

Report by the Local Government Ombudsman

Investigation into a complaint against Halton Borough Council (reference number: 14 001 787)

22 March 2016

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

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Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Ms X - the complainant

Miss Y - the complainant's sister and the main person affected

Ms Z - another sister of the complainant

Report summary

Adult social care

Ms X complains on behalf of her sister Miss Y who has disabilities. She says that when the Council was appointee for Miss Y between September 2002 and October 2013 it failed to deal properly with her money and then did not appropriately respond to her complaint about this.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To remedy the injustice caused, the Council should:

- apologise to Ms X for the failures identified which affected both Ms X and Miss Y;
- repay £11,700 to Miss Y to put her back in the position she was in before it miscalculated her housing benefit overpayment. The Council has already acknowledged its error here and has repaid Miss Y;
- refund to Miss Y the appointee charges applied from January 2006 until it stopped being her appointee, in recognition of its failure to manage her money properly;
- reimburse Miss Y with the £400 she overpaid for her bills;
- reimburse Ms X with the £292.75 which she spent on clothes for Miss Y;
- pay £500 to Ms X for the avoidable distress, time and trouble it caused her;
- arrange an independent, external process to review its practices in light of this report for the existing 17 service users for whom the Council is currently appointee and who live in a house of multiple occupation (HMO) with people for whom the Council is not appointee. In view of the risks to service users, this should take place as soon as possible to ensure that any safeguarding concerns are acted on at the earliest opportunity.
- make sure it has arrangements in place to:
 - ensure it has more robust ways of dealing with bill payments for service users;
 - ensure it has a quality assurance and monitoring system in place to consider its practice in those cases where it is appointee. This should include best interests decisions which the appointee relies on to make payments;
 - ensure relevant staff receive training in appointeeship, mental capacity, best interests and safeguarding adults so that decisions about people's money are properly made. Also set up routine refresher training for those staff;

- ensure that people in supported accommodation have a fair and accountable system to pay for communal goods;
- review its complaints process and training in the light of these events to ensure it deals with future complaints more effectively; and
- develop guidance to providers on holiday planning for service users.

The Council should confirm to us it has taken this action within three months of the date of this report.

Introduction

1. Ms X complains on behalf of her sister Miss Y. She says that when the Council was appointee for Miss Y between September 2002 and October 2013, it:
 - paid more than Miss Y's fair share for the bills in the supported accommodation she lived in throughout 2011, 2012 and part of 2013;
 - did not refund Ms X for essential items the Council agreed she could buy for Miss Y;
 - billed Miss Y for a holiday which Ms X does not believe she took; and
 - left Miss Y without any money when it took £3,470.88 for an outstanding housing benefit overpayment after Ms X took over as appointee. The overpayment happened over time while the Council was appointee.
2. Ms X says the Council should not have left Miss Y without any money; it should have agreed a repayment plan with Ms X for the housing benefit overpayment. Ms X was appointee at the time the Council took the money but it was the Council's fault the debt had accrued.
3. Ms X would also like the Council to repay Miss Y the money it overcharged her for the bills and reimburse Ms X for the items she bought for Miss Y in good faith.

Legal and administrative background

4. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this report, we 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. We 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)*)
5. The Ombudsman cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D*).
6. Ms X complained to the Council many times over years, but the Council did not deal with her complaints effectively and this delayed her complaint to the Ombudsman. This is a good reason for us to investigate events of more than 12 months ago.
7. We may investigate a complaint on behalf of someone who has died or who cannot authorise someone to act for them. The complaint may be made by:
 - their personal representative (if they have one); or
 - someone the Ombudsman considers to be suitable.(*Local Government Act 1974, section 26A(2)*)

8. The Council has been dealing with Ms X for many years and she is now appointee for Miss Y; we consider that she is a suitable person to complain on behalf of Miss Y.
9. The Ombudsman may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (*Local Government Act 1974, section 26D and 34E*)

Mental capacity

10. The Mental Capacity Act 2005 (the Act) is the legal framework for acting and deciding on behalf of people who lack the mental capacity to decide themselves. The Act and the accompanying Code of Practice 2007 (the Code) describe the steps to take when dealing with someone who may lack capacity to decide for themselves.
11. The Code describes when a person's capacity to decide should be assessed, how to do this, and how to decide on behalf of someone when they cannot. It also says that lack of capacity to decide in some areas of life may be a reason to question that person's capacity to decide in other areas of life.
12. A key principle of the Act is that any act or decision on behalf of a person who lacks capacity must be in that person's best interests. The Act provides a checklist of steps that decision makers must follow to decide what is in a person's best interests. This includes considering the person's past and present wishes and feelings, beliefs and values and the views of other people who are close to the person.
13. Any staff involved in the care of a person who lacks capacity should make sure a record of the process is kept on the person's file, setting out:
 - how the decision was reached;
 - what the reasons were;
 - who was consulted; and
 - what factors were taken into account.

