

**Report by the Local Government and Social Care  
Ombudsman**

**Investigation into a complaint about  
Devon County Council  
(reference number: 23 001 435)**

**8 August 2024**

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## The Ombudsman's role

For almost 50 years we have independently and impartially investigated complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

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

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

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

Miss B	The complainant's mother and representative
Mr C	The complainant

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## Report summary

### Education and Children's Services: transition to adult services

Miss B complained on behalf of her son, Mr C, that the Council failed to ensure an effective transition of social work services when he turned 18. In particular, that he had to leave a children's home placement and move to a supported living placement 30 miles away. This left him further from his family and place of education, for which the Council initially failed to provide transport.

Miss B says as a result Mr C became isolated from her and missed half a term of education. Miss B says the Council knew Mr C experiences anxiety and has a history of self-harming and its actions put him at increased risk of these behaviours. Miss B says she also suffered her own distress being unable to see Mr C as often as before.

### Finding

Fault found causing injustice and recommendations made.

### Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)

Within one month of the date of this report it should:

- apologise to Mr C for his injustice, accepting the findings of this report;
- make a symbolic payment to Mr C of £1,000 to recognise the distress caused to him, acknowledging its actions put him at increased risk of harm and impacted negatively on his education;
- make a symbolic payment to Miss B of £250 to recognise the distress caused to her; and
- arrange a meeting with Miss B, Mr C and his education provider to consider if there is any additional tuition or support Mr C will now benefit from to make up for his lost education provision in 2023; if this is agreed, the Council will make that provision specifying clearly what it will consist of and for how long.

Within three months the Council should:

- ensure that it introduces a policy to triage all cases of young people aged 16 and over who are referred to its adult social care department. Where assessment for transition is required, a social worker is allocated to begin transition planning for adulthood. Where it has not allocated an adult care services social worker, the Council will have a series of trigger dates (for example at three monthly intervals) to ensure these cases are either allocated as soon as practicable or those that cannot be allocated are brought to the attention of senior managers for action;
- ensure it introduces a procedure (or reminds relevant staff of any existing procedure) for children services to escalate concerns if adult care services are not actively involved in transition planning for any young person aged 17 or

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over; no decisions about accommodation for a child beyond their eighteenth birthday or with significant cost implications for the Council should be taken without that involvement;

- brief all staff and managers involved in transition planning for young adults on the findings of this investigation and the changes being introduced to prevent the same problems recurring in the future; and
- review communications between its adult care services transition teams and special educational needs (SEN) services, so that social workers have a designated point of contact where they have enquiries about Education, Health and Care Plans or SEN transport. The Council should also ensure that social workers can escalate concerns to senior officers if they go unanswered.

The Council has agreed these recommendations.

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## **The complaint**

1. With his consent, 'Miss B', complained on behalf of her son, 'Mr C', now aged 19. They complained the Council failed to ensure an effective transition of social work services when Mr C turned 18 and responsibility passed from its children to adult care services.
2. Miss B says because of the above the Council caused unnecessary distress and upheaval in Mr C's life. Specifically, having arranged for him to move into a children's home in August 2022, it required him to move again after he turned 18 in December 2022. Mr C had to move to a supported living placement around 30 miles away. This led to Mr C's isolation from family and to him missing half a term of education as he had no transport to get to his education placement. Miss B says the Council knew Mr C experiences anxiety and has a history of self-harming. She says its actions put him at increased risk of these behaviours. Miss B says she also suffered her own distress being unable to see Mr C as often as before.

## **Legal and administrative background**

### **The Ombudsman's role and powers**

3. We investigate 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 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).

### **Relevant law and guidance – children services**

4. Councils have a duty to provide accommodation for any child in need in their area who appears to them to need accommodation because:
  - there is no-one who has parental responsibility for the child; or
  - the child is lost or abandoned; or
  - the person who has been caring for the child is prevented, whether permanently or temporarily and for whatever reason, from providing suitable accommodation or care.
5. The council can either provide accommodation or arrange for it. A child accommodated in this way is a 'Looked After Child' (LAC) (see Children Act 1989, section 20).
6. Children in care have an Independent Reviewing Officer (IRO). They chair statutory reviews which aim to ensure councils adhere to, and review, children's care plans. These reviews normally take place every six months.
7. A child with special educational needs may have an Education, Health and Care (EHC) Plan. This sets out the child's needs and what arrangements should be made to meet them.

