

Mr C B [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Complex Care Lead
The Nelson Building
Whitecross Road
Hereford
HR4 0DG

Our ref: IAT12587
Tel: 01432 383890
S. C. [REDACTED]@herefordshire.gov.uk

17 October, 2016

Dear Mr B [REDACTED],

I am writing to respond to your letters to E [REDACTED] G [REDACTED], social worker and B [REDACTED] W [REDACTED] Team manager. Both letters are in response to a review meeting held for your brother on 14.09.16 where you raise concern regarding the decision to refuse the meeting being audibly recorded by yourself without a reason being given for this and the way the meeting was then recorded.

In order that I cover off specific points in both letters I will initially respond to the letter to E [REDACTED] G [REDACTED] and address all the points in order and secondly I will address the remaining points in the letter to B [REDACTED] W [REDACTED]. The Chief Executive has also forwarded me a copy of your correspondence.

1. You raised concern regarding the pace of the meeting and time frame of the meeting.

The Social Worker agreed the time span for the meeting prior to the event. You agreed to the time frame of 1.30-3pm. Whilst I understand that it is important to allow time to discuss all relevant information, it is also important for Social Workers and other colleagues to manage their diaries effectively in order that they can provide an effective service in all their allocated work. I am sorry if you feel the meeting was rushed, however there is always opportunity for further and ongoing discussions which can be arranged as required. I also understand that the Social Worker met with you and your brother's Advocate on the 31st of August in preparation for this meeting. She has also reported that in her role as chair for the meeting she was required to remain focused on the points to allow appropriate decisions to be made and for all individuals to have the opportunity to share information.

2. You raised concern that the Social Worker was biased and that you were not given opportunity to share your wealth of information regarding the care home.

I have discussed this with the Social Worker and she has been able to evidence to me that she ensured that you and other parties present were given time to share their thoughts and that she had gathered information from all relevant parties in preparation for

Chief Executive: Mr Alistair Neill

the meeting prior to the event. At the time of the meeting she explained that the meeting was to draw on already shared information and to review the information in the care plan.

As you are obviously aware chairing of a meeting is not always straight forward and to ensure everybody present had the time and opportunity to share their thoughts, the Social Worker made sure that there were prior meetings with yourself and the advocate.

3. You raised concern regarding best practice in reference to best interest meetings and the decision maker/chair responsibilities.

The meeting you attended on 14.09.16 was in order to review your brother's current care and support needs not a best interest meeting. It was a review of your brother's care and therefore the Social Worker was not chairing a best interest meeting and decisions made were the outcome of the group discussion which included the advocate, yourself and the home.

4. You raised a concern regarding formalised minutes in relation to the Mental Capacity Act (2005) and your request for a certified photocopy of the notes made in the meeting of the 14th September 2016.

The Social Worker has shared with me that you have both already had a conversation regarding this issue where she explained that it was not appropriate to have a formal minute taker for this review and that she would be making notes which you could receive a copy of.

In response to your reference of meeting guidelines in Mental Capacity Act (2005), having reviewed information in relation to the act about recording, I understand this information relates only to the formal recording of formal Best Interest meetings. However, I agree with the general principles that recording should reflect an accurate summary of the different issues, how these have been considered and agreed actions. Having seen the typed notes from the Social Worker I can see that these have all been addressed.

I believe you have already received a copy of the notes from the meeting.

5. You raised a concern regarding the request for you not to audibly record the meeting and suggestion that this impacted on your brother's access to the meeting record and the contravention of his best interests, your human rights and the Data Protection Act.

At the time of the meeting this request was taken to the Team Manager, B■■■■ W■■■ who advised that if everybody in the meeting was happy for the meeting to be audibly recorded this could be allowed, however not everyone at the meeting agreed to this and therefore if the recording had taken place it would have contravened their human rights with particular right to privacy.

I do not feel that your brother's best interests were contravened by this decision as I understand that you, the social worker and other attendees took notes for their own record. The Social Care minutes are the official record of the meeting and there is an opportunity for any factual inaccuracies to be highlighted and fed back.

