

Your ref:

Our ref: FSUI/RB/GJ

Please call: Mr R Beane
Direct Line: 01609 533219

Internal Audit Service

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2 August 2010

Dear Mr Paulley

I am writing further to your request for an internal review of the Council's handling of and response to your Freedom of Information request, reference number N1452. I have now had the chance to review the documentation and to contact the relevant members of staff and have set out my findings below.

Your first request was as follows:

- '1) Please supply information relating to the incidence of attempts by care providers to evict residents in care homes - that is, care providers giving residents notice to leave or otherwise attempting to get them to leave without their involvement in the decision or against their wishes.

Please indicate the number of cases you are aware of for the last 3 years, also indicating if and how your council responded to the situation, and what was the ultimate result of the situation, i.e. if and how the situation was resolved.'

The Council responded as follows:

'North Yorkshire County Council does not hold this information centrally, and the only possible place that it may be recorded is in individual case files. The collection and processing of the information requested would take well in excess of 18 hours, (by way of example in 2009/10 alone this would involve reviewing 2360 files of people supported in a residential setting) and the large amount of work involved would bring the cost of answering the request over the amount to which we are legally required to respond, i.e. the cost of locating and retrieving the information exceeds the 'appropriate level' as stated in the Freedom of Information Act (Fees and Appropriate Limit) Regulations 2004. I attach a copy of our charging regime, and our appeals process.

By way of explanation, there would be various reasons for a person to be moved from a residential home. For us to look at any cases where people were asked to leave or given notice, we would have to look at all of the cases where people had moved, and work backwards.

It would be against the terms and conditions of North Yorkshire County Council to evict someone or get them to leave a home without their involvement in the decision or against their wishes.'

In your request for internal review you have disputed this response as you assert that a general enquiry to selected members of staff would satisfy your enquiry.

The Freedom of Information Act 2000 provides access to recorded information only. As the Council does not hold a central record of the reasons that residents have moved from a care home the only way to accurately obtain the information you have requested would be to go through the individual case files of each client supported in a residential setting to ascertain firstly whether the case was within the scope of your request and if so to then retrieve the information requested. You were given an idea of the size of such an exercise would take in the Council's original response (i.e. 2360 files for 2009/10 alone.)

I agree with the Council's original response that the only way to provide an accurate response to your request and to provide an accurate answer to your enquiry under the Freedom of Information Act 2000 would be to review these files, which would take in excess of 18 hours, which you were duly informed. As such I can confirm that the Council fulfilled its duty under the Freedom of Information Act 2000 in relation to this request.

You have now however informed the Council that a general request to see if any cases can be recalled from memory would be acceptable to you. Please note there is no legal requirement for the Council to do this however on this occasion we have verbally checked with selected care managers and I can confirm that they are not aware of any cases that match your description. Please note however that as the Council has not checked its records to provide a definitive response to your request this is not to be regarded as the Council's official response on this matter and the Council provides no guarantee of its accuracy.

You also requested:

'2) Please provide me with the number of instances your council is aware of where either CQC or local authority safeguarding procedures have substantiated allegations of institutional abuse of a Leonard Cheshire social care service user over the past 3 years.

Further, please provide anonymised information on the alleged behaviour by Leonard Cheshire resulting in the conclusion.'

The Council responded as follows:

'There have been no allegations or substantiation of institutional abuse in a Leonard Cheshire home during this period.'

You queried this response on the grounds that the Care Quality Commission report for Alne Hall in Hambleton identified that there has been at least one instance of safeguarding/POVA concerns being reported to the Council and you requested that the Council double-check that this case was not one of institutional abuse.

Following consultation with social care regarding the case you have identified I can confirm that the Council's original response still applies and there have been no allegations or substantiation of institutional abuse in a Leonard Cheshire home during this period.

I hope this resolves the issues you had however if you remain dissatisfied with this response you have to right to seek an independent review from the Information Commissioner by writing directly to:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF
Tel: 01625 545 700
Fax: 01625 545 510

Yours sincerely



ROBERT BEANE
Information Governance Officer