### **Relevant law and guidance - transition from children to adult services**

8. When a child reaches 18 years, they are legally an adult. Responsibility for meeting their needs moves from the council's children services to its adult services. The legal basis for assessing their needs changes from the Children Act 1989 to the Care Act 2014. Transition assessments should begin

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when the council can be reasonably confident about what the young person's needs for care and support will look like when they turn 18. Where a child has an EHC Plan a council can continue to provide children services for as long as it considers necessary. While the Care Act 2014 requires councils to ensure there is no gap in support when an individual makes the transition from children to adult services on or after their eighteenth birthday (see Special Educational Needs Code of Practice paragraphs 9.139 & 9.140).

9. A transition assessment must give an indication of what care and support needs are likely to be eligible for support once the child turns 18. The council should also consider creating a personal transition plan, including key milestones. Transition assessments and plans should be reviewed regularly and updated when needed.
10. If the council is going to meet needs under the Care Act after someone turns 18, it must create a care and support plan and produce a personal budget. This needs to be done early enough that the package of care and support is in place at the time of transition.
11. Advocacy should be provided for the young person where necessary, and the council must provide independent advocacy for young people having a transition assessment, provided certain conditions are met (see Care Act 2014 – section 67).
12. An adult has 'eligible' care needs if an assessment finds:
  - they have needs arising from, or related to, a physical illness or mental impairment or illness; and
  - as a result, they cannot achieve two or more specified outcomes (for example managing or maintaining nutrition, personal hygiene or access to education or work); and
  - if as a consequence of being unable to meet those outcomes there will be (or is likely to be) a significant impact on the adult's wellbeing.
13. In deciding how to meet needs, a council may take account of its own finances and budgetary position. Government guidance says a council "may reasonably consider how to balance that requirement with the duty to meet the eligible needs of an individual in determining how an individual's needs should be met (but not whether those needs are met). However, the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value". (Paragraph 10.27 of the Care and Support Statutory Guidance)

### **Council structure**

14. The Council does not usually keep children social care services in place for any young person after their eighteenth birthday, except for care leaver services. It has a transition adult social care team (formerly known as the 'preparing for adult team'). This service becomes involved with young people from year 10 of their education (when they are 14 or 15 years old). It assesses their likely eligibility for adult care services on turning 18. It says individuals generally move to adult

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services on or around their eighteenth birthday or at “a designated time that is right for them”.

15. Where the Council considers it will likely need to provide a social work service to a young person turning 18, it assigns their case to a social worker from the transition team. If the young person has an EHC Plan, that social worker will attend their EHC Plan review meetings. Usually, they will then hand over the young person’s case to a community adult services social work team between the young person’s seventeenth and eighteenth birthday.
16. However, the Council says there are exceptions to this policy. Social workers in its specialist autism team, or in its ‘specialist placement team’, may manage a case for longer.
17. The specialist placement team works with adults with learning disabilities, autism and / or attention deficit hyperactivity disorder (ADHD) who live in residential or supported living placements outside the county. Part of its role is to undertake transition planning for young people in residential schools outside the county who are approaching their eighteenth birthday.

## **How we considered this complaint**

18. Before issuing this report we considered:
  - Miss B’s written complaint to us and the supporting information she provided;
  - a complaint Miss B made to the Council about the matters covered by this investigation and its response, which pre-dated our investigation;
  - information provided by the Council in response to our written enquiries;
  - relevant law and Government guidance as summarised above; and
  - relevant guidance we publish, including our Guidance on Remedies.
19. Miss B and the Council also had chance to comment on a draft version of this report and provide any further evidence considered relevant to its content. We considered their comments before finalising the content of the report.

## **What we found**

20. Mr C is a young adult now aged 19. He is autistic and has ADHD.
21. In January 2020, Mr C had just turned 15 years old. The Council assigned his case to an adult social worker (‘Social Worker X’) from its ‘preparing for adulthood’ team. They completed an initial assessment of Mr C’s needs in March 2020.
22. The Council has said this assessment was completed under the Care Act 2014. However, the assessment paperwork does not contain any reference to the tests set out in the Act (see paragraph 12). It records Mr C lived at the family home with Miss B. He was not in full-time education at the time and there is discussion of this. The document provided background about Mr C, how his autism impacted on his day-to-day life and the impact of caring for Mr C on Miss B as his main carer. It described his circumstances as ‘highly changeable’.
23. The assessment recorded that Social Worker X would:
  - refer Mr C’s case to the Council’s autism / ADHD team “for his transition to adult social care”; and

