

APPENDIX 3

DISCLOSURE ISSUES - HIGH COURT CASE **Herefordshire Council v YY 2021**

Summary of disclosure issues raised in the case and responses

SGO Assessment

- a. The finding was that Herefordshire Council had failed to disclose an amended SGO Assessment report until the second week of the 2021 hearing.
- b. The failure to disclose the report was due to its existence being only known by legal services following a social worker providing an unsolicited statement.
- c. It is confirmed at para. 156 of the *Re YY* Judgement that a social worker, said in evidence, she thought she had sent both versions of the updated reports to the legal department. The judge confirmed that he had not seen evidence of the first version being sent to legal services.
- d. The Childrens Legal Litigation Team have confirmed that it did not receive the initial report.
- e. Also, that report was not located on the MOSAIC system (the social worker case file database).
- f. The document ought properly to have been saved on the MOSAIC database. Had this been done, the document would have formed part of the original disclosure well in advance of the final hearing.

Email Correspondence relied on in the court proceedings

- g. 2 key witnesses were **recalled** to give evidence in the *Re YY* proceedings.
- h. The rationale for the recall was due to relevant email correspondence between two mentioned social workers and relating to the substantive issues being considered by the

court, however no emails/case notes/supervisions not being contained within the MOSAIC database.

- i. The emails were only the disclosed during the hearing after the key witness had been questioned by the judge.

Personnel/Disciplinary and Case Supervision Records

- j. On 18th December 2020 Mr Justice Keehan ordered the local authority disclose such Personnel/Disciplinary and Supervision documents as the LA feel relevant.
- k. As a consequence of the court order disclosure requests were made by Legal Services to HR, Hoople (involved with HR), Head of Business Support, the Development & Implementation Manager.
- l. The bulk of the records provided were from the Development & Implementation Manager. Legal services were informed that the status of the records were personnel records and that such records are kept in the database 'SharePoint'. These records did not cover all individuals whom a request had been made of and only related to the period of 2017 onwards. Legal Services were unable to obtain any clarity about the whereabouts of those missing records despite enquiries. Following enquiries directly with HR/Hoople only a single disciplinary record was disclosed.
- m. As the final hearing drew nearer Legal Services spoke with those individuals who were prospective witnesses for the final hearing. It transpired from conversations that there were relevant disciplinary records which had not been provided. Legal Services made a request again for all disciplinary records relating to those staff involved with the children. A substantial amount of disciplinary and investigatory material then transpired.
- n. Legal services were then informed that outstanding personnel records would in fact be kept within the service and not in SharePoint. Enquiries were made with relevant managers and persons and disclosure of records was thereafter provided.
- o. In order to proffer Mr Justice Keehan with a complete answer with respect to the whereabouts of pre-2017 personnel records further late enquiries were made directly to the Director of Childrens Services. The Head of Business Operations was finally able to

establish the whereabouts of the pre-2017 records which were not contained within the 'SharePoint' database.

- p. It also became clear that personnel records were enmeshed with case supervision records which ought properly to have been maintained within the MOSAIC database and not on Sharepoint.
- q. The case supervision data related to discussions between a Social Worker Manager and a Social Worker on a particular case. The mixture of information within one document and the status of the record within Herefordshire Council caused difficulties when assessing whether consent was required from the employee before disclosure.

Incident Report & Learning Review Document

- r. As a consequence of late disclosure of personnel/supervision records further disclosure was identified as necessary. This included an incident report between a manager and employee which was found on the personal computer of the social work manager instead of being found on the 'SharePoint' database.
- s. A learning review document on the Herefordshire Council v YY 2021 proceedings was also produced by the SW team leader and was not disclosed prior to the hearing. This document should have been contained on MOSAIC.