Appointees and benefits

14. An appointee is responsible for making and maintaining any benefit claims on behalf of someone who is incapable of managing their own finances. There can only be one appointee acting on behalf of that person at any one time. An appointee can be held responsible if benefit is overpaid. The appointee must:
 - tell the benefit office about any changes which affect how much the claimant gets; and
 - spend the benefit it receives in the claimant's best interests.
15. The Council's leaflet (dated 2010) about its Deputy and Appointee Service says the Deputy and Appointee Team will "monitor your money" and will "act in the best interest of the client at all times". The leaflet also says "We will pay all your bills on your behalf".

16. Income support is an income related benefit paid by the Department for Work and Pensions (DWP) to working age people who have no income or a low income from working less than 16 hours a week. Income support is not usually available to people with capital over £16,000. People with capital over £6,000 are treated as having more income for each £250 capital they have over a £6,000 lower limit, and their entitlement is therefore reduced according to how much they are over the limit.
17. Housing benefit is a means tested benefit paid by the local council to people on low income, to help with paying rent. Housing benefit is not usually available to people with capital over £16,000. Working age people are treated as having more income for each £250 capital over a £6,000 lower limit, and their entitlement is therefore reduced according to how much they are over the limit.
18. The diminishing capital rule sets out how councils should calculate capital retrospectively if the person's housing benefit award had been lower. It takes into account that, with less benefit paid, the person's capital would have been reducing over time.

Supported accommodation

19. Supported accommodation allows people to rent or own their own home and receive the support they need to live as independently in the community as possible. Service users' needs must be assessed and a support plan developed.

How we considered this complaint

20. This report has been produced following the examination of relevant files and documents and through discussion of these with the complainant and with the Council.
21. The complainant and the Council were given a confidential draft of this report and invited to comment. The comments received were taken into account before the report was finalised.

Investigation

Background

22. Ms X was appointee for her sister, Miss Y. In 2002, when Miss Y moved into supported accommodation, her social worker suggested it would be easier for the Council to take over as appointee as Ms X lived far away.
23. The Council took over as appointee for Miss Y and charged her for the service. Miss Y's statements show various amounts as "appointee fee" including £28.70 in January 2007, £31.62 in April 2007, £77.85 in June 2007 and £82.71 in January 2008. From April 2013 it charged her £5 a week.
24. From 2006 until October 2013, Creative Support, the Care Provider commissioned by the Council, provided Miss Y with support on site at her supported accommodation. Miss Y attended a day service each day where she received some one-to-one support. She

shared the accommodation with one or two others; this varied over the time she was there. Miss Y received housing benefit and income support for many years.

25. Miss Y has two sisters; Ms X and Ms Z. Miss Y has since moved into a care home near Ms X but at the time of these events she lived in a different part of the country. Ms Z lived abroad. For many years, Miss Y visited both sisters regularly, staying several weeks with each. Ms X also visited Miss Y occasionally. From time to time, Ms X asked the Council for money from Miss Y's account; this was for the trips to visit her sisters and at times for clothes or other personal items for Miss Y. Neither sister was otherwise involved in Miss Y's finances.
26. Miss Y's assessment completed by the Council in 2007, says Miss Y does not have the mental capacity to make an informed decision about sharing information. It also says Miss Y can have difficulty understanding simple instruction.
27. Miss Y's care plan dated 2007, and the subsequent reviews dated 2009 and 2010 stated that, as well as support with her finances, Miss Y needed support to:
 - participate in activities;
 - choose her own clothes and jewellery so she felt comfortable and liked how she looked;
 - eat a healthy balanced diet so her weight remained stable; and
 - purchase toiletries and have her hair cut and coloured so she would be clean and look good.

