

Committee Name and Date of Committee Meeting

Audit Committee – 12 April 2022

Report Title

Local Government and Social Care Ombudsman Report

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Ian Spicer, Acting Strategic Director of Adult Care, Housing and Public Health

Report Author(s)

Stuart Purcell, Corporate Complaint Manager
01709 822661 or stuart.purcell@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

This Report sets out that the Local Government and Social Care Ombudsman has provided findings in relation to a complaint in respect of the Council's Adult Social Care Services. Its decision was that there was fault by the Council which caused injustice to residents Miss X and Mrs Y. The Council has agreed to take the action to remedy that injustice.

Recommendations

Audit Committee is asked to:

1. Note the Public Interest Report, 21 001 468 completed by the Ombudsman
2. Note and comment on the action plan created in response to the recommendations in the Public Interest Report

List of Appendices Included

1. Public Interest Report, 21 001 468
2. Recommendations action plan

Background Papers

None.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Local Government Ombudsman Report

1. Background

- 1.1 The Council has received a Public Interest Report from the Local Government and Social Care Ombudsman (LGSCO) that makes a finding of maladministration and injustice; it has found found causing injustice and has made recommendations to the Council to remedy the fault.
- 1.2 The Ombudsman's Report has been made available to the public (in hard copy from Riverside House reception) and the Council has placed two public notices in local newspapers as directed by the Ombudsman. The Ombudsman has also publicised this via its own website and has advised its media partners.
- 1.3 The Council has three months from the date of the Public Interest Report (28 May 2022), to inform the Ombudsman of the action the Council has taken or proposes to take, in response to the recommendations. This Report sets out the actions that the Council proposes to take for the Committee's consideration.

The Council has not received a Public Interest Report on its activities for a considerable period. The matter is being reported to the Audit Committee to ensure that it is able to discharge its function in ensuring that sufficient systems and improvements (in-line with the recommendations from the Ombudsman) have been put in place. This is in line with the Committee's terms of Reference from Council to "To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions."

2. Key Issues

2.1 Complaint summary.

Miss X and Mrs Y complained that the Council:

- stopped them from seeing, Mr P, who Miss X considers to be her step-father, when he was in hospital and in a care home.
 - did not explain why they were not allowed to visit Mr P;
- stopped them from giving Mr P his personal belongings; and
- took safeguarding action against them but did not tell them what it was for at the time.

Miss X and Mrs Y say the Council's actions have caused them distress and Frustration, because they were only allowed to see Mr P for a short time before he died.

2.2

Decision

The Ombudsman's official finding was that it found fault by the Council which caused injustice to Miss X and Mrs Y.

2.3

Recommendations

To remedy the injustice caused by the faults identified, the Council has agreed to:

- apologise to Miss X and Mrs Y for the distress and uncertainty caused by the faults identified.
- pay Miss X and Mrs Y £600 each to acknowledge the significant distress and uncertainty caused by the faults identified.
- remind relevant staff of the importance of ensuring decisions are made in the best interest of the individual, and of keeping clear and accurate records of the process of working out the best interest of the person for each relevant decision. The records should detail the considerations listed within the code of practice.
- remind relevant staff of their duties under the Human Rights Act 1998.
- review its safeguarding procedures to ensure:
 - there is a clear process for producing safeguarding plans where appropriate; and
 - the alleged victim is properly involved in the safeguarding process, with an advocate appointed to support them if necessary.

2.4 The action plan at appendix 1 details how and when the Council will meet these recommendations and how it will provide the Ombudsman with the evidence it requires, to ensure it is satisfied that the recommendations have been met. The Council has now issued a written apology and offered the compensation payments as directed.

3. Options considered and recommended proposal

3.1 The Council is required through Section 31(2) of the Local Government Act 1974 to receive Public Interest Reports. So receipt of the Report is not optional in these circumstances.

3.2

Officers have considered the recommendations of the Ombudsman and created the action plan attached. The Committee could amend or reject the action plan however the Council is required to notify the Ombudsman of the actions it has taken or proposes to take and so any amendments would need to address the concerns raised by the Ombudsman in the Report as a minimum. Failure to do so can result in a further Report of breach being issued.

4. Consultation on proposal

4.1 There has been no consultation on this proposal as the direction has come from the LGSCO.

5. Timetable and Accountability for Implementing this Decision

5.1 This Decision in this Report is for implementation by the Committee.

6. Financial and Procurement Advice and Implications

6.1 There are no financial or procurement implications arising from this Report.

7. Legal Advice and Implications

7.1 The Legal implications are contained in the Report.

7.2 Legislation applicable to this report is.

- Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 (Making Experiences Count).
- The Local Government Act 1974
- The Human Rights Act 1998
- The Care Act 2014
- The Mental Capacity Act 2005

8. Human Resources Advice and Implications

8.1 There are no HR implications arising from this Report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 The statutory complaints procedure for Adult Social Care provides an opportunity for vulnerable adults to have their voices heard and to improve service delivery.

10. Equalities and Human Rights Advice and Implications

10.1 There are no Equality Issues arising from the Report.

10.5 The Human Rights Act 1998 (which came into force in October 2000) incorporates into UK domestic law rights and freedoms guaranteed under the European Convention on Human Rights. It introduced new responsibilities on public authorities to act compatibly with the convention rights and allows for a case to be brought in a UK court against authorities if they fail to do so. It is important, therefore, for the Human Rights Act implications of any proposals to be thought through and dealt with, where relevant, in a separate paragraph in the Report.

11. Implications for CO₂ Emissions and Climate Change

11.1 There are no Climate Change implications arising as a result of this Report.

12. Implications for Partners

12.1 There are no implications for Partners from this Report.

13. Risks and Mitigation

13.1 The Risks and Mitigation are set out in the Report above.

14. Accountable Officer(s)

Ian Spicer, Strategic Director, Adult Care Housing & Public Health

Scott Matthewman, Interim Assistant Director Adult Care and Integration

Approvals obtained on behalf of:

| | Named Officer | Date |
|---|----------------------|-----------------------------|
| Chief Executive | | Click here to enter a date. |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Named officer | Click here to enter a date. |
| Assistant Director of Legal Services (Monitoring Officer) | Named officer | Click here to enter a date. |
| Assistant Director of Human Resources (if appropriate) | | Click here to enter a date. |
| Head of Human Resources (if appropriate) | | Click here to enter a date. |

Report Author: Stuart Purcell, Corporate Complaint Manager, Assistant Chief Executive Directorate, 01709 822661 or stuart.purcell@rotherham.gov.uk

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