

Gloucestershire County Council (25 002 870)

Category : [Adult care services](#) > [Charging](#)

Decision : **Upheld**

Decision date : **23 Mar 2026**

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The Ombudsman's final decision:

Summary: We found fault with the Council for delays in completing a financial assessment of Mrs Z and providing information about the monetary cost of her care. We also found fault with the Council failing to suitably explain its deprivation of assets decision to Mr X. The Council agreed to apologise to Mr X, make a symbolic payment for the distress and uncertainty caused and provide an explanation of its rationale behind its deprivation of assets decision. The Council also agreed to create an action plan to address inconsistencies with its approach and record keeping over deprivation of assets decisions. The Council also offered to remove Mrs Z's care home costs from when she

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home in 2023 to 23 September 2023 which I consider suitable action to address the Council's fault.

The complaint

1. Mr X complained the Council placed his mother in a care home without discussion or agreement.
2. Mr X says the Council is now sending invoices for money and has made an incorrect decision his mother deprived herself of assets to avoid care charges.

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The Ombudsman's role and powers

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 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)
4. We consider whether there was fault in the way an organisation made its decision. If there was no fault in how the organisation made its decision, we cannot question the outcome. (Local Government Act 1974, section 34(3), as amended)
5. We 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, as amended)
6. 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(1), as amended)

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What I have and have not investigated

7. I have investigated Mr X's complaint from May 2023 through to the Council's complaint response in 2025.
8. I have considered Mr X's complaint beyond 12 months from Mr X bringing his complaint to the attention of the Ombudsman. This is because the health issues Mr X experienced impacted his ability to raise his complaint sooner.
9. I have referenced some matters before 2023 for context but have not completed any investigation into the Council's actions before this date. This is simply for reference and to inform decision making for the time period 2023 to 2025.

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How I considered this complaint

10. I considered evidence provided by Mr X and the Council as well as relevant law, policy and guidance.
11. Mr X and the Council had an opportunity to comment on my draft decision. I considered any comments before making a final decision.

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What I found

Rules and regulations

12. The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 set out what people should expect from a council when it arranges a care

home place for them. Where the care planning process has determined a person's needs are best met in a care home, the council must provide for the person's preferred choice of accommodation, subject to certain conditions. This also extends to shared lives, supported living and extra care housing settings.

13. The council must ensure:

- the person has a genuine choice of accommodation;
- at least one accommodation option is available and affordable within the person's personal budget; and,
- there is more than one of those options.

14. However, a person must also be able to choose alternative options, including a more expensive setting, where a third party or, in certain circumstances, the resident is willing and able to pay the additional cost. This is called a 'top-up'. But a top-up payment must always be optional and never the result of commissioning failures leading to a lack of choice.

15. The Care Act 2014 (section 14 and 17) provides a legal framework for charging for care and support. It enables a council to decide whether to charge a person when it is arranging to meet their care and support needs. The charging rules for residential care are set out in the Care and Support (Charging and Assessment of Resources) Regulations 2014 and councils should have regard to the Care and Support Statutory Guidance.

16. When the Council arranges a care home placement, it must follow the regulations when undertaking a financial assessment to decide how much a person must pay towards the cost of their residential care.

17. The financial limit, known as the 'upper capital limit', exists for the purposes of the financial assessment. This sets out at what point a person can get council support to meet their eligible needs. People who have over the upper capital limit must pay the full cost of their residential care home fees. Once their capital has reduced to less than the upper capital limit, they only have to pay an assessed contribution towards their fees. Where a person's resources are below the lower capital limit they will not need to contribute to the cost of their care and support from their capital.

18. Regulations say a council can treat someone as 'possessing capital' if they find that person has 'deprived themselves' of it, 'for the purpose of decreasing the amount they may be liable to pay towards the cost of meeting their needs for care and support' (Care and Support (Charging and Assessment of Resources) Regulations 2014, Regulation 22).

19. The guidance outlines a council should take care when considering any potential deprivation of assets and fully explore any reasons why someone may no longer own an asset before deciding if this was a deprivation. The Council should consider three factors when deciding if a deprivation of assets has taken place:
- whether there was a reasonable expectation of needing care;
 - whether there was a reasonable expectation of the need to contribute towards the costs of that care; and
 - whether avoiding care costs was a significant motivation in disposing of the asset.

