

Case 201101997: Glasgow City Council

Summary of Investigation

Category

Local government; Social Work; policy/administration

Overview

The complainant (Mr C) complained about Glasgow City Council (the Council)'s handling of financial assessments carried out for his parents, both of whom required residential care. Mr C's complaint was considered by a Social Work Complaints Review Committee. However, they declined to comment on the substantive part of his complaint. Mr C complained that there was no mechanism for appealing the original decision which he felt was made improperly. He also raised concerns about the Council's communication.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council unreasonably failed to properly apply the Charging for Residential Accommodation Guidelines rules in respect of both Mr C's mother's and father's circumstances (*not upheld*);
- (b) the Council unreasonably excluded the substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines from the remit of the Complaints Review Committee¹ (*upheld*);
- (c) the Council unreasonably failed to inform Mr C that the substantive element of his complaint would not be considered by the Complaints Review Committee, despite his making it clear that that was what he wanted to be addressed (*upheld*);
- (d) given that the Complaints Review Committee excluded the matters, the Council has unreasonably failed to put in place a proper review or complaints process for Social Work Services' substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines (*upheld*); and

¹ In complaint (b) the decision of the council refers to the decision of the Complaints Review Committee.

- (e) following the Complaints Review Committee which upheld Mr C's complaint about failures of communication, the Council continued to demonstrate significant failures in communication (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:	<i>Completion date</i>
(i) take steps to inform any complainants progressing to review by a CRC of the extent of the CRC's remit and powers;	16 November 2012
(ii) ensure that CRC members have appropriate training and access to expert advice to deal with all matters presented to them;	16 November 2012
(iii) arrange for Mrs A's financial assessment to be independently reviewed; and	16 November 2012
(iv) apologise to Mr C for the failings identified in this report.	31 August 2012

Main Investigation Report

Introduction

1. Mr C's father (Mr A) was diagnosed with vascular dementia and in late 2006 Mr C took over the management of his financial affairs. Mr C was aware that his father would, at some point, require full time residential care in a care home. He said that he was aware that this would involve an assessment of Mr A's finances to determine what contributions he would be required to make toward the cost of his care. Mr C said that, upon reviewing his father's finances, he transferred the sum of £17,000.00 to a new account opened in his mother (Mrs A)'s name so that she could benefit from the interest payments until such time as the money had to be returned to Mr A's account for calculation of his care contributions.

2. Mrs A subsequently unexpectedly developed Alzheimer's disease and moved into residential care in 2009. Upon realising that Mrs A would be admitted into residential care, Mr C transferred the £17,000.00 back into Mr A's account.

3. When completing financial assessment forms for Mrs A, Mr C declared the fact that he had transferred the £17,000.00 and explained why this had been done. Glasgow City Council (the Council) considered her financial circumstances and concluded that the money was Mrs A's and that she should be considered as still having it in terms of assessing her ability to pay for her residential care. This decision meant that Mrs A's assets were deemed to be of a level that required her to pay the majority of her care costs.

4. Mr C complained about the Council's assessment of Mrs A's finances. His complaint, along with concerns about the Council's communication, were put to a Social Work Complaints Review Committee (CRC) for consideration. The CRC upheld his complaint about communication, but said that they could not comment on the issue of the £17,000.00, as this had been a matter for the professional judgement of the Social Work department.

5. Mr C complained to the Ombudsman that he had been led to believe that the CRC would review the assessment of his mother's finances, which was the substantive part of his complaint. He felt that their failure to do so denied him the opportunity to challenge what he considered to be an unfair and improperly reached decision.

6. The complaints from Mr C which I have investigated are that:
- (a) the Council unreasonably failed to properly apply the Charging for Residential Accommodation Guidelines rules in respect of both Mr C's mother's and father's circumstances;
 - (b) the Council unreasonably excluded the substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines from the remit of the CRC;
 - (c) the Council unreasonably failed to inform Mr C that the substantive element of his complaint would not be considered by the CRC, despite his making it clear that that was what he wanted to be addressed;
 - (d) given that the CRC excluded the matters, the Council has unreasonably failed to put in place a proper review or complaints process for Social Work Services', substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines; and
 - (e) following the CRC which upheld Mr C's complaint about failures of communication, the Council continued to demonstrate significant failures in communication.

