

Response to the Local Government Ombudsman Report

To: Children and Young People Committee

Meeting Date: 5 July 2022

From: Jonathan Lewis – Director of Education

Electoral division(s): ALL

Key decision: No

Forward Plan ref: N/A

Outcome: The report is intended to provide an overview to the Committee on progress undertaken in response to a Local Government Ombudsman (LGO) Report dated 7 April 2022.

Recommendation: The Committee is recommended to:

- a) note the report,
- b) ask for areas of clarity and,
- c) agree whether there is further reporting to the Committee from the actions arising from the report.

Voting: Co-opted members of the Committee are eligible to vote on this item.

Officer contact:

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Member contacts:

Names: Councillors Goodliffe and King

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1. Background

- 1.1 This report provides an overview of progress undertaken in response to a report from the Local Government Ombudsman (LGO) dated 7 April 2022 following a complaint from a Cambridgeshire parent about the services provided by the Council.
- 1.2 The LGO's finding is 'Report issued: upheld; maladministration and injustice'. Since the LGO have found the family have suffered injustice as a result of fault, under Section 31(2) of the 1974 Act, Cambridgeshire County Council must formally consider the LGO report.
- 1.3 As part of the LGO report recommendations, the Council must confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council or other appropriately delegated committee of elected members.

2. Progress against LGO Report Recommendations

- 2.1 The Local Authority received a stage 1 complaint from the complainant on 20 August 2020. The Local Authority followed the corporate complaints policy and process. The complainant escalated the case to the Local Government Ombudsman (LGO). The LGO then provided a draft report to the Local Authority for consultation. The Local Authority submitted its response to the draft report, accompanied by additional documents and evidence to support its position. Details of the child and family are anonymised in the report. The LGO sent their final report to the Local Authority on 6 April 2022 and can be found here - [20 013 354 - Local Government and Social Care Ombudsman](#)

- 2.2 The complaint considered by the LGO was -

Mr and Mrs X complain the Council has failed to issue an updated education, health and care (EHC) plan for their son, Y, and to provide him with an education. Y has been out of school since March 2020 as he is clinically extremely vulnerable. He has also not received the provision in his EHC plan.

- 2.3 There were a number of recommendations in the report Progress against the Report's recommendations is detailed below:
 - Apologise to Mr and Mrs X, and Y, for the faults identified in this report. **Status: Complete** – The Chief Executive wrote and met with the parents across April and May. The Chief Executive has committed to further follow up with the parents on some aspects of their discussion.
 - Arrange alternative provision for Y which is suitable for his age, ability and aptitude until he can return to school. This provision should be full time, unless the Council can show this would not be in Y's best interests. If the Council decides to offer Y part-time education, it must explain its decision and keep this under review. **Status: In progress**

- Issue an amended final EHC plan for Y, in line with the agreed amendments in the latest version of the working document and advise Mr and Mrs X of their right of appeal to the SEND tribunal. **Status: Complete**
- Secure the provision in this amended final EHC plan and explain to Mr and Mrs X in writing how the provision will be delivered as part of or alongside Y's alternative provision. **Status: On track**
- Set a date for an annual review following the issue of this amended final EHC plan. **Status: Complete**
- Pay the family to recognise the lack of education and special educational needs provision for Y from September 2020 to February 2022. **Status: Complete**
- Pay a further amount to recognise the stress, frustration, time and trouble caused to the family by the faults identified in this investigation. **Status: Complete**
- Consider appointing an officer with no previous involvement to oversee the next steps in this case. If the Council decides not to do so, it should provide reasons for its decision. **Status: Complete**
- Remind officers of the limited circumstances in which families have a right of mediation or appeal and the timescales for each process. **Status: Complete**
- Remind officers investigating complaints of our guide 'Effective Complaint Handling for local authorities' which gives advice to councils on defining and investigating complaints and communicating decisions. **Status: Complete**
- Review how its SEND service engages with the statutory duty to cooperate with our investigations and to ensure a full response is provided to our enquiries in a timely way. **Status: Complete – see action below.**
- The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members. **Status: This paper completes this action.**

2.4 The Council is required to report to the LGO within three months of receiving the report, the action taken or proposes to take. This will be sent at the end of June.

