



COUNCIL, 25 MARCH 2009

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This report is submitted with the agreement of the Mayor as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972

REPORT OF THE MONITORING OFFICER

SUBJECT: JOINT REPORT OF THE PARLIAMENTARY & HEALTH SERVICE OMBUDSMAN AND THE LOCAL GOVERNMENT OMBUDSMAN

SUMMARY

The Council has received from the Local Government Ombudsman and the Health Ombudsman a joint report into complaints relating to the care of an individual, Mr Cannon, in a unit managed by an external contractor on behalf of the Council under contractual arrangements, and his subsequent hospital treatment. The report, a copy of which has been provided to all members, concludes that the Council was guilty of maladministration in the way that Mr Cannon was cared for, and in relation to the subsequent handling of his parents' complaint about that.

RECOMMENDATIONS

1. That the Council receives the Ombudsman's report into the complaint about the care of Mr Cannon
2. That a formal apology is given to the parents of Mr Cannon and that an ex-gratia payment of £10,000 is made to each parent.
3. That Council refer to Cabinet consideration of a report into the actions taken or to be taken to improve the provision of provider care plans and risk assessment for all persons coming into respite care commissioned by the Council.

REPORT DETAIL

- 1 Mr Cannon suffered from epilepsy, learning difficulties and osteoporosis and sustained a broken femur while receiving respite care in a care home. The exactly how this injury was sustained has yet to be fully ascertained. He was admitted to hospital following this injury. This set of a series of medical interventions that led to his death, issues which the Health Service Ombudsman has considered in the joint report.
- 2 The Local Government Ombudsman has provided a very detailed report on the Council's actions and omission which runs to 282 paragraphs. The Introduction and Summary is set out in paragraphs 1 to 42, with the complaint against the Council set out at paragraph 12 and the Ombudsman's conclusion at paragraph 36. Paragraphs 43 to 125 set out the background context, e.g. legislation and guidance. Paragraphs 126 to 282 contain the details of the investigation with the detailed conclusions set out at paragraphs 243 to 282. The Ombudsman's final comments are set out at paragraphs 479 to 498.
- 3 As well as maladministration in the way Mr Cannon was cared for, the Ombudsman has concluded that the way in which the Council handled the complaint by Mr Cannon's parents amounted to maladministration and that the maladministration caused injustice to Mr Cannon's parents.
- 4 The Ombudsman has made 3 recommendations to the Council:
 1. To formally apologise to Mr Cannon's parents for its failings.
 2. To make to each parent an ex gratia payment of £10,000
 3. To take all necessary steps to ensure that provider care plans and risk assessments are properly in place for all persons in receipt of respite care commissioned by the Council.
- 5 Under the provisions of the Local Government Act 1974 (as amended) the Council has to formally receive and consider the report and within 3 months notify the Ombudsman of the actions it has taken or proposes to take. If the Ombudsman is not notified of the Council's action or is not satisfied with them he can issue a further report. The Council also has to give a notice in a local newspaper of receipt of the report and have it available for inspection at least 3 weeks after publication of the public notice.

- 6 Following consultation with the Administration it is proposed that the Council should accept the 3 recommendations. If this is agreed by the Council the formal apology will be sent by the Chief Executive on behalf of the Council and the required payments will be made to the parents. Substantial work has already been done to improve the provision of provider care plans and risk assessments for all persons coming into respite care, including revised assessments and plans for each admission. It is proposed that a detailed report on the improvement being made is presented to the Cabinet for approval before forwarding to the Ombudsman as required by the Local Government Act 1974.

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Background paper List

The Joint Report of the Parliamentary & Health Service Ombudsman and the Local Government Ombudsman with appendices entitled "Six lives: the provision of public services to people with learning disabilities"

Note: the copy of the Joint Report appended to this report differs in format and layout from that published on the Ombudsmen's behalf by The Stationery Office but has the same text.

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