

SPSO decision report



Case: 201807779, Dumfries and Galloway Council
Sector: Local Government
Subject: policy / administration
Decision: upheld, recommendations

Summary

C, an advice worker, complained about the council on behalf of their client (A). A's relative (B) was placed with them after difficulties in their parents' circumstances. It was initially agreed that a parenting assessment be carried out, which led to a joint care arrangement being agreed. However, an incident later in the year highlighted that it would not be suitable for this arrangement to continue. It was agreed at a Looked After Child Review that a kinship care assessment in respect of A assuming full time care of B should be progressed.

The initial kinship care assessment was not completed and there were delays before the assessment was re-started. This meant it took many months for A to be approved as a kinship carer. After C complained, the council agreed that kinship care assessments should be completed within twelve weeks and three days of the placement. However, in their view, the twelve weeks and three days should begin from the date it was agreed a kinship care assessment should be carried out. C complained to us as they did not agree with this position and felt the twelve weeks and three days should be taken from the date B was placed with them.

We independent advice from a social worker. We found that the council's decision to commence the kinship care assessment from the date it was agreed a kinship care assessment should be carried out was not supported by the relevant guidance and evidence. We considered it reasonable for the council to pursue a joint care arrangement with a view of eventually returning B to their parents' care. However, in our view, the council unreasonably failed to commit to a position in respect of A's kinship care status until the joint care arrangement became untenable. Based on the circumstances detailed in C's complaint, we concluded that A should have been assessed as a kinship carer from the date B was placed with A. Therefore, we upheld this complaint.

C also complained that A was not aware B received Disability Living Allowance (DLA), which was being paid to the parents. The council explained that social work staff were not aware DLA was in payment. However, in C's view, the council should have been aware that B may be eligible for DLA and provided advice about this.

We found that social work staff would not receive automatic notification of what benefits someone is in receipt of. However, we concluded that an assessment of financial circumstances or potential eligibility for disability benefits did not appear to be built into the council's standard processes. Nor did these factors appear to be considered in light of the B's circumstances in this case. We concluded that this was not reasonable and opportunities to gather information about the family's financial circumstances and potential entitlement to disability were missed. Therefore, we upheld this complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to A for the failings identified in this report. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsos.org.uk/information-leaflets.
- Calculate the amount of kinship allowance that would have been payable to A had a kinship care

assessment commenced on the day B was placed with A. Make payment of this amount to A. The payment should be made by the date indicated: if payment is not made by that date, interest should be paid at the standard interest rate applied by the courts from that date to the date of payment. It is reasonable for the council to take into account payments already made under Section 22 of the Children (Scotland) Act 1995.

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

- Kinship care assessments should commence from the appropriate date, in line with relevant guidance and legislation.
- Relevant social work staff should be aware of when service users may be eligible for disability benefits and how to provide appropriate advice/signposting.
- The council should have clear guidance on the interaction between joint care arrangements and kinship care placements. Relevant staff should be aware of this guidance.
- Where appropriate, social work assessments should include consideration of the service user's financial circumstances and any potential eligibility to disability benefits.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.