3. Lessons Learnt / Procedure Changes Made

3.1 There is considerable learning and improvements to be taken from this complaint and the Council's absolute commitment to ensure this does not happen again. Following a meeting of senior managers from across Education, Democratic Services and Complaints, the list below of lessons learnt and proposed changes to service protocol/procedure to reflect the LGO findings -

- The Council will provide guidance through Special School Headteacher Forum to ensure schools are aware of when parents can access support from mediation services – i.e., only after a Final EHCP has been proposed.
- Education staff to follow statutory procedures in terms of mediation cases i.e. cases can only move to mediation if family are not happy with provision outlined in final EHCP.
- Education staff will inform Democratic Services as soon as possible if they are not able to meet any deadlines relating to LGO responses, and the rationale to support this.
- An EHCP Improvement Plan has been developed and focusses on managing complaints and LGO cases and will be monitored by a newly recruited EHCP Improvement Project Manager.
- The implementation of new case management system will support the service to create robust chronologies and improve case note recording.
- All Council SEND staff to be offered refresher training on the importance of inputting accurate data and recording of all conversations taking place with families.
- The lead Council SEND officer, where involved and relevant, is to build relationships with future LGO investigators and to seek clarity where required when responding to requests.
- The Customer Complaints Team will handle all communications relating to complaints cases. All Local Authority SEND staff to be reminded to forward any direct communications immediately to the complaints team and not respond to complainant directly.
- The Customer Complaints team will use the customer handling policy when dealing with persistent complainants and will develop a plan to support the service with dealing with these cases.
- The Complaints Team will ensure all complaints cases continue through complaints stages with those issues that are 'unappealable' via mediation / tribunal.
- Democratic Services have contacted the LGO and asked them to review their correspondence to ensure press releases reflect the content of the report / accompanying letter.
- Democratic Services have drafted guidance to support services when dealing with LGO cases to include hints and tips and how to prepare responses. Guidance to be finalised and presented to SEND staff during a refresher workshop.

4. Alignment with corporate priorities

4.1 Communities at the heart of everything we do

- Schools and early years settings are at the heart of communities. Our SEND strategy aims to keep children locally with the right specialist provision wherever possible.

4.2 A good quality of life for everyone

- Providing a high quality SEND offer support families and children to transition successful into adulthood.

4.3 Helping our children learn, develop and live life to the full

- Ensuring the education system meets all these needs is critical for everyone.

4.4 Protecting and caring for those who need us

- Education is the major universal service the Council provides as all children are required to access education. School and early years settings play a critical role in safeguarding and protecting the welfare of children and families.

5. Significant Implications

5.1 Resource Implications

The need to ensure sufficient capacity for the SEND statutory process will be considered as a capacity bid. The funding requirement is currently being considered. Capital schemes are included in the current medium term financial plan. The recently announced capital funding will also provide further resources to meet this need.

5.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no significant implications within this category.

5.3 Statutory, Legal and Risk Implications

There are no significant implications within this category.

5.4 Equality and Diversity Implications

There are no significant implications within this category.

5.5 Engagement and Communications Implications

There are no significant implications within this category.

5.6 Localism and Local Member Involvement

There are no significant implications within this category.

5.7 Public Health Implications

There are no significant implications within this category.

5.8 Environment and Climate Change Implications on Priority Areas:

There are no significant implications within this category.

Have the resource implications been cleared by Finance? Yes

Name of Financial Officer: Martin Wade

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes

Name of Procurement Officer: Clare Ellis

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes

Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact? Yes

Name of Officer: Jonathan Lewis

Have any engagement and communication implications been cleared by Communications? Yes

Name of Officer: Simon Cobby

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes

Name of Officer: Jonathan Lewis

Have any Public Health implications been cleared by Public Health? Yes

Name of Officer: Raj Lakshman

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer?

No implications.

6. Source documents guidance

[20 013 354 - Local Government and Social Care Ombudsman Final Response](#)