

14 March 2018

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Information Governance Team
Corporate Services & Digital
County Hall
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Our ref : RFI – ENQ08388-REQ002 Review

Dear Ms. Dunn,

Review of Freedom of Information Request regarding Lasting Powers of Attorney created by Adult Care Safeguarding Team

I write following your complaint relating to the Wiltshire Council response to your recent freedom of information request. On 27 December 2017 you requested the following information;

How many vulnerable adults have had Power's of Attorney created and registered by men/women working in Adult Care or Safeguarding teams.

How do you monitor this very serious application.

What steps do you take, if there is an alert made to the registration of Power's of Attorney.

Do you call the police and insist on a thorough investigation?

Do you place the vulnerable adult in a place of safety following your safeguarding procedures?

If the Lasting Power of Attorney is found to be invalid, does safeguarding then come into force?

On 18 January 2018 the council responded in the following manner:

How many vulnerable adults have had Power's of Attorney created and registered by men/women working in Adult Care or Safeguarding teams.

This information is not held as the question relates to the role of LPAs undertaken by staff in their private lives, and this is not information that the council records.

How do you monitor this very serious application.

This information is not held, please see the response above.

What steps do you take, if there is an alert made to the registration of Power's of Attorney.

If the matter relates to a concern about how the power was set up or of a misuse of that power then the case is referred to the Office of The Public Guardian who investigate this and have the powers to remove the LPA if appropriate.

Do you call the police and insist on a thorough investigation?

If the allegation relates to missuse of funds then the police are informed during the course of a safeguarding investigation. Whether the police feel there is enough evidence to take this forward under a criminal investigation is a matter for them.

Do you place the vulnerable adult in a place of safety following your safeguarding procedures?

This is a complex decision as moving a vulnerable person can have adverse effects on that person. A decision would be made which is based on the evidence of any risks of remaining at home compared to the risks of moving to another setting.

If the Lasting Power of Attorney is found to be invalid, does safeguarding then come into force?

A safeguarding investigation can be commenced If the matter relates to a concern about how the power was set up or of a misuse of that power. The remedy would be for the case to be referred to the Office of The Public Guardian who are the body who investigate this and have the powers to remove the LPA if it is found invalid. The Office of the Public Guardian can appoint a person to act as deputy if the LPA is no longer valid. Family members with concerns or the police can also refer directly to the Office of The Public Guardian.

On 18 January 2018 you emailed the council to say:

Thank you for your reply.

It appears that my question, was misinterpreted, regarding LPA's and staff. My question did not relate to private lives, but LPA's registered on vulnerable adults, that are service users, as this would be a conflict of Interest.

It also appears that only mis use of funds, would be an issue, not the fact, that someone has created false documents.

The creation of false documents are not investigated by the OPG, I have that confirmed in writing.

They insist this is a police matter, Fraud, please clarify, if Wiltshire Council, think Fraud is the correct safe place, for a service user or vulnerable adults placement.

On 26 January 2018 the council responded:

This information is not held as the Council would not be aware of any LPAs set up privately within the family where an employee was the LPA. A family member may work for the council and hold LPA for a relative who then requires support, this is a coincidence.

If there has been a falsification of documents this would be a matter for the police to investigate if appropriate.

On 26 January 2018 you emailed the council:

Thank you for your reply, but it is not complete.

Could you recheck my questions please.

Could you also clarify, 'if appropriate' that seems very muddy.
When is it not appropriate.

I am not asking about family LPA's, I thought I had clarified that. I am asking about people working on safeguarding teams, getting LPA's or Deputyships on service users. I hope that clarifies.

On 30 January 2018 the council responded:

The decision on whether it is appropriate to take a matter forward is based on evidence and sits with the police, and therefore this information is not held by the council. If further information is required please approach the police directly.

This information is not held as no person working within the Safeguarding Adults Team has applied for Deputyship to manage a service users assets. There is a specific Court of Protection Team within the council that may on occasion act as a deputy to assist a service user with managing their finances. This is a specialist team set up for this purpose alone.

