

SPSO decision report



Case: 201902575, Highland NHS Board
Sector: Health
Subject: continuing care
Decision: some upheld, recommendations

Summary

C had taken steps to obtain a Welfare Guardianship Order in respect of their adult child (A). Part of this process involved C's solicitor requesting the production of a suitability report from the local council. Due to a variety of reasons, the production of a suitability report took a significant length of time. As part of the application process, C's solicitor sought an Adults with Incapacity report from A's new GP. Following this request, A's GP submitted an Adult Support and Protection (ASP) concern referral in respect of A. This referral was received by the board's Social Work Adult Services.

In response to this referral, the social worker who was allocated to A carried out a number of inquiries. This included contacting the mental health officer (MHO) at the council, who was tasked with producing the suitability report. C complained about the social worker's involvement in the guardianship application process. In C's view, the social worker inserted themselves into the application process in a manner that was beyond their remit and sought to delay or hinder the application. C also complained that the board and the social worker did not act in line with the relevant procedures in respect of the ASP process after receiving the concern referral.

We took independent advice from a social worker. In respect of the guardianship application process, the social worker did not act beyond their remit. Under the circumstances, it was appropriate for the social worker to make contact with the MHO after receiving the ASP concern referral. It was also appropriate for the social worker to provide their professional opinion in respect of the guardianship application. As such, we did not uphold this aspect of the complaint.

In respect of the ASP process, the board carried out their duties in line with their obligations and their inquiries were appropriate. However, the board failed to provide a reasonable level of clarity about whether their actions were taken under ASP legislation and guidance. We did not consider there to be evidence to indicate that the social worker acted in bad faith. However, in our view, the evidence showed a lack of clarity around why specific actions were being carried out and a lack of accuracy in the language used by the social worker in their correspondence. Therefore, although we were satisfied that the board's actions were in line with their obligations, we did not consider them to have been carried out reasonably. As a result, we upheld this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to C for failing to act reasonably after receiving an Adult Support and Protection concern referral in respect of A. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.

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

- Adult services staff should ensure that actions taken after receiving an Adult Support and Protection

referral are clearly and accurately communicated to relevant parties.

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.