What happened

20. Before 2021, Mrs Z lived in her own home. Mrs Z had two separate spells in a care home in the lead up to 2021. In 2021, Mrs Z sold her home. Mr X used the proceeds to purchase a family home for he, his wife and Mrs Z to live in. Mr X did not place Mrs Z on the deeds of the house purchase.
21. In May 2023, Mr X's mother, Mrs Z, entered hospital. The hospital contacted the Council for an assessment of Mrs Z's needs on discharge and confirmed that Mrs Z lived with her son and his wife.
22. As part of the Council's assessment of Mrs Z, it spoke with Mr X who said Mrs Z could not return to live with him because of her increased needs and his own health issues. Mr X said he felt Mrs Z needed to be in a care home. The Council told Mr X it would need to complete a financial assessment of Mrs Z to determine any contribution towards her costs and would complete a Mental Capacity Assessment of Mrs Z.
23. The Council met with Mrs Z and confirmed she had capacity to understand she would be going into a care home and express her wishes. Mrs Z confirmed she was aware of Mr X's health issues and said looking after her was becoming too much for Mr X and his wife. Mr X's wife told the Council that Mrs Z went into a care home in 2019 following a fall but did not like it so they decided Mrs Z should live with them instead. Mrs Z confirmed her preferred choice of care home. The Council explained the financial assessment process and Mrs Z signed a Financial and Benefits form and asked for Mr X to act on her behalf as a financial representative.
24. The Council discharged Mrs Z to a care home in June 2023.
25. Mr X returned the signed consent form to confirm he would act as Mrs Z's financial representative in July 2023. In July 2023, the Council also contacted

Mr X about Mrs Z's stay at the care home. Mr X told the Council Mrs Z needed to stay in the care home. The Council said it would extend Mrs Z's care package until it had completed a full care needs assessment.

26. In August 2023, the Council contacted Mr X about completion of the financial assessment; Mr X asked for the Council to send the form by post. The Council completed a care assessment of Mrs Z in the care home and confirmed she had capacity to make her own decisions about care and support in the care home. Mrs Z said she knew she could not return to home and said she did not want to move from the current care home to another one.
27. The Council contacted Mr X in September 2023 to explore if there was any option for Mrs Z to return home as the current plan was a short-term placement at the care home. Mr X said he could not have his mother back home and he understood she was to remain at the chosen care home permanently. The Council met with Mrs Z in the care home who reiterated her desire to stay there.
28. In September 2023, the Council told Mr X the care home placement would be non-chargeable while it was a short-term plan. The Council also contacted Mr X for return of the financial assessment information. At the start of October 2023, the Council told Mr X it would have a better idea about Mrs Z's financial contribution towards her care home stay once it completed the financial assessment.
29. The Council asked Mr X to provide information about a potential deprivation of assets by Mrs Z and asked him to complete a questionnaire. Mr X and the Council liaised about this questionnaire throughout the month.
30. On 23 October 2023, the Council issued an invoice for Mrs Z's care home costs on the short-term basis. This detailed the exact costs of Mrs Z's short-term stay in the care home on a weekly basis. Mr X contacted the Council to dispute the invoice. Mr X said the Council told him it would not charge Mrs Z. Mr X also returned the financial assessment form information.
31. In November 2023 and December 2023, Mr X expressed concerns about the quality of care at Mrs Z's care home. The Council explored this with the care home and confirmed with Mrs Z that she was happy at the care home. The Council also explored the deprivation of assets concerns with Mrs Z during a visit. The Council also told Mr X in December 2023 that care fees would only be chargeable from 23 September 2023.
32. The Council confirmed again in January 2024 that Mrs Z had capacity to decide where she lived and had confirmed her desire to stay at the current care home.

