

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

**Investigation into a complaint about
City of Bradford Metropolitan District Council
(reference number: 21 001 973)**

15 November 2022

The Ombudsman's role

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

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

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

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

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

Mrs X	The complainant and Mr Y's advocate
Mr Y	The person affected
Mrs Z	Mr Y's partner and person affected
Mrs Q	Mrs Z's mother

Report summary

Adult Social Care

Mr Y complained that the Council took four months to complete an assessment of his care and support needs. He says it took a further 16 months to provide the services he needed, but it still did not provide enough. It could not decide which team should assess him because he had autistic spectrum disorder and no learning disability or mental health condition. He had already spent two years trying to get a full assessment. It also took five months to do an inadequate carer's assessment for Mrs Z.

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*)

To remedy the injustice caused, we made recommendations to the Council which it has agreed to implement. These recommendations are:

- apologise to Mr Y and Mrs Z, setting out the faults identified in this report and the actions the Council has taken, and will take, to avoid similar problems in future;
- pay Mr Y £2,000 for the loss of service and avoidable distress it caused him;
- pay Mrs Z £2,000 for the loss of service and avoidable distress it caused her;
- finalise the Care Act compliant carer's assessment for Mrs Z and make sure all future carer's assessments are Care Act compliant;
- review Mr Y's current support and advise what further work is needed to address the ongoing difficulties he has experienced in engaging suitable support;

To ensure the same problems do not happen again:

- provide us with details of the market engagement work both undertaken and planned, and analysis of the outcomes;
- make sure all assessors and their managers are familiar with the Care and Support Statutory Guidance (which is available online in an easily accessible format) in particular sections 1,2, 6 and 7;
- make sure all relevant staff are clear about how people, including those with ASD, should be directed to suitable assessors who can assess their needs properly;
- make sure at the first point of contact, it considers whether people with ASD will have substantial difficulty being involved in their assessment and will need an advocate;
- put in place an ongoing programme of training in autism so that all assessors and their managers, have regularly updated specialist training. All staff should

receive autism awareness training within the general equality and diversity training programme;

- make sure there is a way of providing easily accessible assessment records electronically and securely to the person assessed.

To put things right for others affected by the same issues:

- identify those with ASD and no learning disability, over the last two years, who have:
 - been declined a full assessment by an assessor without training in ASD;
 - complained about an assessment by an assessor without training in ASD;
 - not been offered an advocate and are currently awaiting assessment or are in the process of being assessed;
- use the information identified above to reopen cases and provide advocacy where needed to support these individuals to complete a fresh needs assessment and ensure any eligible needs are met appropriately; and

The Council should provide us with evidence to satisfy us these actions have been taken.

The complaint

1. The complainant, who we have called Mrs X, is a professional advocate and complained on behalf of Mr Y and his partner, Mrs Z, that the Council:
 - did not adequately assess Mr Y's needs and identify eligible needs until December 2019 after starting an assessment in August 2019;
 - delayed providing services which started in April 2021, 20 months after Mr Y's assessment began and seven months after its complaint response acknowledged it had gone on too long already;
 - did not provide sufficient support to meet Mr Y's needs. The Council decided four and a half hours a week was enough although the social worker recommended eight hours. It also provided this in periods of two hours or more although Mr Y could only cope with up to one and a half hours at a time;
 - delayed completing a carer's assessment which they requested in August 2019 and was only completed in January 2020. Over 16 months after it was completed, the Council had not offered Mrs Z any support despite Mr Y's increased care needs; and
 - did not adequately consider their human rights.
2. Mr Y told us that, for the past four years he has "doggedly pursued" his rights under the Autism Act which has been an "uphill battle every step of the way". He says four and a half hours a week was not enough to meet his needs fully. The Council referred Mr Y to the mental health team three times despite him not having a mental health disorder. It also arranged a continuing healthcare assessment with nothing to suggest he might be eligible. Mr Y says the delays and inadequate assessment meant his needs were not met for around 18 months longer than necessary. The lack of support for Mr Y meant Mrs Z was under more pressure.
3. Mr Y says his stress levels increased so much he had to reduce his hours at work and Mrs Z was signed off sick with anxiety and stress. Her carer's assessment was not properly completed and she still does not have support in her own right. She has no respite and care workers have left because they understood they were to support Mr Y, not Mrs Z. Mr Y lost independence financially and socially.
4. He told us he feels his human rights were disregarded by the Council and there was a systemic failure that needs to be addressed. He says the Council is trying to assist him to be dependent on others rather than helping him to be more independent. The waiting list for an assessment for a shower he could use independently is between one year and two and a half years long. Mr Y is now unable to work and feels he has been "dumped and forgotten again". He would like financial recompense for himself and Mrs Z, and to be confident the Council has taken action to make sure it deals properly with autistic people in future.

Legal and administrative background

5. 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

an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

6. We may investigate complaints made on behalf of someone else if they have given their consent (*Local Government Act 1974, section 26A(1), as amended*). Both Mr Y and Mrs Z have given consent for Mrs X to complain on their behalf.
7. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done (*Local Government Act 1974, sections 26B and 34D, as amended*). In this case, we exercised our discretion to consider events back to 2019 as Mr Y had been pursuing his complaint since then and the Council gave him incorrect information which delayed him bringing his complaint to us.

