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The investigation of a complaint
against
Flintshire County Council

A report by the
Public Services Ombudsman for Wales
Case: 202501588

The complaint we investigated

1. Ms C complained about the way Flintshire County Council (“the Council”) dealt with a complaint she raised in October 2024. We investigated why the Council did not escalate her complaint to Stage 2 of its complaints process, in line with the Social Services Complaints Procedure (Wales) Regulations 2005, until the Ombudsman intervened.

What we found

2. We found that the Council declined to progress Ms C’s complaint because it did not consider that the issues she raised warranted an independent investigation. However, under the law governing the Social Services complaints procedure, the Council did not have the discretion to make this decision. This failure was therefore maladministration which resulted in frustration and inconvenience for Ms C, who has also expressed a loss of confidence in the Council. We also found evidence that the Council’s approach reflected a systemic issue, which might have impacted complainants in the past and, if it were not addressed, may go on to impact others in the future. The complaint was **upheld**.

How we investigated the complaint

3. I obtained comments and copies of relevant documents from the Council and considered them in conjunction with the evidence provided by Ms C. I have not included in this report every detail investigated but I am satisfied that nothing of significance has been overlooked.

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

The law and guidance we have considered

5. The Social Services Complaints Procedure (Wales) Regulations 2005 (“the Regulations”):

- s17 (1)(b) Where the complaint has not been resolved to the satisfaction of the complainant (“Stage 1”) the local authority must consider the complaint in accordance with this regulation (“Stage 2”).
- s17 (4) The local authority must (a) appoint an independent investigator; and (b) together with the independent investigator, investigate the complaint in a manner appropriate to resolve it speedily and efficiently.

6. A guide to handling complaints and representations by local authority social services, Welsh Government, August 2014 (“the Guide”). The Guide confirms that:

- The regulations give individuals the right to complain to the Council about the exercise of its social services functions.
- The Complaints Officer is responsible for receiving and managing the formal investigation of complaints that cannot be resolved locally, including maintaining a pool of Independent Investigators and selecting appropriate individuals to consider complaints, monitoring the progress of the investigation and ensuring timescales are met.
- The Complaints Officer will help to determine, through discussion with the complainant, if and when the complaint should move to Formal Investigation.

7. Your right to compliment and complain about Social Services, Flintshire County Council (“the Council’s policy”). The Council’s policy confirms that if a complainant remains dissatisfied after the Stage 1 response they can request that the matter is escalated to Stage 2. It states that the Stage 2 investigation will be undertaken by someone who is independent (that is, not employed by the Council).

What happened

8. On 17 October **2024** Ms C raised a complaint with the Council about decisions that had been made regarding the service she was receiving from Social Services, including her care and support. The Council provided a Stage 1 response on 20 November.

9. On 18 December Ms C wrote to the Council again, expressing dissatisfaction with the Council's response. She noted that she wanted to offer an opportunity to resolve her ongoing concerns before requesting a Stage 2 investigation, and listed some actions that she felt would resolve her concerns. On 7 January **2025** the Council reiterated its position on the substance of Ms C's complaint but did not address the alternative actions she had requested. It also did not confirm that she had the right to request escalation to Stage 2 if she wished.

10. On 3 April Ms C wrote to the Council that she was not happy with the local resolution investigation and requested that her concerns be escalated to Stage 2 with the appointment of an independent investigator. On 8 April the Council replied to Ms C that "Given previous responses... the Council is declining [Ms C's] request for escalation to Stage 2".

11. Ms C complained to the Ombudsman on 28 May. She did not want the Ombudsman to investigate her concerns, but to consider whether the Council was entitled to decline to escalate them to Stage 2.

12. In response to enquiries from the Ombudsman, the Council did not initially clarify why it had declined to escalate Ms C's complaint. It said that Ms C had already received a response and offered to take some alternative action: to provide her with some information and undertake a new assessment of her needs. On 26 June the Complaints Officer apologised "if it appeared that the complaint had been mishandled", but said that the issues did not appear to warrant a Stage 2 investigation as the action offered should resolve the matter.

13. On 13 August the Ombudsman wrote to the Council, expressing concerns about the Council's response to Ms C's letter of 18 December. We noted that the Council had not offered the resolutions she had requested at that time but had also failed to confirm that she could

proceed to Stage 2. The Council agreed to start a Stage 2 investigation into the substance of Ms C's complaint. On 29 August the Ombudsman accepted that the Council had resolved the concerns about the way it had dealt with Ms C's letter of 18 December, but decided to investigate its decision to refuse Ms C's request, on 3 April, to escalate her concerns to Stage 2.