Utility bills

28. When it first became appointee, the Council paid the accommodation's utility bills from a general account and reclaimed contributions from each resident including Miss Y. After 2008, it took the water bill and the TV licence fee in full from Miss Y's account and repaid her when it collected those contributions from the other resident(s).
29. When the Council experienced increasing difficulty collecting the other residents' shares, it changed the arrangement and passed responsibility for the bills to the Care Provider. The Council continued to pay the water bills and TV licence fees in full from Miss Y's account.
30. The Council accepted that between 2008 and 2010 Miss Y "probably overpaid" by around £400 due to some "errors" in the "netting off" against other bills. It said this was offset by the bills for which she did not pay her share, as records show that she "may have benefitted by £409.65".
31. Between 2008 and 2013, Miss Y paid the water and TV licence bills in full but the other residents did not always pay their shares back to her. Between 2010 and 2013 Miss Y received no contributions towards these bills and so overpaid by approximately £402. Miss Y was not charged for her share of gas, electricity, phone and insurance during this

period because the Care Provider failed to invoice. The Care Provider eventually agreed to pay these outstanding bills for all residents. Over this period, Miss Y paid £603.62 water and TV licence but the other residents paid nothing. Miss Y's share of the water and TV bills was £201.00.

32. Between April 2013 and September 2013, when there were three residents, all bills were shared between Miss Y and another resident for whom the Council was also appointee. Miss Y and the other resident were reimbursed when the third resident paid her share.
33. The Council says the payment of utility bills in a house of multiple occupation (HMO) where it is not appointee for all residents, is a complex matter. Each approach creates a risk to one party or another.
34. Miss Y's account shows widely varying amalgamated amounts for bills. We have not been able to discover exactly how much she paid and how much she should have paid. The Council has retrospectively constructed a record of various bills and payments however there is a lack of robust information to evidence the accuracy of this.

Complaint handling

35. Ms X contacted the Council on many occasions to discuss her sister's care and finances. The Council says the majority of this contact was with the social worker and it first recorded a formal complaint in April 2013. It accepted that it had delayed in responding to the issues Ms X had raised, and closed the complaint when Ms X did not reply within 20 days.
36. Ms X was concerned about the way Miss Y's finances were being managed by the Council so she arranged to take over as appointee.
37. In January 2014, Ms X complained to the Council about some of the issues she had previously complained about and some new matters. She asked for information about transactions on the account the Council operated on behalf of Miss Y from before 2010. She had previously asked for this information and the Council had not yet given it to her. She asked why Miss Y was charged a substantial care bill on 24 October 2013 when she had moved out on 14 September 2013. She also asked why the Council had not arranged a payment plan instead of leaving Miss Y with no money, and why she had been charged for a holiday she did not take. The Council says it found it difficult to establish exactly what her complaints were.
38. Ms X also complained about the payment for a freezer which had been purchased jointly by the residents. She asked for more information as she understood Miss Y had paid the full amount and wanted to check she had been reimbursed. The Council had only given Ms X part of the bill so she could not see how it had been paid.
39. In February 2014, Ms X complained to the Council again. She asked again for the statements before 2010 and why some payments made to Ms X did not show on the statements she had received. Ms X queried several payments, including four of £80 which she did not understand, and asked about a payment for £210 with no description. Ms X

also asked to see the Care Provider's accounts for Miss Y so she could check them. The record of bill payments includes information relating to all the residents so the Council said it could not disclose this information to Ms X.

40. Ms X complained to the Council again in June 2014. She said the response it had sent did not show Miss Y had paid fair contributions to the bills. She said she had not received answers to several of her specific complaints. Ms X found it became difficult to speak to anyone at the Council.
41. The Council wrote to Ms X. It said it was satisfied its appointee team had managed Miss Y's finances fairly and appropriately. It explained the four payments she had queried were Miss Y's weekly allowance, which she had not used and it had therefore refunded these to her account. It also explained that it would now credit the £350 charged to Miss Y for a carpet. Ms X understood the Care Provider was responsible for the cost of the carpet. The Council said it refunded the money because both the Council and the Care Provider should have contacted Ms X about the purchase as she was the signatory on Miss Y's tenancy agreement. While the Council says this response addressed all Ms X's concerns, it accepts it had delayed responding to her complaints and could have kept her more informed about progress and given clearer, more detailed information in response.

