

Cheshire East Council

Council Meeting

Date of Meeting: 17 December 2015

Report of: Head of Legal Services and Monitoring Officer

Subject: Report by the Local Government Ombudsman

Portfolio Holders Councillors Janet Clowes and Paul Findlow

1 Report Summary

- 1.1 On 6 August 2015 the Local Government Ombudsman (LGO) made public a report detailing their findings into a complaint made against Cheshire East Council.
- 1.2 The LGO found fault causing injustice and made a number of recommendations.
- 1.3 This report to Council fulfils the requirement to present the LGO findings to Council as required by the LGO.
- 1.4 The appendix to this report contains the LGO's Investigation Report in respect of a complaint made.
- 1.5 Regular updates have been provided to the LGO and a meeting is scheduled in January 2016 to review the action taken to date.

2 Recommendation

- 2.1 That Council notes and considers the content of this report.
- 2.2 That Council notes the actions taken subsequent to the LGO findings.

3 Background

- 3.1 Mr Y is in his early twenties and was a student when he suffered a serious spine injury in August 2013. Mr Y has been left significantly disabled as a result of his accident.
- 3.2 Cheshire East Council completed a social care assessment of need and Mr Y was identified as needing 76 hours of support each week. This was identified as an allocated personal budget for Mr Y to use to arrange his care and support
- 3.3 Mr Y elected to take his allocated personal budget as a Direct Payment meaning that he would be issued with the budget as a payment for him to arrange his own care subject to agreement by officers in Adult Social Care.
- 3.4 Mr Y wished to employ his mother Mrs X as his Personal Assistant to meet his care and support needs. The Direct Payment Regulations 2009 excludes the payment being used to pay for care from a close family member living in the same household unless in exceptional circumstances. The Care Act 2014 which came into force in April 2015 continued to uphold this position.
- 3.5 The officers involved in this case considered the request at length. A decision was subsequently reached that for a temporary period the Council would agree to this request and deemed the situation to be exceptional circumstances.
- 3.6 Officers did however have concerns with the proposed care plan and concluded that it would not be appropriate for one person to deliver 76 hours of care each week. Officers used the 'working time directive' as a guide to determine what they would consider as an appropriate number of hours for one carer to be able to deliver each week.
- 3.7 Mr Y did not wish to employ any other carer to meet his needs. Officers concluded that it would be inappropriate to allow Mrs X to be employed for longer than 48 hours. They made the budget available for the remaining hours of care but only if Mr Y arranged an alternate way of having his care needs met.
- 3.8 Officers accept that the time delay involved in reaching a decision in this matter was unacceptable.
- 3.9 Mr Y employed his mother for the 48 hours per week that had been agreed but chose not to access any additional care or support from any other care provider or personal assistant.
- 3.10 Mrs X raised a complaint with the Council and subsequently with the LGO resulting in the findings in the report attached to this report.

4 LGO Findings and Recommendations

- 4.1 The LGO report attached provides the detailed findings and recommendations. The Council agreed to carry out all the recommendations as detailed.
- 4.2 The report details the Council had at the time of making the report public already agreed an appropriate remedy with Mr Y and Mrs X.
- 4.3 The Council apologised to Mr Y and his mother Mrs X for the faults identified.
- 4.4 The Council has continued to work with Mr Y in reassessing his needs and continues to work with him to develop a sustainable care and support plan which will meet his needs in the longer term.
- 4.5 Officers have reviewed processes and procedures and have written new guidance for staff in relation to assessment and support planning which includes risk assessment.
- 4.6 The Council are scheduled to report back to the LGO in January 2016.

5 Legal Implications

- 5.1 This report complies with the requirements of Section 31 of the Local Government Act 1974.
- 5.2 In compliance with Section 30 of the 1974 Act the Council issued a public notice in the Macclesfield Express and the Crewe and Nantwich Guardian week commencing 3 August 2015. Copies of the LGO report were also made available at Delamere House in Crewe and Macclesfield Town Hall from Monday 10 August 2015.

6 Financial Implications

- 6.1 These are referred to in the summary document appended to this report.

7 Background Papers

- 7.1 The report of the LGO (ref 14 005 078)

8 Contact Information

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