

CABINET

1 JULY 2022

LOCAL GOVERNMENT OMBUDSMAN REPORT

Relevant Cabinet Member
Councillor Adrian Hardman

Relevant Chief Officer
Strategic Director for People

Recommendation

- 1. The Cabinet Member with Responsibility for Adult Social Care recommends that Cabinet:**
 - a) considers and notes the recommendations of the Local Government and Social Care Ombudsman Report; and**
 - b) endorses the Action Plan in response to the Ombudsman's recommendations.**

Background

2. The Directorate has been made aware of a report from the Local Government Ombudsman following a complaint that the County Council took too long to put in place a direct payment for an individual's care. The complainant said this caused her distress and meant she did not receive appropriate care.
3. The Ombudsman found fault causing injustice and made recommendations. The full report is attached at the Appendix.
4. Announcements were placed publicly on 08 June 2022 in accordance with statutory requirements.
5. The Council is also required to consider the report at an appropriately delegated Committee of the Council, in this case, Cabinet.
6. Within three months of receiving the Ombudsman's Report (or a longer period which must be agreed in writing with the Ombudsman) the action that the Council has taken, or proposes to take, must be communicated in writing to the Ombudsman.
7. The key areas of maladministration found by the Ombudsman were:
 - a) The Council took 5 months to complete a social care assessment and care and support plan which was not a reasonable or appropriate timeframe and was not in line with paragraph 6.24 of Care and Support Statutory Guidance;

b) The Council failed to take actions to put in place the direct payment in a timely fashion;

c) The Council's and Penderels' inaction in progressing the direct payment indicates there was no clear or swift process in place to respond to requests for direct payments. This was not in line with paragraph 12.10 of Care and Support Statutory Guidance and was fault;

d) There was no evidence of a refusal to co-operate on the part of Ms X.

8. The Local Government Ombudsman specific recommendations which have been accepted by the Strategic Director for People were as follows:

a) The Council needs to apologise to Ms X and pay her £3,000 to reflect the disruption, inconvenience and distress caused by not having care between January 2021 and January 2022. The Ombudsman has considered the LGO Guidance on Remedies which allows for exceptional payments where the loss of service has a high and continuing impact which applies in this case. b) The LGO are satisfied that since their involvement, the Council is now taking all appropriate action to start up the direct payment. The Council needs to provide the LGO with a further update on progress within four weeks of the date of the LGO report;

b) The Council's records show the delay by Penderels Trust was a known issue as there was a waiting list. This means others may also have been affected in a similar way. The LGO has recommended the Council identifies other cases on Penderels Trusts' waiting list from January 2021. Where there was a delay in putting in place a direct payment and remedies any injustice to those affected in line with the LGO Guidance on Remedies. It should do so within three months of the date of the Ombudsman's report and provide the LGO with a summary of the key facts in each case, the length of delay, the impact on the person and the financial remedy agreed. The Council has accepted this recommendation in principle but has advised the LGO there may be difficulties identifying cases. It has agreed to attempt to carry out this action.

c) Had the Council still been using Penderel's Trust to provide a direct payment support service, the LGO would have made recommendations to improve the service as the delay in this case was exceptionally poor. Fortunately, the Council has commissioned another organisation to provide direct payment support to clients in Worcestershire already.

9. Since publication of the LGO's report has been published, this Council has:

a) Commissioned a new provider to administer direct payments, Barrie Bookkeeping. Response times following referral average 2/3 days for new recipients of direct payments;

b) Sent an apology letter to Ms X together with a cheque to make the payment recommended by the LGO;

c) The 4-week update has been provided to the LGO;

- d) The Adult Social Care Commissioning Team have been in discussions with Penderels Trust to clarify if any other residents have been affected based on their records;
- e) The Business Intelligence team have generated a report to identify any other users which have been reviewed in line with LGO recommendation.

Overview and Scrutiny

10. Adult Social Care continue to develop ways of improving the effectiveness of implementation of Direct payments and support available to residents who use them. A full programme of work has been undertaken and is being presented to Adult Care and Well Being Scrutiny Panel on 20 May 2022.

Legal, Financial and HR Implications

11. In line with the Local Government Ombudsman specific recommendation, it has been agreed to pay Ms X £3,000 to reflect the disruption, inconvenience and distress caused by not having care between January 2021 and January 2022. This has been met from within the adult social care revenue budget.

Risk Implications

12. There is a risk of further compensatory payments being required and having a call on the finite revenue budgets within Adult Social Care. However, mitigation is now in place as the new provider is contacting people within 2/3 days.

Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments

13. Not required at this time as consideration has been given during the procurement process of an alternative service to Penderels.

Supporting Information

Appendix – Report of the Local Government Ombudsman reference 21 005 339 dated 27 April 2022.

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Strategic Director for People) there are papers relating to the subject matter of this report: