LOCAL GOVERNMENT OMBUDSMAN / HEALTH SERVICES OMBUDSMAN - JOINT REPORT AND FINDING OF MALADMINISTRATION CAUSING INJUSTICE - MR B

WARDS AFFECTED

All

EXEMPT/CONFIDENTIAL ITEM

No

1. PROPOSED DECISION

To approve the Action Plan relating to the investigation of the Local Government Ombudsman and the Health Service Ombudsman relating to Mr. B.

To delegate to the Director of Adult Social Care and Health in consultation with the Cabinet Member, Adult Social Care and Health, the authority to make final amendments to the Plan prior to submission to the Ombudsman in accordance with the timescales in the Ombudsman’s letter.

2. JUSTIFICATION FOR THE DECISION

Following the investigation of the Local Government Ombudsman and the Health Service Ombudsman into the case of Mr. B made on Mr. B’s behalf by his cousin Mrs A, the Local Government Ombudsman has found that Mrs A suffered an injustice as a result of maladministration by the Council and therefore the Council is required under Section 31 (2) of the Local Government Act 1974 to consider the report and tell the Local Government Ombudsman, within 3 months of receiving it, the action it has taken or proposes to take in response.

The Action Plan which has been agreed jointly with the 5 Boroughs Partnership NHS Foundation Trust who were party to the complaint investigation will represent the Council's response to the Ombudsman, alongside the copy of the joint letter of apology sent to Mrs A (an anonymised version is attached as
3. FACTS SUPPORTING THE PROPOSED DECISION

3.1 Mrs A made a complaint on behalf of her cousin, Mr. B, about the 5 Boroughs Partnership NHS Foundation Trust and St. Helens Borough Council. Mr. B, who has since died, gave permission for Mrs A to complain on his behalf. The complaint was undertaken as a joint investigation by the Health Service Ombudsman for England and the Local Government Ombudsman. The final report of the investigation was received by the Council on 27th June 2011.

3.2 The matters investigated by the Ombudsman were:

- Complaint about the 5 Boroughs Partnership NHS Foundation Trust - in March 2008 a Psychiatrist failed to respond appropriately to Mr. B’s poor physical state; instead he proposed inappropriate drugs for depression.

- Complaint about St. Helens Council – no one supported Mr. B to claim benefits to which he was entitled.

- Complaints about both bodies who, through the CMHT (Community Mental Health Team), had joint responsibility for managing Mr. B’s care plans – care plans were not implemented and no-one responded appropriately to the developing signs of risk.

3.3 The Joint Ombudsman report (an anonymised copy is attached as Appendix 1) found that, in relation to the complaint about the 5 Boroughs Trust, the Trust Psychiatrist had not failed to provide appropriate care to Mr. B and this complaint was not upheld.

3.4 In relation to the specific complaint about St. Helens Council, the Ombudsman found that the Council had not failed to support Mr. B in claiming benefits and this complaint was not upheld.

3.5 However, in relation to the complaint about both bodies, the Ombudsmen did find that both the Trust and Council failed in their joint responsibility to manage and implement Care Plans for Mr. B and to take adequate account of the developing signs of risk. This was a service failure which contributed to the injustice of unnecessary pain and neglect experienced by Mr B and this complaint was upheld about both the Trust and the Council.

3.6 The Ombudsman made a number of recommendations for the 5 Boroughs NHS Foundation Trust and the Council:

- That the Trust and Council should, within one month of the date of the final report (27th June), write to Mrs A to acknowledge the service failure identified and apologise for the impact this had on Mr. B. An anonymised copy of this letter is attached as Appendix 2 to this report.
The letter should also include an apology from the Trust, apologising for the distress this has caused her in relation to the time and trouble she has put into supporting Mr. B and making this complaint. This is contained in the letter at Appendix 2.

In addition the Ombudsman recommended a compensation payment of £2,000 directly to Mrs A in relation to the time and trouble she has put into pursuing the complaint and that the Trust and Council should pay £1,500 directly to Mrs A’s Solicitors in respect of the representations provided. Both payments have been made in accordance with the Ombudsman recommendation. Costs have been shared equally by the Council and the Trust.

Finally, the Ombudsman recommended that the Trust and the Council should, within 3 months of the date of the final report, prepare an Action Plan which describes what each has done to ensure that they have learned the lessons from the failings identified by this upheld complaint and what they have done or have planned to do, including timescales to avoid a reoccurrence of these failings in the future.

Copies of the Action Plan should be shared with Mrs A, the Health Service and Local Government Ombudsman, NHS Halton and St. Helens (the commissioning Primary Care Trust), NHS North West (the Strategic Health Authority), the Care Quality Commission and monitor. The regulators, the commissioning Primary Care Trust and the Strategic Health Authority should be kept informed of progress against the Action Plan.

Following consideration of the Action Plan by the St. Helens Council Cabinet, any necessary amendments will be made and the Plan will be subject to approval by the 5 Boroughs Partnership NHS Foundation Trust.

When the Plan has been formally approved by both agencies it will be dealt with in accordance with this recommendation and prior to the 27th September 2012 to accord with the timescales in the Ombudsman Report. A full copy of the Action Plan is attached as Appendix 3 to this report.

3.7 Both the Council and the 5 Boroughs Partnership Foundation Trust accept the findings of the Ombudsman and are determined to address the issues identified by the report and ensure that such failures are not repeated.

4. **RISKS ASSOCIATED WITH THE PROPOSED DECISION**

The proposed decision will help to minimise risks of a repetition of events in the future.

5. **OTHER IMPLICATIONS**

Legal - The Council must consider the report and comply with the Ombudsmens’ recommendations.
Financial – The compensation payment of in total £3,500 has been shared by the Local Authority and the 5 Boroughs Partnership NHS Trust and costs for the Council have been met from existing provision within the Directorate Budget.

Human Resources - None

Land and Property (Asset) - None

Anti-Poverty - None

Effects on existing Council Policy - None

Effects on other Council Activities - None

Human Rights - None

Equalities -

An Equality Impact Assessment is attached to this report. The Impact Assessment has not raised any issues in relation to equalities issues

Asset Management - None

Health – The Action Plan will help to ensure that, in future, Mental Health Services are provided in a way which minimises the risk of any repetition of Mr. B’s and Mrs A’s experience.

6. PREVIOUS APPROVAL/CONSULTATION

None

7. ALTERNATIVE OPTIONS AND IMPLICATIONS THEREOF

None

8. APPENDICES

Appendix 1 – Anonymised version of Ombudsman Report

"App 1 LGO HSO Joint Report Mr B.pdf"
Appendix 2 – Anonymised version of joint letter of apology to Mrs A

“App 2 LGO HSO Joint Report & Findin

Appendix 3 – Joint Action Plan

“App 3 LGO HSO Joint Report - Mr B A

Appendix 4 – Equality Impact Assessment

“App 4 LG HSO Report - Mr B - EIA.d

Mike Wyatt,
Director of Adult Social Care and Health

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BACKGROUND PAPERS

The following list of documents was used to complete this report and they are available for public inspection for four years from the date of the meeting, from the Contact Officer named above:

Anonymised version of report by the Health Service Ombudsman for England and the Local Government Ombudsman of a Joint Investigation into complaints made by Mrs A in relation to Mr. B – dated 27th June 2011.