Investigation

7. In order to investigate this complaint my complaints reviewer reviewed correspondence between Mr C and the Council as well as internal Council correspondence relating to the points raised. He also reviewed relevant national guidance and sought additional comments from the Council. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council unreasonably failed to properly apply the Charging for Residential Accommodation Guidelines rules in respect of both Mr C's mother's and father's circumstances

8. Mr A was diagnosed with vascular dementia. Mr C said that he was aware that Mr A would likely have to be admitted to residential care at some point. In 2006, Mr C took over the management of Mr A's finances and realised that he had accumulated a substantial sum in a non-interest-paying current account. In line with what he believed his father's wishes would have been, Mr C transferred £17,000.00 into an interest-paying account opened in Mrs A's name.

9. In his complaint to the Ombudsman, Mr C stated that he was aware of the Charging for Residential Accommodation Guidelines (CRAG). Section 6.056 of CRAG refers to deprivation of capital and states 'The local authority may feel that a resident has deprived himself of a capital asset in order to reduce his accommodation charge. If this is the case the local authority may treat the resident as still possessing the asset ...' Mr C said that, with this in mind, it was his intention to transfer the £17,000.00 back into Mr A's account at such time as he was admitted into residential care. In the meantime, Mrs A would benefit from the interest paid on the amount while it rested in her account.

10. Section 6 of CRAG also states:

'Does the resident own the capital?

6.007 A capital asset normally belongs to the person in whose name it is held. The following paragraphs provide guidance on how to establish beneficial ownership where there is a dispute.

Ownership disputed

6.008 Where ownership is disputed, ask for written evidence to prove ownership. Where a resident is said to be holding capital for another person, obtain evidence of the arrangement and the origin of the capital, and evidence to show the intentions for its future use and for its return to the rightful owner.

Examples

1. A resident has £15,000 in a building society account in his own name. He says that £3,000 is set aside for his grandson's education. However, there is no deed of trust or other legal arrangement which would prevent the resident using the whole amount for his own purposes. The resident is treated as the beneficial owner of the whole amount ...

Ownership

6.058 The local authority should decide from available evidence whether the resident owned the capital (see 6.007 and 6.008 for details of ownership)

Has deprivation occurred?

6.059 It is up to the resident to prove that he no longer has a resource. Failure to do so will result in the local authority treating the resident as if

he still possesses the actual capital. Examples of acceptable evidence of the disposal of capital would include

- A trust deed
- Deed of gift
- Receipts for expenditure
- Proof that debts had been repaid'

11. Mrs A unexpectedly and rapidly developed Alzheimer's disease and required admission to residential accommodation in 2009, before her husband. Mr C transferred the £17,000.00 back into Mr A's account. He was required to complete the Council's Social Work Services Financial Assessment form so that the Council could determine Mrs A's ability to contribute to her residential care costs. On 7 September 2009, Mr C sent the completed financial assessment form to the Council. He included a covering letter which highlighted the transfer of the £17,000.00 and his reasons for taking this action. Mr C also drew the Council's attention to a £25,000.00 National Savings income bond which Mr A had reportedly set up in Mrs A's name for tax purposes. He asked that this be treated as belonging to Mr A.

12. Over the following months, Mr C attempted to clarify the position regarding these sums with the Council. They confirmed verbally in early 2010 that, due to lack of evidence, the £25,000.00 could not be disregarded from Mrs A's financial assessment. In September 2010 the Council advised Mr C that the £17,000.00 would also be treated as belonging to Mrs A, as it had been in her name.

13. On 15 October 2010, Mr C submitted a formal complaint to the Council. Whilst he accepted that the £25,000.00 would be treated as belonging to Mrs A, he questioned their decision regarding the £17,000.00. He noted that his father was expected to go into residential care in the future and that CRAG would require the Council to determine that the £17,000.00 had been deliberately deprived by Mr A. He contended that the same amount could not be attributed to both Mr and Mrs A.

14. The Council responded to Mr C's complaint in a letter dated 23 November 2010, however, this was not sent to him until 4 March 2011. In their letter, they formally communicated their position on Mrs A's ability to contribute to her residential care costs. With regard to the £17,000.00, the

Council acknowledged Mr C's explanation of the reasons for the transfer of this amount between his parents' bank accounts. However, they advised that his request for the amount to be disregarded from Mrs A's financial assessment could not be approved. They offered to consider the matter further if Mr C could provide evidence of his intention to place a limitation on the use of the funds or of his intention to return the amount to his father's bank account. In reaching their decision, the Council referred to Section 6.008 of Crag.