Assessment

8. Sections 9 and 10 of the Care Act 2014 (the 2014 Act) require councils to carry out an assessment for any adult with an appearance of need for care and support. They must provide an assessment to everyone regardless of their finances or whether the council thinks the person has eligible needs. The assessment must be of the adult's needs, how they impact on their wellbeing and the results they want to achieve. It must also involve the individual and where suitable their carer or any other person they might want involved.
9. Councils must carry out assessments over a suitable and reasonable timescale considering the urgency of needs and any variation in those needs. Councils should tell people when their assessment will take place and keep them informed throughout the assessment. They must also consider how to prevent needs developing or escalating at every interaction with a person.
10. The Care and Support Statutory Guidance to the 2014 Act says comprehensive assessments must be completed by appropriately trained assessors. Assessors must undergo "regular, up-to-date training on an ongoing basis", appropriate to the assessment and the condition of the person being assessed. Where an assessor does not have the skills, they must consult someone with relevant experience.
11. Assessments should provide a holistic view of the person's needs and "must be person-centred", and "consider the person's own strengths". If both parties agree, councils may combine an assessment with that of a carer where "intrinsically linked", to avoid completing two separate assessments. Assessments should be collaborative.
12. "At the point of first contact", the council must consider whether the person will have substantial difficulty being involved in their assessment. This includes substantial difficulty in communicating their views, wishes or feelings. In which case, the council must find someone "appropriate and independent" to "support and represent" the person. This should happen "as early as possible" in the assessment process. Where there is no one else appropriate, the council must appoint an independent advocate.

Carer's assessment

13. Where an individual provides or intends to provide care for another adult and it appears the carer may have support needs, local authorities must carry out a carer's assessment. Carer's assessments must seek to find out not only the carer's needs for support, but also the sustainability of the caring role itself. This includes the practical and emotional support the carer provides to the adult. The

carer's assessment must also consider the outcomes the carer wants to achieve in their life outside of caring and the impact caring has on this and their wellbeing.

14. Where the local authority is carrying out a carer's assessment, it must include in its assessment a consideration of the carer's potential future needs for support. It must also consider whether the carer is, and will continue to be, able and willing to care for the adult needing care. (*Care and Support Statutory Guidance 2014*)
15. Councils must ensure eligible needs of carers are met. This is not dependent on the cared for person having eligible needs.

Care plan

16. The 2014 Act gives councils a legal responsibility to provide a care and support plan, or a support plan for a carer. The care and support plan should consider what the person has, what they want to achieve, what they can do by themselves or with existing support and what care and support may be available in the local area. When preparing a care and support plan the council must involve any carer the adult has. The support plan must include a personal budget, which is the money the council has worked out it will cost to arrange the necessary care and support for that person.
17. Section 22 of the 2014 Act says "a local authority may not provide healthcare services which are the responsibility of the NHS". However, a local authority "may provide some healthcare services in certain circumstances, that is, where the service provided is minor and accompanies some other care and support service". The "other care and support service" must be one that the local authority is permitted to provide and "of a nature" that a local authority would be expected to provide."

Autism

18. The National Autistic Society says: "Autism is a lifelong developmental disability which affects how people communicate and interact". Also, "Autism is not a mental health problem but autistic people can have good and bad mental health like anyone else.". (*online at autism.org.uk*)
19. Mencap says "Autism is not a learning disability, but around half of autistic people may also have a learning disability." (*online at mencap.org.uk*)

The Autism Act 2009

20. The Autism Act 2009 (the Act) came into being following a campaign due to a lack of diagnosis services for adults and because many services were for people who also had a learning disability or a mental health condition. People with autism and no learning disability or mental health condition fell between the gaps. The Act says there must be a Government strategy for improving services for adults with autism underpinned by legally binding guidance to councils. In 2015, the Government updated the adult autism strategy statutory guidance, following the introduction of the Care Act 2014. The guidance says the following.
 - *"In line with the 2010 statutory guidance, local authorities should be providing general autism awareness to all frontline staff in contact with adults with autism, so that staff are able to identify potential signs of autism and understand how to make reasonable adjustments in their behaviour and communication. In addition to this, local authorities are expected to have made good progress on developing and providing specialist training for those in roles that have a direct impact on and make decisions about the lives of adults with*

autism, including those conducting needs assessments. This expectation remains central to this updated statutory guidance.”

- *“...local authorities and NHS bodies should develop commissioning plans for services for adults with autism and review them annually. Local authorities should also allocate responsibility to a named joint commissioner/senior manager to lead commissioning of care and support services for adults with autism.”*
- *“In addition, local commissioning plans should set out how local authorities will ensure that adults with autism are able to access direct payments (where appropriate) and benefit from the personalisation of health and social care. Local partners should already have a local autism partnership board in place which brings together different organisations, services and stakeholders and adults with autism and their families to set a clear direction for improved services. Autism partnership boards have proved to be a highly effective means for stakeholders to shape and monitor local delivery of the strategy and statutory guidance. It is therefore essential for their partnership arrangements to be established in areas where they are not currently.”*
- *“Historically, people with autism may have approached services, but where they do not have a co-occurring learning disability or mental health problem, they are sent between teams and end up falling in between services.”*

