Investigation of a complaint against the Western Health and Social Care Trust

Report Reference: 202000773

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The Role of the Ombudsman

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

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

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

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

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

Reporting in the Public Interest

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

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

TABLE OF CONTENTS

Page

Case Reference: 202000773

Listed Authority: Western Health and Social Care Trust

SUMMARY

I received a complaint about the Western Health and Social Care Trust's (the Trust) actions regarding the complainant's placement in her current nursing home (the Nursing Home), the Trust's handling of the complainant's requests to move to a different nursing home, as well as the Trust's handling of community physiotherapy referrals made on her behalf.

The complainant, a 59 year old woman, suffered an aortic stroke[1] in 2013, which impacted her mobility and ability to live independently. The complainant has been living in her current Nursing Home since February 2019, having previously spent time in other nursing homes, as well as a period of time living in the community. The complainant was concerned about the appropriateness of her placement in the Nursing Home, as well as the Trust's handling of her requests to be moved to an alternative nursing home. The complainant was also concerned about the Trust's handling of five requests, made on her behalf, for community physiotherapy.

The Investigation found the Trust's actions in respect of the complainant's placement in her current Nursing Home, and its handling of the complainant's transfer request were both reasonable, appropriate and in line with relevant standards. Nonetheless, I impressed on the Trust to continue its work to source an alternative placement for the complainant, as she remains dissatisfied with her current Nursing Home.

The investigation found failings on the Trust's part regarding its handling of the five community physiotherapy referrals made on the complainant's behalf – relating to its assessment of the complainant on certain occasions, as well as its record-keeping on certain occasions.

On this basis, we upheld issue one of the complaint, and partially upheld issue two.

The failures caused the complainant to sustain the injustice of loss of opportunity to

[1] A rapid loss of brain function due to disruption of blood supply to the brain.

receive full physiotherapy assessments, and the loss of opportunity for potential quality of life improvements as a result of a thorough assessment on two occasions. The complainant also sustained the injustice of uncertainty and frustration regarding her physiotherapy options and the outcome of the referral on three occasions. The failures also caused the complainant the time and effort of bringing a complaint to my Office.

I recommended that the Trust provides the complainant with a written apology within one month of the date of the final report. I made five further recommendations for the Trust to address to instigate service improvement and to prevent future reoccurrence of the failings identified – including an action plan to incorporate these recommendations, and update my Office in this respect within six months of the date of the final report.

In addition to the above findings, the IPA noted some observations in her advice to my Office regarding the Trust's actions during the complainant's time as an in-patient. Whilst outside the scope of this investigation, I have brought these matters to the Trust's attention by way of observation for the Trust to consider and reflect on going forward.

THE COMPLAINT

1. This complaint is about the Western Health and Social Care Trust's (the Trust) handling of the complainant's placement in her current nursing home (the Nursing Home), and of requests made on the complainant's behalf for community physiotherapy on 24 June 2015, 30 October 2015, 20 April 2016, 3 July 2017 and 4 June 2020.

Background

2. The complainant is a 59 year old lady currently residing in a nursing home. On 3 May 2013 the complainant suffered an aortic stroke and spent time in hospital.

3. The complainant lives with left-sided weakness as a result of the stroke resulting in little or no function in her left side. In addition, the complainant has been diagnosed with asthma[2], hypothyroidism[3], hypertension[4], osteoarthritis[5], obesity[6], anxiety[7], depression[8] and personality disorder.[9]

4. The complainant's social work records state that as a result of the stroke, the complainant requires full assistance with all activities of daily living, including the use of bariatric equipment[10] - including a bariatric bed, mattress, hoist[11], wheelchair and shower-chair. The complainant has been assessed as requiring assistance from three nursing home staff to transfer from bed to chair via the hoist, or three to four staff for a manual transfer or for bed repositioning. The complainant relies on a wheelchair for all of her mobility needs, and is classified as unable to '*self-propel*' due to '*visual difficulties*'. As a result, the complainant has been assessed as requiring assistance from a carer to move around using the wheelchair.

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[2] Common lung condition that causes occasional breathing problems
[3] Overactive thyroid where the thyroid gland produces too much of the thyroid hormones
[4] High blood pressure
[5] Condition causing he joints to become painful and stiff
[6] Overweight
[7] Condition with associated feelings of unease, worry or fear
[8] Mood Disorder
[9] Condition affecting how a person thinks, feels, behaves or relates to other people
[10] Equipment designed to be used in the care or large and heavy individuals due to the increased risk of injury to caregivers from increased patient weight. Examples include beds, chairs, wheelchairs, shower-chairs and hoists.
[11] Piece of medical equipment used to lift and move patients to ensure safety and comfort for patient and carers

5. Whilst in hospital, the Trust assessed the complainant for physiotherapy on 8 May 2013, and provided the complainant with regular physiotherapy sessions during the period 9 May 2013 to 6 August 2013. The Trust discharged the patient from physiotherapy on 6 August 2013.

6. The Trust discharged the complainant from hospital on 5 September 2013, transferring the complainant to her first nursing home on the basis that the complainant's house had been designated unsuitable to meet her needs. On 16 June 2015 the Trust transferred the complainant to her second nursing home. During the period April 2016 – June 2016 the complainant lived in the community, with support from carers. However, on 25 June 2016 the Trust placed the complainant into her third nursing home at the complainant's request. On 28 November 2018 the Trust transferred the complainant to a neuro-rehab unit at Altnagelvin Area Hospital, before placing the complainant into her current Nursing Home on 27 February 2019, the complainant's fourth nursing home.

7. Five requests have been made to the Trust on the complainant's behalf for physiotherapy treatment following her hospital discharge – on 24 June 2015, 30 October 2015, 20 April 2016, 3 July 2017, and 4 June 2020. The complainant has not received any physiotherapy sessions as a result of these requests.

8. The complainant has expressed her wish to be transferred to another nursing home on several occasions and expressed a preference to return to the Derry area. This became more pertinent from January 2021. The complainant currently remains in the Nursing Home.

9. The complainant raised a complaint to the Trust on 11 February 2021. The Trust provided its response on 9 March 2021. The complainant was dissatisfied, and wrote again on 20 March 2021. The Trust provided its final response on 17 May 2021. The complainant remained dissatisfied with this response, and so brought her complaint to my Office.

Issues of complaint

10. The issues of complaint accepted for investigation were:

    1) **Whether the complainant placement in the Nursing Home was appropriate and in accordance with relevant policies and standards. In particular this will consider:-**

        - **The complainant's initial placement in the Nursing Home; and**
        - **The complainant's subsequent wishes to move nursing homes**

    2) **Whether the Trust dealt with the referrals, made on behalf of the complainant, to community physiotherapy, in accordance with relevant policies and standards. In particular, the following referrals will be considered:-**

        - **24 June 2015;**
        - **30 October 2015;**
        - **20 April 2016;**
        - **3 July 2017; and**
        - **4 June 2020.**

INVESTIGATION METHODOLOGY

11. In order to investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues the complainant raised. Documentation gathered included information relating to the Trust's handling of the complaint.

Independent Professional Advice Sought

12. Independent professional advice was obtained from the following independent professional advisor (IPA):

    - **Consultant Physiotherapist**, MSc Grad Dip Phys MCSP SRP HCPC 44815 – with over 26 years' specialist experience in neurological rehabilitation.

    I enclose the clinical advice received at Appendix two to this report.

13. The information and advice which informed the findings and conclusions are included within the body of this report. The IPA provided 'advice'; however how this advice was weighed, within the context of this particular complaint, is a matter for my discretion.

Relevant Standards and Guidance

14. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case. I also make reference to relevant regulatory, professional and statutory guidance.