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33. In January 2024, the Council's financial assessment team said it considered Mrs Z had deprived herself of assets in 2021 from the sale of her property. The Council's notes did not include any rationale to support this. The Council wrote to Mr X to advise it considered Mrs Z needed to pay the maximum charges towards her care home costs. The Council said this was because Mr X had used proceeds from Mrs Z's house sale to purchase his own property and it considered this a deprivation of assets. The Council said Mrs Z would need to meet this full cost from 17 June 2023.
34. The Council stopped funding for Mrs Z's care home placement in February 2024 and told Mr X this would now be directly between the care home and family. The Council issued an amended backdated invoice for the time period it covered funding for the placement on 12 February 2024. This backdated invoice increased the previous short-term costs with costs for Mrs Z being a permanent resident of the care home.
35. In June 2024, Mr X's solicitor asked the Council to reassess Mrs Z's finances and its decision about the deprivation of assets.
36. In July 2024, the Council's internal notes reiterated its consideration that Mr X using proceeds from Mrs Z's house sale to purchase his own home was a deprivation of assets. Mrs Z's care home also issued an eviction notice for Mrs Z because of unpaid care fees since February 2024. The Council spoke with the care home who agreed to fund the placement to prevent Mrs Z's eviction. The Council told Mr X this would mean Mrs Z would accrue a debt with the Council rather than the care home. Mr X told the Council he intended to remove Mrs Z from the care home and the Council agreed to complete an Occupational Therapist assessment to prepare Mrs Z for discharge home.
37. In August 2024, the Occupational Therapist completed an assessment of Mr X's home and agreed a plan for equipment to help Mrs Z in the home setting. The Council ordered this equipment but the company it ordered the equipment from told the Council that Mr X's wife was refusing delivery of it until she knew when Mrs Z was moving in.
38. The Council spoke with Mrs Z about the sale of her house. Mrs Z confirmed she gave her son money from the sale of her house so he could purchase a house for them all to live in. Mrs Z confirmed she did not know why she was not part-owner of the house. Mrs Z said when she sold her property she did not know she would become dependent on the Council to pay for her care if she needed it. The Council's internal notes detailed that it would have been clear to Mrs Z in 2021 that she needed care. This was because she had already had two falls requiring stays in care homes and the plan was to move in with Mr X so she

could be taken care of. And, the Council previously shared financial information with Mr X and Mrs Z during the time of her previous care home stays. The Council noted that Mrs Z's intention was not to move into a care home and instead to live with Mr X.

39. In September 2024, the Council spoke with Mr X about Mrs Z moving home. Mr X told the Council Mrs Z was going to be a long-term care home resident and did not agree that her care plan could be met outside a care home.

40. In November 2024, Mrs Z told the Council she wanted to stay living at the care home and did not want to move home.

41. Mr X made a complaint to the Council in January 2025. Mr X said:

- He rejected that he was responsible for Mrs Z's care home fees.
- The Council arranged the care home placement and neither he nor his mother agreed to that care home.
- The Council failed to seek his mother's wishes who wanted to live with close family members and not in a care home. Mr X also said the Council failed to consult with him or his wife who would have said the same thing.
- The Council had placed his mother at an overly expensive care home that is unable to meet her needs.
- He considered the Council was responsible for paying the care home fees.
- He disputed the financial assessment because this considered that Mrs Z still had funds from her house sale which were used to purchase a house that he, his wife and his mother all lived in.
- Purchase of this property was not a deprivation of assets because Mrs Z did not want to live in a care home and wanted to live in the family home.
- The decision to use the funds from her house sale to purchase a new property was so they could find a suitable property for his mother to live in and to avoid moving into a care home.

42. The Council issued a complaint response in February 2025. The Council said:

- It discussed Mrs Z's situation with Mr X in May 2023 who told the Council he considered Mrs Z needed to move into a care home.
- It met with Mrs Z, considered her capacity to make decisions and confirmed her wish to move into a care home with Mr X's wife present.
- Mrs Z made clear preference to move into this care home.
- It explained the financial assessment process to Mr X, his wife and Mrs Z. The Council said Mrs Z and Mr X both signed financial assessments documents.

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- It completed further assessments of Mrs Z who confirmed her desire to stay in the care home and spoke with Mr X who also reiterated that Mrs Z should stay in the care home. The Council said Mrs Z reiterated the current care home was her chosen placement.
- It told Mr X in January 2024 that Mrs Z would need to fund her full care costs because it considered the sale of the property was a deprivation of assets.