Healthwatch

21. Healthwatch is a statutory committee of the Care Quality Commission (CQC), established under the Health and Social Care Act 2012. Its main statutory functions include supporting local Healthwatch organisations and escalating concerns to the CQC. Also, providing advice to Government, the NHS and local authorities. When Healthwatch gives advice to bodies, they must respond in writing.
22. Local Healthwatch are funded by and accountable to local authorities. Their main statutory functions include:
 - obtaining the views of people about their needs and experience of local health and social care services. Also, making these views known to those involved in the commissioning and scrutiny of care services; and
 - writing reports and recommending how services could or should be improved.
23. In January 2017, Healthwatch Bradford published a report about the difficulties people with ASD had in the area. It recommended the following.
 - *“The implementation of the Autism Strategy...and the appointment of a named local lead for the local authority and CCG.”*
 - *“Continuous professional development training should be made available, ideally compulsorily for NHS and council staff, to improve understanding of autism and how to ensure services are fully accessible to all staff who may come into contact with autistic people, including those performing financial and Care Act assessments, mental health services, learning disabilities services and Bradford’s First Response service.”*
24. It also included the following comments.
 - *“A lack of autism awareness was reported across a wide range of professionals, including GPs, mental health workers, social workers and those carrying out Care Act 2014 and other assessments.”*

- *“We are calling for more attention to be paid to the needs of autistic people. Greater awareness and understanding of autism is needed to ensure that people can live well and access the services to which they are entitled.”*
- *“Staff carrying out [Care Act] assessments often lack any understanding of the way in which autistic people may interpret what is being asked of them, or how autism can affect their day to day lives.”*
- *Local authorities and NHS bodies should “ensure autism awareness training is included within general equality and diversity training programmes for all staff working in health and care.”*
- Local authorities should *“Ensure there is a meaningful local autism partnership arrangement that brings together different organisations, services and stakeholders locally, including the CCG, and people with autism, and sets a clear direction for improved services.”*

Human rights and equalities

25. The Human Rights Act 1998 (the 1998 Act) sets out the fundamental rights and freedoms that people can expect.
26. Article 8 of the 1998 Act says everyone has the right to respect for their private and family life, their home and their correspondence. Public authorities may be obliged to actively protect rights under this article and may interfere with these rights to protect the rights of other people or the public interest. The public authority must interfere with the right as little as possible.
27. In 2009, the UK agreed to follow the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The purpose of the CRPD is to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.” (*UN Human Rights, Office of the High Commissioner, online at [Convention on the Rights of Persons with Disabilities | OHCHR](#)*)
28. The Equality Act 2010 protects the rights of individuals and supports equality of opportunity for all. It offers protection in employment, education, the provision of goods and services, housing, transport and the carrying out of public functions.
29. The Equality Act makes it unlawful for organisations carrying out public functions to discriminate on any of the nine protected characteristics listed in the Equality Act 2010. They must also have regard to the general duties aimed at eliminating discrimination under the Public Sector Equality Duty. The ‘protected characteristics’ referred to in the Act include disability.
30. The Public Sector Equality Duty requires all local authorities (and bodies acting on their behalf) to have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.

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31. The broad purpose of the public sector equality duty is to consider equality and good relations in the day-to-day business and decision making of public authorities. It requires equality considerations to be reflected in the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

How we considered this complaint

32. We produced this report after examining relevant documents and interviewing the complainant and relevant employees of the Council.
33. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Background

What happened

34. Mr Y had diagnoses of high functioning autism spectrum disorder (ASD) and anxiety disorders. ASD is a lifelong condition. He also had health conditions which, increasingly throughout these events, caused him significant difficulty with mobility. He had difficulty in communicating with people and used an advocate to help with this. He lived at home with his partner, Mrs Z. Mrs Z and her mother, Mrs Q, provided Mr Y with support in many areas of his life. He also had a support dog. The Council had previously assessed Mr Y in 2017. He was unhappy with that assessment, and he was not offered any services. He says his GP advised him to go out of the area to find services because the Council did not have any services for people with autism. Following this experience, Mr Y went to great lengths to understand what he should expect from the Council.
35. Mr Y advised the Council that people have told him he can appear aggressive and hostile at times. He said this was not his intention and may have been due to frustration, for example, with delays. The Council says the social worker agreed to communicate with Mrs Z, Mr Y's advocate, or Mrs Q on occasions when this happened. It also agreed to invite his advocate and family members to meetings held at times and places most comfortable for Mr Y.

Mr Y's assessment

36. In mid May 2019, after the community mental health team (CMHT) declined a referral from his GP, Mr Y contacted the Council to ask for an assessment. The Council allocated Social Worker 1 almost three weeks later. The soonest they were both available to meet was another two weeks later. On the day of the appointment, Mr Y telephoned to ask if Social Worker 1 had arranged an advocate; they had not. Mr Y asked them to do so and to meet later that day than planned so Mrs Z would be home to support him. Social Worker 1 agreed. Mr Y told them that his children's social worker had recommended he needed support, and there was an ongoing court case.
37. Social Worker 1 referred Mr Y for an advocate and within two weeks, Mrs X was allocated. She met with Mr Y and arranged an assessment for him at the end of August. This delay was because Social Worker 1 was on leave for three weeks.

