

## Bournemouth Borough Council (18 012 753)

Category : **Adult care services > Transport**

Decision : **Upheld**

Decision date : **28 Jun 2019**

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### The Ombudsman's final decision:

**Summary: Mr X complained the Council failed to provide his son, Mr Y, with suitable transport to a day centre. The Council has not provided suitable transport to accommodate Mr Y's electric wheelchair since September 2017. This is fault and the Council has agreed to pay Mr Y**

**Mr X for his time and trouble in bringing the complaint to the Council and the Ombudsman and also for the frustration the matter has caused.**

## The complaint

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1. Mr X, complained on behalf of his son, Mr Y, that the Council failed to provide him with transport to accommodate his electric wheelchair.
2. The Council is providing transport that accommodates Mr Y's manual wheelchair but use of this wheelchair is causing him health problems and affecting his enjoyment of his independence.

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## The Ombudsman's role and powers

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3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1), as amended)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (Local Government Act 1974, section 30(1B) and 34H(i), as amended)

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5. I considered Mr X's complaint and discussed it with him on the telephone.
6. I considered the information I received from the Council.
7. Mr X and the Council were invited to comment on a draft of this decision. I have considered the comments I received from Mr X and the Council informed me it accepted my findings.

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## What I found

8. The Council maintains a Care and Support Plan for Mr Y. The Plan says the Council is to provide transport to and from the day centre Mr Y attends, five days a week.
9. Mr Y used to use a manual wheelchair. Due a change in his health needs and circumstances, he was supplied with an electric wheelchair.
10. In September 2017, Mr X agreed Mr Y would continue to use his manual wheelchair at the day centre for one month to allow the Council time to find a suitable vehicle that could transport him and his electric wheelchair.
11. Mr Y's care plan from 7 November 2017 says 'while [Y] continues having to attend Day Centre in a taxi with his manual wheelchair, there is a risk of his physical health and posture deteriorating'. The 'Actions Needed' from this review of his care plan also state that within three months, a taxi which can transport Mr Y's electric wheelchair is required.
12. On 17 July 2018, Mr X complained to the Council as it had still not arranged suitable transport. Mr X said he had made numerous phone calls to the Council about the delay in arranging suitable transport for Mr Y. He felt the Council had let Mr Y down by failing to meet his care needs.
13. On 23 July 2018, the Council responded to Mr X's complaint. It said the following:

day centre.

- The Council is aware of Mr X's preference that Mr Y's electric wheelchair is transported with him.
- Travel support is subject to passenger comfort, cost and availability. In Mr Y's case, the issue was availability.
- There is a scarcity of larger wheelchair accessible taxis and it appears that transport providers are taking the view that it would be uneconomic to commit their 'in demand vehicle asset' to this contract.
- It reminded Mr X that he had rejected an alternative solution. This was the offer of a Personal Travel Budget payment in return for transporting Mr Y and his electric wheelchair in the family vehicle.
- The Council said it will continue to strive to identify an alternative solution that better meets Mr Y's needs however it remained pessimistic about sourcing a sustainable contractor.
- If Mr X was unhappy with the response, he should contact the Council by 23 September 2018.

8. On 2 August 2018, Mr X escalated his complaint. He attached a letter from Mr Y's physiotherapist dated 28 July 2018. The letter explained an electric wheelchair was supplied to Mr Y on 4 September 2017 due to Mr Y struggling to maintain propelling his manual wheelchair over long distances and for long durations as well as the prolonged impact pushing Mr Y in his wheelchair had on Mr X and his wife.
9. The physiotherapist stated that from a clinical perspective, it was not ideal that Mr Y was propelling his manual wheelchair all day at the day centre five days a week. The electric wheelchair was designed to alleviate fatigue and effort. The physiotherapist recommended the Council resolve this situation and enable Mr Y to access the day centre using his electric wheelchair.
10. The Council contacted Mr X on 3 September 2018 and said it needed more time to respond to his complaint. It envisaged responding no later

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said that the transport provider who had been assisting Mr Y, withdrew when the journey became uneconomic. The Council said it had tried to source an alternative provider but there was a shortage of transport operators with larger wheelchair accessible taxis in the local market.

12. The Council said the only option it had was to periodically review the availability of transport providers with capacity to accept a powered wheelchair, whilst in the meantime ensuring that Mr Y was able to access the Day Centre by means of a regular wheelchair accessible vehicle.
13. Mr X contacted the Council and said he was unhappy with the response he had received. He said the Council had assessed Mr Y and he required the use of his electric wheelchair. He reminded the Council of its duty of care.
14. On 5 November 2018, the Council reviewed the documentation relating to Mr X's complaint. It said that it had not managed to secure a transport provider, but it was continuing to try and source one. The Council said it was of the view that because efforts were continuing to be made to try and respond more positively it could not uphold his complaint.
15. Mr X was unhappy with the Council's response and brought his complaint to the Ombudsman.

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## Analysis

22. The Council has assessed Mr Y's needs and decided he should attend a day centre five days a week and that it would provide transport to and from the centre.
23. Mr Y was supplied with an electric wheelchair due to a change in his needs and circumstances. However, he has been unable to use the electric wheelchair five days a week for at least 20 months because the

electric wheelchair at the day centre as a preference. Also, in its

response to my enquiries, the Council describes the use of the electric wheelchair as 'desirable' by the family and not critical.

25. Mr Y's care plan dated 7 November 2017 highlights that while he attends the Day Centre with his manual wheelchair, there is a risk of his physical health and posture deteriorating. A letter from a medical professional in July 2018, explains Mr Y was supplied with an electric wheelchair because he was struggling to maintain propelling his manual wheelchair over long distances and for long durations. Mr Y attends the day centre five days a week and for approximately 7 hours each day. The professional opinion is that it is not ideal for Mr Y to use his manual wheelchair all day at the day centre as the electric wheelchair is designed to alleviate fatigue and effort.
26. The Council also said in its initial complaint response that it had offered Mr X an alternative solution which he had rejected. The alternative solution the Council offered was a Personal Travel Budget payment to Mr X in return for transporting Mr Y in their family vehicle. It is the Council's responsibility to provide transport to enable Mr Y's attendance at the day centre, it is not Mr X's responsibility.
27. There is evidence that suitable vehicles in the area do exist and the Council has acknowledged that it could secure a suitable vehicle, but it chooses not to due to cost.
28. It is evident that Mr Y requires the electric wheelchair for his health needs and use of the manual wheelchair for long durations is having a detrimental effect on his health. The Council has a duty to transport Mr Y to and from the day centre. The Council has failed to provide suitable transport to Mr Y. This is fault.
29. A review of Mr Y's care plan in November 2017 stated the risks to Mr Y's health of continued use of the manual wheelchair at the day centre. The actions required within three months of the review stated that a vehicle which can transport Mr Y's electric wheelchair to the Day Centre was

## Agreed action

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30. Within four weeks of my final decision, the Council will prioritise Mr Y's needs over its resources and arrange suitable transport for Mr Y and his electric wheelchair for his visits to and from the day centre.
31. The Council should have arranged adequate transport for Mr Y and his electric wheelchair from 4 September 2017. Within four weeks of my final decision, the Council will pay Mr Y £900 for the impact the Council's failure to provide adequate transport has had on him.
32. Within four weeks of my final decision, the Council will pay £100 to Mr X for his time and trouble in bringing the complaint to the Council and the Ombudsman.

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## Final decision

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33. I have completed my investigation and found fault by the Council which caused an injustice to Mr Y. I am satisfied the action the Council will take is sufficient to remedy Mr Y's injustice.

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### Investigator's decision on behalf of the Ombudsman

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