15. Mr C responded to the Council's 23 November 2010 letter on 7 March 2011, providing evidence of his intentions for the £17,000.00 in the form of written statements from his wife and sister. The Council emailed Mr C on 9 March 2011 explaining that they did not consider sufficient evidence had been put forward to change their position regarding the £17,000.00. They noted that the money was in Mrs A's name when it became apparent that she would be moving into residential care and no evidence was provided of any legal arrangements preventing her, or others acting on her behalf, from using the whole amount for her own purposes. The Council acknowledged that Mr A had recently moved into residential care and confirmed that the £25,000.00 and £17,000.00 could not be regarded as forming part of his assets in relation to the calculation of his residential care contributions.

16. Mr C asked that his complaint be considered by the CRC. The CRC determined that they were unable to comment on Mr C's complaint about the £17,000.00, as the transfer of money was governed by CRAG and was outwith their remit. The CRC were satisfied that the Social Work Department were in possession of all information relating to the financial matters. The CRC did not consider themselves competent to adjudicate on the decision made by the Social Work Department.

(a) Conclusion

17. Section 7(1) of the Scottish Public Services Ombudsman Act 2002 states that 'the Ombudsman is not entitled to question the merits of a decision taken without maladministration by or on behalf of a listed authority in the exercise of a discretion vested in that authority'. Decisions relating to financial assessments for residential care contributions are discretionary decisions for the professional judgement of local authority social work staff. It is, therefore, not for me to decide whether the £17,000.00 should have been included in Mrs A's financial assessment. However, I have considered the Council's

application of CRAG, which explains how local authorities should determine such issues.

18. CRAG allows local authorities to presume that assets held in a resident's name belong to that resident. The burden of proof is put on the resident, or individuals acting on their behalf, to show that they do not have ownership of the asset through the provision of written evidence. Mr C accepted that the £17,000.00 was in Mrs A's name when it became apparent that she would be moving into residential care. I consider it reasonable for the Council to treat this asset as belonging to her until proved otherwise and note that they invited Mr C to submit evidence that the money was not hers in their letter of 23 November 2010. Section 6.059 of CRAG lists the type of evidence that should be accepted. Although this list is not exhaustive, the written statements from family members subsequently submitted by Mr C would not, in my view, be as persuasive as the legal documents suggested by CRAG.

19. Mr C explained his reasons for transferring money from Mr A's account and stated that it was always his intention to return it. I have no cause to doubt that Mr C acted in good faith and note that he specifically drew the Council's attention to the transfer. Mr C asked that the Council take this into account when assessing his mother's finances, noting that CRAG guidance on deliberate deprivation would require them to subsequently assess the money as being Mr A's when he went into residential care. I consider that the Council are obliged to assess each resident's finances individually and based on the information available at the time. It would not be appropriate for them to assess Mr A's finances and potential deprivation of capital before a financial assessment form had been submitted for him. Looking at Mrs A's financial assessment independently, I was satisfied that the Council were able to demonstrate that their decision to attribute the £17,000.00 to her was based on their interpretation of relevant sections of CRAG. I also considered it appropriate for the Council to commit to disregarding this amount from Mr A's finances given that it had already been accounted for.

20. With the above in mind, I do not uphold this complaint.

(a) *Recommendations*

21. I have no recommendations to make.

(b) The Council unreasonably excluded the substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines from the remit of the CRC

22. Mr C complained to the Council regarding their assessment of Mrs A's finances through their formal complaints procedure. He wrote to the Council on 14 December 2010 requesting that the matter be considered by the CRC. Mr C noted that he had been waiting for 15 months for a response to his original complaint. He enclosed a copy of his formal complaint dated 15 October 2010 in which he complained about the Council's assessment of Mrs A's finances and delays to the matter being concluded.

