

## SPSO decision report



**Case:** 201907845, Angus 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. The council initially advised A that a kinship care assessment would take place and that A would receive a kinship care allowance. The council then changed their position. They advised that from the outset, A was clear that they would care for B should B's parent be unable to do so. As a result, their view was that B was not at risk of becoming 'looked after' (a looked after child is a child under the care of the council) and that an assessment was therefore not required and no financial assistance would be provided.

C challenged this decision, stating that B could be considered to be at risk of becoming looked after. This would mean that B could be classed as an eligible child, which would allow kinship allowances to be paid.

We took independent advice from an adviser with a background in social work and children and family services. We found that the council had not carried out an appropriate assessment to determine whether B was at risk of becoming looked after. The council had largely based their decision-making on statements made by A. We considered that these statements were not adequate evidence that B was not at risk of becoming looked after. We noted that the council's initial actions indicated that they did consider B was at risk of being looked after. In particular:

it was the council who approached A in the first instance to discuss kinship care and what was involved

the council was involved in placing B with A

there was no evidence of a clear discussion regarding the family making their own arrangements

B would have to be accommodated as a looked after child if A did not agree to care for them.

We noted that the council had apologised for indicating that A would receive kinship allowance and then changing their position on this. However, we were concerned that the council had not reflected on why these communication issues occurred or the impact that this had on A. In light of the above, we upheld C's complaints.

### Recommendations

What we asked the organisation to do in this case:

- Apologise to A for not carrying out a kinship care assessment which would have clearly identified whether they were eligible to receive kinship allowances in respect of B. The apology should meet the standards set out in the SPSO guidelines on apology available at [www.spsa.org.uk/information-leaflets](http://www.spsa.org.uk/information-leaflets).
- Complete a full kinship care assessment, in line with relevant guidance, should 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, B is deemed to be eligible:

- any kinship allowance should be backdated to when it would have commenced had the original assessment taken place
- an assessment should take place regarding the local authority paying a contribution towards A's legal costs in respect of obtaining the residence order
- an assessment should take place regarding the provision of a financial allowance in respect of the residence order, backdated to when the allowance would have commenced following A being granted the residence order.

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

- Assessments should be carried out in order to determine whether a child is at risk of becoming looked after.

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.