    The general standards are the Ombudsman's Principles[12]:

    - The Principles of Good Administration

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

    The specific standards and guidance relevant to this complaint are:

    - The Department of Health, Social Services and Public Safety (DHSSPSNI) Circular HSC (ECCU) 1/2010 – Care Management,

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

Provision of Services and Charging Guidance, 11 March 2010 (DHSSPSNI Circular);

- Western Health and Social Care Trust (WHSCT) Policy – Moving and Handling Policy, 2016 (Moving and Handling Policy);
- Western Health and Social Care Trust (WHSCT) Policy – Moving and Handling of the Bariatric Patient, 2020 (Bariatric Policy);
- Public Health Agency (PHA) AHP Services Data Definitions Guidance – Guidance for Monitoring the Ministerial AHP 13-week Access Target, June 2015 (PHA Guidance);
- Chartered Society of Physiotherapy (CSP) Quality Assurance Standards for Physiotherapy Service Delivery, August 2012 (Quality Assurance Standards);
- Health & Care Professions Council (HCPC) Standards for Proficiency for Physiotherapists, May 2013; (HCPC Standards).
- Chartered Society of Physiotherapy (CSP) Record Keeping Guidance PD061, V# 2012-2014 (CSP Guidance); and
- Royal College of Physicians (RCP) National Clinical Guideline for Stroke, 4th edition, 2012 (RCP Guideline).

16. I did not include all of the information obtained in the course of the investigation in this report but I am satisfied that I took into account everything I consider to be relevant and important in reaching my findings.

17. I shared a draft copy of this report with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations. I gave careful consideration to the comments I received before I finalised this report, which included obtaining further advice from the IPA.

THE INVESTIGATION

Issue 1 - Whether the complainant placement in the Nursing Home was appropriate and in accordance with relevant policies and standards. In particular this will consider:-

- **The complainant's initial placement in the Nursing Home; and**
- **The complainant's subsequent wishes to move nursing homes.**

Detail of Complaint

18. The complainant is concerned that the Nursing Home she currently lives in is "*unsuitable*" for her, given that she is under 65 years old and is not suffering from dementia. The complainant said that she is not being given the chance to have a "*happy life*" due to the lack of activities and mental stimulation available. The complainant is further concerned that she has asked to be moved to a nursing home she considers more suitable, but is still currently living in the Nursing Home.

Evidence Considered

Legislation/Policies/Guidance

19. I refer to the following policies and guidance which were considered as part of investigation enquiries:
    - DHSSPSNI Circular;
    - Moving and Handling Policy; and
    - Bariatric Policy.

I enclose extracts from the above at Appendix three of this Report.

The Trust's response to investigation enquiries

Placement in the current Nursing Home

20. The Trust stated the complainant has '*had a number of nursing home placements*' since leaving hospital, and that '*unfortunately these placements were not successful*'. The Trust stated prior to being placed in the current Nursing Home, the complainant's previous home had been '*de-registered*' in

respect of the provision of '*physical disability beds'*. This necessitated a move for the complainant.

21. The Trust stated it could not initially source a suitable placement for the complainant, resulting in the complainant being placed in a neuro-rehabilitation unit at Altnagelvin Area Hospital until a suitable home could be sourced.

22. The Trust stated the complainant's '*bariatric and emotional needs are very complex*' and that it '*worked with a number of providers to try and come to a resolution*' for the complainant. The Trust went on to state the '*challenge*' the Trust has faced is '*the availability of under 65 physical disability beds in a unit that can safely meet*' the complainant's '*specific and complex needs*'.

23. The Trust stated whilst the current Nursing Home '*primarily*' caters for those aged 65+, the Nursing Home has '*worked closely with WHSCT to ensure the care required*' by the complainant '*is met, with appropriate staffing levels necessary equipment and suitable environment in place'*. The Trust acknowledged that the complainant is '*dissatisfied*' with her placement at present, but stated that '*professionals involved in her care all feel that the current placement is appropriate*' and meet's the complainant's '*needs*'. The Trust further stated despite this position, it has continued to work with the complainant to source an alternative nursing home for her.

24. The Trust stated prior to the current Nursing Home placement being determined, it carried out an assessment of the complainant's needs in line with the DHSSPSNI Circular (extracts from which are set out in Appendix three to this report) – namely – using the Northern Ireland Single Assessment Tool set out in that document. The Trust stated this assessment took place in May 2016, and was subsequently updated on 15 January 2019 when the need for a new nursing home for the complainant was identified. The Trust stated as part of that update, an occupational therapist provided '*specialist assessment*' on 14 January 2019, and it obtained a specialist nursing assessment and a '*moving and handling*' assessment on 9 January 2019 and 19 December 2018 respectively.

25. The Trust stated the occupational therapist assessment determined that the complainant required '*assistance of 3-4 staff with moving and handling and any potential accommodation would require an environmental assessment to ensure that the wheelchair would fit (31" wide)*'.

26. The Trust stated before a placement can be approved a pre-assessment must take place, which involves a visit with the individual, to determine needs, risk and strengths for that individual in the proposed care home. It is ultimately for the home manager to then decide if the care home can meet the needs of the individual. The Trust stated this took place before the complainant was placed into her current Nursing Home.

27. The Trust further stated a number of care home options were discussed with the complainant prior to the current placement being determined, and that several pre-assessments took place – referring to emails on 10 October 2018, 22 October 2018, 24 October 2018, 10 November 2015, 13 November 2018, 15 November 2018 and 19 November 2018 in support of their position in this respect. The Trust stated it is the responsibility of the potential nursing home, rather than the Trust, to carry out those assessments.

28. The Trust stated the current Nursing Home was contacted on 14 November 2018, and the pre-assessment took place on 19 November 2019.

29. The Trust stated a multidisciplinary team currently works closely to ensure the Trust meets the complainant's needs – including input from the physical disability team and adult mental health services, and a psychologist.

Request to move to a new nursing home

30. The Trust stated it is aware the complainant is '*dissatisfied*' with her current placement, and that '*social work staff have contacted a high number of nursing homes regionally*' and that '*a number of pre-assessments have been completed*'. Appendix four of this report sets out the Trust's details of nursing homes contacted and examined for this purpose.

31. The Trust stated none of the nursing homes contacted to date have been in a position to meet the complainant's needs. The Trust went on to state

'*availability of under 65 physical disability beds is a challenge regionally*' and that the complainant's '*complex care needs*' have '*added further difficulty in being able to source suitable placements*'.

32. The Trust stated it would continue to try and source alternative placements for the complainant, but that '*we would need to ensure and be confident that any move would be in the best interests of' the complainant*', and that '*her holistic and complex care needs would be met appropriately and safely moving forward*'.

Analysis and Findings

Placement in the current Nursing Home

33. The complainant was concerned that her placement in her current Nursing Home is unsuitable for her, given her age and level of mental capability.

34. The Trust's position is the complainant's current Nursing Home is suitable to meet the complainant's '*complex care needs*' – from a physical perspective. The Trust acknowledged that the complainant is currently '*dissatisfied*' with her placement, and it has tried to source an alternative placement for her. However, so suitable alternative has yet been found.

35. I refer to the DHSSPSNI Circular, which governs the process the Trust must follow (extracts from which are set out in Appendix three of this report) when assessing an individual's social care needs. That Circular sets out that prior to a placement being made, the Trust must assess an individual to determine their needs and the level of support they require. The Trust must use the Northern Ireland Single Assessment Tool (NISAT) for this purpose. NISAT requires firstly that an individual's case be screened to determine the appropriate onward referral for services (*paragraph 11*). An assessment of need must then be carried out to determine an individual's need and the level of support required (*paragraphs 12-19*). This assessment must be proportionate to the individual's circumstances, take the individual's perspective into account, and be fully documented. This assessment of need is comprised of a core assessment, and a complex assessment (*paragraph 15*). The core assessment of need must take into account specialist assessment, the individual's past and present life,

how their difficulties affect their quality of life, and the individual's future goals and wishes. The complex assessment is necessary for individuals requiring intensive support.

36. Specifically in relation to placement in a nursing home, *paragraphs 53-54* of the DHSSPSNI Circular requires the Trust to ensure that a nursing home is compliant with relevant regulations and has the necessary skills to support and care for the individual and that any risk management processes are in place. The Trust must also ensure that any care plans developed in the home are fit for purpose and regularly reviewed.