23. On 4 March 2011, the Council's Principal Officer Rights and Enquiries (the Officer) responded to Mr C. He noted that the Council had written in response to Mr C's formal complaint on 23 November 2010, but had failed to post the letter. The Officer apologised unreservedly for this and enclosed the Council's response. The 23 November 2010 letter confirmed the Council's position regarding the £25,000.00 income bond and £17,000.00 savings that Mr C stated should be attributed to Mr A. The Officer's letter of 4 March 2011 acknowledged that the CRC was scheduled to take place on 11 March 2011. He said that he had made his colleagues in Committee Services aware of the situation in case Mr C wished to ask for the CRC to be postponed while he reviewed the information in the 23 November 2011 letter. Mr C emailed The Officer on 6 March 2011 to advise that he did not wish to postpone the CRC.

24. Mr C submitted a full statement of complaint for consideration by the CRC. He complained about the delays to the Council's decision regarding Mrs A's finances and about their decision not to disregard the £17,000.00 from her financial assessment. Social Work Services also submitted a report for consideration by the CRC. This gave a detailed explanation of the decision making process that led to the £17,000.00 being attributed to Mrs A. Social Work Services fully accepted that they had taken too long to respond to Mr C's correspondence.

25. The CRC compiled a report of their findings for submission to the Executive Committee. This noted that they upheld Mr C's complaints about delays to correspondence and a decision on Mrs A's financial assessment. With regard to the financial assessment itself, the CRC noted Mr C's concerns, however, stated:

'We feel we could not comments (sic) on this aspect of the complaint as the transfer of money was governed by the Charging for Residential Accommodation Guidance (CRAG) April 2010 guidelines and was therefore outwith our remit. We were satisfied that SWS [Social Work Services] were in possession of all information relating to the financial matters and we are therefore not competent to adjudicate on the decision made.'

26. Mr C complained to the Ombudsman that the CRC failed to address his main point of complaint – the decision not to disregard the £17,000.00 from Mrs A's finances - despite his being led to believe that they would make a finding on this matter.

27. The Council state their terms of reference for CRCs (the Terms) as being: 'To review the provision or non provision of services, the quality and extent of services, the operation of services and allied issues, with the exception of grievance procedures which concern staff issues or disciplinary matters, all in terms of the appropriate legislation and consider any complaints where the complainer has indicated dissatisfaction with the response from the Executive Director of Social Care Services and thereafter to make recommendations to the Executive Committee.'

28. My complaints reviewer was provided with a copy of the Council's internal guidance note on CRCs (the Guidance). This states that:

'The role of the Social Works Complaints Review Committee is to examine objectively and independently the facts as presented by a complainant and by the Council. The Committee then makes its recommendation to the appropriate Council Committee. In doing this, the Social Work Complaints Review Committee takes into account local authority policies, priorities and resources and should recognise the professional judgement exercised.'

29. The Scottish Government's circular SWSG 5/1996 (the Circular) provides guidance on the operation of the statutory social work complaints procedure in Scotland. Paragraph 12 of the Circular states:

'People with social care needs and their carers have the right to have a second look at assessments; service decisions and the way in which matters have been handled.'

30. Paragraph 39 of the Circular states:

'CRCs should consider not only the manner in which decisions have been arrived at but also decisions about assessment and service provision made on the basis of local authority policies or the professional judgement of local authority staff.'

31. Paragraph 53 of the Circular relates to review arrangements and states:
'... The role of CRCs is to examine objectively and independently the facts as presented by the complainant and by the local authority, then to make a recommendation to the appropriate local authority committee. In doing this, the CRC should be aware of local authority policies, priorities and resources and should recognise where professional judgement has been exercised. The CRC may express disagreement with any of these in relation to a case under review. The strength of CRCs is in their independence and objectivity and the fact that they are not comprised of professionals and officials from the department to which the complaint relates. On professional matters the CRC may sometimes wish to obtain an independent professional opinion before coming to a view about the reasonableness of the complaint. Complainants are free to call for, and meet the costs of, their own professional opinion. However, it is preferable if a single independent professional opinion can be agreed.'

32. When commenting on a draft version of this report, the Council said that they considered Mr C's submission to the CRC presented the substantive element of complaint as being the lack of timely correspondence from Social Work Services. They felt that his complaint did not focus directly on their interpretation of CRAG. As such, the CRC did not consider it appropriate to comment on this aspect of his complaint. The Council accepted that, had a complaint been presented to the CRC regarding Social Work Services' interpretation of CRAG, the CRC would be the appropriate body to review the initial decision.