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- also attend a review of Mr C's EHC Plan in Year 11 of his education.
24. In December 2020, Mr C moved to a residential school with accommodation outside the Council's area. The Council provided this accommodation under Section 20 of the Children Act.
  25. In September 2021 the Council assigned Social Worker Y from its children services to Mr C's case. Also, that month there was a meeting to review Mr C's EHC Plan, attended by a representative from the 'preparing for adult team'. A representative from this team also attended a statutory review of Mr C's care plan in January 2022. Miss B attended that meeting and wrote to the Independent Reviewing Officer (IRO) who chaired it expressing concern about the pace of transition planning for Mr C. Children services replied, promising to provide a timeline of what would happen over the next few months. The recommendations arising from the statutory review included that "children and adult social care provide a clear permanence plan for post 18 to be available at the next review in July".
  26. In February 2022, Council adult services transferred Mr C's case to its specialist placement team and allocated his case to Social Worker Z. Around the same time a supervising social worker from children services discussed Mr C's case with an officer from the adult specialist placement team (not Social Worker Z). His notes recorded "that it would be in [Mr C's] best interests to consider transition arrangements early in order to support him to move back to his local community prior to reaching the age of 18 [...] we agreed that to support this work [Social Worker Z and Social Worker Y] working in partnership to undertake a Care Act assessment and identify local options moving forward from March 2022 in order to support a graduated transition plan which can enable [Mr C] to have a home that will provide him permanence now and into his future as an adult".
  27. As well as the statutory reviews, children services considered Mr C's case at permanence panel meetings. These identified Mr C wanted to move back to Devon and be closer to Miss B. One in early March recorded that "adult services are in agreement for the placement search to be launched". The Chair of the meeting (a senior manager) noted "the importance of working together, with adult services, to support a planned move for [Mr C]".
  28. At the end of March 2022, children services identified a children's home placement in Devon, which we will call 'CH1'. This was in an urban area with good transport links, around 10 miles from the family home. The setting also had flats providing supported living for young adults moving on from residential care. In early April 2022, CH1 met with Mr C and assessed it could meet his needs. In mid-April 2022 children services told Miss B the plan was that Mr C would live in the children's home for a time before moving to one of the supported living flats (she understood Mr C could remain in the children's home accommodation until July 2023). Subsequent emails also confirm this was the understanding of the service although there are no emails with CH1 showing this was agreed or when a flat might become available.
  29. Also in April 2022, the Council reviewed Mr C's EHC Plan. Mr C's plan at the time contained a section headed 'preparation for adulthood'. It is blank.
  30. In mid-May 2022, Social Worker Y recorded a conversation with Social Worker Z. They recorded that adult care services were not planning to "explore available options" for Mr C until August. Two weeks later a manager from children services reviewed progress on the case and commented "we need to liaise as quickly as



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- possible with somebody from adult social care for a steer on whether [they] would be in support of a move back to Devon for [Mr C] – the provider that we are considering would be one that will be able to offer care to [Mr C] beyond his 18<sup>th</sup> birthday”. An email followed to an officer in adult care services (not Social Worker Z) asking for “a point of contact with whom we can discuss the planned placement change for [Mr C] as obviously we don’t want to move a young person a few months before he is due to turn 18 if ASC aren’t broadly in support of the proposed plan and we will need an agreement in principle”.
31. At the end of May 2022 Social Worker Z’s Team Leader sent an email to children services saying that adult care services could not commit to support the placement at CH1 “until we have assessed the situation more fully”.
  32. In June 2022 an officer from children services chased Social Worker Z and his Team Leader for an update. They did not reply. A permanence panel meeting recorded that the view of adult care services about Mr C moving to CH1 was unknown.
  33. In mid-June 2022 children services held a transition planning meeting. No-one from adult care services attended.
  34. In July 2022 a further permanence panel meeting took place, seeking approval for funding of Mr C’s move to CH1. The record of the meeting does not contain any mention of adult care services. The panel approved Mr C’s move. A management review the following day praised children social care staff for arranging the move. This too did not mention adult care services.
  35. Later that month, Social Worker Z began a Care Act assessment for Mr C. The Council says that even though CH1 was in-county it decided not to reassign Mr C’s case away from its specialist placement team, to ensure a continuous service.
  36. In August 2022 Mr C moved to CH1. The contract documents with the children’s home provider did not put an end date on Mr C’s placement. But it said the Council had contracted to provide Mr C with “a stable home where [he] can feel secure and [have] stability”.
  37. Later that month there was a statutory review which noted Mr C was happy to be closer to family again. The review noted CH1 provided supported living accommodation suitable for young adults as they turned 18. The notes indicated Mr C could move into this accommodation when a vacancy became available.
  38. After Mr C moved to CH1, children services produced a looked after child family plan. It dated this July 2022 but this is incorrect as it refers to Mr C having moved to CH1 where it reports him settling well and forming good and positive relationships with staff. It said Mr C needed “structure, routine and boundaries within his social interactions [...] to feel safe and secure”. Also, that any changes to his life needed planning.
  39. The service also produced a pathway plan for Mr C dated August 2022. This reflected on his time spent out of county and that he had “developed and sustained positive family relationships” while there. It said these should “develop further” with Mr C moving back to Devon. It noted this was something Mr C wanted.
  40. In September 2022 the Council issued an amended EHC Plan, naming an education setting accessible from CH1 via public transport, which Mr C could use (initially with support until familiar with the journey and then independently). The

