

SPSO decision report



Case: 201800581, East Ayrshire Health and Social Care Partnership
Sector: health and social care
Subject: home helps / concessions / grants / charges for services
Decision: upheld, recommendations

Summary

Mrs C, an advocacy and support worker, complained on behalf of her client (Mr A) that the partnership unreasonably failed to carry out a full or formal kinship care assessment. Mr A became the legal guardian of his two younger siblings following his mother (Ms B)'s death. Before and after Ms B's death, the partnership indicated that Mr A would receive kinship allowances after he assumed caring responsibilities for his siblings. However, the partnership later advised Mr A that they would not pay kinship allowances, stating that as the caring arrangements were made before Ms B died, the partnership did not have a responsibility to do so.

Mrs C challenged this decision, stating that Mr A is an informal kinship carer and his siblings could be considered to be at risk of becoming looked after (a looked after child is a child under the care of the council). This would mean that his siblings could be classed as eligible children, which would allow kinship allowances to be paid. However, the partnership's view was that Mr A's siblings were not at risk of becoming looked after and were therefore not eligible children.

We took independent advice from an adviser with a background in social work and children and family services. We found that the partnership had not carried out an appropriate assessment to determine whether Mr A's siblings were at risk of becoming looked after. The partnership had largely based their decision-making on statements made by Mr A. We considered that these statements were not adequate evidence that the siblings were not at risk of becoming looked after. We noted a number of entries in the partnership's records that indicated that Mr A and his family were struggling and that Mr A and Ms B's decision-making appeared to have been influenced by the understanding that kinship allowances would be paid. Therefore, we upheld Mrs C's complaint.

We noted that the partnership had apologised for indicating that Mr A would receive kinship allowance and then changing their position on this. However, we were concerned that the partnership had not explained why this was their position for so long and that they had not appeared to have reflected on the significant impact this had on the choices made by Mr A and the connection to the subsequent difficulties his family experienced.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr A for not carrying out a kinship care assessment which would have clearly identified whether or not he was eligible to receive kinship allowances in respect of his siblings. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/leaflets-and-guidance.
- Complete a full kinship care assessment, in line with any relevant guidance, should Mr A still want one to be carried out. As far as possible, consideration should be given to the circumstances of the household when the assessment was originally due to take place, not just the current circumstances. If, following the assessment, the children are deemed to be eligible, any kinship allowance should be backdated to when they would have commenced had the original assessment taken place. However, it is reasonable for the

partnership to deduct any financial support that has already been provided through section 22 payments from the backdated amount.

What we said should change to put things right in future:

- Ensure that all partnership staff are aware of what assessment should be carried out in order to determine whether a child is at risk of becoming looked after.
- Reflect on the circumstances that led to Mr A being wrongly advised about kinship allowance eligibility for around five months before being told that this position was incorrect. Identify why Mr A was given this incorrect advice for so long, with a view to putting in place learning and improvement where appropriate. Reflect on the impact this advice and subsequent change of position had on Mr A and give consideration to whether any further redress is appropriate