37. I have reviewed the Trust's social work records in respect of the complainant's placement in the current Nursing Home and the events leading up to it.

38. In respect of screening, I note it became necessary for the complainant to leave her previous nursing home due to the physical disability beds in that home being deregulated. I note the complainant requires such a bed due to the impact of her aortic stroke in 2013, and that as a result, that previous home was no longer suitable to meet the complainant's needs. I am satisfied, therefore, it was not unreasonable for the Trust to seek to secure an alternative placement for the complainant in those circumstances, and that the requirement to find a new placement was a matter of urgency to ensure the complainant received the correct support for her needs. I note the complainant spent some time in a neuro-rehabilitation unit in Altnagelvin Area Hospital prior to being placed in her current Nursing Home, and accept that this was a temporary measure to allow the current Nursing Home to be found. I am satisfied that this was a reasonable step for the Trust to take to ensure the complainant received the care she requires. I am satisfied, therefore, that the Trust's screening of the complainant's case for further assessment was appropriate, given the complainant's circumstances.

39. In terms of assessment of need, I reviewed the Trust's NISAT Core Assessment report, compiled by an assessing practitioner. That report contains an analysis of the complainant's life to date, including her interaction with social services since her stroke in 2013, and a breakdown of the services she avails of – including a social worker, occupational therapist, community mental health

support and a psychiatrist. The report examines the complainant's need under 10 domains, with a concluding assessment on each, based on the assessor's professional judgment. These domains are physical health, mental health and emotional wellbeing, awareness and decision-making, medicines management, communication and sensory functioning, walking and movement, personal care and daily tasks, living arrangements and accommodation, relationships and work, finance and leisure. The report also assesses the complainant's quality of life and future, a complex assessment of the complainant's needs, a Specialist Assessment Summary, and a moving and handling assessment.

40. In the report, the assessing practitioner determined that the complainant's care plan was for continued nursing home placement, and that this was the complainant's preference also. It noted the complainant had been happy and settled in her previous nursing home, and that a placement near to her family would be ideal.

41. In terms of need at the time of transfer to the current Nursing Home, the report says that the complainant required a hoist and the assistance of three-four carers for all transfers and repositions – and can need repositioning on several occasions in a 24-hour period, which requires staff to be on hand. The assistance of three-four carers was also deemed necessary and for washing dressing, undressing and grooming. It states the complainant is doubly incontinent and requires the use of continence wear throughout the day and night. In terms of equipment needed, the report says that a tracking hoist[13] is recommended to facilitate transfers and ensure '*optimum positioning*'. If a tracking hoist cannot be obtained, a mobile bariatric hoist can be used, but four staff will be required for support. This will require additional space to accommodate the equipment and staff. The report states that the doors in a nursing home must be wide enough to accommodate the 31" width of the complainant's wheelchair, and a '*good turning circle*' within the room will be necessary. The report concluded *'it is important that a suitable nursing home placement, which can meet [the complainant's] identified needs is sourced and*

[13] A ceiling track over-head hoist system used for moving and handling.

funded as a matter of urgency if the risk of further deterioration to [the complainant's] health and wellbeing is to be avoided'.

42. Having reviewed the assessment of need in detail, I am satisfied that the Trust met the standards required in the DHSSPSNI Circular, and that there is no evidence to show that the Trust acted inappropriately in its exercise of its professional judgment in assessing the complainant's needs prior to her placement in her current Nursing Home.

43. In terms of the selection of the complainant's current Nursing Home, the social work records show the Trust informed the complainant of the need for her to move nursing homes on 22 October 2018. The records show the Trust identified numerous nursing homes as potential transfers for the complainant prior to the current Nursing Home being selected. However, the Trust did not deem any of these homes to be suitable to meet the complainant's needs. The records also show the Trust consulted with the complainant about the current Nursing Home, and arranged for a pre-assessment to take place. The current Nursing Home concluded it could meet the complainant's needs, as established in the NISAT, following that pre-assessment.

44. The social work records show the Trust deemed the current Nursing Home to be suitable to meet the complainant's needs in terms of her physical and environmental requirements identified in the NISAT. This is stated to include space and manoeuvrability for the complainant's equipment and wheelchair. The records also show the Trust assessed the current Nursing Home for these physical and environmental requirements in advance of the placement being decided. The records also show input from the complainant's occupational therapist in determining the equipment the complainant would require, as set out in the NISAT.

45. On this basis, I am satisfied that in exercising its professional judgment in terms of the suitability of the current Nursing Home for the complainant's needs, the Trust acted in accordance with their responsibilities under *paragraphs 53-54* of the DHSSPSNI Circular. There has been no suggestion that the current Nursing Home is not compliant with relevant regulations.

46. I acknowledge and accept that the complainant is not happy in the current Nursing Home, and has expressed a strong desire to be transferred. I also acknowledge and accept the complainant feels she is not being sufficiently stimulated mentally in her current Nursing Home. This must be very frustrating for the complainant. The Trust's handling of the transfer requests will be analysed below in this report. Nonetheless, I am satisfied that it was reasonable for the Trust to conclude that the current Nursing Home was sufficient and appropriate to meet the complainant's needs, as identified in the NISAT. I find, therefore, that the Trust's decision to place the complainant in her current Nursing Home, and the steps taken to determine the suitability of it, were a reasonable and appropriate exercise of the Trust's professional judgment under the DHSSPSNI Circular. I am also satisfied that the process undertaken was sufficiently documented in the social work records, and that the Trust appropriately consulted with the complainant during that process.

47. Therefore I do not uphold this element of the complaint.

Request to move to a new nursing home

48. The complainant is concerned that despite her expressions of dissatisfaction and requests for a new placement, she still lives in the current Nursing Home.

49. The Trust's position is that it has taken numerous steps to try to locate a suitable alternative placement for the complainant, but that it has so far been unable to find a nursing home to meet the complainant's needs.

50. I note the complainant expressed a desire to live in a nursing home in the Derry area in June 2019, having arrived in the current Nursing Home in February 2019. I also note the complainant's dissatisfaction and wish to be transferred became more formalised in January 2021. I note the Care Supervision Record for the complainant dated 29 January 2021 which states '*ongoing difficulties in relation to current placement in [the current Nursing Home]. [The complainant] wishes to move to another home. [The complainant] has also highlighted concerns in relation to suitability of placement due to doors not being wide enough for her to be moved in wheelchair – reports knees are being banged off door. Home manager has requested senior management attend review.*

[redacted] *has begun exploring alternative placements – requires bariatric placement*'.

51. *Paragraph 77* of the DHSSPSNI Circular (set out in Appendix three of this report) states that all service users who require placement in a nursing home have the right to a choice of suitable accommodation, and to have a preferred option. However, this paragraph also states that any chosen accommodation must be able to meet the service user's care and support needs before a placement there can be arranged.

52. I reviewed the social work records to determine what steps, if any, the Trust has taken to act upon the complainant's transfer request and to find a suitable alternative placement for her. A breakdown of the number of potential nursing homes the Trust has demonstrated it contacted is set out in Appendix four of this report.

53. The records show that during the period January 2021 – August 2021 the Trust made enquiries to over 50 different nursing homes, and documented all the attempts and the outcomes in the social work records. I note the Trust made enquiries region-wide across Northern Ireland. I note that several pre-assessments took place as a result of these enquiries, but that unfortunately none of the nursing homes could meet the complainant's circumstances, or her care and support needs. The records show reasons the various nursing homes provided included not being able to accept residents of under the age of 65, or in some cases, 60 – as well as insufficient availability of staff, or inability to meet the complainant's physical or environmental needs. Whilst I note the Trust has not been successful in locating a new placement for the complainant to date, I am satisfied that the Trust has been pro-active in its attempts to do so.

