

SPSO decision report



Case: 202000561, Dumfries and Galloway Council
Sector: Local Government
Subject: Kinship care
Decision: upheld, recommendations

Summary

C, a support and advice worker, complained on behalf of their client (A) that the council had unreasonably failed to provide A with kinship care assistance, including financial support. A became the carer to their family member (B) when B's parent was unable to care for them.

We took independent advice from a social work adviser. We found that a number of contemporaneous records were missing. The record-keeping failures in this case mean that there is no record of whether the council have met their legal and procedural obligations. In particular, there is no definitive record of whether a Section 25 order was signed and rescinded or why the decision to carry out a comprehensive assessment and refer to the Children's Reporter was not followed through.

We found that these record-keeping failures had left the family in an unreasonable position where there is difficulty corroborating what happened and therefore placing them at a disadvantage in terms of accessing a kinship care assessment and any appropriate allowances. In the absence of records, we considered that the council had unreasonably failed to take sufficient account of the evidence available from the family and the social worker involved at the time (both of whom indicated that a Section 25 order was signed). Based on the evidence available, we considered that it was likely that a Section 25 order was signed and at that point B became a looked after child which means they became an eligible child in relation to kinship care under the Children and Young People (Scotland) Act 2014. We also noted that the Kinship Care Assistance (Scotland) Order 2016 extended the definition of an eligible child to include a child who was previously looked after.

In light of the above, we considered that the council failed to provide A with reasonable kinship care assistance. As such, we upheld the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to A for failing to maintain case records regarding A and B's involvement with social work, failing to take sufficient account of the evidence available which indicated that a Section 25 order was signed, making B a looked after child and an eligible child in relation to kinship care. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Complete a kinship care assessment, in line with relevant guidance, in respect of A's care of B. As far as possible, consideration should be given to the evidence available indicating that a Section 25 was signed, making B a looked after child and the circumstances of the household when the assessment should have originally taken place (not just the current circumstances). If, following the assessment, the council is satisfied of eligibility, consideration should be given to the backdating of any kinship allowance to when it would have commenced had the council appropriately considered the evidence available indicating that a Section 25 was signed.

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

- Where written records are not available due to a failure in record-keeping, information from families and social work staff should be appropriately taken into account.
- Written case records should be appropriately maintained and retained in accordance with relevant legislation and guidance.

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.