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section of the plan setting out social care support said that adult social care services were assessing his needs. This would “inform post-18 planning and support”.

41. At the end of September 2022, Social Worker Z asked CH1 if Mr C could move to the supported living accommodation after his eighteenth birthday in December. He also asked the provider about the cost of Mr C’s placement at CH1 which was around £5,600 a week. He asked CH1 to provide a breakdown of what was covered, so he could present information to a funding panel. Social Worker Z followed up his enquiry in October 2022, saying to CH1 that he would be instructed to find alternative accommodation for Mr C if this was not provided.
42. Children services also held another permanence panel meeting that month which recorded Mr C’s social work team were “positive” that Mr C was now in the “right placement”.
43. At the end of October 2022 CH1 told Social Worker Z they did not consider Mr C ready for supported living. It said “it was agreed” Mr C would stay at the placement until Summer 2023. Internal emails show Social Worker Z anticipated he would encounter “considerable resistance” asking an adult care services funding panel to continue to pay for accommodation at CH1. He told Social Worker Y in an email that “I’ll be told to move him regardless of any agreement [CH1] may have made with children’s services”. Social Worker Z asked children services if it would agree to provide “staying put” funding to enable Mr C to remain at CH1. Children services could not do this as ‘staying put’ funding is a specific fund to support young adults over 18 to stay in foster care, not residential care.
44. In the middle of November 2022 Social Worker Z put Mr C’s case to the adult social care funding panel, requesting it maintain Mr C’s placement at CH1 (having now obtained a breakdown of the cost). The request said this would only be until “a suitable adult placement is identified”. The request contained a summary of Mr C’s needs and involvement with social services. It described him settling at CH1. It said he was learning well and his education placement were pleased with his progress.
45. The panel did not agree to the request to provide any funding for the placement beyond Mr C’s eighteenth birthday (now less than a month away). It instructed Social Worker Z to consider potential funding for a hotel, and to contact a variety of housing or supported living providers for an ‘emergency placement’. It also told Social Worker Z to arrange an advocate for Mr C.
46. Towards the end of November 2022, the Council also completed its Care Act assessment of Mr C’s needs, begun in July. This identified Mr C had eligible needs for support with his nutrition, hygiene, toilet needs, clothing, home safety, environment, relationships and education. The assessment noted that Mr C’s needs in this area generally required support staff to make checks and to prompt him. The assessment did not specifically comment on what type of accommodation he needed, but implied Mr C could, in the future, potentially live independently in his own flat. For now, he needed a “suitable adult placement”, that “ideally” would be in the same geographic area as ‘CH1’ due to his family connections. It also recorded it important he remain with the same education provider.
47. Around the same time, the Council identified a supported living placement approximately 30 miles from CH1 and 40 miles from the family home. The cost for this service would be around £950 a week. Miss B agreed to visit with Mr C,

