

The investigation of a complaint
against Blaenau Gwent County Borough Council

A report by the
Public Services Ombudsman for Wales
Case: 201900338

The Complaint

1. Ms X complained that Blaenau Gwent County Borough Council (“the Council”) did not undertake the assessment process and decision making in line with the Social Services and Well-being (Wales) Act 2014. As a result, Ms X was not found eligible for direct payments between July 2017 and October 2018, despite a recommendation in October 2018 that she should receive 3 hours of direct payments per week. Direct payments are where payment is made directly to an individual so they can organise their own services to meet assessed eligible needs, as opposed to a local authority’s direct provision of them. Ms X said that she should have been eligible following her first assessment.

Investigation

2. I obtained comments and copies of relevant documents from the Council and considered those in conjunction with the evidence provided by Ms X. I also took advice from one of the Ombudsman’s professional advisers, an experienced Registered Social Worker. Her name is Paula Hendry. I have not included every detail investigated in this report, but I am satisfied that nothing of significance has been overlooked.

3. Both Ms X and the Council were given the opportunity to see and comment on a draft of this report before the final version was issued.

Relevant legislation and regulations

4. Section 19 of the Social Services and Well-being (Wales) Act 2014 (“the SSWBA 2014”) places a duty on local authorities to assess an adult who may have needs for care and support. In carrying out the assessment, local authorities must:

- seek to identify the outcomes that the adult wishes to achieve
- assess whether provision of care/support, preventative services or information, advice or assistance could contribute to achieving those outcomes or otherwise meet needs identified by the assessment

- assess whether other matters could contribute to the achievement of outcomes or otherwise meet those needs

5. The Care and Support (Eligibility) (Wales) Regulations 2015 (“the Regulations”) set out the test which a local authority must apply to determine whether an individual with needs (identified in an assessment carried out under the SSWBA 2014) is entitled to have those needs met by a local authority.

Relevant background information and events

6. This is not intended to be a comprehensive chronology of every contact between Ms X and the Council between July 2017 and October 2018. It outlines key information to assist in reaching conclusions on the complaint.

7. Ms X is a wheelchair user and suffered a CVA (cerebrovascular accident, the medical term for a stroke) some years ago which resulted in left sided paralysis. She also had a leg amputated below the knee.

8. Ms X contacted the Council on 11 July **2017** requesting a community care assessment for direct payments for someone to assist with personal care, domestic chores, shopping and getting her out in the community. She was assessed by the Council’s Advice and Assistance Team (“the IAA Team”) and was referred for a more comprehensive assessment, which took place on 24 July.

9. On 1 August a social worker made a referral to the Community Connector Service (this service helps people re-connect in their communities and also helps people find activities and groups that can benefit their own well-being) about accessing local groups to get involved in community events (the referral followed on from the assessment on 24 July). Staff from the Community Connector Service visited Ms X on 16 August to provide a list of local services and activities throughout the authority area.

10. On 21 August Ms X rang the Community Connector Service to ask about a financial assessment and it was agreed that information would be sent to her.

11. On 11 September the Community Connector Service rang Ms X to check whether there was any further support it could give. Ms X was asked whether she wanted to be referred for financial assessment, but she did not.

12. Ms X contacted the Council on 2 May **2018** asking for a reassessment. Further contact on 9 and 10 May resulted in an Occupational Therapy ("OT") assessment referral. This was initially refused, but later accepted (and took place on 1 August).

13. An assessment was carried out on 11 June which noted that Ms X was asking for direct payments for cleaning, chopping vegetables and changing the duvet. It was also noted that she struggled to do up her bra. Ms X asked for direct payments and was told that the tasks identified were not eligible needs and were already being met by her through a private arrangement. She was signposted to a beautician. The possibility of an OT assessment was discussed, but Ms X did not feel she needed one.

14. An assessment on 27 July determined the need for a more comprehensive assessment to consider if Ms X's outcomes could be achieved by ways other than statutory services.

15. A home function assessment on 1 August identified Ms X's personal outcomes. As a result, Ms X was referred to the social work team.

16. An assessment on 5 October determined that Ms X required a care plan and that she had identified clear, measurable personal outcomes which needed to be met through statutory services. The recommendation was for 3 hours of direct payments per week as the most appropriate support.

Ms X's evidence

17. Ms X said the Council neglected her for 2 years and failed to assess her correctly which left her feeling neglected and isolated. She said there was a lack of support for her care needs and the Council deliberately found her ineligible for statutory services by missing out information she provided during the assessments.

18. In commenting on the draft report, Ms X indicated her dissatisfaction with the decision and that the investigation had failed to grasp the issues and missed the point of her complaint. She reiterated that she had been neglected for 2 years by the Council and that the Council had caused her stress and financial hardship at times. Ms X said she had previously been eligible for a direct payment in the local authority she had moved from and her circumstances had not changed. Ms X said she endured a 2-year fight to get the Council to increase her direct payment from 3 to 5 hours a week after they initially said she was not eligible.

The Council's evidence

19. The Council said that, before October 2018, the Council was able to offer support to Ms X which enabled her to meet her personal outcomes via preventative measures which was in line with the SSWBA 2014.

20. The Council said that, following an assessment in September 2018, it was agreed that the outcomes Ms X was now stating could no longer be met by preventative measures, and that she had clear measurable personal goals which could only be met via direct payment of 3 hours per week. Her care and support plan was completed on 8 October and direct payment commenced on 11 November. It said the delay was due to Ms X refusing to provide details of her personal assistant to carry out relevant checks.

21. The Council said it was only when Ms X identified further care and support needs which she had not previously disclosed, that she became eligible for statutory services.