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38. At the end of August, Social Worker 1 completed an initial assessment of Mr Y with Mrs X present. Mr Y asked Social Worker 1 to send him a copy of the assessment in digital format as he could not read printed documents. He said he would need this for the next meeting. He did not receive this. The outcome of Mr Y's assessment was that he should be provided with short term information and advice; he would not have a full needs assessment. Mr Y received the draft of this assessment from Mrs X in mid September. He said it was apparent Social Worker 1 had little experience of working with people with high functioning ASD. Social Worker 1 confirmed they had no training in ASD.
 39. Mr Y complained to the Council and just over three weeks later, Social Worker 1's manager visited Mr Y to discuss his complaint. Mr Y said the assessment was inaccurate and portrayed him as a narcissistic psychopath. In his comments to us he referred to this as "humiliating and degrading treatment". They agreed another independent social worker would complete an assessment. The Council said this was because the learning disability team did not have the skills required by the Care Act 2014, to complete Mr Y's needs assessment.
 40. Social Worker 2 had an understanding of ASD and completed the assessment at the end of November with Mrs X and Mrs Z present. Mr Y says this assessment portrayed his needs well though he had given the same information as he had to Social Worker 1. Mr Y told Social Worker 2 that he needed support to be "as independent as possible". This included support to develop and implement strategies to allow him to continue to work and maintain relationships. Mr Y's medical records showed that his consultant had recommended he undertake Cognitive Behavioural Therapy and Psychoeducation from a specialist. However, he had not yet been able to access this through the NHS.
 41. Social Worker 2 found Mr Y had eligible social care needs. They recommended support with safely preparing meals, planning activities, managing his finances, accessing the community and caring for his children. He also needed prompting to complete personal care, eat, and complete household tasks. Mr Y was working, supported by many reasonable adjustments made by his employer. However, he had reduced his hours significantly due to the difficulties he was experiencing. Social Worker 2 noted that Mr Y significantly valued his ability to work and reducing his hours had impacted his mental health. They noted it would cause a "significant detriment to his own identity and purpose" and would have a "significant impact on his wellbeing should he not be able to work". Mr Y had educated himself on autism and completed online learning on parenting. However, Social Worker 2 noted that Mr Y could not apply this learning to real life without one to one support or guided learning by someone knowledgeable about autism.
 42. Social Worker 2 recommended Mr Y receive support to apply for a Blue Badge and receive a direct payment to allow him to arrange his support flexibly. Any support was to be provided by people with in-depth and specialist knowledge of high functioning autism. They also recommended that the Council support Mr Y to plan his care and support, to jointly identify how it could best meet his needs. They noted that "availability of services for people with Autism is poor" and suggested a creative and multiagency approach to care planning. They said the impact of Mrs Z's role on Mr Y daily was "significant" and she had indicated she could continue, though this would change on the birth of their child in about three months' time.

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43. The Council referred to this assessment as to consider whether an exception for provision of health services under section 22 of the 2014 Act (see paragraph 17) applied. It said the outcome was a recommendation to Mr Y's GP to refer him to the CMHT for a mental health assessment. This was to "secure access" to "psychological therapy services" to address Mr Y's "primary health needs arising from his diagnosis of Autism and associated anxiety". Social Worker 2 noted that the GP had referred Mr Y for this and that as no such service existed within the clinical commissioning group (CCG) area, this was unsuccessful. The assessment notes "efforts have continued to be made by his GP and the CCG". The Council provided Mr Y with a copy of the assessment in December 2019.
 44. In January 2020, a newly allocated social worker from the learning disability team (LDT) visited Mr Y. They agreed to support Mr Y to complete his benefits application, to jointly plan his care and support, to reduce caring demands and to promote his independence. Also, to speak to the GP about a referral to the CMHT and refer for an alarmed medication box for Mr Y.
 45. Social Worker 3 completed Mr Y's initial care and support plan. It proposed eight hours a week and noted this needed discussing with management before being approved and sent to a panel for approval. The support included: preparation and cooking of main meals, food shopping, laundry and other household tasks, dealing with correspondence, forms, budgeting and with appointments. Future support to be dependent on Mr Y's progress. Social Worker 3 noted they were happy to attend his children's reviews with Mr Y and discuss with children's services other ways of involving Mr Y. Mr Y wrote to children's services to introduce Social Worker 3.
 46. In March, Mr Y and Mrs Z's child was born and Social Worker 3 attended a children's services review where the case was closed. The children's social worker said it was good that Mr Y now had a social worker seeking to get support for him.
 47. The Team Manager (TM) read Social Worker 3's submission to the panel to agree funding, and the support plan. He questioned whether Mr Y wanted to be more independent in household tasks or if this was for Mrs Z. He asked for Mr Y's desired outcomes to be made clearer and for support to be time limited based on Mr Y becoming more independent. He suggested reducing the support to cook family meals from three times a week to one, to see if the outcome was realistic. He also suggested support from an occupational therapist (OT). At the end of his message to Social Worker 3, he said "At the moment any support is likely to be delayed whether it's agreed or not". At this point, it was over 10 months since Mr Y asked for an assessment and four months since he was assessed to have eligible social care needs. The first national COVID-19 lockdown had recently begun and face to face support was not available for many people. The CMHT declined the second referral.
 48. Social Worker 3 discussed the case with the TM and revised the care and support plan from eight hours to four and a half hours a week. She explained this to Mr Y and said the Council had decided on the lower amount of support as Mr Y had not previously had support. She said it would all be new to him and potentially overwhelming while he adapted. She said she would review the outcomes achieved by this level of support and change it if necessary. Mr Y understood the reasoning for this but could not agree to it. He says Social Worker 3 proposed the eight hours as a starting point. Social Worker 3 agreed to take this back to the TM.