54. On this basis, I am satisfied that the Trust has taken reasonable and appropriate steps to source and arrange a suitable alternative placement for the complainant. I am further satisfied that in taking these steps, the Trust acted in accordance with the DHSSPSNI Circular. Furthermore, the steps taken have been appropriately documented in the social work records.

55. I am very sympathetic to the complainant's expressed wish to move to an alternative nursing home. I am also very sympathetic to the challenges the Trust faces in securing an appropriate alternative placement for the complainant in the context of the region-wide shortage in the availability of nursing home beds for individuals in the complainant's position. I also recognise the Trust has a responsibility for the complainant's mental health, and the impact that repeated knock-backs are likely to have on the complainant.

56. However, on the basis of the above findings, this element of the complaint is not upheld.

57. Nonetheless, I note the complainant remains in the current Nursing Home, and remains dissatisfied with this placement. I consider this must be very frustrating for the complainant, and impacts upon her sense of self-control over her life. Whilst I commend the Trust for the steps it has taken to date, it is essential that the Trust continues to take proactive and specific steps to explore alternative placement options for the complainant that will both meet her care and support needs, as well as being agreeable for the complainant.

Summary

58. I am satisfied that the Trust's actions in terms of both the complainant's placement in the current Nursing Home and its handling of the complainant's request to be transferred to a new placement have been reasonable and appropriate, and in line with the DHSSPSNI Circular. Therefore, this issue of complaint is not upheld.

Issue 2 - Whether the Trust dealt with the referrals, made on behalf of the complainant, to community physiotherapy, in accordance with relevant policies and standards. In particular, the following referrals will be considered:-

- **Referral 1 - 24 June 2015**
- **Referral 2 - 30 October 2015;**

- **Referral 3 - 20 April 2016;**
- **Referral 4 - 3 July 2017; and**
- **Referral 5 - 4 June 2020.**

Detail of Complaint

59. The complainant was concerned that despite referrals being made on her behalf for community physiotherapy on the above dates, there has been a '*complete lack*' of input from the Trust, and as a result the complainant has not received any physiotherapy. The complainant was concerned that the discharge notes from the hospital saying she had reached her ceiling for improvement through physiotherapy has impacted the subsequent referrals for community physiotherapy – even though her circumstances may have changed in the interim. The complainant considers that with the right physiotherapy treatment and support she may regain aspects of her mobility, and feels she is entitled to a '*second chance*'.

Evidence Considered

Legislation/Policies/Guidance

60. I refer to the following policies and guidance which were considered as part of investigation enquiries:
    - PHA Guidance;
    - Quality Assurance Standards;
    - HCPC Standards.
    - CSP Guidance; and
    - RCP Guideline.

I enclose extracts from the above at Appendix three of this Report.

The Trust's response to investigation enquiries

61. The Trust stated that it discharged the complainant from physiotherapy treatments on 6 August 2013 whilst the complainant was still in hospital recovering from her aortic stroke on the basis that the complainant was '*no*

longer making progress with rehabilitation and would not benefit from further physiotherapy intervention'. The Trust stated that during the complainant's time in hospital, she received 46 sessions of physiotherapy treatment. The Trust went on to say that the complainant missed 17 sessions during her time in hospital. Appendix five of this report sets out details of the sessions provided.

62. The Trust acknowledged that the above physiotherapy referrals were made on the complainant's behalf. However, the Trust stated that, given the '*severity*' of the complainant's stroke, the period of time that had elapsed since the event, and the '*lack of progress that was made after 3 months as an inpatient', that it would be unrealistic and unsafe*' for the complainant to try to walk again and that there would be '*no realistic chance of any functional improvement in her mobility*'.

63. The Trust said that in order to provide community physiotherapy a patient needs to have an '*identified physiotherapy need, which can benefit from physiotherapy input*' and that the patient '*must have the potential to improve with physiotherapy input*'. The Trust stated that '*neither of these criteria would be met in this situation*'.

Analysis and Findings

64. The complainant was concerned that there had been a lack of input from the Trust in respect of the above referrals for community physiotherapy treatment. The complainant was concerned that decisions made in respect of those referrals continued to be based on her discharge from physiotherapy in August 2013, rather than an assessment of her current viability for treatment.

65. The Trust acknowledged that it received referrals on the complainant's behalf on the above dates. Its position was that the complainant had reached her ceiling of improvement in August 2013 and that at the times when the requests were made the complainant would not benefit from physiotherapy - and that it had concerns for regarding the safety associated with further physiotherapy.

66. I reviewed the physiotherapy records the Trust provided, and note the Trust provided the complainant with regular physiotherapy sessions whilst in hospital

during the period May 2013 – August 2013 – receiving 46 interventions, and missing 17 potential interventions during that period.

67. I note the Trust discharged the patient from physiotherapy as an in-patient on 6 August 2013, following a multi-disciplinary team meeting. The physiotherapy records state the Trust discharged the complainant because she was '*not making progress*' and that her '*rehab had plateaued*'.

68. The Physiotherapy Department's discharge letter to the complainant's GP dated 12 September 2013 states that at the outset of treatment the complainant required '*the assistance of four therapists to stand*' and that '*full support was required at her left knee as it was not holding*'. It also states '*assistance was required to extend at her pelvis and trunk to achieve an upright stand*' and that '*prompting and assistance were required to increase weight bearing through the stronger right lower limb*'. The letter states that, at the point of discharge, '*although we were able to progress therapy over the three months from sit to stand to stepping with a quad stick this still required assistance of three therapists with a fourth bringing a wheelchair behind for safety*'. It goes on to state the complainant's knee '*still required full support, from a therapist blocking her knee whilst sitting on a stool in front of her, to maintain in extension*'. It then states '*full assist was required to step her left foot forward – she was able to initiate a backwards step but facilitation was still required to assist with placement*'. The letter states the complainant had a '*tendency to fall to the left*' and '*required the assistance of at least two therapists to regain balance when it was lost*'. It states the complainant has '*minimal activity in her left hand but nil at her wrist, elbow and shoulder*'.

69. The letter concluded that '*due to the lack of return of movement and [the complainant's] increased BMI, improvements made were not functional and were not transferable outside of physiotherapy sessions*'. It states there was no plan for physiotherapy review as improvement was not '*expected at this stage post stroke*'. It also states that if significant improvement was to be noted by nursing home staff or medical staff, the complainant could be re-referred for physiotherapy review.

70. I note the reasonable and appropriateness, or otherwise, of the physiotherapy treatments the Trust provided to the complainant during her time in hospital, and of the decision to discharge the complainant from in-patient treatments is not within the remit of this investigation. It is nonetheless important contextual information regarding the community physiotherapy referrals which are the subject of this issue of complaint.

71. I note the Ministerial Statement in the PHA Guidance (set out in Appendix three of this report) states that where a physiotherapy referral is made, no patient should wait longer than 13 weeks before it is addressed. I further note this applies equally to community physiotherapy referrals.

Referral 1 - 24 June 2015

72. The Trust acknowledged it received this referral from the complainant's nursing home at that time.

73. The referral form states the reason for the referral as '*assessment for equipment*', and clarified the complainant '*currently mobilising with a Steady Aid Hoist and request for a Pulpit Frame*'. The physiotherapy records document a telephone call taking place between the Trust physiotherapist and nursing home staff in respect of the referral.

74. The IPA reviewed the physiotherapy records and advised the purpose of the referral was to determine if the complainant could mobilise using a Pulpit Frame[14], rather than the Steady Aid Hoist[15] she was using at that time. The IPA advised the nursing home appropriately made the referral.

75. The IPA advised the Trust received the referral on 24 June 2015. The Trust screened the referral, and sought additional information before '*triaging*' the complainant onto a '*routine waiting list*'. The Trust's physiotherapist then conducted an in-person assessment with the complainant on 29 September 2015.