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- although she says they felt pressured to do so. Notes record Mr C was unhappy at the prospect of moving there. At the start of December 2022, Social Worker Z contacted the Council's Special Educational Needs (SEN) service asking what implications this would have for Mr C's ability to attend his education. The supported living placement was around 60 miles from Mr C's education setting, with poor public transport links. Social Worker Z did not receive a reply to his enquiry.
48. Less than a week before Mr C's eighteenth birthday, Social Worker Z contacted Social Worker Y to say Mr C would have to present to the Council as homeless the following week as funding for CH1 would cease. Social Worker Y responded saying this was "completely inappropriate [...] we consulted with you (PFA Team) before we made the placement for [Mr C] at [CH1] and were told that adults would support a plan that saw [him] return to Devon but had no firm views as no assessment had been completed. We will need to escalate to explain this is completely unacceptable". Consequently, a senior manager from children services wrote to the Assistant Director of Adult Social Care expressing 'concern'.
49. The following day the IRO also expressed concern saying "the most concerning report [is] how this is impacting on [Mr C]. He has not been given a clear narrative on what will happen post 18 [less than a week away]. It is reported by all his anxiety has significantly risen which is now playing out in his behaviour. We have previously had self-harming incidents when [Mr C's] anxiety is high".
50. In response to these contacts the adult care service agreed to fund Mr C's placement at CH1 for an additional four weeks only. Children services then stopped providing a social work service to Mr C.
51. Next, Social Worker Z recorded that he would arrange for an advocate for Mr C. He also recorded receiving comments from Miss B expressing concerns about the proposed move to supported living. She asked the Council to reconsider, saying it:
- expected Mr C to move again too soon after his last move;
  - proposed Mr C moving to a placement far from family support and asked it to note she relies on public transport;
  - had not carried out adequate transition planning for Mr C; and
  - proposed moving Mr C to accommodation with a different and unsuitable client mix.
52. Later that month, Miss B also raised concerns about the impact on Mr C's education.
53. Council records show it did search for alternative supported living placements to that proposed. But that it could not identify one suitable or which had vacancies.
54. In early January 2023 the Council recorded Mr C unsettled, with the prospect of moving hanging over him. CH1 reported Mr C showing increasingly challenging behaviours, which it attributed to his "worry and upset" about having to move. The next day Mr C's education provider reported the same concerns. And later that month a personal adviser working with Mr C also noted his behaviour had become "very negative [...] primarily caused by [...] accommodation worries". CH1 then proceeded to give notice to Mr C, requiring him to leave. It told the Council he had "not re-settled since Christmas when he was told he would be leaving the home by the New Year".

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55. Before the end of the month Social Worker Z sent another message to the SEN service asking for advice about Mr C's transport to his education placement. A manager from the specialist placement team told Social Worker Z not to let this enquiry delay Mr C's move.
  56. Notes show Social Worker Z considered it unworkable for Mr C to travel from the supported living placement to his education placement by public transport. To do so would require a three hour journey each way. He obtained the cost of transport by taxi and secured agreement that adult care services pay for this for one week. After that Social Worker Z's manager said Mr C must move to an education setting closer to the supported living placement that was "more financially viable".
  57. Mr C moved to the supported living placement at the beginning of February 2023. After the half-term break, he had no transport to get to his education setting. During this month Miss B escalated her concerns to a complaint, saying the Council had forced Mr C to move regardless of either his views or her own. She considered the placement inappropriate. Miss B also complained the Council had not provided Mr C with an advocate, nor communicated with him in a straightforward way he could understand.
  58. Social Worker Z continued to contact the SEN service. He had now read the Council's SEN transport policy and queried if the transport service had a duty to fund Mr C's transport. He asked the service again for a person to contact to discuss. An email chain shows that one officer within that service queried if Mr C could go to a different setting. But by mid-March the transport service said the Council must fund Mr C's transport and went on to arrange that. However, it could not find a taxi provider until after the Easter holiday, meaning Mr C could not attend his education setting for a half-term. Miss B made a second complaint about Mr C's lack of transport. She noted an earlier Ombudsman investigation had found the Council had not given Mr C adequate education support. Consequently, he had received extra hours of tuition at the education placement which were now also being lost.
  59. In the meantime, Mr C's education provider offered some outreach, visiting him twice weekly at his supported living accommodation. But they expressed concern for his wellbeing. An independent living skills adviser working with Mr C reported him unhappy when he could not attend his education placement. He ended his involvement sooner than planned, saying Mr C had become demotivated because of the "changes in his life that are happening".
  60. A second Care Act assessment completed in April 2023 noted Mr C could now travel to his education setting again. But the supported living placement was "still a problem" because of Mr C's distance from Miss B and his wider family.
  61. In April 2023 the Council again reviewed Mr C's EHC Plan. A report prepared for the review noted how Mr C had been adversely affected by the "lack of routine" following his move to supported living. It said he also faced a "struggle" with his mental health, with his move given as one reason for this. Another document said Mr C was not ready to sit qualifications at the end of the school year as previously hoped because of the education he missed following his move.
  62. The Council replied to Miss B's complaint at the end of April 2023. It said the specialist placement team had looked at alternative potential placements closer to CH1 or Mr C's education placement but could not identify one. It said Mr C had to leave CH1 because of his behaviour. The Council said Mr C did not need an advocate as Miss B supported him and he did not have 'substantial difficulty'

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being involved in decisions around his care. It apologised for the breakdown in Mr C's school transport but said the education setting had provided outreach support while he could not attend.

