

## Central Bedfordshire Council

### SCHH Overview and Scrutiny Committee

(21 March 2016)

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### Report by the Local Government Ombudsman

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#### Purpose of this report

1. To outline the findings and the Council's response and actions of the Local Government Ombudsman's Report in respect of Ms J. which was published on 15<sup>th</sup> January 2016.

#### RECOMMENDATIONS

The Committee is asked to:

1. To consider and comment on the content of the report.

#### Issues

Report by the Local Government Ombudsman

2. The Local Government Ombudsman independently and impartially investigates complaints made about Councils and then asks the particular Council to follow its recommendations.
3. This complaint relates to Ms J's direct payment that started with Bedfordshire County Council in October 2004. Since this time there have been numerous visits and discussion with Ms J about the use and running of her Direct Payment. This particular complaint originates in 2010 when Ms J had a new financial assessment which resulted in her having to contribute towards the cost of her care for the first time.
4. It was recognised at the beginning of Central Bedfordshire Council that Adult Social Care was performing inadequately at Bedfordshire County Council and so a Recovery and Improvement Board was established at Central Bedfordshire Council to improve the poor service that was being delivered.
5. The results of the Recovery and Improvement Board have helped to inform the Council's work in preparation for the Care Act. Consequently a lot of the areas for improvement highlighted by the Local Government

Ombudsman were already in progress. The report has helped to highlight the importance of this work.

6. A Review Meeting of this case, chaired by the Head of Safeguarding and Quality Improvement was held on 8th February 2016. The meeting considered the report, discussed the implications of the recommendations and the Council's approach to them.

### **Recommendations and Conclusions from the report**

7. The Council has accepted the LGO's recommendations and these have now either been completed or are being worked through.

8. The LGO also stated five conclusions :

- a. Record-keeping
- b. Disability Related Expenditure (DRE) and charging
- c. Support Plan
- d. Monitoring of Direct Payments
- e. Complaint Handling

### **9. Record keeping**

10. The LGO concluded that the Council had failed to keep adequate records and did not provide Ms J with clear information about its assessments and calculations.

### **11. Response and actions**

12. The Council agrees that it is vital that it provides clear information about its assessments to the relevant client and/or their representatives. In order to support this, robust records must be kept and every interaction should be recorded. This allows all parts of the system to act on fact and to provide evidence based decision making.

13. Therefore in Ms J's case a meeting with her and her advocate (if she wishes to use one) is being arranged in March to clearly explain her Overview and Support Plans that have been independently carried out by Bedford Borough Council. This meeting will also set up a clear working agreement for future reviews and monitoring.

14. Clear management oversight is now in place to ensure that this is happening in all cases. This is achieved through regular case file audits being undertaken by managers, the Operational Reference Group also makes use of discussion papers to review and improve practice across the board and the importance good record keeping and providing clear information about assessments is regularly reinforced at team meetings.

15. Starting in February, this particular case is being presented as a case study that managers are discussing with their teams and the Council's key partners to ensure the lessons learnt are embedded into practice.

## **16. Disability Related Expenditure and Charging**

17. The LGO concluded that the Council was not taking sufficient account of the impact of Ms J's disability on what she is able to do. This is in relation to costs associated with her inability to travel and the responsibilities of her Personal Assistants were not clear. The Council was also not clear in explaining why certain costs were not allowed for Disability related expenditure (DRE).

## **18. Explanation of DRE**

19. DRE is a cost the client may incur because of their age, disability or medical condition. Examples could include extra laundry, incontinence aids, garden maintenance, transport, extra heating costs and specialist equipment.

20. The Council asks for receipts as proof of their spend because these costs (as well as 'protected income' – the basic amount of Pension Credit or Income Support plus 25% and 'property-related household expenses', such as rent, mortgage and council tax) are deducted from the client's total weekly income and a weekly 'tariff charge' of £1 for each £250 (or part of) on capital and savings between the lower (£14,250) and upper capital limit (£23,250). The final figure will be their 'disposable' income.

21. The disposable income is their assessed contribution towards the cost of their care. The amount the Council asks them to contribute will never be more than the full cost of their service. Further information and examples are provided in the Paying for Care leaflet.

## **22. Response and actions**

23. In this case the financial assessment was completed following a visit from a Community Finance Adviser and the DRE was calculated on the receipts given at the time. In hindsight more information should have been given to Ms J and her advocate to very clearly explain what was covered by DRE and what was covered by the Direct Payment.

24. Therefore in Ms J's case the Council will be undertaking a brand new financial assessment in March and clearly explaining what can and cannot be taken into account for DRE and also what the Direct Payment can therefore be used for.

25. To support all our customers, a separate DRE leaflet is being produced to expand on the information contained in the Paying for Care Leaflet to give more detail on what DRE can be used for and therefore what receipts should be provided. The Direct Payments Practise Guidance is also being

strengthened to highlight these issues. This will enable social care professionals to provide better information to clients about the relevance of DRE and what is covered by it and also their Direct Payment.

## **26. Support Plan**

27. The LGO concluded that the Council did not put the service user at the heart of the review and was not clear on the duties of her personal assistants or on other support to meet her needs.

## **28. Response and actions**

29. It is vital that the support plan is about meeting the needs of the individual through a person centred approach and that the assessment clearly describes the person's needs. In Ms J's case the Council has asked Bedford Borough Council to undertake a brand new Overview Assessment and corresponding Support Plan. These have now been completed and Central Bedfordshire Council is now arranging to meet with Ms J in March to clearly explain these to her and therefore the options that she has.

