



Northern Ireland

Public Services
Ombudsman

Investigation of a complaint against the Southern Health & Social Care Trust

Report Reference: 202003726

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The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

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Case Reference: 202003726

Listed Authority: Southern Health and Social Care Trust

SUMMARY

This complaint was about a valuation the Southern Health and Social Care Trust (the Trust) conducted on a property jointly owned by the complainant and his late mother. The Trust conducted the valuation under Charging for Residential Accommodation Guide (CRAG) to assess what was owed as a contribution to his late mother's cost of care.

The investigation found the Trust adhered to the CRAG when it obtained its final valuation of the resident's financial share in the property. I therefore did not uphold the complaint.

THE COMPLAINT

1. This complaint was about a valuation the Southern Health and Social Care Trust (the Trust) conducted on a property jointly owned by the complainant and his late mother (the resident). The Trust conducted the valuation under Charging for Residential Accommodation Guide (CRAG). The valuation was to assess the nominal value of the resident's share in the property. This was to inform the Trust's determination of what the resident's estate owed as a contribution to the resident's cost of care for the time she lived in a care home.

Background

2. The resident lived in Carlingford Lodge Care Home from 18 October 2021 until 6 November 2022 when she sadly passed away. The resident jointly owned a property with her son (the complainant).
3. The Trust completed a financial assessment of the resident's estate in September 2021. The Trust advised the complainant a weekly assessed charge of £665.00 was owed as a contribution to the resident's cost of care, which took into account a £100.00 deduction for the cost of nursing care.
4. The complainant's solicitor questioned the Trust's financial assessment stating the resident's beneficial interest in the property was at most 'nominal' and potentially 'nil'.
5. On 28 March 2022 the Trust advised the solicitor it had instructed Land and Property Services (LPS) to conduct an independent valuation on the property under CRAG.
6. On 15 June 2022 the Trust wrote to the complainant's solicitor advising the LPS valuation under CRAG concluded the resident's interest in the property was valued at £61,000.00, based on the assumption that a court would order the sale of the property as a whole.
7. The complainant's solicitor instructed an independent valuer to provide a valuation under CRAG which valued the resident's interest in the property to be 'nil'.
8. On 27 June 2022 the solicitor wrote to the Trust advising the complainant did not accept the valuation provided by LPS.
9. On 30 August 2022 the Trust wrote to the complainant's solicitor concluding the Trust did not agree the resident's half share has a 'nil' value. The Trust confirmed the current assessed charge is lawfully due.

10. The solicitor raised a complaint to the Trust on his client's behalf on 7 September 2022. The Trust issued a final response on 15 February 2023.
11. The solicitor raised a complaint with NIPSO on 6 November 2023.

Issue of complaint

12. I accepted the following issue of complaint for investigation:

Issue 1: Whether the Trust conducted the valuation process in accordance with relevant procedures.

INVESTIGATION METHODOLOGY

13. To investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues the complainant raised.

Relevant Standards and Guidance

14. To investigate complaints, I must establish a clear understanding of the standards, both of general application and those specific to the circumstances of the case. I also refer to relevant regulatory, professional, and statutory guidance.

The general standards are the Ombudsman's Principles¹:

- The Principles of Good Administration

15. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative functions of those individuals whose actions are the subject of this complaint.

The specific standards and guidance relevant to this complaint are:

- The Health and Personal Social Services (NI) Order 1972 (the 1972 Order);
- Personal Social Services (Assessment of Resources) Regulations (NI) 1993 (the 1993 Regulations);
- Charging for Residential Accommodation Guide, April 2015 (CRAG);

¹ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

- Service Level Agreement between SH&SCT and LPS, 1 March 2020 (the SLA).

I enclose relevant sections of the guidance considered at Appendix two to this report.

16. In investigating a complaint of maladministration, my role is concerned primarily with an examination of Trust's administrative actions. While it is not my role to question the merits of a discretionary decision properly taken, I may do so if my investigation identifies maladministration in the process of making that decision.
17. I did not include all information obtained in the course of the investigation in this report. However, I am satisfied I took into account everything I considered relevant and important in reaching my findings.
18. A draft copy of this report was shared with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations. I gave careful consideration to the comments I received in preparing this final investigation report.

THE INVESTIGATION

Issue 1: Whether the Trust conducted the valuation process in accordance with relevant procedures.

Detail of Complaint

19. The complainant said the Trust failed to properly apply CRAG and consider the independent valuation report he obtained. The valuation placed a market value of a tenant in common (50% share) of the property as being 'nil'.
20. In particular, the complainant said the Trust failed to properly consider that the independent valuation was based on the following rationale:
 - I. The resident was a joint beneficial owner of the property.
 - II. In determining the property's value, it relied solely on CRAG and specifically section 7.
 - III. Paragraph 7.016b, "*there being a market i.e. the interest being such as to attract a willing buyer for the interest*".

- IV. Paragraph 7.018, "*If no other relative is willing to buy the resident's interest, it is highly unlikely that any outsider would be willing to buy into the property*", and "*the value of the interest, even to a willing buyer, could in such circumstances effectively be nil*".
- V. It is confirmed no other relative is willing to buy the resident's interest.
- VI. It is reasonable to conclude the beneficial interest attributable to the resident is 'nil'.