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49. Towards the end of April, the panel decided not to fund Mr Y's support package and said he should be referred to the CMHT. Social Worker 3 noted that he had already had a referral rejected twice and asked for this to be looked at as soon as possible because Mr Y was "falling through the net". The TM said Social Worker 2 had highlighted an earlier recommendation for therapeutic assessment and support. This was the reason for a further referral. Mr Y had now got funding through his GP for counselling support and had agreed to try cognitive behavioural therapy.
 50. The Council discussed where Mr Y's case would best be placed. Initially it had referred him to its autism champion team which declined the request due to a lengthy waiting list and limited capacity. The then service manager wrote that the learning disability team (LDT) were not suitably equipped to support Mr Y. However, "I'm equally not confident that there is any other team within the Authority that is any better placed" unless the autism champion team could be persuaded. The service manager said, in their view Mr Y's needs were still mental health related and not learning disability. They instructed the social worker to refer the case back to the CMHT. Mr Y was unhappy about this but advised Social Worker 3 that the GP had referred him to the CMHT for the third time. The Council said implementation of the care and support plan would need to wait for the outcome of the referral. This was to make sure it was consistent with the outcome of the CMHT assessment.
 51. At the end of May, Mr Y advised Social Worker 3 that the CMHT had again rejected the referral. The CMHT provided information setting out that autism is excluded from its remit. Mr Y asked Social Worker 3 about his support. They advised there had been some senior management discussions which had caused some delay and they were waiting for an update. Mr Y said he would make a formal complaint if he did not hear soon. Two weeks later, Mr Y made a formal complaint and in August the Council overturned the panel's decision.
 52. There were further delays between August 2020 and April 2021 due to difficulty getting a care provider. From mid October, the Council set up a direct payment for Mr Y so Mrs Q could provide him with five and a half hours of support each week. This was not what he would have chosen and he says Mrs Q was "leant upon" to "plug the gap" with "unrealistic expectations" of how she could support him.
 53. In mid April 2021, the Council put four and a half hours formal support in place, twice each week. However, Mr Y says the support workers were only allowed to deliver this in two and two and a half hour sessions. Mr Y could not cope with sessions over one and a half hours which meant he sometimes had to go to bed during his support session. He told us this was a waste of the Council's money and his needs would have been more effectively met with more, shorter sessions, but this was not possible.
 54. From mid June 2021, Social Worker 3 arranged an emergency plan for Mr Y as Mrs Z needed surgery. The Council noted stress was a contributory factor in the condition that caused the need for surgery and Mrs Z needed several weeks off work. The emergency plan provided 13 hours of support each week until mid August with a small increase in July.
 55. Since then, Mr Y has received support from two support workers one of which he has since employed as a personal assistant using a further direct payment. He continued to receive 13 hours or more each week.

56. Mr Y told us the delay in getting support put increasing stress on himself, Mrs Z, and her family and he was unable to provide financially for them as previously. The stresses this caused put their relationship in jeopardy and his ability to parent was brought into question. He feels his rights to family life, and to independence, were disregarded. He found that the adult's and children's social care teams did not work together effectively, he described it to us as "a great divide". Better communication and collaboration between them would have been helpful in his case. He says the divide and delays in getting support contributed to difficulties in his court case which led to unsatisfactory outcomes. He has children with ASD and is determined that they won't face the difficulties he has faced in getting the support they need.

Mrs Z's carer's assessment

57. At the end of August 2019, after his assessment, Mr Y asked for a carer's assessment for Mrs Z, and Social Worker 1 agreed to process this request. In September, he complained about the carer's assessment as they had not heard anything.
58. Mrs Z contacted the Council at the beginning of November 2019 and again in late November to find out when the carer's assessment would be. The TM apologised for the delay and said he had been waiting to see Mr Y's care needs assessment.
59. At the end of November, Social Worker 2 noted: "I believe [Mrs Z] meets the criteria for the Local Authority to undertake a Carer Assessment".
60. The Council says that at the end of January 2020, Social Worker 3 completed a carer's assessment with Mrs Z. They agreed to refer Mrs Z for a carer's grant "when available".
61. It is not clear what was recorded at the assessment. The only carer's assessment document is undated and Mr Y's name is on the document instead of Mrs Z's. It notes that stress had been a contributory factor in Mrs Z's surgery in mid 2021. This is likely therefore, to be the review that the Council says it completed in July 2021 although some of the information may originate from an earlier assessment. Social Worker 3 noted that Mrs Z provided significant support to Mr Y and made the following observations.
- Mrs Z "has massive stress factors due to her various commitments and demands."
 - "[Mrs Z] was already stressed and overwhelmed pre surgery."
 - Mrs Z "needs more frequent respite and this needs to be considered in the support package."
 - Actions, including increased support for Mr Y, short periods of respite for Mr Y, referrals to physiotherapy, specialist autism services and a social contact provider.
62. When the Council responded to Mr Y's complaint in March 2020, it said an allocated worker was needed to undertake the carer's assessment. It needed to consider priority "across the entire learning disability service" when allocating, to ensure capacity to "provide a proportionate response". It said this was "likely to have contributed" to any delays.
63. The Council says Mrs Z's needs were met with increases to Mr Y's care and support. Mrs Z did not have her own support plan.

Human rights and equalities

64. In June 2020, Mr Y telephoned his social worker and said he was going to formally complain about the Council. He said he had taken legal advice and would take a Human Rights approach.
65. In August, Mr Y spoke to Social Worker 3 with his advocate and expressed his concerns that the Council had still not updated him about which team would support him. He said he still had no support despite eligible needs being identified in November 2019. He said he felt this was a Human Rights issue and discrimination issue. He felt his rights under article 8 (respect for private and family life) had been disregarded.
66. Social Worker 3 went back to the TM to highlight Mr Y's concerns. Mr Y had said the delays and challenges were exhausting and were really affecting his mental health and affecting Mrs Z as his carer. Just over a week later, the Council agreed his care and support plan. The plan notes that Mr Y being supported at home meets his right to respect for private and family life (article 8). It says this "is vital considering previous loss and separation". This is also noted on Mr Y's care and support plan dated July 2021.