(b) Conclusion

33. The Terms state that the CRC's review of complaints should be carried out 'in terms of the appropriate legislation'. The Guidance states that the CRC should recognise the professional judgement exercised. In this case, staff in Social Work Services had the professional knowledge and judgement to assess Mrs A's finances against the requirements of CRAG. To this extent, the CRC's decision not to consider Mr C's complaint about the assessment of the £17,000.00 was in line with the Council's internal policy.

34. However, the CRC's statement that consideration of matters relating to the interpretation of CRAG is outwith their remit goes against the guidance set out in the Circular.

35. I acknowledge the Council's comments in response to the draft version of this report. However, I cannot agree with their view that Mr C did not seek a review of the decision regarding the £17,000.00 in his submission to the CRC. The evidence presented to me shows that Mr C pursued this issue with the CRC and submitted evidence in support of his position. Social Work Services' submission to the CRC defended their interpretation of CRAG, and the CRC's decision clearly indicated that they had considered that the financial assessment was an aspect of the complaint presented to them.

36. The Circular sets out the complainant's right to have the professional judgement of Social Work Services' staff reviewed independently and empowers CRCs to perform this function. I consider it reasonable for a CRC to take the view that they are not competent to consider a particular complaint. However, it is not reasonable for the matter to be dismissed altogether on that basis. The Circular allows for independent advice to be obtained on matters of professional judgement to aid the CRC in their decision making. This option was not explored in Mr C's case and, as such, no review was carried out as to how the £17,000.00 was assessed. With this in mind, I uphold this complaint.

(b) Recommendations

37. I have no recommendations to make.

(c) The Council unreasonably failed to inform Mr C that the substantive element of his complaint would not be considered by the CRC despite his making it clear that that was what he wanted to be addressed

38. Mr C wrote to the Council in January 2010 asking for assistance understanding the rules around financial assessment and noting the length of time it was taking to reach a decision regarding Mrs A's finances. The Council responded on 11 February 2010, providing information about the funding process. Their letter stated:

'If you are unhappy with this response, you can contact social work rights and enquiries team and ask for the matter to be reviewed. You may also request a formal hearing by the independent Complaints Review Committee of the Council ...'

39. On 21 February 2010, Mr C wrote to the Council following up a telephone conversation the previous week. He again put forward his case for the £17,000.00 being disregarded from Mrs A's financial assessment. He received no response to his letter and wrote a formal complaint to the Council's Rights and Enquiries team on 15 October 2010. His complaint gave a detailed account of the situation with the £17,000.00 and specifically asked for a review of the Council's position. Mr C's complaint was acknowledged by the Council and, in response, he asked for clarification of the formal complaints procedure. The Officer wrote to Mr C on 3 November 2010 explaining that the Council's normal procedure was for complaints to be investigated and responded to in the first instance by a senior manager in the department complained about. Should the complainant remain dissatisfied, an internal review is carried out by a more senior member of the department along with the Rights and Enquiries team. Following that, should the matter remain unresolved, the complainant could request a review by the CRC. Acknowledging the delays that Mr C had encountered, the Officer arranged for his complaint to be investigated by senior managers from the Finance department. The Officer would then issue a response based on their findings, missing out the initial stage of the complaints procedure. The Officer concluded: 'If the response were not to be acceptable to you then you would be able to proceed straight to an independent review of your complaint by Committee.'

40. The Council's response to Mr C's formal complaint, dated 23 November 2010, concluded by inviting him to discuss his concerns with Council staff, but did not mention escalating the matter to the CRC.

41. The Council's response to Mr C's complaint was not posted to him initially. Concerned by the lack of response, he escalated his concerns to the CRC on 14 December 2010. Mr C's complaint to the CRC was based on the contents of his 15 October 2010 letter and included the assessment of the £17,000.00. The Officer responded to Mr C on 4 March 2011. He apologised for the fact that his letter of 23 November 2010 had not been sent to Mr C. He enclosed that letter and noted the Council's position with regard to Mrs A's financial assessment. He also highlighted the offers that had been made to review the assessment if evidence of Mr C's intentions for the £17,000.00 could be provided and to arrange a meeting to discuss the complaint with Council staff. The Officer commented that:

'It may be that in light of this response you now wish to pursue those options rather than going ahead with the complaints review committee next week. At the very least you may wish to have more time to prepare your submission to committee and refocus it in light of this new information ...'

