

Complaint reference:
13 015 783

Complaint against:
Portsmouth City Council

The Ombudsman's final decision

Summary: There was no fault in the decision to restrict Ms X's contact with the adult social care finance team. Ms X placed high demands on council officers. Her contacts were excessive and far higher than for anyone else for whom the Council holds a deputyship. However, the letter explaining the contact restriction was faulty because it did not say the restriction was only with the finance team, explain Ms X's right of appeal or state when there would be a review. The Council has agreed to review the restriction.

The complaint

1. Ms X complains Portsmouth City Council ('the Council') has unreasonably restricted her contact with council services.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure' against councils and some other bodies. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and, if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30 (1B) and 34H(i)*)

How I considered this complaint

4. I considered Ms X's complaint to the Ombudsman, the Council's response to her complaint and to my enquiries. Ms X had the chance to comment on a draft of this statement and on information the Council provided in response to the draft statement.

What I found

5. The Council has a policy on how to deal with persistent complainants. The policy says unreasonable behaviour includes an "*excessive number of contacts or unreasonably made multiple complaints placing unreasonable demands on employees*". The policy goes on to say "*discretion must be exercised in deciding how many contacts are required to qualify as excessive using judgement based on each individual case*"

-
6. The Council may restrict a person's contact with its services in the complainant's persistence adversely affects officers' ability to work. Restrictions must be appropriate and proportionate.
 7. The Council acts as Ms X's Deputy because the Court of Protection made an order that she lacked mental capacity to manage her finances and the Council should manage them for her.
 8. Ms X is unhappy with the Deputyship arrangement and wants to look after her own money. She has previously complained to the Ombudsman about the Deputy's actions. The Ombudsman did not investigate those complaints because they are not within the scope of what she may investigate.
 9. The Head of Adult Social Care wrote to Ms X in October 2013 saying he had decided to restrict her contact with council services. This was in response to Ms X raising many complaints about the same thing and which the Council had already dealt with.. The letter explained:
 - Some of the complaints were about the Deputy and should go to the Office of the Public Guardian. (this is the administrative department of the Court of Protection) Other issues the Council considered it had already addressed. (although not in a way Ms X accepted)
 - The areas the Deputy would continue to support Ms X with ensuring she received the benefits she was entitled to, providing copy bank statements, ensuring she received her weekly allowance and repaying her for expenses.
 - The issues the Council considered it had already dealt with were the insurance claim, DLA appeal and costs associated with Ms X's dog.
 - The Council was restricting her contact with its services *'for any other purpose than to agree expenditure and provide evidence of such thereafter'*
 10. The Council told me it did not mean to restrict Ms X's contact with all council services and the restriction (final bullet point) was only about Ms X's contact with the finance team. There were no limits on Ms X's contact with other council departments.
 11. The Council told me about constant problems it has with Ms X's contact. These problems are because Ms X does not want a Deputy. In summary, the Council said:
 - Since it became Deputy for Ms X she has been continuously unhappy. She has complained about a wide range of issues, there are three files for Ms X in which this correspondence is held - dating back some years
 - Ms X has made the Deputyship almost impossible. She physically assaulted a former Client Affairs Officer, refused to let the current Client Affairs Officer deal with her affairs and failed to engage. Managers then became involved to deal with correspondence and now all correspondence is addressed to the Head of Adult Social Care
 - Ms X refused to meet with officers or speak on the telephone and refused to respond to emails electronically, any response has to be in writing in a sealed envelope addressed to her, then posted in another sealed envelope to her advocate's address.
 - Ms X refuses to collect her weekly allowance from any council building, despite having a housing office close to her home. An officer has to deliver her weekly cash by hand. Ms X refuses to open the door and refuses to sign to say she

has accepted the money. An officer has to photocopy the cash with a receipt slip and get this witnessed by another officer.

- The one time Ms X engaged with the officer delivering her weekly budget she shouted at him stating she did not want any officer to come to her home to deliver cash, she would tape up her letterbox and she wanted a formal investigation from the Head of Social Care and that she would come in and "spray paint the civic offices".
- Against council advice, Ms X makes purchases without permission from the Deputy, who then has to try and get information/receipts to account to the Court of Protection. Ms X fails to provide this or takes some time in responding again causing unnecessary work and man hours for the Client Affairs team
- Ms X wants a review of her budget and officers have offered to meet to discuss this, however she refuses to do so. Officers have sent information to her about her budget and again have not received a response. The man hours involved in chasing, and follow up work far exceeds any other clients.
- Ms X has said several times that she does not have any confidence in the Deputy and that she would like control of her finances again. Because of the complete communication breakdown, the Council sought advice from the Courts. The Courts would also support an application to revoke the Deputyship. For this to happen, there must be a mental capacity assessment and the Courts will not release until satisfied alternative arrangements are in place. Ms X has forbidden the Health Service to give any information to the Client Affairs team - this is the team responsible for completing the paperwork, therefore without this information the Council cannot revoke the Deputyship. The Council would be seeking a court appointed deputy as it is officers' professional opinion Ms X would still need this service. The restriction Ms X has made on information sharing between the Council and the NHS also makes the position difficult as the Council has to present information to the courts, to meet Ms X's request for it not to be her Deputy any more.
- Ms X complained the Council's information for her Disability Living Allowance application resulted in her claim being turned down, however the Council was unaware of this application and had no hand in it. Ms X instructed an external advocate to help her.
- Portsmouth City Council is Deputy for about 140 clients. For most clients, (85% -90%) the only contact would be yearly when setting new agreed budgets. The remaining 15% - 20% would have about three to four contacts per year.

12. I asked the Council about Ms X's contacts with it for the 3 months before the contact restriction (July to September 2013). Ms X and/or her advocate sent 7 emails and 3 letters. The Council explained the total man hours needed to deal with each response is about 8. This is on top of the general administration time of dealing with Ms X's financial affairs including hand delivering cash, chasing missing receipts and other financial matters of about 2.5 hours per week.

Was there fault?

13. I have considered all the information from the Council and Ms X has seen the Council's responses without comment. I have to reach a view on whether Ms X's contacts during the deputyship have been excessive and whether the Council was balanced and proportionate in imposing the restriction, given the competing demands on its resources from other clients. I have also taken into account the

fact Ms X has mental health problems and lacks capacity to manage her financial affairs and her contacts have to be viewed in that context. I have decided it was proportionate to restrict Ms X's contacts as the Council has done and the Council was correct to conclude she was placing excessive demands on the client affairs team.

14. However, the Council's letter restricting contact was faulty. It did not give Ms X a date for a review. And the letter wrongly said she could not contact any council services when the restriction was intended only to be with the finance team. The letter also did not explain Ms X's right to appeal against the decision. This was fault.

Agreed action

15. The Council has agreed to review the contact restriction to see whether it is still necessary.

Final decision

16. There was no fault in the decision to restrict Ms X's contact with the adult social care finance team. Ms X made unreasonable demands of council officers. Her contacts were excessive and far higher than for anyone else for whom the Council holds a deputyship.
17. However, the Council's letter explaining the contact restriction was faulty because:
- it did not explain the restriction was only with the finance team
 - it did not explain Ms X's right of appeal or state when there would be a review.
18. The Council has agreed to review the restriction. I have completed my investigation because I am satisfied with the agreed action.

Investigator's decision on behalf of the Ombudsman