Complaint handling

67. In response to Mr Y's September 2019 complaint about his August 2019 assessment, the Council met with him in October to discuss the inaccuracies. It also arranged an independent social worker who completed an assessment in November 2019. However, it did not formally respond to Mr Y's September 2019 complaint until March 2020.
68. Mr Y's September 2019 complaint was about his first needs assessment completed in August 2019 and Mrs Z's carer's assessment. The Council's March 2020 response upheld his complaint about the inaccuracies in his assessment and apologised for this. It said, it had recently moved "towards assessment documentation that is strengths-based and person-centred" which gave the opportunity for assessments to be "substantially more individualised" than previous versions. It hoped the issues had been resolved by the independent social worker's assessment and subsequent allocation to a different social worker. The response also apologised that Social Worker 1 had not provided a copy of the assessment in a digital format. It said it supported this decision as it had to be encrypted and they could not "verify the security" or confirm Mr Y's "ability to access the programme required to open it". It said it was giving "extensive consideration" to more advanced training in autism being more widely available in the LDT. It had also identified autism champions in adult teams who were supporting adults with autism but no learning disability.
69. In April 2020, Mr Y was unhappy with the panel's decision to refer him to the CMHT again and said he would complain again. In August, Mr Y made a complaint and raised concerns about his human rights. The Council upheld his complaint one week later and agreed his care and support plan.
70. In September 2020, the Council wrote to Mr Y with its final response to his complaint. It said:
 - On the service manager's advice that the LDT would be best placed to support Mr Y: *"It is important to qualify that this opinion was to a large part a reflection of the fact that the community mental health team had declined to accept (on I believe three occasions) responsibility to assess your Care Act eligible needs."*

- *“It is however clear that there have been significant difference of professional opinion between key officers” and although this can be a strength within an organisation, in this situation, “it’s a reflection of a lack of clarity from an organisational perspective as to where your needs and where the needs of a wider group of individuals within the community, should be met.”*
 - *“The organisational issues and the difference of professional opinion have contributed to create a delay in the process of you being offered support; this has been unacceptable and will have had a detrimental impact on you.”*
 - *“In terms of how Bradford’s services are currently aligned, there are challenges for the business in terms of responding to individuals whose support needs relate to Autism but who don’t have an additionally identified Learning Disability or need in terms of Mental Health”, ... “As a result there have been differences of professional opinion in terms of which part of the service is best placed to meet your needs” ... “These discussions will continue...”*
 - *“You have been assessed as having care act eligible needs, you have worked with your allocated social worker to develop a support plan that is both appropriate and proportionate in terms of your needs. This plan is designed to deliver practical support to you on a ‘day to day/weekly’ basis and it is unacceptable that the implementation of this support has been delayed because of difference of opinion in terms of which part of the department should hold case or financial responsibility”*
71. At the end of the letter, the Council offered Mr Y £200 as a good will gesture. He said that, until this point, he had never begun to quantify the impact on himself, and this did not reflect the Council’s “inhumane” treatment of him. The Council said this offer would not prevent Mr Y from approaching us if he were dissatisfied with its response. It also said we were not accepting new complaints due to COVID-19. This was not correct, as we had only suspended accepting new complaints until the end of June 2020.
72. Mr Y brought his complaint to us in May 2021. We asked the Council for information, but it did not provide it by the deadline. When we chased for this information, we received an email stating that the Council understood Mr Y was not complaining about the Council but the CCG. It said this was because the CMHT had declined his referral three times. It said the LDT had “eventually stepped in to ensure [Mr Y’s] rights under the Care Act” were recognised. We said we were clear that the complaint was about the Council and asked to speak to an assistant director or head of service. Ten days later we received a comprehensive response to our enquiries. The Council should have provided the information within four weeks but it took 10 weeks.
73. Soon after this we met with the Director of Adult Services and Assistant Director of Commissioning and Integration. They reassured us that the Council did understand its responsibilities and explained what it was doing to ensure it could meet these in future.

How the Council supports people with autism

74. In response to our enquiries, the Council advised that 9 of 148 managers had received autism awareness training. No managers had received specialist training in autism. Six frontline assessment staff had received specialist training, one in each team, and were “Autism Champions”, responsible for supporting the rest of their teams. Of the remaining approximately 800 frontline staff, around two thirds

of whom work in the Council's older people's care services, 110 were trained in autism awareness.

75. The Council said it is now in the process of creating an Adult Disability Service which will provide "holistic social work support for working-age people with disabilities". Since December 2021, the Council has had an officer in post as "Transformational Lead for Neurodiversity". The Council also has a commissioning manager for autism, in post since April 2022, and has increased finances for commissioning. These posts work under the new integrated care system arrangements and report into the mental health, neurodiversity, learning disability and autism partnership board.
76. The Council said the Transformational Lead had commissioned autism awareness training for everybody. It also said this role should help determine further need for pathways into the service for those with learning disabilities, physical disabilities, mental health conditions and neurodiversity. Also, for protocols and resources to address the increase in referrals for autism diagnosis. It is also renewing protocols with the NHS so referrals to specialist psychology and community mental health teams should be improved.
77. The Council's letter to us dated 1 February 2022 apologises for the delay and difficulty Mr Y had engaging suitable support. It says "Market engagement work is planned this year ahead of the recommissioning of accommodation and support services for Mental Health, Learning Disabilities, Neuro Diversity and Physical Disability and Sensory needs with an expectation that there will be improved market responsiveness. In relation to Direct Payments and the recruitment of Personal Assistants the Council is developing an action plan to strengthen the approach to support the [personal assistant] market."
78. In response to our draft report, the Council said it recognised the need to invest in training 250 trained and qualified social work, occupational therapist and nursing assessment staff. It has commissioned a rolling programme of training and 160 assessment staff had been trained since June 2021 with sessions planned for up to 80 more staff to be completed by December 2022. The first sessions of the awareness training were delivered to 60 staff during summer 2022. It also planned for 12 more social workers to train as autism champions from Autumn 2022. The Council says it is confident it now has systems and training in place to prevent similar circumstances recurring.