63. When we first spoke to Miss B in August 2023, she explained Mr C remained unhappy at the supported living placement. She had other concerns about the placement, which arose after April 2023 and which we have not investigated. But at the time we spoke to Miss B, there were concerns Mr C had begun self-harming. In Autumn 2023 Mr C moved to alternative accommodation, closer to Miss B.

### **Council comments on the complaint**

64. In general comments on this complaint the Council has said that it did not produce a single, stand-alone transition plan document. But that evidence for transition planning can be found with reference to the various assessments mentioned above.
65. The Council has said that it did not consider funding Mr C's placement at CH1 a "medium or long-term option" because of its cost. It drew our attention to its 'fair and affordable care policy'. This says all decisions on funding care are decided on a case-by-case basis but as part of decision making the Council can take account of its budget in line with Government guidance (see paragraph 13 above). It has said that sometimes adult services require young adults to move from accommodation commissioned by children services because the services "work to completely different frameworks". It says it is unable to provide figures about how often this has happened in the past 12 months.
66. In response to questions about why it did not arrange for an advocate for Mr C, despite references to this in its paperwork, the Council told us that it initially considered this. But that it was Social Worker Z's professional view that Mr C did not need an advocate given Miss B's support.

### **Conclusions**

67. The Council has a policy to begin planning for young people's transition from children to adult care services in good time and in line with Government guidance. We note adult care services became aware of Mr C's case with plenty of time to plan for his eighteenth birthday, in line with this policy. More than two and a half years before that date it undertook an initial assessment of his needs. This fell short of a detailed assessment compliant with the tests set out in the Care Act, possibly indicating a lack of focus on what services it might need to provide in the future. However, we note Mr C's circumstances were highly changeable. Also, the assessment did identify his case should go to a specialist team and that social care staff should keep abreast of planning to meet Mr C's special educational needs. So, on balance we consider its level of involvement proportionate at that time.
68. In March 2022 the Council allocated Mr C's case to Social Worker Z. In between we note the adult care service attended EHC Plan reviews and other meetings, so it knew of changes in his circumstances. But it had not carried out any assessment of what services Mr C might need as an adult. This failure to plan more thoroughly before this date was fault.
69. However, we do not consider this fault need have proved detrimental to Mr C. Because in Spring 2022, children services had just begun working with Mr C to support his return to Devon, to be closer to family. Alongside this, SEN services

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- began its search for an education setting to meet his needs in the area. So, even if adult care services had been more involved sooner, any transition planning would have needed to take account of these changes.
70. Council children services knew of the need to involve adult care services in decision making around his move back to Devon. Mr C's statutory review recorded this in January 2022 and the permanence panel likewise the following month. The service then initiated discussion with adult care services, which agreed the necessity for this.
  71. Both services agreed children services would search for accommodation for Mr C and this resulted in it identifying CH1. Between April and July 2022, the service agreed the details of Mr C's placement and move there.
  72. In doing so, children services said Mr C needed security, stability and routine on returning to Devon. It also knew these could not be guaranteed without adult care services agreeing the approach. But despite a series of meetings in June and July 2022 – including a statutory review, permanence panel and a specific transition meeting – no consideration was given to what would happen once adult care services became responsible for supporting him.
  73. So, there was no consideration given to the cost of the accommodation or when Mr C might move to the adjacent supported living flats. For Mr C's move to go smoothly, adult care services needed to know these matters as they would be critical to its later involvement in the case. Not giving that consideration sooner was fault.
  74. Throughout this time there was a continuing failure by the Council to carry out a proper transition assessment for Mr C. We find there is nothing in Mr C's pathway plan or family plan, both produced in Summer 2022, that go beyond discussion of his relationship with Miss B and that he will have more contact with her once he returns to Devon. They are more backward looking than forward looking documents. Meanwhile, as stated above, adult care services came to its assessment planning far too late. So, its Care Act assessment completed in November 2022 cannot be considered a transition assessment either. There was a collective failure of both services to adequately assess and plan for Mr C beyond his eighteenth birthday. That was fault.
  75. The consequence was Mr C moved to 'CH1' with no certainty about how long that placement would last, nor what would follow. However, it is clearly recorded that CH1 could offer Mr C accommodation at least throughout the academic year and this is what he and Miss B believed would follow. It is clear Mr C initially settled well in both the accommodation and his education. It is also clear Mr C had no idea that his accommodation might end as soon as December.
  76. The record is unambiguous that the impetus for ending Mr C's accommodation at CH1 arose from adult care services not wanting to pay for it. While ultimately CH1 gave Mr C notice to leave, this only followed a period of several weeks where he became unsettled because of him knowing he had to move. The comments of the IRO, CH1, his education provider and his personal adviser noted above, all show the impact this had on Mr C's behaviour.
  77. In mid-November 2022 the Council had decided Mr C must move when its adult care services panel rejected a proposal to maintain his placement at CH1. We find it telling that Social Worker Z's notes show that he anticipated this outcome, with a decision driven by considerations about cost alone.