6. You raised concerns regarding the injury to your brother's ankle, how this was managed and concerns of neglect by the provider, both in the meeting and your letter.

The Social Worker has said that this was discussed at the meeting where P [REDACTED] G [REDACTED] was able to share an account of the actions the provider undertook at the point of the incident and that no further action was required at that point. He was able to reassure the meeting that all concerns had been dealt with appropriately.

7. You report that the provider's management failed to ensure proper formal arrangements were in place for the administration of medication during D [REDACTED]'s visits to the family home.

I have discussed this with the Social Worker, who confirmed that this had been discussed with you and the management at D [REDACTED]'s placement, prior to and during the meeting held on the 14.09.16

I have been informed that you stated to the staff at your brother's placement that you were not comfortable in administering Gaviscon and Buscopan to him during his visits to you. It was agreed that following discussions with D [REDACTED]'s GP that visits would not take place around the timing of the need for administration of medication. Therefore, your brother now has shorter visits home to comply with this.

8. You raised concerns regarding the agreed use of google relating to the finding of information and advice on dietary needs.

I have been informed that following discussions by the provider with D [REDACTED]'s GP, they were informed that as there has been no formal diagnosis for D [REDACTED] regarding [REDACTED]. The GP advised the provider that they should look on the NHS Direct website page for guidance on healthy eating which they have done.

9. You raise 2 points of law in relation to the Data Protection Act (1998) and Human Rights Act (1998) that you felt were relevant to the issue of not being able to audibly record your brother's meeting:

- The Data Protection Act 1998 safeguards individual and personal data.

The meeting was attended by other individuals, and these people also have rights, including the right to consent for their data not to be processed by being recorded on an audio device. The Data Protection Act (1998) allows people generally to have a say in how information about them is used. This includes audio recordings where they can be identified and therefore their personal data is being processed. Personal data must be carefully used and stored. Individuals are allowed to make their own decisions as to whether they are recorded via audio or not. It is not evidence of Council fault that some people in Core Group meetings, including non-Council staff, do not wish to be recorded.

In relation to The Human Rights Act (1998) we are aware of Article 8: the right to a private and family life, home and correspondence. Respect for one's private life. The respect for private and confidential information, particularly storing and sharing of such information.

The storing and sharing of information will not only apply to you and your brother but also other third parties attending any meeting

In reference to the letter sent to B [REDACTED] W [REDACTED] and the points not covered in the letter to E [REDACTED] G [REDACTED], you raise the concern regarding a previous encounter with B [REDACTED] W [REDACTED] regarding missing information on care system records.

I would like to redress this statement as I understand this has been addressed via the Ombudsman and found to be "Not upheld: maladministration".

You then raise three points regarding the audible recording of the minutes which you asked her to address;

- Her explanation and reasoning for the meeting not to be recorded was that an attendee at the meeting had specifically stated that they did not want the meeting to be recorded. As they were a key attendee at the meeting it was felt their presence and input with the support of written recording was preferable than non-engagement.
- Regarding your enquiry about specific legislation stating recording of meetings as unlawful, I recommend you take personal legal advice on this. The council is responsible for keeping a formal written record of the work we do and this has been captured in the written notes taken by the social worker at the time and forwarded to you as requested.
- In response to your request for the Local Authorities formal policy in respect of parents or family members recording meetings with Social Workers, I can report that although there is no written policy in place at present, we are considering developments in this area in line with policy for Children's services which is as follows:

Children's Social Care does not allow the audio or visual recording by service users of formal or informal meetings with members of staff. Personal data must be carefully used and stored. An official record is kept of all meetings and service users can have access to these records where the information is about themselves. Members of staff must ensure that where records such as minutes of meetings are agreed to be circulated to those attending, they are written up and provided to the service user promptly. Any queries regarding the accuracy of such records can be recorded at the next formal meeting, or for other records, with the social worker. The records will be updated accordingly if any errors or omissions are substantiated.

Finally, I understand you have received the formal complaints process from the Access to Information team on 29.09.16 via email.

I trust my response has covered all the points you have raised.

Yours Sincerely

[REDACTED]

S [REDACTED] C [REDACTED]

Complex Care Manager