Conclusions

Mr Y's assessment

79. "At the point of first contact" or when Mr Y first contacted the Council, it should have asked him whether he needed an advocate. This is clearly set out in the statutory guidance to the Care Act 2014. One month passed before the Council even referred Mr Y to an advocacy service. Fortunately, Mrs Z was able to support him for the initial visit, so this did not contribute to any delay with the assessment.
80. When the assessment did eventually take place, the social worker's lack of understanding and knowledge of autism, led to an ineffective assessment. The assessment failed to identify any of Mr Y's care and support needs which, on the balance of probability, were similar to those identified in November 2019. If it had not been for Mr Y's own understanding of the Council's responsibilities towards him, he would probably have gone without the support he needed. This ineffective

assessment caused a significant delay in Mr Y receiving the support he needed and caused Mr Y significant and undue stress and anxiety. It also added to Mrs Z's anxiety and given Mr Y's already high levels of anxiety, this significantly increased the support she needed to give Mr Y. The Council was at fault in how the assessment was carried out.

81. Throughout these events, Mr Y's ability to work decreased until he was no longer able to work. Mr Y had other health difficulties and personal circumstances which contributed to this, and we cannot say the difficulties with the Council caused him to stop working. However, we are satisfied the stress and anxiety it caused contributed to this. Since ASD is a lifelong condition, we can also say that it is likely Mr Y's needs in 2017 when he was not assessed as needing any services, were similar to those identified in November 2019.
82. In March 2020, in response to Mr Y's complaint, the Council indicated that its documentation had contributed to the poor assessment. It said its assessment documentation had recently "moved towards" being strengths-based and person-centred. While this is a welcome development, the statutory guidance to the Care Act 2014 has long stated that assessments must be strengths-based and person-centred. Person-centred approaches were already established best practice before the Care Act was implemented. Strengths-based approaches have since also become established best practice. It is of concern that the Council's documentation was not enabling sufficiently person-centred and strength-based assessments before this.
83. The Council should have ways of emailing assessments to people who want their assessment sent this way. In Mr Y's case, this would likely have been a reasonable adjustment and the Council was at fault here and this delayed Mr Y receiving his copy. This added to the significant stress and anxiety that he was experiencing throughout these events.
84. After Social Worker 2 identified that Mr Y had eligible social care needs, the Council decided the NHS was responsible for this. The Council's reasoning for this was that autism was a mental health issue and so Mr Y's primary need was health related. This was wrong and the Council was at fault. It came to this conclusion several times despite the CMHT declining its referrals. The Council told us the referrals were for therapeutic assessment and support but we are satisfied it was because the Council believed the NHS was responsible. The Council should not have repeatedly referred Mr Y on the assumption it understood the CMHT responsibilities better than the CMHT. A mental health professional recommended the CBT and psychoeducation, but this did not mean his social care needs were due to a mental health disorder.
85. The Council was responsible for assessing and ensuring Mr Y's eligible social care needs were met and the focus on shifting the responsibility created significant delays. It should not have put Mr Y in the middle of a dispute about who was responsible. It should have put the support he needed in place and then, if it still believed it had cause, pursued its dispute with the CMHT. It was this type of misunderstanding that led to the Autism Act 2009 and the associated guidance which was intended to prevent this happening. The Council had not complied with this legislation or the associated guidance. This also came two years after the Healthwatch report (paragraph 23) highlighted problems with the service provided to people with ASD and made recommendations for the Council. Had it completed these recommendations, it is unlikely Mr Y would have been caused such significant injustice. The Council was at fault here.

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86. When the Council reduced its offer from eight hours to four and a half, this was based on a flawed presumption that Mr Y would find the higher level of support too difficult. We do not know if this would have been the case, but the social worker had already discussed this with him and recommended eight hours. This further delayed relieving the pressures which were causing Mr Y and Mrs Z so much stress and anxiety. In addition, the support was not sufficiently flexible to satisfactorily meet Mr Y's needs. So, having waited so long, he could not effectively use the support he was given. This was also fault, and contributed to the stress and anxiety he, and Mrs Z, experienced. It should be noted that there were significant difficulties providing face to face care from March 2020 due to COVID-19. However, Mr Y's support should have been in place before this became an issue and it is possible it might then have continued.

Mrs Z's assessment

87. It took at least four months for the Council to undertake a carer's assessment for Mrs Z. When it did assess her needs it did not complete an adequate record and did not complete a support plan for her. It put Mr Y's name on the assessment instead of Mrs Z's. Mrs Z did not have any relief from her caring duties until Mr Y's support was in place. Mrs Z was entitled to a support plan in her own right. Mrs Z did not get this. The Council did not need Mr Y's assessment, or care and support plan, to be completed before assessing Mrs Z's needs or putting support in place to meet her needs. This was fault and we consider this failure to meet her needs caused Mrs Z significant and undue stress, and anxiety. It is also likely this contributed to her having to reduce her working hours and had a negative impact on her health and wellbeing.
88. After we issued our draft report, the Council began a carer's assessment for Mrs Z in August 2022 which, at the time of writing, has yet to be finalised.