[14] A folding walking-frame which provides a table-based walking aid for patients that require security and stability when walking
[15] A mobility promoting aid that encourages individuals to independently stand up

76. The IPA advised this timeframe was outside of the 13-week target set out in the PHA Guidance by one week. The IPA went on to advise that this delay did not have a '*detrimental*' impact on the complainant, as it had been over 18 months since the patient had last received physiotherapy, and the complainant's condition was '*not rapidly deteriorating nor had much potential for improvement*'.

77. The IPA advised the Trust's physiotherapist was unable to carry out a physical assessment as '*the complainant did not cooperate with the use of a belt*' and so the physiotherapist deemed it unsafe to proceed with a physical assessment.

78. The IPA advised that as a result of the assessment, the physiotherapist decided that '*the complainant would not be safe to use other equipment*', and recommended '*no further input*'. The Trust discharged the patient regarding this referral, and advised the nursing home staff to continue using the '*previous risk assessment as method of transfer*'.

79. I asked the IPA if the Trust's handling of this referral was appropriate and in line with relevant standards. The IPA advised that despite the complainant's refusal to cooperate with the handling belt[16], it would have been '*beneficial*' for the physiotherapist to '*assess the complainant's current level of transfer with the Steady Aid*'. The IPA advised this would have enabled the physiotherapist to determine whether the complainant was '*actively weight bearing through either leg and whether she was able to maintain alignment*'. The IPA advised this would have allowed the physiotherapist to determine if the complainant had potential to use different equipment, such as a '*gutter frame*[17]' or a '*Sara Stedy*[18]'. The IPA further advised '*a more detailed assessment by the physiotherapist with an observation of her current function would have determined if there was potential for improvement*'.

80. The IPA advised that whilst it is understandable that the physiotherapist did not want to give the complainant '*false hope*', any '*lack of potential is best explored by actively assessing and then discussing why these manoeuvres are either not*

[16] A belt worn by a patient to facilitate safer transfers
[17] A sturdy wheeled walking frame designed for mobility training and rehabilitation
[18] A sit-to-stand aid to enable a single care-giver to assist patients to perform sit-to-stand transfers throughout the day

safe not sustainable due to the number of staff required'. The IPA went on to advise that, in her opinion, '*without this assessment it would appear that the complainant was written off without adequate explanation as to why*'. The IPA did also advise however, that the complainant's decision not to cooperate with the handling belt '*contributed to the physiotherapist's opinion that further treatment would not be indicated*'.

81. Regarding the processing of this referral, I accept the IPA's advice that the Trust failed to meet the 13-week timeframe, and therefore failed to adhere to the PHA Guidance. However, I also accept the IPA's advice that this failure did not have a detrimental impact on the complainant. Nonetheless, the Trust's actions in this respect fell short of relevant policies and standards.

82. Regarding the face-to-face assessment, I accept the IPA's advice that the physiotherapist's assessment did not sufficiently fully analyse the complainant's current status or determine what alternative equipment may be beneficial for the complainant. I further accept the IPA's advice that its assessment of the complainant at this stage was inadequate. The physiotherapist focused on the complainant's refusal to cooperate with the handling belt and opted to end the assessment at that stage, rather than taking steps to assess the complainant's abilities at the time with her current equipment – and rather than taking steps to then determine what alternative equipment may be useful.

83. The HCPC Standards requires physiotherapists, including those employed by the Trust, to '*be able to make reasoned decisions to initiate, continue, modify or cease techniques or procedures, and record the decisions and reasoning appropriately*'. They require physiotherapists to '*be able to initiate resolution of problems and be able to exercise personal initiative*'.

84. The first Principle of Good Administration, '*getting it right*', requires a public body to adhere to relevant policies and standards and to take account of established good practice. I find that in failing to ensure it suitably assessed the complainant on 29 September 2015, the Trust failed to adhere to this principle. It failed to make a reasoned decision to discharge the complainant and end Trust input, and failed to explore all potentially available options to try and resolve, or partially resolve, the complainant's concerns.

85. I note the Trust's position that physiotherapy should be offered where there is an '*identified physiotherapy need, which can benefit from physiotherapy input*' and where the patient '*must have the potential to improve with physiotherapy input*'. In respect of this referral, the Trust concluded the complainant did not meet this threshold. I note the IPA's position that after 18 months without physiotherapy there was not '*much potential*' for improvement. However, I also note the IPA's advice that a thorough physical assessment would have determined what potential the complainant may have had. I therefore find the Trust failed to carry out a sufficiently thorough assessment to support its conclusion in this respect, and therefore failed to adhere to the abovementioned First Principle of Good Administration.

86. I consider the failing identified constitutes maladministration that caused the complainant to sustain the injustice of loss of opportunity to receive a full physiotherapy assessment, for potential, subsequent quality of life improvements. It also caused the complainant to sustain the injustice of uncertainty and frustration regarding her physiotherapy options.

87. Regarding record-keeping, I note the IPA's advice that the Trust's documentation recording its decisions and its rationales for those decisions were at times unclear, with insufficient detail. The third Principle of Good Administration '*being open and accountable*', requires a public body to keep proper and appropriate records, to state criteria for decision-making and to give reasons for decisions. In respect of this referral, I note the Trust's position that it recorded its rationale for why the physiotherapist felt it was not safe to mobilise the complainant on this occasion. I accept this rationale was recorded, albeit that it was based on an inadequate assessment. Therefore, whilst I accept the IPA's advice that, at times the Trust's standard of record-keeping was unclear, I am satisfied that the standard of record-keeping in respect of this referral was reasonable and appropriate.

88. Regarding communication with the complainant, I note the IPA's advice that the Trust did not provide an '*adequate explanation as to why*' she could not receive physiotherapy following this referral. I also note the Trust's position that the physiotherapist communicated to the patient that the assessment could not

proceed if the patient was unwilling to use a handling belt. Whilst it has been found above that the decision regarding this referral was based on an insufficient physical assessment, I am nonetheless satisfied that the physiotherapist did explain the rationale, as it was at the time, to the complainant as part of the referral assessment.

89. The second Principle of Good Administration '*being customer focused*', requires a public body to communicate effectively with service users by dealing with people helpfully, promptly and sensitively in line with individuals' circumstances, and to inform service users what they can expect from the public authority. I find the Trust adhered to this Principle in respect of its communication with the complainant about this referral.

90. However, on foot of the above finding relating to the inappropriateness of the Trust's assessment, I uphold this element of the complaint.

Referral 2 - 30 October 2015

91. The Trust acknowledged it received this referral from the complainant's nursing home at that time.

92. The referral form states the reason for the referral as '*specific care*', and clarified the complainant '*has been seen before – client is now using a moving and handling belt – to help client get back on her feet*'. The physiotherapy records document a telephone call taking place between the Trust's physiotherapist and nursing home staff in respect of the referral on this occasion also.

93. The IPA reviewed the physiotherapy records and advised the purpose of the referral was to '*re-review*' the complainant as she was now using the handling belt in the nursing home.

94. The IPA advised the Trust received the referral on 30 October 2015 and responded '*within 83 days of referral*' – being '*just within the acceptable timeframe*'.

95. The IPA advised during the period of time between the referral and the Trust's response, the complainant '*had put on weight and was no longer able to use the handling belt*'. The IPA further advised the physiotherapy notes document that, at the time, the complainant was awaiting an occupational therapy (OT) assessment and '*was unable to stand with the Sara Stedy*'. The IPA advised the Trust documented this information in the physiotherapy notes following a telephone conversation between the Trust and the nursing home. The IPA advised the physiotherapist decided this referral was '*inappropriate*' and discharged the complainant.

96. I asked the IPA if the Trust's handling of this referral was appropriate and in line with relevant standards. The IPA advised the complainant's '*situation had changed between referral and the telephone call to the nursing home*', and so the IPA agreed that '*the referral was now inappropriate*'. The IPA further advised, however, that if the physiotherapist had telephoned the nursing home sooner, the outcome may '*potentially*' have been different. The IPA also advised it would '*have been appropriate to liaise with the assessing occupational therapist to confirm what the complainant's level of activity was and to see if they felt there was potential for improvement before the decision not to assess was made*'.