Analysis

Care Home placement

43. The hospital contacted the Council for assessment of Mrs Z to go back home. When the Council completed a care needs assessment of Mrs Z while she was in hospital, Mr X and Mrs Z said Mrs Z needed to move into a care home. The Council confirmed it considered Mrs Z had capacity to make decisions about her living situation. It was Mr X and Mrs Z that prompted the change of discharge from back to the family home to a care home and not the Council or hospital. I do not find fault with the Council agreeing to assess Mrs Z for discharge to a care home.
44. As part of the discussions about discharge to a care home, Mrs Z presented her chosen care home to the Council as her preferred choice. The Council facilitated this decision and discharged Mrs Z to her chosen care home. The Council has acted in line with the Care Act in doing this and I do not find fault.
45. Throughout Mrs Z's time living in the care home, the Council has shown it repeatedly discussed Mrs Z's preferred living situation with the Council. Mrs Z repeatedly told the Council she was happy at her chosen care home and wished to remain there.
46. The Council also spoke with Mr X about Mrs Z living at the care home. Mr X was consistent throughout 2023 that he believed Mrs Z should live in a care home rather than the family home. While Mr X expressed some concerns about the quality of care at the care home, he did not express a wish for Mrs Z to return to the family home until July 2024. Following Mr X advising he wanted Mrs Z to return home, the Council explored this option and completed relevant assessments of Mr X's home. However, Mr X and his wife decided not to proceed with this option. Mr X's wife refused delivery of the Occupational Therapy assessed equipment and Mr X advised the Council in September 2024 that Mrs Z was to remain a long-term resident of the care home. [Need help?](#)

47. The Council has evidenced it kept Mrs Z's living arrangements under review and ensured that Mrs Z could continue to live in her chosen placement, at the care home, despite unpaid care home fees. The evidence shows Mr X agreed with this decision except for a short period of time in 2024. Mr was consistent in his message to the Council that his mother should remain in the care home. The Council has abided by Mrs Z's choice of care supported by Mr X; I do not find fault with the Council.

Financial assessment and charging

48. When the Council met with Mrs Z in the hospital in 2023, it explained it would need to complete a financial assessment and shared relevant documents and forms with her. Mrs Z signed the Financial and Benefits form and agreed for Mr X to act on her behalf. The Council also explained to Mr X it would need to complete an assessment of Mrs Z's finances. The Council told Mr X this was to determine any financial contribution Mrs Z may need to make to her care costs. Mr X signed and returned the form confirming he would act as a representative.
49. The Council provided the relevant information in the outset to both Mr X and Mrs Z that Mrs Z may need to contribute towards the cost of her care subject to a financial assessment. I do not find fault with the Council for this.
50. However, the Council failed to provide any indication to either Mrs Z or Mr X about what Mrs Z's costs might be for residing in the care home. While Mrs Z and Mr X would have known they needed to contribute towards the cost, they didn't know what this would be.
51. The first indication of any care costs shared by the Council was through issuing the invoice in October 2024. However, this only included the short-term care costs which the Council later tripled in February 2024 following completion of the financial assessment and rebilling Mrs Z as a permanent resident.
52. From June 2023, when Mrs Z moved into the care home, until January 2024, the Council took twenty weeks to complete the financial assessment. The delay outside this twenty-week timescale was caused by Mr X not returning the relevant requested information from August 2023 to October 2023.
53. Taking twenty weeks to complete a financial assessment is an extended period of time; this was fault by the Council. The Council compounded this fault by failing to share any information about what Mrs Z's costs might be until February 2024. This fault caused Mr X distress through receipt of a large backdated bill in February 2024.
54. The Council has also provided conflicting information to Mr X. In May 2023 to January 2024 about whether Mrs Z would need to pay for her care home

costs. This conflicting information was a result of confusion by council employees over whether Mrs Z was on a discharge to assess pathway and the nature of her short-term placement. Mrs Z was not eligible for discharge to assess and, in theory, was responsible for contributing towards her care costs since she moved into the care home. However, the Council's inconsistent information was fault causing Mr X to be unsure if Mrs Z would need to contribute towards her care costs.

55. The Council has offered to remove the full care costs up to 23 September 2023 as a gesture of goodwill because of the inconsistent information it provided. I consider this is suitable in the circumstances of Mr X's complaint to address the inconsistent information provided.
56. I also consider the Council should apologise to Mr X and provide a payment of £500 as a symbolic payment for the distress caused by the production of the large backdated bill because of the Council's delay in completing the financial assessment.