Human rights and equalities

89. The Council's failure to provide necessary support to Mr Y and Mrs Z, engages their article 8 human rights. This runs from the initial failure to offer an advocate to the time when Mr Y received adequate support. Mr Y's support was needed to protect and maintain his family life. It was only when Mr Y complained and raised the issue of human rights that the Council agreed his care and support plan. This was over eight months after it decided he had eligible needs. The Council's failure to consider the impact this had on his human rights before agreeing his care and support plan, was fault.

Complaint handling

90. The Council's responses to Mr Y's complaints were at times helpful, such as arranging an independent social worker to assess his needs. However, it was not until the final response that it acknowledged much of its failure and its responsibility towards Mr Y. Throughout these events, it tried to pass the responsibility to the CMHT and Mr Y. Its failure to recognise its fault when Mr Y complained meant the problems continued without resolution for too long. This was fault and this added to the stress and anxiety Mr Y experienced.

How the Council supports people with autism

91. All practitioners working on the front line should have an awareness of the Autism Act 2009 and associated guidance. For the past 10 years, all frontline practitioners, should have had specialist training in autism. It is our view that this means all managers supporting these practitioners should also have a similar awareness and training. Additionally, all other potential points of contact within the

Council, such as the complaints team and contact centre call takers, should have had an awareness of autism. It is shocking that many of the Council's managers and practitioners still had no understanding of the obligations the Council has towards people with autism. This is fault.

92. We are pleased to note the recent progress the Council has made towards achieving compliance with the Autism Act 2009 and the associated guidance. However, the failure to meet these expectations for so long has, on the balance of probability, caused many people with autism, significant injustice.
93. For Mr Y, this lack of understanding caused confusion and delay. We find the Council was at fault and caused Mr Y significant stress and frustration. This impacted Mr Y's and Mrs Z's wellbeing negatively, as did the complete absence of support for almost one and a half years after Mr Y asked for help. Following our draft report, Mr Y confirmed that, although he received a more appropriate assessment, he continues to be unhappy with the support he receives. He says this is due to issues finding suitable support workers. He also told us the Council has not yet apologised for its errors despite many conversations. These errors have had a catastrophic impact on their lives and he feels any apology now will be disingenuous.
94. On the balance of probability, the Council is likely to have failed many people with ASD over the last 10 years or so. We find it difficult to understand how the Council had almost certainly come across others in similar circumstances yet had not resolved this. We are concerned therefore, that many people with ASD were turned away without having an adequate needs assessment. We have recommended that the Council considers whether this has happened over the past two years. While we believe there are people likely to have been affected before this, it would not be proportionate for the Council to look beyond this.
95. Since receiving our draft report, and in response to our recommendation, the Council looked at its records over the past two years. It found two instances of complaints about assessments by people with ASD and an appropriately trained social worker has approached them offering a reassessment. It says it does not believe there is evidence to show many people with ASD were turned away without having an adequate assessment. However, until the Council has acceptable levels of autism trained assessors and contact staff, it cannot be confident that it serves people with ASD adequately, as it is likely some of those affected did not complain.

Recommendations

96. 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*)
97. To remedy the injustice caused, we made recommendations to the Council which it has agreed to implement. These recommendations are:
- apologise to Mr Y and Mrs Z, setting out the faults identified in this report and the actions the Council has taken, and will take, to avoid similar problems in future;
 - pay Mr Y £2,000 for the loss of service and avoidable distress it caused him;
 - pay Mrs Z £2,000 for the loss of service and avoidable distress it caused her;

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- finalise the Care Act compliant carer's assessment for Mrs Z and make sure all future carer's assessments are Care Act compliant;
 - review Mr Y's current support and advise what further work is needed to address the ongoing difficulties he has experienced in engaging suitable support;

To ensure the same problems do not happen again:

- provide us with details of the market engagement work both undertaken and planned, and analysis of the outcomes;
- make sure all assessors and their managers are familiar with the Care and Support Statutory Guidance (which is available online in an easily accessible format) in particular sections 1,2, 6 and 7;
- make sure all relevant staff are clear about how people, including those with ASD, should be directed to suitable assessors who can assess their needs properly;
- make sure at the first point of contact, it considers whether people with ASD will have substantial difficulty being involved in their assessment and will need an advocate;
- put in place an ongoing programme of training in autism so that all assessors and their managers, have regularly updated specialist training. All staff should receive autism awareness training within the general equality and diversity training programme;
- make sure there is a way of providing easily accessible assessment records electronically and securely to the person assessed.

To put things right for others affected by the same issues:

- identify those with ASD and no learning disability, over the last two years, who have:
 - been declined a full assessment by an assessor without training in ASD;
 - complained about an assessment by an assessor without training in ASD;
 - not been offered an advocate and are currently awaiting assessment or are in the process of being assessed;
- use the information identified above to reopen cases and provide advocacy where needed to support these individuals to complete a fresh needs assessment and ensure any eligible needs are met appropriately; and

The Council should provide us with evidence to satisfy us these actions have been taken.

Decision

98. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Mr Y and Mrs Z. The Council should take the action identified in paragraphs 96 and 977 to remedy that injustice.