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78. The Council defends its approach and we note the cost of CH1 was high, perhaps four to five times what a supported living placement might cost. We also recognise Government guidance which says councils can take account of their overall budgetary position in deciding on care options for individuals. But what that guidance also makes clear is that decisions must still be person-centred and take account of individual need.
79. The evidence here is that the Council's approach to Mr C's case was fundamentally flawed from November 2022 onward, because it was not person-centred and did not take account of his individual needs. We cannot find any evidence in the care planning documents of how the Council came to the view Mr C needed supported living and not residential accommodation. Nor do we find evidence that it drew up a personal budget and care and support plan. But even if there was an audit trail showing these matters, the Council would still need to identify the right supported living choice to meet Mr C's needs.
80. Further, its decision in November 2022 failed to take relevant factors into account including:
- Mr C's autistic profile and the importance of routine and stability;
  - that Mr C had only moved to CH1 in August 2022; the Council did not consider the impact of another move on him in a short space of time;
  - that it had not identified any alternative accommodation for Mr C from his eighteenth birthday; and
  - that the only potential alternative accommodation was much further from Miss B's home and his education setting; if pursued, this would inevitably have an impact on Mr C's assessed need to have access to both.
81. For all the reasons set out in paragraphs 79 and 80 the Council was at fault for its decision making when asked to support Mr C's placement at CH1 as he turned 18.
82. The Council did however understand the potential impact of its decision making. It was willing to let Mr C become homeless in December 2022 and only the eleventh-hour intervention of children services and the IRO prevented that. For a panel of senior council officers to countenance something that should have been unconscionable to them, reflects extremely poorly upon it.
83. It reflects even more poorly on the Council that its planning for Mr C's move to supported living accommodation took place before any arrangement was in place for travel to his education setting. Again, Council adult care services knew the consequence of its decision making. Social Worker Z was told he had to ensure Mr C's move despite knowing that Mr C had no way of getting to his education placement by public transport. The management of the service considered Mr C could arrange alternative education for himself within a week of the move. This was despite knowing he had an EHC Plan, that stability of education was important to Mr C as was his ability to travel independently to the education placement. So, the Council again took a decision without taking relevant factors into account. That was a further fault.
84. We recognise that after several weeks of uncertainty, the Council acknowledged its legal duty to provide Mr C with transport to his education setting and made the necessary arrangements. But it cannot escape criticism that from November, Social Worker Z contacted the SEN service wanting advice on transport. It took

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three to four months for his enquiry to go to the right officer for the correct response. That breakdown in communications was fault.

85. While we cannot expect social workers to be experts on SEN provision and EHC Plans, this case highlights a worrying gap in their knowledge of the Council's duties towards such pupils. Their needs make it more likely they are known to social services and will transition from children to adult care services accordingly. We would expect those social workers to have, at the very least, a point of contact who can clarify the Council's legal duties to such pupils including their right to attend the education setting named on their EHC Plan and their right to transport. It is concerning that the Council did not equip its staff working in a key transition team with such knowledge or sources of information, and this contributed to the fault identified above.
86. Finally, we note Miss B's concern the Council did not provide Mr C with an advocate. The law does not place an absolute duty on the Council to provide advocacy services to young people transitioning from children to adult services. But the Council must provide advocacy if the individual will experience substantial difficulty understanding the decision it is making and if they have no other appropriate person to represent them.
87. In this instance, the Council's record keeping is confusing. It clearly states that it thought Mr C should have an advocate but failed to provide him with one. Its records do not explain why it decided this or why it changed its mind. It has subsequently said it was Social Worker Z's judgement that Miss B could advocate for Mr C. The record shows she was trying to pass on his views but only after the Council had made its decisions about his care. The Council did not adequately consult Mr C before it made its key decisions, nor consider a potential need for advocacy at that time, or whether Miss B could help him express his views. That was fault.

