

Leeds City Council (24 001 390)

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Decision : **Upheld**

Decision date : **17 Dec 2024**

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The Ombudsman's final decision:

Summary: Mr X complained the Council had started to charge him for transport services although he believed he was eligible for s117 aftercare and should not pay charges. The Council has provided evidence he was not eligible for free aftercare. Following an investigation into Mr X's complaint about the unreliability of the transport service, and his decision to arrange alternative provision, the Council has now waived all charges. The complaint will not be investigated further as there is no outstanding injustice.

The complaint

1. Mr X (as I shall call him) complains the Council charged him for transport services although he was eligible for free aftercare.

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The Ombudsman's role and powers

2. 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 significant injustice, or that could cause injustice to others in the future we may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1), as amended)
3. If we are satisfied with an organisation'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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How I considered this complaint

4. I considered the documents provided by Mr X and by the Council. Both Mr X and the Council had an opportunity to comment on a draft statement before I reached a final decision.

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What I found

Relevant law and guidance

5. Under section 117 of the Mental Health Act 1983, councils and Clinical Commissioning Groups (CCGs) have a joint duty to provide after-care services

to people who have been detained in hospital for treatment under section 3 of the 1983 Act.

What happened

6. The records show Mr X was detained under section 2 of the Mental Health Act in 2007.
7. Mr X began receiving non-chargeable services (at a day centre) from the Council in 2009. He also began to use transport services (a chargeable service) in 2009 but was not charged for those.
8. The Council undertook a project in January 2024 to streamline client contributions. As part of that project Mr X was identified as a client who should have been paying for services.
9. The Council undertook a financial assessment and notified Mr X that he would be charged for transport services from 8 April 2024. The Council says it waived charges before that date as it would not have been fair to charge when it had been in error. Mr X maintained the transport should have been free as he had previously been detained under section 3 of the Mental Health Act.
10. Mr X then also complained that the transport services had been unreliable in July 2024. He said he had now made alternative arrangements to travel to the day centre. He complained to the Ombudsman about the Council's decision to charge him for transport services.
11. The Council investigated Mr X's complaint about the poor reliability of the transport services and wrote to him in September 2024 advising that it had decided to write off all previous transport charges, although it reminded him that going forward he would be subject to the Fairer Charging Policy if he used chargeable services.

Analysis

12. There is no evidence Mr X was ever detained under section 3 of the Mental Health Act and therefore he is not eligible for aftercare funding.
13. The Council had already decided not to backdate charges prior to the 2024 financial assessment as failure to charge was its error.
14. In view of the poor service received by Mr X using the transport in July, the Council has also now waived all outstanding charges.

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Final decision

15. I have completed this investigation as the actions of the Council have remedied any injustice.

Investigator's decision on behalf of the Ombudsman

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Investigator's decision on behalf of the Ombudsman

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