Benefits overpayments

42. At the end of 2006 Miss Y had a balance of around £9,000 in the account the Council operated on her behalf. In 2009 she had an account balance of about £16,000. By 2012 Miss Y had a balance of around £23,500.
43. In October 2012, the Department for Work and Pensions (DWP) decided Miss Y had received too much income support; it said it had paid her £8,461.28 more than she was entitled to. The Council repaid the income support overpayment from Miss Y's account to the DWP and decided it had paid her over £11,700 too much housing benefit.
44. Miss Y was left with an account balance of just over £13,000; the housing benefit debt she owed to the Council was £11,700.28. The Council considered how she had been spending her benefit over the last few years and felt it was not in her best interest to leave her with only a small balance. It reclaimed half the housing benefit overpayment and agreed a repayment plan for the rest.
45. In January 2013, the Council's benefits service wrote to Miss Y asking for evidence of her capital/shares so it could recalculate the overpayment with accurate figures.
46. On 7 November 2013, the Council repaid the remaining housing benefit overpayment of £3,470.88 from Miss Y's account and transferred a nil balance to Ms X.
47. The Council said it had taken the full amount of the debt because Miss Y was moving into another area and it would then have been difficult to recover. Ms X felt insulted by this and said the Council had no cause to think this. She did not complain about the overpayment because she did not doubt it was due.

48. The Council says it did not apply the diminishing capital rule to calculate the housing benefit overpayment because Miss Y had only supplied three bank statements. It said Miss Y did not respond to its request for evidence of her capital/shares so it could not recalculate the amount.
49. An undated, internal email discussing Ms X's complaint states "we probably should have noticed the level sooner and notified the DWP". It continues "however she would have had to pay back any overpayment of income support and housing benefit in any event" and "would have had to pay her own rent anyway".

Holiday and clothes

50. Ms X says she told staff at the supported accommodation that Miss Y should not go on the holiday they proposed in June 2010. She was told this would be a week in a private villa with pool which she understood to be in Rhodes. Ms X believed this was not suitable for Miss Y; Miss Y needed activities to keep her occupied. She says Miss Y would be able to decide she would like to go on holiday but would not be able to decide about where to go and whether it was suitable.
51. Ms X does not believe Miss Y went on the holiday. She says this because there are no withdrawals from Miss Y's account for spending money, or travel to and from the airport, only around £800 for the holiday. However, the holiday company confirmed that Miss Y travelled to Cyprus for the holiday. Ms X was not aware that Cyprus was considered.
52. The Care Provider's records also support this. The daily notes while she was away include the following comments.
 - We went out for our evening meal of chicken and chips and glass of wine.
 - [Miss Y] didn't want to go in the pool today.
 - We went to the supermarket to buy groceries.
 - She was having a wonderful time.
 - Spent the day in the pool.
 - Sun block applied, sat on lounger.
 - She stayed in the shade.
 - Weather was too hot for her.
 - [Miss Y] has come out in a rash.
53. The notes say staff took Miss Y to a pharmacist who confirmed she had prickly heat rash and recommended cream and anti-histamines.
54. When we asked for care plans and assessments covering the time of the holiday, the Council provided a care plan dated May 2007 and reviews dated November 2009 and

2010. After a second request it provided an assessment dated 2007. None of these identified any need for a holiday other than the ones she regularly took with her sisters and there was no mental capacity assessment or best interest assessment.

55. Council records show Miss Y had around £300 each year for clothes which she bought supported by her care worker. In 2011 however, there is no record of any money for clothes and in April 2012 she had an additional £170 to buy an outfit for a family wedding.
56. Ms X complained to the Council about the clothes Miss Y wore when she visited. She said they were mostly too tight and not appropriate to the time of year. Following a visit in March 2013 when Miss Y arrived with summer clothes, Ms X took over buying Miss Y's clothes.
57. Ms X had to replace most of Miss Y's day clothes in July 2013 because they were unsuitable or too small for her. This cost just under £600; the Council reimbursed Ms X with £400 and Miss Y paid the other £200 from her spending money. Ms X also had to buy Miss Y a winter coat and shoes in September 2013; she says the Council should have refunded her with £142.75 for this, but did not. The Council has no record of agreeing to this.
58. In October 2013 Miss Y moved to a care home near Ms X. The care home asked Ms X to replace and increase the amount of underwear and bedwear for Miss Y, because what she had needed replacing, and she had increasing difficulty with continence. Ms X says she agreed this with the Council and bought the items but it did not refund the £150 she spent. The Council has no record of this agreement. Ms X provided receipts which do not suggest this was an excessive amount.
59. The Council says Miss Y had already had £900 for clothes in 2013 and so should not have needed more in September and October 2013. Ms X says she buys nice clothes and this is not a lot considering how much she had to buy.