Deprivation of assets

57. A council must consider three main questions when deciding if a person has deprived themselves of assets. This is whether a person has a reasonable expectation of needing care, a reasonable expectation of needing to contribute towards the cost of care and whether avoiding care costs was a significant motivation in disposing of an asset. A council should not be deciding a person has deprived themselves of assets without suitable justification as a person can dispose of an asset without this being a deprivation.
58. The Council failed to detail suitable rationale to support its original deprivation of assets decisions in January 2024. While the Council made enquiries of Mr X, asked him to fill out a questionnaire and sought legal advice, the Council's record keeping failed to detail its thinking. This was fault.
59. Following Mr X's solicitors request for a review of the Council's decision, the Council has suitably considered the first two questions following its discussion with Mrs Z.
60. The Council outlined its thinking that Mrs Z had a reasonable expectation of needing care. The Council justified this through Mrs Z's two previous falls requiring stays in care homes and her decision to sell her house and move in with her son so he could care for her.
61. The Council also detailed that Mrs Z would have a reasonable expectation of needing to contribute towards the cost of her care. While Mrs Z's intention was

to move in with her son, Mrs Z knew that residing in a care home would come at cost if she needed to live there. Mrs Z knew this because of her past experience, through both information provided by the Council and her previous stays in care homes.

62. The Council has demonstrated its thinking and made a merits decision it was entitled to make; I do not find fault.
63. However, the Council's notes and rationale do not apply themselves to the question about motivation. The Council noted in August 2024 that Mrs Z's intention was to move into the family home following sale of her property to live with Mr X. This would demonstrate there was a lack of motivation to avoid care costs but instead a motivation to have care in the family home rather in a care home. This gap in decision making was fault.
64. As part of the Ombudsman's enquiries of the Council, the Council has explained its full rationale behind its decision over the deprivation of assets. The Council outlined that it previously advised Mr X to put his mother's name on any property he purchased using funds from the sale of her property. The Council also provided basic financial assessment information about care charges when it gave this advice. The Council said Mr X's decision not to put his mother's name on the deeds showed a motivation to try to avoid care charges in the future should the need for these arrive. This is a decision the Council is entitled to make and I do not find fault.
65. Overall, the Council has made a merits decision that Mrs Z deprived herself of assets considering the relevant guidance. However, the Council has never fully explained its rationale or decision to Mr X since the time it originally made this decision in January 2024. Nor did the Council keep suitable records of this decision in a clear and concise manner with its decision-making spread across two years' worth of records. This was fault.
66. The Council should provide a written explanation to Mr X about how it has made its deprivation of assets decision, referring to the relevant guidance. I also consider the Council should provide Mr X with a symbolic payment of £500 for the distress and uncertainty caused by its delay in outlining its full rationale.

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Action

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67. Within one month of the Ombudsman's final decision the Council will:

- Provide an apology to Mr X and a payment totalling £1,000 for the distress and uncertainty it caused through delays in completion of the financial assessment, delays in providing any indication of a monetary figure Mrs Z might need to pay towards her care home costs and failure to explain its deprivation of assets decision suitably to Mr X. We publish [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The Council should consider this guidance in making the apology I have recommended in my findings.
- Remove Mrs Z's care costs from 17 June 2023 to 23 September 2023 because of the conflicting information it provided about whether her care would be non-chargeable.
- Provide a full explanation of to Mr X of its deprivation of assets decision referring to the relevant questions about expectation of needing care, expectation of needing to contribute towards the cost of care and motivation for disposal of an asset as outlined in the Care and Support Statutory Guidance.

68. Within three months of the Ombudsman's final decision the Council will:

- Produce an action plan to identify why it is not considering the full relevant criteria for a deprivation of assets decision, from the Care and Support Statutory Guidance, as standard practice and to address its poor record keeping about its rationale over such decisions. The action plan should include timeframes for any action to be taken and the Council will provide us with a copy of this action plan.

69. The Council should provide us with evidence it has complied with the above actions.

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Decision

70. There was fault leading to injustice. As the Council has agreed to my recommendations, I have completed my investigation.

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Investigator's decision on behalf of the Ombudsman

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