Evidence Considered

The Trust's response to investigation enquiries

- 21. The Trust stated on receipt of correspondence from the complainant's solicitor questioning the Trust's financial assessment they instructed LPS to provide a valuation under CRAG. The Trust stated this was in compliance with paragraph 7.018 of the CRAG.
- 22. The Trust stated it provided all '*relevant details*' to LPS in order to determine the resident's '*beneficial interest in the vacant property for the purposes of her financial assessment*'.

Relevant Trust records

- 23. I completed a review of the documentation the Trust provided in response to my investigation enquiries, and the documentation I received from the complainant. This included the professional valuations the complainant's solicitor and LPS provided. I refer to the relevant records in the Analysis and Findings section of this report.

Analysis and Findings

Context of Continuing Healthcare (CHC) in Northern Ireland at the relevant time

- 24. Article 99 of the 1972 Order (the main legislation governing the provision of health and social care services in Northern Ireland) requires that a person is charged for personal social services provided in residential or nursing home accommodation arranged by a health and social care trust.
- 25. The (then) Minister of Health, in response to a September 2013 Northern Ireland Assembly Question² about CHC, stated, '*... an individual's primary need can either*

² Assembly Question AQW 25318/11-15

be for health care – which is provided free – or for social care for which a means tested contribution may be required’.

26. Furthermore, the Department of Health’s June 2017 public consultation document on future arrangements for CHC in Northern Ireland, states a *‘primary need for social care may be identified and where such a need is met in a residential care or nursing home setting, legislation requires the HSC Trust to levy a means-tested charge’*. In testing a resident’s means, a health and social care trust must adhere to the 1993 Regulations.
27. The Trust’s legal authority to charge for the social care it provides to an individual who has moved into a residential care or nursing home, on a mean-tested basis, is therefore well established.
28. The CRAG was established under Article 17 of the 1972 Order to give guidance to health and social care trusts on how to apply that legal authority. Section 7 of CRAG deals specifically with the treatment of property. Section 7.001 in particular states *‘if the capital asset is a house or land there are circumstances under which its value must be disregarded indefinitely and circumstances where its value must be taken fully into account’*.

My Office’s Remit

29. The Public Services Ombudsman Act (Northern Ireland) 2016 (the Act) defines the remit of my office. In my review of this complaint, I have considered section 21 (1b) of the Act which defines matters outside of my remit:

Exclusion: other remedies available

21. - (1) The Ombudsman must not investigate—

(b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in a court of law.

30. It is therefore outside my Office’s jurisdiction to determine the precise interpretation and application of the 1993 Regulations, CRAG or to examine the two differing valuations to determine which is correct. It is also outside my Office’s jurisdiction to determine whether or not the Trust should have accepted the complainant’s valuation. It is for a court of law to determine these matters.
31. Rather, my role is to consider whether the Trust followed relevant statutory guidance in obtaining its own valuation, when the complainant provided his. I therefore

considered the Trust's actions following the complainant's solicitor writing to it on 15 October 2021 disputing its initial valuation.

Findings

32. I considered section 7.018 of the CRAG, which states, *"If the Trust is unsure about the resident's share, or their valuation is disputed by the resident, a professional valuation should be obtained."*
33. The Trust requested an independent valuation from LPS on 14 March 2022. The Trust instructed LPS to provide a valuation of the resident's beneficial interest in the property in line with CRAG. The Trust wrote to the complainant's solicitor on 15 June 2022 advising of the outcome.
34. Having reviewed all relevant evidence, I find the Trust complied with the CRAG when it obtained the professional valuation from LPS. I therefore did not find maladministration in the Trust's actions. As such I do not uphold the complaint.

Observation

35. I note the SLA between the Trust and LPS states the Trust should have confirmed with LPS whether the property lay vacant and whether it considered a court would order the sale of a property as a whole when seeking its valuation. The Trust did not do so on this occasion.
36. I am satisfied the Trust's omissions had no impact on the position it has adopted regarding the interpretation of the disputed sections of the CRAG, and seeking to recover the costs of the social care provided to the complainant's mother. I am satisfied that LPS obtained the relevant information relating to the property's occupation. Nonetheless, I encourage the Trust to remind staff of the importance of following the SLA when seeking shared valuations.

CONCLUSION

37. I received a complaint about the process followed by the Southern Health and Social Care Trust in obtaining a valuation of the complainant's late mother's share of a property they owned. The Trust generally followed the process outlined under the Charging for Residential Accommodation Guide (CRAG). I did not uphold the complaint for the reasons outlined in this report.

38. I note the complainant sought a copy of the LPS Valuation Report from the Trust. In preparing this final investigation report, my Office liaised with the Trust about this request. I am pleased to note the Trust undertook to provide the complainant with a copy of the Valuation Report.

Margaret Kelly

Ombudsman

July 2025

Appendix 1 - PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and relevant guidance, with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances.
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.

- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