The Council's actions

60. Since the events which Ms X complains about, the Council has taken the following action:
 - Reviewed procedures to ensure it monitors capital and promptly notifies relevant agencies where capital exceeds the benefit thresholds;
 - Introduced monthly balance checks and quarterly reviews for each appointee client's finances;
 - Improved communication between the appointeeship team and the benefits service;
 - Improved processes to ensure it applies the diminishing capital rule where appropriate.
61. The Office of the Public Guardian has recently inspected the Council's appointeeship arrangements and found it has robust management procedures in place.

Conclusions

62. For at least seven years and possibly longer, the Council failed to effectively manage Miss Y's money while it was responsible, as appointee, for her financial affairs. It also charged her for doing this. The overpayments of benefits and confusion about household bills resulted from the mismanagement of her money.

Utility Bills

63. Under no circumstances was it acceptable for the Council to pay bills for other residents using Miss Y's money so she carried the risk of non payment. The Council, as appointee, should have ensured the payment from Miss Y's account was for her share only; its actions here were clearly not in her best interests.
64. The Council did not have effective systems in place to ensure that Miss Y's money was properly managed and her bills paid on time. Its records do not clearly show how it spent her money over the whole time it was appointee, and therefore we cannot know whether she paid a fair share.
65. The Council said Miss Y "probably overpaid" about £400. It accepts that for 30 months she paid the water and TV licence in full and was not properly reimbursed. It said this was offset by occasions when she did not pay her share. The Council also accepts that accounting arrangements for the household bills were "complex" and "difficult to disaggregate" but it believes it can demonstrate bills were apportioned correctly most of the time. We accept the Council's position that Miss Y's overpayments were, in effect, reimbursed most of the time. However, we do not consider this was due to robust systems.
66. We are confident that the Council caused Miss Y a financial loss of approximately £400. This relates to the time when she paid the water and TV bills on her own and the Care Provider failed to invoice residents for the other bills. This meant that over this period, Miss Y paid £603 and the other residents paid nothing. Miss Y's share of the water and TV bills was £201 but she paid £603. Since the water and TV bills were paid by Miss Y on behalf of the other residents, she was entitled to have £402 reimbursed to her.
67. Miss Y also paid a share of carpets, white goods and other furnishings which other people, who had not paid towards them, then used. This is not acceptable. In this case, Ms X feels this did not cause Miss Y any significant injustice however there is a risk this practice has caused significant injustice to others in similar circumstances.

Complaint handling

68. Ms X made some serious allegations yet the Council delayed and avoided dealing with them; it gave only superficial responses. Ms X was sure Miss Y was not paying a fair share of the bills and was not satisfied with the responses to her questions and complaints. She had to pursue the Council relentlessly and ultimately took on the responsibility of appointee because the Council failed to respond adequately. This caused Ms X significant and avoidable distress, time and trouble.

69. The Council should have considered the issues Ms X raised under its safeguarding procedures. Ultimately, this meant serious failings continued unchecked and caused Miss Y more risk of harm and distress through lost opportunities and uncertainty. This also caused Ms X more time, trouble and distress.
70. The Council accepts it delayed dealing with Ms X's complaint and says that it should have offered Ms X a stage 2 investigation sooner. However, it should not have needed a further stage to its investigation to recognise the seriousness of the concerns Ms X had raised.

Benefits overpayment

71. Since at least 2006, Miss Y had capital above the lower limit of £6,000 for both income support and housing benefit. At no time between 2006 and 2012 did the Council alert the DWP to this or consider why Miss Y was not spending her income. In fact, it was the DWP that alerted the Council.
72. The Council did not calculate the housing benefit overpayment properly and despite having the records available as appointee, it wrote to Miss Y to ask for statements. When she did not provide the information, it decided that it could not calculate the payment accurately so it would stand at £11,700.
73. While this report was being finalised and in light of our enquiries, the Council reviewed its approach to this overpayment. It found that, had it applied the diminishing capital rule, Miss Y would have been entitled to a credit of £8,080. It also accepts that it should not have recovered the remaining balance of £3,620 because it was due to its own error. It has therefore agreed to refund the full £11,700 to Miss Y.
74. The Council says it considered Miss Y's best interests when it planned to reclaim the housing benefit overpayment of £11,700 in full at the end of 2012. It decided however, although there is no evidence of a formal best interests assessment, that reclaiming the full amount would leave Miss Y with too little money. It therefore took half the amount immediately, and agreed to take the rest in small weekly amounts. One year later, the Council did not consider Miss Y's best interests at all when it took the outstanding debt and left her with a nil balance. Although the Council has now agreed to refund this money to Miss Y in full, this caused significant distress to Ms X as she experienced financial hardship, lost opportunities and stress.