30. The Care Act 2014 has supported the Council to develop its approach to assessment and support planning and being specific about eligibility. Work is also currently underway to review the Customer Pathway. This is to ensure that our engagement with customers is not about processes and systems but rather on the needs of the individual and how these can be best met. The review will also focus on the interactions between care management and the various teams that support customers to ensure timely and streamlined responses to support the assessment, care planning and review.

31. Once this work is complete later this year, we will be working closely with our software suppliers to ensure that the improvements to Swift will take this new approach into account.

32. Since 2014 the Council has developed a quality improvement programme of work to support implementing the Care Act and develop practice. This includes governance arrangements for practice development, and a practitioner forum. Part of the role of the practitioner forum is to act as a reference group for policy and process development. New initiatives include a case file audit procedure, a process for learning from complaints and embedding regular quality assurance.

## **33. Monitoring of Direct Payments**

34. The LGO concluded that the Council should have seen within a matter of weeks that Ms J was not paying her client contribution into her Direct Payment bank account. The Council's failure to deal with this straight away was fault. There was also poor exchange of information between the financial monitoring and review of care arrangements.

35. Response and actions

36. During the period in question, there was a large backlog in the monitoring of Direct Payments. It was also not possible to quickly establish that Ms J was not paying her contribution into her DP bank account because there were problems receiving bank statements and receipts from her despite various requests and visits.

37. In 2014 the Direct Payments Team was restructured and capacity was increased to four Direct Payment Officers. This has enabled more regular monitoring to take place and each new Direct Payment client is now offered a visit by a Direct Payment Officer to provide further advice and information, answer any further questions they might have about their Direct Payment and help them with the returns process.

38. The Direct Payments Policy has been updated to reflect the changes in the Care Act and this is now much clearer about the process for non returns. The responsibilities of the Direct Payment's customer are also explained more clearly in the Direct Payment Contract, by the social worker's and the Direct Payment Officer's visits.

39. Once the upgrades to Swift have been completed this year, a business case will be produced looking at moving Direct Payment customers away from bank accounts and onto pre-paid cards. Although there is a cost implication for this, there are many benefits for both the Direct Payment customer and the Council. In this case, the Council would have immediate access to the pre-paid card account and would have been able to instantly spot that no client contribution was being paid.

40. Communication between the Direct Payment Team and the Social Work Teams has improved greatly since this complaint originated. Any concerns with a Direct Payment account are discussed with the social worker and a weekly report is produced for Budget Managers highlighting any financial issues. Before any review Social Workers will discuss any issues about the Direct Payment with the Direct Payment Team.

41. As mentioned previously, one of the outcomes of the Customer Pathway Review is to reduce hand offs in the process and where this cannot be achieved ensuring everyone is clear on their particular roles and responsibilities. An emphasis on the assessment and support planning process as a means to take account of all aspects of a person's life will ensure better coordination between teams.

42. **Complaint handling**

43. The LGO concluded that the Council did not follow its complaints procedure when Ms J complained.

44. Response and actions

45. There were several complaints and communications from Ms J over an extended period of time and these complicated matters. However, Customer Relations have recognised the value of setting trigger points in cases with repeat communications and challenges.
46. A chronology is now put in place for cases with more than one challenge to a Local Resolution response. Cases are reviewed objectively and clear decisions made as to the best way forward, including ensuring the Assistant Director reviews the process and the option to refer matters to the Local Government Ombudsman is communicated appropriately to customers.

### **Council Priorities**

47. One of the Council's priorities is to promote health and well being and protect the vulnerable. The Adult Social Car service welcomes complaints and is using the lessons from this complaint to improve the services that we provide to our clients.

### **Corporate Implications**

#### **Legal Implications**

48. The Care Act 2014 came in to force on 1<sup>st</sup> April 2015 and this provides the legislative framework under which the Council operates when managing care and support needs. The Care Act 2014 and the accompanying statutory guidance specifically deal with direct payments. In particular, the statutory guidance sets out the detail of the circumstances in which direct payments can be provided and how they should be administered.
49. Many of the issues raised within the LGO report occurred prior to the Care Act 2014 being implemented. Moving forward, practice and procedure will reflect the Care Act 2014.

#### **Financial Implications**

50. Effective management of complaint issues focuses resources on resolution and reduces the risks of financial remedies being paid. This was not the case with this complaint but the learning from it is being used to inform service improvements.

#### **Equalities Implications**

51. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age, disability, gender reassignment, marriage and civil

partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

52. To support vulnerable people to feel safe it is important that they know how to complain about services they receive, feel heard when they raise complaints and that action is taken where appropriate. It is important that lessons are learnt from this case and acted upon to ensure that this happens to the level that it should.
53. This complaint has highlighted the need, when undertaking financial assessments and considering disability related expenses, to take sufficient account of the impact of an individual's disability on what they are able to do and to clearly explain why some expenditure is not classed as a disability related expense. The findings have also highlighted a need for greater awareness that an individual's disabilities can impact on their ability to participate in meetings and that alternative approaches, to facilitate engagement, need to be considered.

#### **Conclusion and next Steps**

54. The Committee is asked to scrutinise the findings of the Local Government Ombudsman complaint and consider the implications for the Council.

#### **Appendices**

55. Report by the Local Government Ombudsman 15 January 2016 (reference number 13 014 946)

#### **Background Papers**

56. The following background papers, not previously available to the public, were taken into account and are available on the Council's website:  
None