### **Summary of fault found in this case**

88. In summary therefore the Council was at fault because:
- its adult care service did not take part in decisions around a move back to Devon for Mr C, which it should have done as part of its duty to undertake transition planning;
  - its children services knew of the need to involve adult care services in decision making but did not make efforts to engage that service at a senior level when its initial contacts did not result in active engagement;
  - neither children nor adult care services undertook proper transition planning for Mr C;
  - its adult care services inappropriately sought to end Mr C's placement at a children's home on or around his eighteenth birthday; it solely took account of budgetary considerations and not Mr C's needs;
  - it therefore required him to move without reference to the impact that a change in accommodation, and that accommodation's location, would have on his wellbeing;
  - the move took place with Mr C having no means to attend his place of education;
  - its SEN service failed to reply in a timely way to requests made by Mr C's social worker for advice about home to school transport; and



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- it did not adequately consult Mr C, nor consider a potential need for advocacy before taking key decisions about his care.

### **The injustice caused as a result of Council faults**

89. We consider the impact of these faults was as follows:

- Mr C suffered unnecessary distress caused by uncertainty because of the failure to plan properly for his care beyond his eighteenth birthday. This is evident from the changes in Mr C's behaviour when he became aware his placement at CH1 would end around his eighteenth birthday;
- Mr C also suffered distress through not having his voice heard when the Council decided to end his placement at CH1. We cannot say if Mr C should have had an advocate, but he should have been listened to sooner. This did not happen because of the rushed transition planning so close to his eighteenth birthday;
- Mr C experienced further distress and was put at more risk of self-harm due to being moved to the supported living placement without reference to the impact that change would have on him. We consider a proper consideration of this matter may have still resulted in a move for Mr C, but not until the Council had identified a supported living placement closer to his family home and place of education (or with better public transport links). Instead, Mr C had to move to a supported living placement 40 miles from Miss B and with poor public transport links, making it harder to meet his need to maintain relations with his family. The Council's record show he was unhappy, demotivated, struggled with the loss of routine, missed his educational placement, disengaged from services and his mental health suffered;
- Mr C lost half a term of education because he had no means to get to his education placement. While the education provider offered some outreach, we consider this provides only limited mitigation for the loss of education; and
- Miss B also suffered distress because of Mr C's move to a supported living placement so far from her home with poor public transport links. This made it harder for her to visit him. She too was not listened to when she raised her concerns about the impact of the Council's actions on Mr C.

### **Recommendations**

90. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)
91. In addition to the requirements set out above, the Council has agreed to take the following action. Within one month of the date of this report it will:
- apologise to Mr C for the injustice caused to him, accepting the findings of this report and taking account of advice set out in section 3.2 of our published guidance on remedies;
  - make a symbolic payment to Mr C of £1,000 to recognise the distress caused to him, the increased risk of harm and the impact on his education;
  - make a symbolic payment to Miss B of £250 to recognise the distress caused to her also; and

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- arrange a meeting with Miss B, Mr C and his education provider to consider if there is any additional tuition or support Mr C will now benefit from to make up for his lost education provision in Spring 2023; if this is agreed, the Council will make that provision specifying clearly what it will consist of and for how long.
92. In addition to the actions set out above designed to remedy Miss B's and Mr C's personal injustice, the Council has also agreed to learn lessons from this complaint. Within three months of the date of this report it will:
- ensure that it introduces a policy to triage all cases of young people aged 16 and over who are referred to its adult social care department. Where assessment for transition is required, a social worker is allocated to begin transition planning for adulthood. Where it has not allocated an adult care services social worker, the Council should have a series of trigger dates (for example at three monthly intervals) to ensure these cases are either allocated as soon as practicable or those that cannot be allocated are brought to the attention of senior managers for action;
  - ensure it introduces a procedure (or reminds relevant staff of any existing procedure) for children services to escalate concerns if adult care services are not actively involved in transition planning for any young person aged 17 or over; no decisions about accommodation for a child beyond their eighteenth birthday or with significant cost implications for the Council should be taken without that involvement;
  - brief all staff and managers involved in transition planning for young adults on the findings of this investigation and the changes being introduced to prevent the same problems recurring in the future; and
  - review communications between its adult care services transition teams and SEN services, so that social workers have a designated point of contact where they have enquiries about EHC Plans or SEN transport. The Council should also ensure that social workers can escalate concerns to senior officers if they go unanswered.
93. The Council should provide us with evidence it has complied with the above actions.

## **Decision**

94. We find fault by the Council causing injustice to Miss B and Mr C. We recommend the Council take the action described above to remedy that injustice.
95. We have published this report because we consider it in the public interest to do so, given the injustice caused to the complainant and the wider systemic problems the complaint has revealed.