

Decision Report - Non-Key Decision

Forward Plan Reference: FP/19/06/11

Decision Date - 14/08/19



Local Government and Social Care Ombudsman Report Outcome

Cabinet Member(s): Cllr David Huxable - Cabinet Member for Adult Social Care

Local Member(s) and Division: N/A

Lead Officer: Stephen Chandler, Director of Adult Social Services, Lead Commissioner.

Author: Kath Wevell, Team Leader- Customer Experience and FOI

Contact Details: Tel 01823 359086 or email kwevell@somerset.gov.uk

1. Summary

1.1. The role of the Local Government and Social Care Ombudsman (LGSCO) is to independently and impartially investigate complaints. They have no legal power to force councils to follow their recommendations.

1.2 Ms X complained to the LGO that the Council had failed to clearly address her eligibility for care and support under the Care Act 2014 (The Act). The Council believed it had completed an assessment using the Care Act eligibility outcomes.. The Care Act eligibility outcomes are as follows:

- managing and maintaining nutrition
- maintaining personal hygiene
- managing toilet needs
- being appropriately clothed
- maintaining a habitable home environment
- being able to make use of the home safely
- developing and maintaining family or other personal relationships
- accessing and engaging in work, training, education or volunteering
- making use of necessary facilities or services in the local community including public transport and recreational facilities or services
- carrying out any caring responsibilities the adult has for a child

The Assessor had provided a professional summary of how each Care Act eligible outcome was being met and suggestions for community led solutions. However, the Council assessor had not included the words under each eligible outcome to determine whether Ms X was eligible or non-eligible under the Care Act. The LGSCO therefore found this assessment by Somerset County Council to be non-Care Act compliant.

The Ombudsman has instructed the Local Authority to update its assessment for Ms X so that it includes a clear decision on eligibility, as required by the Care Act, and shares this with her. The LGSCO advises the Council takes action to ensure all its assessments include clear written

decisions on eligibility by informing assessors of the need to do this; updating its guidance for officers; and providing the Ombudsman with evidence that it has done this and to publicise the findings. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected members and will require evidence of this to be shared with the Ombudsman. (Local Government Act 1974, section 31(2), as amended)

- 1.3** Adult Social Care has, in line with the recommendations, considered the report and will confirm within three months the action it has taken or proposes to take. The report should be considered at its full Cabinet. The Council has agreed to write to apologise to Ms X and pay her £250 for the trouble it has put her to in pursuing her complaints. To update its assessment for Ms X so that it includes a clear decision on eligibility, as required by the Care Act, and share this with her and take action to ensure all its assessments include clear decisions on eligibility by updating its guidance for officers; informing assessors of the need to do this; and providing the Ombudsman with evidence that this has been completed. The paperwork has been implemented across the service to provide a level of consistency and will facilitate staff to record our conversations. The assessment document, support plan and staff guidance has been shared with the Ombudsman.

2. Recommendations

- 2.1.** That Cabinet note the report, its findings and endorse the actions taken by the Director of Adults Social Services as recommended by the Ombudsman.

3. Links to County Vision, Business Plan and Medium-Term Financial Strategy

- 3.1.** The Adult Social Care documentation will strengthen the operational conversations with individuals, families and carers.

4. Consultations and co-production

- 4.1.** ASC documentation has been developed with Legal advice, consultation with family, carers and staff and has been shared with the Ombudsman.

5. Financial and Risk Implications

- 5.1.** No ongoing funding implications. However, failure to change our documentation could have led to further challenge from the Ombudsman which could lead to their recommendation to financially remedy the individual.

6. Legal and HR Implications

- 6.1.** Paperwork has been developed in line with recommendations and guidance from Legal Services.

7. Other Implications

7.1. Equalities Implications

No implications

7.2. Community Safety Implications

No implications

7.3. Sustainability Implications

The impact of the new ASC documentation will strengthen the operational practice in identifying and delivering positive outcomes for individuals. It will support in the robust determination of eligibility under the Care Act and clearly identify outcomes for individuals, families and carers detailing how these will be met.

7.4. Health and Safety Implications

This will not impact on Health and Safety.

7.5. Health and Wellbeing Implications

No implications

7.6. Social Value

Not applicable

8. Scrutiny comments / recommendations:

- 8.1.** Not applicable.

9. Background Papers

- 9.1.** ASC documentation attached.

Report Sign-Off

		Signed-off
Legal Implications	Honor Clarke	24/07/19
Governance	Scott Woodridge	24/07/19
Corporate Finance	Sheila Collins	26/07/19
Human Resources	Chris Squire	n/a
Property	Paula Hewitt / Claire Lovett	24/07/19
Procurement / ICT	Simon Clifford	24/07/19
Senior Manager	Stephen Chandler or Mel Lock	17/07/19
Commissioning Development	Vikki Hearn	n/a
Local Member	<u>N/A</u>	n/a
Cabinet Member	Cllr David Huxable - Cabinet Member for Adult Social Care	29/07/19
Opposition Spokesperson	Cllr Bill Revans	06/08/19
Scrutiny Chair	Cllr Hazel Prior-Sankey - Adult's Scrutiny	31/07/19