97. I note that the Trust did not carry out a face-to-face assessment on this occasion. I asked the IPA if this should have taken place. The IPA advised it would not have been appropriate because the complainant could no longer use the '*Sara Stedy*', and therefore it was *'very unlikely that the physiotherapist would be able to 'get the client back on her feet' as requested in the referral*'.

98. Regarding the processing of this referral, I accept the IPA's advice that the Trust met the 13-week timeframe, and therefore adhered to the PHA Guidance. I note the IPA's position that earlier intervention may have '*potentially*' meant the complainant was still able to use the handling belt, which may have '*potentially*' produced a different outcome. However, the Trust was unaware of this particular circumstance when the nursing home made the referral and it nonetheless acted in accordance with relevant policies and standards in its processing of the referral.

99. Regarding the assessment, I accept the IPA's advice that the telephone assessment was sufficient, and that the complainant did not require a face-to-face assessment.

100. I note the IPA's advice that the Trust's decision was reasonable and appropriate, given the complainant's circumstances at the time of the telephone call, and given the information it had to hand at that time. However, I also note the IPA's advice that the Trust had the opportunity to obtain additional information that may have been relevant to the decision-making process – namely – it could have liaised with the complainant's OT to determine what the complainant was able to achieve. I note the Trust's position that this information would not have been available at the time of the call itself, and that it could not be determined when this information would have been available to it. I also note the Trust's position that it had sufficient information from the nursing home to enable it to assess the complainant at that time, and that if the OT assessment provided additional information, the nursing home could make a further referral.

101. On foot of the IPA's advice, I consider the Trust had the option to delay making its final decision on this referral until the OT assessment had taken place, but it chose not to do so. Had the Trust done so, it may have obtained relevant information from the OT. However, I accept the Trust's practical concerns with delaying its decision-making for an indeterminate period of time.

102. Having considered the evidence available, I accept the IPA's overall advice that the Trust's decision about this referral was reasonable and appropriate. Therefore, on balance, I am satisfied the Trust was in possession of sufficient information at the time to make this reasonable and appropriate decision, even without potential additional information from an OT. I consider, therefore, the Trust making its decision in the absence of potential, additional information from the OT did not impact upon the reasonableness and appropriateness of its decision.

103. Regarding record-keeping, I note the Trust's position that it considers the standard of record-keeping was sufficient, on the basis that the IPA was able to determine the referral was reasonably deemed inappropriate. However, I also note the IPA's advice that '*notes scribbled on the referral document with a poor*

outline of clinical reasoning and poor identification of who has completed documentation' is not sufficient to constitute reasonable and appropriate record-keeping in community physiotherapy. The third Principle of Good Administration '*being open and accountable*', requires a public body to keep proper and appropriate records, to state criteria for decision-making and to give reasons for decisions. I reviewed the referral document for this referral. On foot of the IPA's advice, I consider the Trust's standard of record-keeping in respect of this referral failed to adhere to this Principle. I note the Trust's position that it is not due to introduce electronic record-keeping for community physiotherapy until 2025. I am not criticising the Trust for making handwritten records rather than electronic ones. I am, however, criticising the Trust for failing to ensure its handwritten notes adhered to this Principle. This constitutes maladministration that caused the complainant to sustain the injustice of loss of uncertainty regarding a sufficient record of the Trust's handling of her referral.

104. Regarding communication of the outcome, there is no information in the physiotherapy records to demonstrate the physiotherapist explained the rationale behind its decision to the complainant directly following the referral. However, I note the Trust's position that this information was communicated to the individual who made the referral, and it was therefore the referrer's responsibility to communicate the outcome to the patient. I consider this to be reasonable on the Trust's part.

105. I therefore partially uphold this element of the complaint to reflect the record-keeping failure identified.

Referral 3 - 20 April 2016

106. The Trust acknowledged it received this referral from the complainant's occupational therapist at that time.

107. The referral form states the reason for the referral as '*specific care*', and clarified the purpose to '*review standing and discuss options with regard to treatment for left ankle*'. The physiotherapy records document a face-to-face assessment taking place on 29 July 2016.

108. The IPA reviewed the physiotherapy records and advised the purpose of the referral was to '*review*' the complainant's ability to stand, and to explore treatment options for her left ankle. The IPA advised the occupational therapist's referral in this respect was appropriate.

109. The IPA advised the Trust received the referral on 20 April 2016 when the complainant was '*living by herself with a package of care*'.

110. The IPA further advised the Trust's physiotherapist conducted a '*short assessment*' on 27 May 2016, at which stage the complainant had returned to living in a nursing home. That assessment also determined the complainant had recently had a fall. The IPA advised a face-to-face assessment then took place on 29 July 2016.

111. The IPA advised the Trust's assessment took place outside of the 13-week timeframe set out in the PHA Guidance. In the Trust's comments on the draft report, it challenged the IPA's advice in this respect. The Trust maintained the '*short assessment*' was sufficient to meet the 13-week timeframe in the PHA Guidance because it had contact with the complainant on 27 May 2016. I obtained further advice from the IPA on this point. The IPA further advised '*a triage assessment can be counted as a contact if following this specific patient advice has been given which can be safely followed based on the referral information*'. The IPA advised it was not clear '*what advice was given other than referral on for an assessment with a physiotherapist at a later date*'. The IPA advised that from the notes provided '*I would conclude that the initial triage did not provide any specific physiotherapy intervention or advice at that stage so does not sufficiently meet the criteria outlined above*'.

112. I considered the Trust's position, the IPA's further advice, as well as the PHA Guidance in respect of how the Trust can remove a patient from the waiting list (Appendix three refers). That Guidance states the Trust can remove a patient from the waiting list where it has had direct or indirect contact with the service user within the 13-week period. It states direct contact can include '*contact between the AHP service provider and the patient, which may be face-to-face, via telephone etc*'. Indirect contact can include '*when there is clinical contact between the AHP service provider and a person on behalf of a patient*'. I am

satisfied the Trust had contact with the complainant on 27 May 2016. I accept the IPA's advice that there is no evidence of '*specific physiotherapy intervention or advice*'. However, I am satisfied this is not necessary to remove a patient from the list. I am satisfied, therefore, the Trust did meet the 13-week timeframe on this occasion.

113. The IPA further advised that given the complainant's documented fall, this assessment '*should have been treated with greater urgency*' – despite the complainant being transferred back to the nursing home environment, with 24-hour support. In the Trust's comments on the draft report, it challenged the IPA's advice in this respect. The Trust said that as the complainant's fall was from a wheelchair, rather than an ambulatory[19] fall, it did not require more urgent physiotherapy input. I obtained further advice from the IPA in this respect. Upon review of the Trust's position, the IPA advised '*a fall from a wheelchair is unlikely to be remedied by physiotherapy assessment or treatment and is more likely due to the patient over-reaching, sliding or being incorrectly positioned*'. The IPA advised that as a result '*this did not need to be treated with the same level of urgency*'. I accept the IPA's further advice on this.

114. I asked the IPA if the Trust's handling of this referral was appropriate and in line with relevant standards. The IPA advised there is *'no record*' of a physical assessment taking place on 29 July 2016, but there is a record of the physiotherapist's decision that it '*would not be safe*' for the complainant to '*mobilise*' and that the complainant being able to stand is '*not realistic because it is three years since she last mobilised*'. The IPA further advised the physiotherapist recorded the complainant had '*a split kneecap on the right*', but that '*it is unclear if any action was taken with regard to that, or whether that inhibited the physiotherapist from assessing the complainant's functional ability*'.

115. The IPA further advised that whilst it was '*understandable*' that the physiotherapist did not want to '*raise unrealistic expectations*', nonetheless the IPA '*would have expected a physical assessment or review of transfers to confirm this lack of potential*'. The IPA advised the physiotherapist determined it

[19] Related to, or adapted for walking

would be unable to '*get equipment out*' to the nursing home for the complainant to use, but does not '*expand*' on what equipment the physiotherapist '*was thinking of that would be unavailable in the nursing home to be able to comment whether there was a lack of potential service provision at this stage*'.