What Ms C said

14. Ms C said she was extremely concerned that the Council had refused to escalate her complaint, because she was entitled to an independent review and she had been left feeling that it was trying to hide something by preventing that from taking place.

What the Council said

15. In response to the start of the investigation, the Council said that a Stage 2 complaint investigation would not change its position on the substance of Ms C's complaint. It also said that "not every complaint where resolution cannot be reached warrants escalation if there is a practical way to resolve issues". It said that other parts of Mrs C's complaint, for example any concerns relating to her care provision, could be looked at through a reassessment or review instead.

The reasons for what we found

16. Ms C complained that the Council did not escalate her complaint to Stage 2 of its complaints process, in line with the Social Services Complaints Procedure (Wales) Regulations 2005, until the Ombudsman intervened. I **uphold** her complaint.

17. I have deliberately omitted reference to the specific issues that Ms C complained about because neither the Regulations nor the Guidance draw any distinction on subject matters once they have been accepted as requiring a response. Suffice it to say that Ms C was an individual who was entitled to raise a complaint, and there is no dispute as to whether her concerns should be dealt with through the complaints

process. I say that because the Council had, evidently, already accepted her complaint and issued a Stage 1 response before the decision in question was made.

18. The Council said that it did not consider a Stage 2 investigation would change its position, and that Ms C's dissatisfaction did not warrant escalation. However, the Council does not have the discretion to refuse to escalate a complaint on those grounds. Both the Regulations and the Guide confirm that if a complainant who has exhausted Stage 1 remains dissatisfied, their concerns should be escalated to Stage 2. This entitlement is absolute and is not dependent on whether the Council believes that escalation is likely to reach a different conclusion to the Stage 1 outcome.

19. Therefore, when Ms C said that the complaint was not resolved to her satisfaction, it was incumbent on the Council to begin that process. I am pleased that the Council agreed to undertake a Stage 2 investigation in response to our intervention. Nevertheless, the failure to do so initially is maladministration which resulted in frustration and inconvenience for Ms C, who has also expressed a loss of confidence in the Council.

20. I am also concerned that there may be a systemic issue in the Council's approach when it is dealing with complaints about social services. The Ombudsman has recently dealt with a similar complaint in which she was critical of the Council for failing to escalate a complaint to Stage 2, in line with the Regulations.¹ I note that, in its response to the Ombudsman, the Council seemed to suggest that it would make a judgement in every case, in order to identify any that it considered did not warrant escalation to Stage 2. I am of the view that this would not only be inappropriate; it suggests that there may be other individuals who have, similarly, been denied their entitlement for an independent review of their complaint and that, if this approach were to persist, may also impact others in the future.

¹ Ombudsman case reference 202502440

What the Council should do to put things right

21. I would have recommended that the Council should undertake an independent investigation of Ms C's concerns, if it had not already taken appropriate action in this regard.

22. I **recommend** that, within **1 month** of the date of this report, the Council should:

- a) Apologise to Ms C for failing to escalate her complaint to Stage 2 before the Ombudsman intervened.
- b) Offer Ms C £250 in recognition of her time and trouble in pursuing the matter.
- c) Remind all relevant staff of the Regulations, and of the Council's legal obligation to offer, and to action, a Stage 2 investigation where a complainant remains dissatisfied with Stage 1 and wishes to pursue their concerns further.

23. I **recommend** that, within **6 months** of the date of this report, the Council should:

- d) Undertake an audit of all complaints that it has received in the last 2 years to identify any complaints it has declined to investigate in line with s17(1)(b) of the Regulations, and report the findings of the audit to the Ombudsman.
- e) Offer any such complainants, who have been previously denied the opportunity to have their complaint considered at Stage 2, that opportunity, if it is practical to do so.

24. I am pleased to note that in commenting on the draft of this report **the Council** has agreed to implement these recommendations.

Ellie Lewis
Swyddog Ymchwilio/Investigation Officer

20 November 2025

This is a report issued under s27 of the Public Services Ombudsman (Wales) Act 2019 and under the delegated authority of the Ombudsman.

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed
CF35 5LJ

Tel:	0300 790 0203
Website:	www.ombudsman.wales
Email:	ask@ombudsman.wales
Follow us on X:	@OmbudsmanWales