42. Mr C advised that he did not wish to postpone the CRC. His submission to the CRC set out his complaints about the Council's handling of Mrs A's financial assessment and the delay to the matter being addressed. The Council provided detailed comments in response to both complaints in their report to the CRC. As I mentioned under Complaint (b) of this report, the CRC decided that they were unable to comment on the assessment of Mrs A's care contributions. Mr C complained to the Ombudsman that this was the main part of his complaint and he had been led to believe that the CRC would review Social Work Services' position.

(c) Conclusion

43. I found no evidence that the Council directly told Mr C that the CRC would consider his complaint regarding the assessment of the £17,000.00. That said, I considered it reasonable for Mr C to have assumed that they would.

44. The Officer provided Mr C with detailed information regarding the Council's complaints procedure on 3 November 2010. He noted that Mr C would be able to take his complaint to the CRC should he be dissatisfied with the formal response. The Officer did not inform Mr C that the CRC may not be able to comment on certain issues, or that his formal complaint of 15 October 2010 related to subjects that may not be considered by the CRC. Although the response of 23 November 2010 made no mention of CRCs, earlier correspondence from the Council had indicated that the CRC was the next step in the complaints process. The Officer's letter of 4 March 2011 suggested that any issues that Mr C remained dissatisfied with could be progressed to the CRC.

45. The CRC was scheduled for 11 March 2011. Mr C's submitted complaints were not questioned prior to this and Social Work Services' report responded to the issues that would ultimately be ruled out.

46. I found nothing to suggest that Mr C's expectations as to the CRC's remit had been managed and consider that he was given every indication that his

concerns regarding the assessment of the £17,000.00 would be reviewed by the CRC. Accordingly, I uphold this complaint.

(c) Recommendation

- | | |
|---|------------------------|
| 47. I recommend that the Council: | <i>Completion date</i> |
| (i) take steps to inform any complainants progressing to review by a CRC of the extent of the CRC's remit and powers. | 16 November 2012 |

(d) Given that the CRC excluded the matters the Council has unreasonably failed to put in place a proper review or complaints process for Social Work services' substantive decisions on financial assessments and interpretation of Charging for Residential Accommodation Guidelines

48. Mr C wrote to the Council's Director of Social Care Services (The Director) on 4 April 2011. He noted that the CRC had upheld his complaint about poor communication, however, had declined to comment on the assessment of Mrs A's finances. He said that he had not realised that the CRC would not consider this part of his complaint and asked that the Council reconsider their position.

49. The Director responded to Mr C on 15 April 2011. He reiterated the Council's position that under section 6.008 of CRAG, the £17,000.00 should be assessed as belonging to Mrs A. The Director offered Mr C the opportunity to meet with the Council's Finance Manager for any further assistance or clarification that he may require.

50. In his complaint to the Ombudsman, Mr C noted that the decision to include the £17,000.00 in Mrs A's financial assessment was originally made by the Director. He complained that the Council had no procedure in place for dealing with issues relating to the interpretation of CRAG beyond Social Work Services, who made the decision in the first place. He highlighted press reports that CRCs operating within other local authorities had overturned social work decisions relating to the interpretation of CRAG. Mr C felt that he had been denied the opportunity to make a case on behalf of Mrs A.

51. As I noted under paragraph 32, when commenting on a draft version of this report, the Council said that they did not consider Mr C had asked the CRC to review Social Work Services' interpretation of CRAG. They accepted that,

had such a complaint been raised, the CRC would be the appropriate body to consider it.

(d) Conclusion

52. Financial assessments and the interpretation of CRAG can be complex and in some cases subjective. The decisions reached can have serious financial implications for elderly people and their families and I, therefore, consider it extremely important that local authorities' decisions are demonstrably fair and in keeping with national guidelines.

53. Social work staff have the professional knowledge and experience to interpret CRAG. However, given the subjectivity and varying circumstances of some cases, I do not consider it acceptable that their decisions should be entirely unchallengeable. Nor is it acceptable that any review of the initial decision is carried out by the same staff who reached that decision. In Mr C's case, although I note that the Director responded to his further correspondence following the CRC, this was done in terms of reiterating and explaining the Council's position rather than reviewing the decision.

