confirmed that she interrupted a meeting to speak with her the next day. I have seen no evidence to suggest that emails went without reply. Accordingly, on balance, I do not uphold Mr and Mrs C's complaint that the team leader and other officers failed to respond to calls and messages.

23 May 2007

Explanation of abbreviations used

Mr D	The complainant
Mr and Mrs C	The aggrieved
Ms C	Mr and Mrs C's daughter
The Council	Perth and Kinross Council