Professional Advice

22. The Adviser said the Council recognised Ms X as a person who appeared to be in need of care and support in 2017 and conducted an assessment accordingly. She said the assessment was carried out in person, was comprehensive and proportionate, in that it recognised the potential complexity of Ms X's needs.

23. She said the Council recognised that Ms X was entitled to an assessment due to her possible need for care and support services. She said the Regulations are clear that a need is eligible for local authority support if it cannot be met unless the local authority arranges that support. She said this was key to the understanding of this case.

24. She said the needs recorded, as expressed by Ms X at the time of her assessment in July 2017, were for help in accessing personal grooming services and help relating to meal preparation. Suggestions were made how Ms X might overcome her difficulties in accessing an appropriate service. She was also offered suggestions as to how she could manage the preparation of vegetables, including advice from an OT on equipment. The Adviser said this was an alternative means of meeting that particular need and was an appropriate response. She said Ms X's wishes, needs and outcomes were explored with her and solutions/services were suggested. Ms X was noted as being capable of accessing community services independently.

25. The Adviser said there was also a discussion about changing the bed and toileting needs (emptying the commode). Ms X was already paying someone to change her bed but, nonetheless, this, and potential help with toileting needs, were recognised by the assessors as areas of support which the local authority does often provide for, and this was discussed as a possible way forward. The Adviser said direct payments were mentioned in this context, but Ms X was seemingly unwilling to discuss her finances. In later telephone calls, Ms X declined to go ahead with a financial assessment. As a result, the Adviser said there was no means for Ms X or the local authority to know whether a move to direct payments would be financially beneficial for her or whether she would be better off sticking to her current combination of a private arrangement and managing herself.

26. The Adviser said there was a discussion with Ms X on 28 July about her wish to access community activities. The local authority recognised it had a responsibility to Ms X in this area and she was referred to the Community Connector Service and was provided with information about local services, including groups and activities. It was noted at the time that Ms X could access these herself and there was nothing to suggest she could not do so or that she needed 1-to-1 support to enable her to.

27. The Adviser was satisfied that the local authority's actions were appropriate. She said a proportionate assessment was carried out and the needs/outcomes expressed by Ms X were found to be able to be met "with the assistance of services in the community" to which Ms X had access. These services and the possible solutions to her difficulties in physically accessing them were discussed, but Ms X declined these solutions. There was a recognition that some of her needs (around toileting and bed-changing) could perhaps be provided for by direct payments, but Ms X declined to pursue the financial assessment for this purpose. She said there was nothing to suggest Ms X did not have the capacity to make this decision.

28. The Adviser said the outcomes/needs expressed by Ms X in the July 2017 assessment were different from those stated in the 2018 assessments. She said the August and October 2018 assessments highlighted new personal outcomes for Ms X. They related to wanting to increase her confidence and independence, getting to know her area and travelling to surrounding areas, exercising, purchasing items for her work/leisure and 1-to-1 support to do these things. The Adviser said the significant change was the request for 1-to-1 support and confidence-building in accessing the community. These were outcomes that could not be met by access to local community services and it therefore fell to the local authority to provide these. Direct payment was identified as the most appropriate and flexible response.

29. Finally, the Adviser was satisfied that the assessments carried out were proportionate and were in line with the SSWBA 2014. She did not identify any shortcomings in the assessment process. She said Ms X was

provided with the necessary information and advice in 2017 to enable her to meet her personal outcomes via preventative measures and the assistance of community services to which she had access.

Analysis and conclusions

30. In reaching my conclusions I have taken account of Ms X's and the Council's submissions, alongside the relevant records. I have been assisted by the advice and explanations of the Adviser. The advice I have received is clear, which is why I have set it out in some detail above. This allows me to be relatively brief in my conclusions.

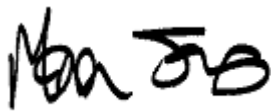
31. The SSWBA 2014 places a duty on local authorities to assess an adult who may have a need for care and support. When Ms X contacted the Council in July 2017, it identified that she may have a need for care and support services and it therefore carried out an assessment of her needs.

32. However, to be eligible for support (as outlined in the Regulations), the assessment would need to demonstrate that Ms X's need could not have been met unless the Council arranged that support. Based on the assessment carried out at this time, Ms X's personal outcomes and identified needs were capable of being met through the assistance and services available in the community, and she was referred to the Community Connector Service which provided her with information and advice about local services she could access. While some of her needs at that time (toileting and changing the bed) were needs the Council often provided for, Ms X was unwilling to proceed with a financial assessment and therefore the Council was unable to determine whether direct payments would have been financially beneficial to Ms X. I am satisfied, taking into account the advice, that the Council's actions at this time was appropriate, proportionate and in line with the requirements of the SSWBA 2014.

33. However, when Ms X was assessed in August and October 2018, new personal outcomes and needs were identified that were different to those previously expressed, significantly the need for 1-to-1 support to assist Ms X to carry out the identified needs (see paragraph 28). The result of this assessment was that Ms X's outcomes and needs were

not ones that could be met through the provision of advice, assistance or access to local community services. She had an eligible need (as identified in the Regulations) and the Council had a responsibility to provide for these needs which was done through the provision of direct payments.

34. Taking into account the above and the clear advice, I am satisfied that the Council's actions were appropriate and that it acted in accordance with its duties under the SSWBA 2014. I **do not uphold** the complaint.



Manon Jones
Investigation Officer

17 February 2021

ENDNOTE

This document constitutes a report under s.21 of the Public Services Ombudsman (Wales) Act 2005 and is issued under the delegated authority of the Ombudsman.

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