116. In addition, the IPA advised that whilst the referral includes a request for '*a review*' of complainant's left ankle, '*this does not appear to have taken place*' on 29 July 2016. The IPA advised that if the reason for this was that the issue has '*resolved*', the Trust should have documented this in the records, but did not.

117. The IPA advised the physiotherapy records for this referral were '*short on detail*'. The IPA went on to advise the complainant '*was not assessed as she should have been*'. The IPA further advised that whilst a '*more detailed assessment*' is likely to have '*drawn the same conclusion*', it is '*difficult to ascertain whether the complainant would have benefited from physiotherapy treatment at this stage*'. The IPA advised the purpose of the referral was to both determine the complainant's ability to stand, and review her ankle – and '*neither of these appear to have been assessed*'. I note the Trust's position that the patient's ankle had been treated on 27 May 2016. However, I also note the IPA's advice that as a review of the patient's ankle formed part of the referral, it ought to have been addressed as part of the assessment – even if it was to record that the patient no longer had any ankle concerns. In terms of impact, the IPA advised this '*lack of assessment*' has likely '*further engrained the complainant's belief that the physiotherapists have done nothing to help her*'.

118. Regarding the assessment, I accept the IPA's advice that the assessment was insufficient, as the two issues identified in the referral were not addressed as part of the assessment process. I find that on this occasion the Trust failed to take steps to obtain all relevant information and consider all relevant factors before making its decision to discharge the patient and end its input.

119. The first Principle of Good Administration, '*getting it right*', requires a public body to adhere to relevant policies and standards and to take account of established good practice. I find that in failing to ensure it suitably assessed the complainant in respect of this referral, the Trust failed to adhere to this

principle. It failed to make a reasoned decision to discharge the complainant and end Trust input, and failed to explore all potentially available options to try and resolve, or partially resolve, the complainant's concerns, in line with relevant standards.

120. I consider this failing constitutes maladministration that caused the complainant to sustain the injustice of loss of opportunity for the complainant to receive a full physiotherapy assessment, and the loss of opportunity for potential quality of life improvements as a result of a thorough assessment. The failings also caused the complainant to sustain the injustice of uncertainty and frustration regarding her physiotherapy options.

121. Regarding record-keeping, I accept the Trust's position that the physiotherapist's rationale was recorded in the patient's records, albeit that it was based on an inadequate assessment. Therefore, whilst I accept the IPA's advice that, at times the Trust's standard of record-keeping was unclear, I am satisfied the Trust's record-keeping in respect of this referral met the requirements of the Third Principle of Good Administration, set out above.

122. Regarding communication with the complainant, the physiotherapy records demonstrate the physiotherapist spoke with the complainant about the impact of her weight and the availability of equipment in discharging her. However, I accept the IPA's advice that the inadequate assessment contributed to the complainant's belief that nothing was being done to help her. Nonetheless, I am satisfied the physiotherapist reasonably communicated the outcome of the assessment they actually carried out, and their rationale for that outcome, to the patient in respect of this referral.

123. However, on foot of the above finding relating to the inappropriateness of the Trust's assessment, I uphold this element of the complaint.

Referral 4 - 3 July 2017

124. The Trust acknowledged it received this referral from the complainant's nursing home at that time.

125. The referral form states the reason for the referral as '*specific care*', and clarified the complainant is '*bed bound at the moment – physiotherapy assessment required*'. The physiotherapy records document a telephone call taking place between the Trust's physiotherapist and nursing home staff in respect of the referral on this occasion as well.

126. The IPA reviewed the physiotherapy records and advised the purpose of the referral was to '*review*' the complainant as she was now '*bed bound*'.

127. The IPA advised the Trust received the referral on 3 July 2017 and responded on 28 July 2017, which was within '*a reasonable timeframe*'. The IPA advised that a face-to-face assessment did not take place on this occasion, and instead it was a telephone assessment between the physiotherapist and the nursing home. The IPA further advised that on the call the nursing home informed the physiotherapist the complainant was '*hoist dependent*' and using a wheelchair.

128. I asked the IPA if the Trust's handling of this referral was appropriate and in line with relevant standards. The IPA advised the decision to have the telephone call in order to obtain as much information as possible was '*appropriate*'. The IPA advised the outcome of the call was the physiotherapist's decision that the referral itself was '*deemed inappropriate*'. The IPA further advised that the decision in this respect to discharge the patient without a face-to-face assessment was '*appropriate*' on the basis that the complainant '*had been fully hoisted for a prolonged period of time*' and therefore '*would not have potential for improvement*'.

129. Regarding the processing of this referral, I accept the IPA's advice that the Trust met the 13-week timeframe, and therefore adhered to the PHA Guidance.

130. Regarding the Trust's assessment, I accept the IPA's advice that the telephone assessment was sufficient, and that the complainant did not require a face-to-face assessment. I also accept the IPA's advice that the decision was reasonable and appropriate, given the complainant's circumstances at the time of the telephone call.

131. I find the physiotherapist carried out a sufficiently thorough assessment to support its conclusion that the complainant did not meet the threshold of an

'*identified physiotherapy need, which can benefit from physiotherapy input*' and '*the potential to improve with physiotherapy input*'. I find, therefore, that the Trust physiotherapist's actions in this respect were reasonable, appropriate and in line with relevant standards.

132. Regarding record-keeping, I note the Trust's position that it considers the standard of record-keeping was sufficient, because it was an accurate record of the telephone conversation that took place. Also because the IPA was able to determine the Trust's decision was appropriate from the records. I refer again to the IPA's advice that the records showed '*a poor outline of clinical reasoning and poor identification of who has completed documentation'*, and that this was not sufficient to constitute reasonable and appropriate record-keeping in community physiotherapy. I reviewed the referral document for this referral. It states '*spoke to nurse in charge at* [redacted] *over the phone who informed me that pt has been hoist dependent and using W/C since she has been in* [redacted]*, which has been for approximately 1 year. I told nurse that this referral is inappropriate then, so we will not be out to Ax pt. Plan – D/C*'. I accept the IPA's advice that whilst this record briefly documents the Trust's decision, it does not provide sufficient detail to demonstrate clinical reasoning.

133. The third Principle of Good Administration '*being open and accountable*', requires a public body to keep proper and appropriate records, to state criteria for decision-making and to give reasons for decisions. On foot of the IPA's advice, I consider the Trust's standard of record-keeping in respect of this referral failed to adhere to this Principle. I reiterate I am not criticising the Trust for making handwritten records rather than electronic ones. Rather, I am criticising the Trust for failing to ensure its handwritten notes adhered to this Principle. This constitutes maladministration that caused the complainant to sustain the injustice of loss of uncertainty regarding a sufficient record of the Trust's handling of her referral.

134. Regarding communication of the outcome, there is no information in the physiotherapy records to demonstrate the Trust communicated its decision to the complainant directly following this referral. However, I note the Trust's position that, on this occasion also, it communicated with the individual who

made the referral – and that it was the referrer's reasonability to communicate that outcome to the patient. I consider this to be reasonable on the Trust's part.

135. As a result, I partially uphold this element of the complaint, to reflect the failure in record-keeping.

Referral 5 - 4 June 2020

136. The Trust acknowledged it received this referral from the complainant's nursing home at that time.

137. The referral form states the reason for the referral as '*stroke patient wants to strengthen legs'*. The form also states both the complainant's baseline of mobility and current level of mobility to be '*bed bound with assistance of 4*'. The physiotherapy records document a telephone call taking place between the Trust and nursing home staff in respect of the referral.

138. The IPA reviewed the physiotherapy records and advised the purpose of the referral was for '*leg-strengthening*'.

139. The IPA advised the Trust received the referral on 4 June 2020 and called the nursing home that day. The IPA further advised the Trust '*appears to have dealt with*' the referral in a '*timely manner*'.