On 04 February 2018 you emailed the council:

You have failed to answer all of my questions in my original request.

A specific team? Acting as Deputies? This is very concerning, why would the Council be managing people's financial affairs? This is a conflict of Interest if they are a service user, vulnerable service users, you provide a service, then manage their finances for that service, it would appear that Wiltshire Council are not aware of what can go badly wrong, reported in the media on a regular basis. Shocking.

I require an answer to all of my questions, you are already over the date. I will allow a further three working days, then I will request an Internal Review.

On 10 February you followed with an additional email:

Thank you for advising me of this Internal Review. Why it was so difficult to answer basic safeguarding questions, I have no idea. I have also reported this to the ICO, so as I may supply them with your reply.

As you are conducting a review, I have some more questions, due to the answers provided.

After looking at the link below, this page does not make sense.

It states that the Court of Protection Team, manage affairs for those who can not manage their own affairs, but then goes on to mention Lasting Powers of Attorney. You can not gain Lasting Powers of Attorney over people without Capacity, this is conflicting information.

There is a huge conflict of Interest here, and I have notified several Newspapers of my request, and have sent a printed copy.

Conflict of Interests:

1. Providing a service, and being in charge of finances of the service user.
2. Who performs the Mental Capacity assessments? I do hope this is not my family member, that has been shown to get it so wrong, who did have an office based at Wiltshire Council. I can only assume it has been at some stage. This could explain a lot.
3. As Carlton Brand removed the Internal Fraud team, how is this very volatile situation managed? Last year alone, saw a Judge imprisoned for misappropriation of funds under LPA'S, and Solicitors likewise.

This is not in the best interest of any vulnerable person, and should be managed by an Independent, assessed in triplicate at least, and up for scrutiny by many.

This is proving to be one of the most dangerous documents to hold over someone, and Denzil Lush publicly stated he would never allow one on himself. All well and good for those with Capacity to say No.

I already have several police under investigation for not investigating Fraud in this area, and an alleged investigation, that does not recognise Fraud, even after the OPG states the person involved, did not have capacity to donate and did not sign these documents, what more does it take to prove that they are false documents.
And this was with one of your own team members witnessing the applications.

<https://www.yourcareyoursupportwiltshire.org.uk/media/18157/court-of-protection.pdf>

I have reviewed the handling of your original request and will confirm this information is not held – This information is not held as no person working within the Safeguarding Adults Team has applied for Deputyship to manage a service users assets. There is a specific Court of Protection Team within the council that may on occasion act as a deputy to assist a service user with managing their finances. This is a specialist team set up for this purpose alone.

As previously advised, if the matter relates to a concern about how the power was set up or of a misuse of that power then the case is referred to the Office of The Public Guardian who investigate this and have the powers to remove the LPA if appropriate.

The decision on whether it is appropriate to take a matter forward is based on evidence and sits with the police, and therefore this information is not held by the council.

I am however able to provide some additional information in response to your supplementary questions.

The councils Court of Protection team operate within the confines of a deputyship order provided by the Court of Protection. The team are separate to any operational social care team. The work of the team is regulated and the Court requires annual accounts to be provided that are audited independently of the team.

The team operate via a deputyship order which is put in place by an application to the Court of Protection for people who lack the capacity to donate this.

The mental capacity assessments are completed by social workers in the operational teams.

Due to restructures within the Revenue's and Benefits team the Council confirms that some officers who previously investigated, on behalf of the Council, allegations of fraud did leave the Council. However corporate oversight of Fraud complaints was and is still maintained and if any allegations are made they are investigated on behalf of the Council by one of teams with professional expertise within the Council depending on the nature of the allegation.

If you are still dissatisfied with the council's response to your request for information you have a right to complain to the Information Commissioner. The Information Commissioners contact details are:

Information Commissioners Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel; 0303 123 1113
www.ico.org.uk

Yours sincerely

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