

North Tyneside Council Report to Cabinet Date: 14 November 2016

ITEM 6(i)

Title: Report of the Local
Government Ombudsman

Portfolio(s): Adult Social Care

Cabinet Member(s): Councillor Allison
Waggott-Fairley

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary, Head of Law and
Governance

Tel: 0191 643 5339

Wards affected: All

PART 1

1.1 Executive Summary:

The Local Government Ombudsman (LGO) has issued a report dated 28 September 2016 finding maladministration causing injustice as a result of the failure of the Council to assess adult C's adult social care needs when asked and has delayed unreasonably in dealing with a request from another Council to conduct the assessment so that the other Council could complete his transition planning for leaving care.

The complainant was Ms B, the foster carer for C, who was requesting that he be allowed to remain in her care under a Shared Lives arrangement.

The Authority have acknowledged this injustice and agreed to pay Ms B and C £500 each in compensation and to complete the assessment process for C, as recommended by the LGO.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) note the findings and recommendations of the LGO as described in this report and set out in the LGO's report at Appendix 1; and
- (2) note the actions taken by the Authority to comply with the recommendations of the LGO's report, as set out in 1.5.3 and 1.5.4 of this report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 17 October 2016.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2016-19 Our North Tyneside Plan:

(1) Our People will be cared for and kept safe if they become vulnerable.

1.5 Information:

1.5.1 Background

The details of this complaint and the findings of the LGO investigator are set out in Appendix 1.

Ms B lives in North Tyneside. She is a foster carer and has cared for C since he was a young child. C was placed with Ms B by neighbouring Council C in 2001. He was a *looked after child*. He is now an adult.

When C reached 18, in 2013, he said he wanted to continue to live with Ms B. Ms B was happy to continue to provide support.

Ms B, and Council C, were concerned that C would not be able to manage independently so Council C asked Adult Social Services at North Tyneside to assess C's adult social care needs. Ms B hoped that C could continue to live with her under a 'shared lives' arrangement.

In response to that request North Tyneside Council allocated a social worker to begin to undertake that assessment. This included consideration for Ms B to become a Shared Lives carer. The assessment for Shared Care was concluded and the recommendation was that Ms B should only be considered for Shared Lives as a temporary measure as concerns were raised about Ms B's ability to promote C's independence. It was identified that it was not in C's best interests to reside with Ms B indefinitely. Ms B was only going to be approved for C's care rather than a general Shared Lives carer for North Tyneside.

Limited information was received from Council C regarding C's care and support needs. This included limited information about how Council C had addressed C's psychological and emotional wellbeing. North Tyneside Council also requested a transition plan from Council C for C; however the response to this was delayed and when it was received it did not fully address C's transition needs into adulthood.

Discussions then took place between Council C and North Tyneside Council regarding C's status in relation to leaving care. It was agreed that C would remain in the care of Ms B under the Staying Put arrangements, paid for by Council C. At that time his social care assessment from North Tyneside Council then stopped.

The legal elements of this case were discussed between the legal departments of North Tyneside Council and Council C regarding the long term responsibility of C's care.

It has now been agreed that C will remain the responsibility of Council C until he turns 21. At that time he will become the responsibility of North Tyneside Council as he is classed as Ordinarily Resident in North Tyneside.

1.5.2 Findings

The findings of the LGO were as follows:

Ms B complained to the Ombudsman in March 2015. She was unhappy that North Tyneside Council had refused to provide support, and in particular had refused to approve a 'shared lives' arrangement for C. She said that both she and C needed certainty about the future. She believed a lack of certainty was responsible for deterioration in C's behaviour which was becoming more challenging.

The Ombudsman has investigated complaints against both North Tyneside Council and Council C. The Ombudsman found Council C had delayed in planning for C's transition to adulthood.

North Tyneside Council was found at fault by the Ombudsman for halting the assessment process. The Ombudsman's view is that North Tyneside Council failed to assess C's social care needs in a timely manner causing delay and injustice to C and Ms B.

The Ombudsman has also found fault with Council C due to the delay in their transition planning arrangements for C leaving care. Council C has accepted the findings and were required to pay £1000 each to Ms B and C by the Ombudsman.

1.5.3 Recommendations

The LGO investigator has found maladministration and injustice against the Authority and has made the following recommendations, as set out under paragraphs 65-67 Appendix 1:

- To apologise to Ms B and C for the distress caused by its failure to respond appropriately to Council C's request to assess C's adult social care needs in December 2013;
- To assess C's adult social care needs and, if appropriate, produce a care plan without delay so that Council C can complete his transition planning; and
- To make a payment of £500 each to Ms B and C to acknowledge the impact of the North Tyneside Council's delays on them at this time of uncertainty in their lives.

1.5.4 Actions taken in response

North Tyneside Council is committed to complete the assessment of C's adult social care needs, but requires the cooperation of both Ms B and C for this to be undertaken.

1.5.5 Officer Comments

The situation highlighted the difficulty in terms of establishing the responsibility for C due to his leaving care status and based on the lack of clarity provided by Council C regarding his transition plan and his longer term social care needs.

Throughout this time Ms B has been reluctant to engage in the assessment process until the conclusion of the Ombudsman investigation. She has also requested confirmation from North Tyneside Council that C can remain living with her under a Shared Lives arrangement indefinitely. North Tyneside Council cannot give such an assurance until a full assessment of C's needs have been concluded. This will include consideration to C's long term housing needs.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet is requested to note the findings of the report (Appendix 1), its recommendations and actions taken to address the LGO's recommendations.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

To comply with the recommendations of the LGO.

1.8 Appendices:

Appendix 1: The Ombudsman's final decision report,

1.9 Contact officers:

Jacqui Old, Head of Health, Education, Care and Safeguarding Management, tel. (0191) 643 7317

Yvette Monaghan, Customer, Member and Governor Services Manager, tel. (0191) 643 5361

Alison Campbell, Senior Business Partner, tel. (0191) 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

None.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The compensation of 2 x £500 will be met from the Care Coordination Team budget and will be paid directly to Ms B and C as set out in the recommendations of the LGO.

2.2 Legal

Where the LGO reports that injustice has been caused to a person aggrieved in consequence of maladministration, the report must be laid before the Authority who has a duty to consider the report and, within the period of three months beginning with the date on which the report was received, or such longer period as the LGO may agree in writing, to notify the LGO of the action which the Authority has taken or proposes to take.

2.3 Consultation/community engagement

Officers in Adult Social Care have been consulted about the actions identified to address the LGO's recommendations.

2.4 Human rights

Throughout this process C's care needs have continued to be met; he continues to live with Ms B under the Staying Put arrangements, funded by Council C. However C will turn 21 in December 2016 so this arrangement will come to an end at that time.

2.5 Equalities and diversity

North Tyneside Council will complete the assessment of C's Adult Social Care needs in line with the requirements of the Care Act 2014. We will ensure that B will have the opportunity to receive a well being assessment under The Care Act to establish if he has any care and support needs. This would then enable the Council to support B if required.

2.6 Risk management

There are no risk management implications arising as a result of this report.

2.7 Crime and disorder

There are no crime and disorder implications arising as a result of this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising as a result of this report.

PART 3 - SIGN OFF

- Deputy Chief Executive
- Head of Service
- Mayor/Cabinet Member(s)
- Chief Finance Officer
- Monitoring Officer
- Head of Corporate Strategy