140. I asked the IPA if the Trust's handling of this referral was appropriate and in line with relevant standards. The IPA advised the Trust rejected the referral, deeming it '*inappropriate*' on the basis that the complainant had '*no rehabilitation goals*'. The IPA further advised this decision was appropriate as the complainant was, at this stage, bedbound and requiring the assistance of four carers to mobilise. The IPA advised '*given the vague nature of the referral and worsening physical status of the complainant*' that '*physiotherapy intervention would be unlikely to be effective*'. The IPA further advised that as the complainant had been fully dependent on a hoist '*for a number of years*' it was '*extremely unlikely that she would ever regain the ability to stand or use a stand aid*'. The IPA advised these factors, coupled with no defined rehabilitation goals being in place, meant the decision was correct.

141. Regarding the processing of this referral, I accept the IPA's advice that the Trust met the 13-week timeframe, and therefore adhered to the PHA Guidance.

142. Regarding the Trust's assessment, I accept the IPA's advice that the telephone assessment was sufficient, and that the complainant did not require a face-to-face assessment. I also accept the IPA's advice that the decision was reasonable and appropriate, given the complainant's circumstances at the time of the telephone call. I find the Trust carried out a sufficiently thorough assessment to support its conclusion that the complainant did not meet the threshold of an '*identified physiotherapy need, which can benefit from physiotherapy input*' and '*the potential to improve with physiotherapy input*'.

143. Regarding record-keeping, I note the Trust's position that it considers the standard of record-keeping was sufficient, on the basis that it was an accurate record of the telephone conversation that took place. I refer again to the IPA's advice regarding '*poor outline of clinical reasoning and poor identification of who has completed documentation*' in the Trust's record-keeping. I reviewed the referral document for this referral. It states '*t/c – SW* [redacted] *– no rehab goals – inappropriate*'. I acknowledge this record sets out the basis for the physiotherapist's rationale. However, I accept the IPA's advice that a brief handwritten note on the request document is not sufficient to meet the record-keeping standards for community physiotherapy.

144. I refer again to the third Principle of Good Administration, set out above. On foot of the IPA's advice, I consider the Trust's standard of record-keeping in respect of this referral failed to adhere to this Principle. This constitutes maladministration that caused the complainant to sustain the injustice of loss of uncertainty regarding a sufficient record of the Trust's handling of her referral.

145. Regarding communication of the outcome, on this occasion also there is no information in the physiotherapy records to demonstrate the Trust explained its decision to the complainant directly following this referral. However, I note the Trust's position that this information was communicated to the individual who made the referral – and that it was the referrer's reasonability to communicate that outcome to the patient. On this occasion also I consider this to be reasonable on the Trust's part.

146. As a result, I partially uphold this element of the complaint, to reflect the failure in record-keeping.

Observations

147. I reiterate the position outlined above that an examination of the Trust's actions regarding the complainant's physiotherapy treatment as an in-patient is hospital is not within the defined scope of this investigation. Nonetheless, the IPA identified elements of the Trust's actions which I consider necessary to bring to the Trust's attention by way of observation.

148. The IPA advised there was '*very little discussion or preparation with the complainant regarding [the Trust's] decision to discharge from physiotherapy so quickly after the multidisciplinary team meeting*'. The IPA went on to advise '*in my experience it is best to demonstrate regularly to the patient as to why progress has been stalled and why further improvements would be unlikely and then gradually reduce input ensuring there are provisions in place to maintain available activity*'.

149. The IPA also advised they were '*concerned that much time was spent*' on activities '*that were always unlikely to be transferrable to functional day to day activities*' and they questioned why other types of mobility aids were not '*trialled*' with the complainant whilst she was on the ward.

150. The IPA further advised '*I would consider it good practice, even if progress within in-patient stalls, to refer patients on to specialist stroke services on discharge as often they can progress if mood and fatigue levels improve*' – and that there was no record to show whether or not a 6-month review took place, as required by *paragraph 7.1.1* of the RCP Guidance (set out in Appendix three of this report).

151. Whilst it is not appropriate to further investigate these matters or to make any findings in respect of them as they are outside the scope of the investigation, I would nevertheless strongly encourage the Trust to examine and reflect upon the IPA's advice in this respect within the context of its practices moving forward.

CONCLUSION

152. I received a complaint about the Trust's actions in respect of the complainant's placement in her current Nursing Home, and the Trust's handling of the complainant's request to transfer to a new nursing home, and her five requests for community physiotherapy in the years 2015-2020.

153. The investigation established that the Trust's actions in respect of the complainant's placement in her current Nursing Home, and its handling of the complainant's transfer request were both reasonable, appropriate and in line with relevant standards. In particular, I commend the Trust for the steps taken to source an alternative placement for the complainant. Issue one of the complaint is therefore not upheld. However, I would impress on the Trust to continue its work to source an alternative placement for the complainant, as it is very clear to me that the complainant remains dissatisfied with her current Nursing Home.

154. In respect of the Trust's handling of the referral made on the complainant's behalf for community physiotherapy, the investigation established as follows:

- 24 June 2015 – there were failings on the Trust's part in respect of the timeframe in which the Trust handled the referral, and the assessment it carried out;
- 30 October 2015 - there were failings on the Trust's part in respect of its record-keeping;
- 20 April 2016 – there were failings on the Trust's part in respect of the assessment it carried out;
- 3 July 2017 - there were failings in the Trust's record-keeping; and
- 4 June 2020 - there were failings in the Trust's record-keeping.

155. Issue two of the complaint is therefore partially upheld.

156. Whilst it cannot be concluded that if the Trust handled all of the referrals appropriately the complainant's outlook would have been different, it is

concluded that there was more the Trust should have done to determine the complainant's abilities – particularly in respect of the referrals in 2015 and in 2016.

157. These failures constitute maladministration. They caused the complainant to sustain the injustice of loss of opportunity to receive full physiotherapy assessments, and the loss of opportunity for potential quality of life improvements as a result of a thorough assessment on three occasions. The complainant also sustained the injustice of uncertainty and frustration regarding her physiotherapy options. The failures also caused the complainant the time and effort of bringing a complaint to my Office.

158. In addition to the above findings, the IPA noted some concerns in her advice to my Office regarding the Trust's actions during the complainant's time as an in-patient. Whilst outside the scope of this investigation, I have brought these to the Trust's attention by way of observation and strongly encourage to Trust to consider these.

Recommendations

159. I recommend that the Trust provides the complainant with a written apology in accordance with NIPSO 'Guidance on issuing an apology' (June 2019), for the injustices caused as a result of the failures identified within **one month** of the date of the final report.

160. I further recommend, for service improvement and to prevent future reoccurrence, that the Trust:

I. brings the contents of this report, and the learnings identified in it, to the attention of relevant staff, so they can reflect on the findings set out;
II. puts in place a procedure for the community physiotherapy team, supported with adequate staff training and awareness programmes, to require full, thorough and safe assessments of patient's abilities are carried out when a physiotherapy referral is received – to include a physical assessment where appropriate;

III. reminds relevant staff of the importance of thorough and clear record-keeping in line with relevant standards – and provide staff with relevant training in this respect;

IV. carries out an audit of community physiotherapy referral records with a specific focus on determining the level of assessment carried out by staff, as well record-keeping; and

V. implements an action plan to incorporate these recommendations and provide me with an update within **six months** of the date of my final report. The Trust should support its action plan with evidence to confirm it took appropriate action (including, where appropriate, records of any relevant meetings, training records and/or self-declaration forms which indicate that staff read and understood any relevant policies).

161. In addition, I consider the Trust should reflect on the IPA's observations regarding its in-patient physiotherapy practices.

Margaret Kelly
Ombudsman
2 November 2023

Appendix 1

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

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

2. Being customer focused

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

3. Being open and accountable

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

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

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

6. Seeking continuous improvement

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

Appendix Two

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.
- Providing honest, evidence-based explanations and giving reasons for decisions.

- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.