

## Essex County Council

### Guidance for Members in Adult Social Care Cases

#### 1. Introduction

- 1.1 Sometimes members may be approached by constituents asking for help with social care issues. Members were normally able to become involved but should remember that social care can raise complex issues of confidentiality and consent. Sometimes there will be safeguarding issues which need to be considered. This note is to help guide members in what can be a difficult area.
- 1.2 There are different types of cases where Members may be asked to get involved:
  - Concerns about the welfare of individuals in the community
  - Concerns raised by a family member about services provided or funded by ECC to someone else.
  - Concerns raised by a service user about services provided or funded by ECC.

#### 2 Concerns about the welfare of an individual

- 2.1 It is acceptable to pass these onto ECC unless someone makes it clear that they do not want you to do so and they have capacity to ask.
- 2.2 We will normally be able to tell you the outcome of the case if you have a need to know, but if we do you cannot tell anyone else about the outcome unless the service user agrees. We might not be able to tell you if the service user specifically asks us not to.

#### 3 Concerns raised by a family member

- 3.1 If a family member approaches you with concerns about how a member of their family is being treated, you need to establish whether the service user concerned wants you to become involved. As far as you can you should try to find out the views of the service user before becoming involved. It sometimes happens that what the family want is not necessarily what the service user wants themselves and you need to be careful to make sure you know what the service user actually wants, particularly as the service user is likely to be vulnerable.
- 3.2 If the service user has capacity to tell you what they want and they would like you to support them, then you can of course do so. However, if the service user doesn't want you to support them, then you may be best to signpost them to other services such as community advocates.

<https://www.rethinkessexadvocacy.org/>

The advocates are a service commissioned by ECC to help people express their views. Where service users cannot express their own views, the advocate may use 'non-instructed advocacy' where the advocate seeks to ensure that everyone is acting in the best interests of service user.

- 3.3 The law assumes that everyone has mental capacity to make decisions unless an assessment says otherwise. A person lacks capacity if they are unable to make a specific decision, at a specific time, because of an impairment of, or disturbance, in the functioning of the mind. Assessment of mental capacity can be complex and you may want to seek advice from adult social care. It's important to remember that someone may still have capacity even if they are taking what you – or a member of their family - think is a bad decision. Sometimes vulnerable people find it difficult to make their opinions known and you should be careful to make sure you are representing the views of the service user which may not be the same as those of other people.

#### **4 Concerns raised by a service user**

- 4.1 It is important early on, to establish whether and how they want you to be involved and to decide whether you are the best person to help them. You may want to involve the advocacy service in appropriate cases, or you may want to seek advice from the service itself.

#### **5 When you are helping a constituent**

- 5.1 Conflicts of interest between the service user and others can arise in social care cases. You need to be clear about whose interests you are representing. The interests of the service user should come first.

- 5.2 If you attend a meeting with a constituent, please remember:

- Let the service know in advance that you will be attending a meeting. It may be that the service will want to ensure that there is a more senior officer in attendance if a member is present.
- Members do not usually attend assessments and it may sometimes not be appropriate for you to attend an assessment meeting as your presence could impair the assessment. If you do go to an assessment – because the service user has requested you to be present - you can provide support but you must make sure that you do not interfere with the assessment process.
- It is your role to ensure that the service user's voice is heard and that all the circumstances are considered.
- It is not your role to influence the outcome or interfere with officers' professional assessment or judgment.
- If you are asked not to share information with the service user or a family member then you must comply with this request.
- Do not share information about the service user with any family member unless you are sure that the service user is happy for you to do so.
- Information relating to someone's social care is likely to be confidential and sensitive- be extra careful when handling it – electronically or paper.
- Be careful when expressing views on a case if these may create expectations that the council cannot meet.
- Don't criticise the officer at the meeting – you can raise concerns afterwards.
- You need to be aware of the possibility of conflicts of interests between family members and of safeguarding issues. Sometimes you might be advised not to attend and you should at least consider this advice.
- Always follow the Code of Member Conduct.

- 5.3 Some do's and don'ts from the Local Government Association are appended to this document.

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## **From the Local Government Association...**

### **About your role**

#### **DO...**

- Support the complainant by helping them to resolve the problem at a local level and directing their complaint to the appropriate service area or complaints team
- Signpost the complainant to useful information and organisations, even if the complaint will not be dealt with by the council
- Facilitate communication, meetings and enquiries within the council on the complainant's behalf
- Ensure reasonable adjustments are made, if necessary
- Follow the complaint through to its resolution and keep in touch with the complainant
- Raise any service improvement issues that you identify.

#### **DON'T...**

- Make promises you cannot keep
- Guarantee a particular outcome for the complainant
- Attempt to influence a complaints procedure
- Assume that stages of a complaints procedure can be omitted because you are involved
- Give legal advice
- Make decisions for the complainant.