Holiday and clothes

75. The Council's role as appointee gave it responsibility to manage Miss Y's benefits and to spend them in her best interests. Otherwise, it had a responsibility to meet her assessed eligible needs.
76. We know Miss Y did not have the mental capacity to manage her finances in general as this is why the Council was appointee. We also know that she did not have the mental capacity to manage her own tenancy; this was why she received housing related support. Council records show she could not decide about sharing information and had difficulty following simple instructions at times. We are satisfied there was enough reason for the Care Provider and the Council to doubt her capacity to decide whether the holiday was

suitable. The Council knew Ms X was an interested family member and should be involved in decisions about Miss Y.

77. The decision to go on this holiday was not a day-to-day decision. It involved spending a large amount of money, and considering what holiday would be suitable for Miss Y's needs. The Council's responsibility to use Miss Y's money in her best interests meant that when the Care Provider requested payment for the holiday, it should have triggered the Council's own best interests assessment. The Council says it did carry out a best interests decision process but did not record it and cannot locate the Care Provider's risk assessment and care plan. Part of the best interests decision making process is recording the process and the outcome; without a record we cannot accept that this was properly done for either the decision about the holiday or the decision about the money.
78. We have no evidence other than Ms X's word that she told staff Miss Y should not go on the holiday, or that it was unsuitable; only that a holiday was discussed. Anyway, regardless of whether Ms X expressed this view, the Council did not properly consider this and did not decide in Miss Y's best interests. The Council was at fault here and this caused injustice to Miss Y as she was under avoidable, increased risk of harm. It is fortunate that Miss Y was not caused more injustice here than she was.
79. It is of concern that Miss Y's new care home had to ask for new underwear and sleepwear for Miss Y and that Ms X had to buy new daywear for her. Miss Y's care plan set out that she should have support to choose her own clothes and buy items so she felt comfortable and looked good. That all her wardrobe needed changing in such a short time suggests no one had considered whether she was comfortable or looking good.
80. The Council said Miss Y had regular money for clothes and should not have needed this amount of clothes in such a short time. However in 2011 there is no record of money for clothes and in previous years only about £300 a year. We do not consider this was likely to be sufficient to maintain a suitable wardrobe especially in light of her increasing needs and her need to feel comfortable and look good. The Council should have ensured Miss Y's needs were being met and her money spent to improve her quality of life but instead, it caused her distress because she lost the opportunity to do this. The Council did not provide a good reason why it should not reimburse Ms X with the money she spent on Miss Y. It was at fault here and caused Ms X further stress and a financial loss.

Decision

81. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Ms X and Miss Y. The Council should take the action identified below to remedy that injustice.

Recommendations

To remedy the injustice caused, the Council should:

- apologise to Ms X for the failures identified which affected both Ms X and Miss Y;

- repay £11,700 to Miss Y to put her back in the position she was in before it miscalculated her housing benefit overpayment. The Council has already acknowledged its error here and has repaid Miss Y;
- refund to Miss Y the appointee charges applied from January 2006 until it stopped being her appointee, in recognition of its failure to manage her money properly;
- reimburse Miss Y with the £400 she overpaid for her bills;
- reimburse Ms X with the £292.75 which she spent on clothes for Miss Y;
- pay £500 to Ms X for the avoidable distress, time and trouble it caused her;
- arrange an independent, external process to review its practices in light of this report for the existing 17 service users for whom the Council is currently appointee and who live in a house of multiple occupation (HMO) with people for whom the Council is not appointee. In view of the risks to service users, this should take place as soon as possible to ensure that any safeguarding concerns are acted on at the earliest opportunity.
- make sure it has arrangements in place to:
 - ensure it has more robust ways of dealing with bill payments for service users;
 - ensure it has a quality assurance and monitoring system in place to consider its practice in those cases where it is appointee. This should include best interests decisions which the appointee relies on to make payments;
 - ensure relevant staff receive training in appointeeship, mental capacity, best interests and safeguarding adults so that decisions about people's money are properly made. Also set up routine refresher training for those staff;
 - ensure that people in supported accommodation have a fair and accountable system to pay for communal goods;
 - review its complaints process and training in the light of these events to ensure it deals with future complaints more effectively; and
 - develop guidance to providers on holiday planning for service users.

The Council should confirm to us it has taken this action within three months of the date of this report.