54. The availability of some form of independent review of the interpretation of CRAG is essential. As I mentioned under Complaint (b) of this report, the Circular states that CRCs should undertake such reviews, using independent professional advice where necessary. Whilst I acknowledge that the Council accept this, I found that Mr C was denied an independent review of the assessment of Mrs A's finances. As such, I uphold this complaint.

(d) Recommendations

	<i>Completion date</i>
55. I recommend that the Council:	
(i) ensure that CRC members have appropriate training and access to expert advice to deal with all matters presented to them; and	16 November 2012
(ii) arrange for Mrs A's financial assessment to be independently reviewed.	16 November 2012

(e) Following the CRC which upheld Mr C's complaint about failures of communication the Council continued to demonstrate significant failures in communication

56. Mr C complained that, following the CRC on 11 March 2011, which upheld his complaint about poor communication and delays to dealing with his

complaint, the Council's communication with him continued to be poor. He provided my complaints reviewer with copies of email correspondence with the Council dated 6 June 2011. This indicated that he had been advised on 6 April 2011 that the CRC's findings would be presented to the Executive Committee. Two months later, he had heard nothing from the Council. The Council apologised for the delay to submitting the CRC's report to the Executive Committee. This was due to the pressure of work on the officer responsible. She confirmed that the matter would be on the agenda for an Executive Committee meeting on 23 June 2011.

57. The Executive Committee issued a report of the CRC's findings on 23 June 2011. On 5 July 2011, Mr C wrote to the Council to express his disappointment that he had not received any information about the action taken by the Council in respect of his upheld complaint about poor communication. He said that he had been left with the impression that the Council had 'gone through the motions of following the necessary bureaucratic complaints process' but although he had been given an apology, no meaningful action had been taken by the Council to remedy the issues he had highlighted.

58. My complaints reviewer was presented with a copy of an internal Council email in which the Officer provided details of the action taken by Social Work Services following the CRC.

59. The Council responded to Mr C on 15 July 2011 stating that the following action had been taken as a result of his upheld complaint:

- A review has been undertaken in both Finance and Complaints Sections.
- Relevant staff have been held to account for the issues in this case.
- All staff involved in these processes have been reminded of their responsibilities.
- Additional resources have been allocated to the complaints section to manage the workload pressure. Resources will be requested for the Finance Team also.
- Regular monitoring has been put in place by Senior Managers to try to ensure that no repeat of these issues takes place.

60. Mr C complained to the Ombudsman about the continued slow progress of his complaint following the CRC and the lack of information from the Council in terms of updates and action taken in response to his upheld complaint.

(e) *Conclusion*

61. In their report to the CRC, Social Work Services were very self-critical and accepting of their poor performance when dealing with Mr C's initial complaints. The CRC upheld his complaint about communication problems on the basis that this poor performance would have caused him considerable distress and would have contributed to his feeling that Social Work Services attached no importance to his concerns. The CRC also recognised that Mr C was left with no choice but to escalate his complaints. I was disappointed to note, therefore, that following the CRC, Mr C continued to experience poor communication from Social Work Services. The delay of more than two months before the CRC's report was submitted to the Executive Committee was poor, but the lack of communication from the Council in the meantime and the fact that Mr C was required to chase them for an update was unacceptable considering the CRC's findings.

62. I found the information subsequently provided to Mr C about the action taken as a result of his complaint to be short on detail and of little reassurance given that he would be continuing to use the service due to his father having gone into residential care shortly before the CRC. Generally, I consider that the Council's communication with Mr C continued to be poor following the CRC. As such, I uphold this complaint.

(e) *Recommendation*

63. I recommend that the Council:	<i>Completion date</i>
(i) apologise to Mr C for the failings identified in this report.	31 August 2012

64. The Ombudsman asks that the Council notify him when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
Mr A	The complainant's father
Mrs A	The complainant's mother
The Council	Glasgow City Council
CRC	Social Work Complaints Review Committee
CRAG	Charging for Residential Accommodation Guidelines
The Officer	The Council's Principal Officer Rights and Enquiries
The Terms	The Council's Terms of Reference for CRCs
The Guidance	The Council's internal guidance note on CRCs
The Circular	Scottish Government Circular SWSG 5/1996
The Director	The Council's Director of Social Care Services

List of legislation and policies considered

Charging for Residential Accommodation Guidelines (CRAG)

The Council's Terms of Reference for CRCs

The Council's internal guidance note on CRCs