Gmail [redacted]@gmail.com>

Complaint - information request

[redacted] <[redacted]@gmail.com> 9 December 2016 at 12:28
To: K[redacted] H[redacted] <k[redacted].h[redacted]@onside-advocacy.org.uk>

Dear Ms H[redacted],

Thank you for your delayed response letter to the concerns I raised.

I have chosen to reply in the same structure as your letter, although with supporting reference to current legislation.

1. Regardless of your confidence with Mr S[redacted], his wilful neglect, including to examine records have assisted in the damage to my brother's mental and physical health, and the inadequate care and support provided.
Under The Mental Capacity Act 2005 there is no defence for negligence, it does not matter whether harm or damage was likely to be caused, or was actually caused, to a victim's health.
As to the guidance concerning the scope of requirements for examination of records I inform you, as an IMCA, Mr S[redacted] role and functions are set out in The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006; these include examining relevant records.
Please refer to http://www.legislation.gov.uk/uksi/2006/1832/regulation/6/made

I question just how many such incidents may have happened before my concern being raised, in particular where it involves a vulnerable person who is unable to communicate effectively with those involved in their care and support, and where the advocate has extremely limited personal experience and knowledge of such an individual.

2. I have received information that indicates my brother's best interests were not the priority of the meeting of the 14th, but those of the provider and home were.
Your comments are incorrect. At the meeting of 14th September 2016 It was I who raised many concerns, including the ill-fitting and torn clothing my brother was dressed in on several occasions, I providing some photographic evidence of this. Mr S[redacted] did not raise this concern but made one suggestion that rugby type shirts should be purchased from Cotton Traders for my brother, although partly acceptable it is evident that my brother continues to be clothed poorly.

As to the proposal of a full medical review, this was not followed up and did not taken place, an appointment only being made for a basic checkup after my involvement. Mr S[redacted] nor Ms G[redacted] contacting the G.P. surgery to arrange a full medical review. I also requested to know why Mr S[redacted] did not speak with a medically trained dietician but rather a non-medically trained colleague.

Again, it was I who raised the issue of family home visits, participants reluctantly agreed to my compromise for arrangements for family home visits, shortly afterwards breaking the agreement, and with no such review held to date; being some 87 days to this email date.
I inform you that It is the duty of an IMCA and advocates to uphold The Human Rights Act, challenge decisions for the person they represent and apply the least or lesser restrictive options; it became evident to me that no such obligation to my brother was intended. Please refer to article 5 & 8
http://www.legislation.gov.uk/ukpga/1998/42/schedule/1

Although you state "Ms G[redacted] (social worker) is fully confident that B[redacted] fulfilled his role as both Care Act Advocate and RPR." I noted she lacked knowledge of current legislation and did not have my brother's best interests as a primary concern, but those of the provider and home.
You are partly correct, in that I was grateful at the time, and before I became suspicious due to broken promises and inconsistent and conflicting data, I naively believed that Mr S[redacted] had performed his role and functions; this, as I discovered, was unfortunately not so. I note you have chosen not to comment on later communications.

I am indeed aware of the email of 3rd October 2016; I am also mindful of the fact that Mr S[redacted] did not examine documentation or report the misuse of medication to relevant authorities; failing his obligation, role and function as RPR, IMCA and advocate and that of my brother's best interests.

[redacted]

At the meeting of 14th September, I recall Mr S[redacted] said he was reluctant to involve The Court of Protection, however, my brother has a statutory right to such.

I note you suggest that an advocate knows the person concerned, this is somewhat contradictory in consideration of the fact that Mr S[redacted] did not review relevant documentation or know how to communicate with my brother. There is no confusion on my part as to the scope and role of an advocate; I ingeminate, defined in current legislation are the roles and functions for advocates, and clear guidelines are available for such.
It is not a matter of a person performing a single or dual role; it is a matter of them executing the obligation and functions with professional diligence, and with the person in question as the priority.
Please refer to deputyship and The Mental Capacity Act Code of Practice https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/497253/Mental-capacity-act-code-of-practice.pdf
I would suggest that a full review of your guidelines is conducted to comply with current UK legislation and that your provided advocates are trained and knowledgeable of The Laws they have an obligation to.

3. this is a particular concern. Mr S[redacted] was aware at the meeting of 14th September, as you are now, that misuse of prescribed medication for non-therapeutic purposes is a criminal offence under The Offences Against The Person Act 1861, I quoting the particular section of the legislation. I also requested formalisation of medication administration to comply with The Medicines Act 1968; this also was not addressed, evident in the first assessors DoLS form Page 10, paragraph 3.
Regardless of the fact you state, I raised this concern with professionals, who subsequently ignored the matter, and is in the notes I prepared for the meeting; Mr S[redacted] had a duty to report this misuse to relevant authorities, he neglected to do so.
Please refer to F4 2(b) of http://www.legislation.gov.uk/ukpga/1968/67/section/58 http://www.legislation.gov.uk/ukpga/Vict/24-25/100/section/22
and http://www.legislation.gov.uk/ukpga/2000/14 (section 24 & 25)

Further, your comment that the G.P. did not have any concerns about the administration of medication conflicts with my information. I spoke with my brother's G.P. shortly after the meeting of 14th September; they informed me that they were not aware medication had been used to control behaviour until I quoted the statement in the documentation, such indicating Mr S[redacted] did not speak with my brother's G.P. or review records, including the DoLS forms.

Although you are satisfied with the inadequate advocacy provided to my brother and the neglect of the advocate's duty, I duly note the failure of your provided service to my brother; Please refer to http://www.legislation.gov.uk/ukdsi/2014/9780111117613
Regardless of your opinion of Mr S[redacted] having high standards of personal integrity and in consideration of your statement of acceptance of neglect and error on his part, such to me, does not display dedication, commitment or professionalism to the obligations of the role and functions of an IMCA, or advocate for a vulnerable adult. I reiterate, there is no defence for negligence.

I now request that you provide to me the email addresses of all current trustees, within the next 20 days.

I look forward to your early reply.

Sincerely

C[redacted] B[redacted]
[redacted]