

17 April 2024

Agenda Item: 4

REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE AND EMPLOYEES

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS FEBRUARY 2024 TO MARCH 2024

Purpose of the Report

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee was completed and therefore any decisions after 29th January 2024.

Information

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website (www.lgo.org.uk/). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of fifteen decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference and Appendix B provides the full details of each decision.
6. Full investigations were undertaken into seven complaints. Appendix A provides a summary of the outcomes of the investigation. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately.

7. There was fault found in seven cases. All complaints are in Childrens regarding EHCP processes. Six of these were around the delays to the EHCP assessment, specifically the Educational Psychologists (EPs) and the shortage of resource causing the delays for families receiving an EHCP for their children. In all of these six cases (please refer to Appendix A for more details) the EHCP delay was due to waiting for an available EP. The Ombudsman recognises the great efforts the Council are putting in and recognises the work being done to mitigate the impact of Educational Psychologists and also how we respond to complaints, as well as explaining the reasons for the delay during the EHCP process. This is particularly pointed out on cases 23011077 and 23011093. Its offer of extra support to families is also pointed out. Members are reminded of the report submitted by the Service Director of Education, Learning and Inclusion at the last meeting showing how the Council is actively responding to the increased demand for EHCPs, and the improvements being made and will continue to be made. These 6 cases all had apologies made and a combined total of £2,900 paid out as remedy.

The seventh complaint is also regarding the EHCP process. The Council failed to ensure Ms B's son received all his occupational therapy sessions and delayed responding to some of her correspondence. The Council amended the process which involved schools commissioning providers and billing the Council. Changing the process caused the delay. The Ombudsman found fault. There was then delay completing the formal referral form required which is also fault. The providers then missed the required therapy sessions due to slow process according to the Ombudsman. The Council has agreed to apologise and pay £900 for delays and distress and arrange a meeting to establish the options for provision going forwards and making up for missed provision. It is worth noting in this case, the Occupational Therapist (OT) that was requested by the family provided a revised quotation of over £18,500 to deliver the child's annual OT provision which was more than double the cost of the provider that was in place at the time of the complaint. When the quotation was made the new provider had a significant waiting time of 4 – 6 months to take on new clients. The local authority was reluctant to initially agree to securing the provider as they could not commit to a start date (which may have resulted in the child not having any OT provision) and the costings did not represent an efficient use of public resources. The waiting time of 4 to 6 months was typical for most OT providers due to the demand for services. A meeting was held with the OT provider in place in the summer term to discuss the concerns regarding the missed sessions and plan the child's future provision. The occupational therapist was committed to resolving the concerns and offered additional sessions to catch up during the school holidays but this was refused by the family which would help make up lost provision.

Nottinghamshire is now part for the D2N2 (Derbyshire County Council, Nottinghamshire County Council, Derby City Council, and Nottingham City Council) framework and from the 1st of April 2024 all requests for OT provision will be processed using regional approved providers. It is expected that this will facilitate a more cohesive and efficient delivery of therapeutic assessments and provision

Other Options Considered

8. The other option considered was not bringing regular reports to the Committee detailing the decisions made by the Local Government and Social Care Ombudsman. This option was rejected as by not having oversight of this report the Committee would not receive

assurances that the learnings from Ombudsman cases were leading to improvements in services.

Reasons for Recommendation/s

9. To enable members to scrutinise complaints dealt with by the Council that went to the Ombudsman and to inform them of the service improvements being made for the benefit of residents as well as colleagues.

Statutory and Policy Implications

10. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

11. The decisions attached are anonymised and will be publicly available on the Ombudsman's website.

Financial Implications

12. The details of any financial payments are set out in Appendix A. £3,800 will come from Childrens & Families Department budgetary provision.

Implications for Service Users

13. All of the complaints were made to the Ombudsman by service users, who have the right to approach the LGSCO once they have been through the Council's own complaint process.

RECOMMENDATION/S

- 1) That members note the findings of the Local Government and Social Care Ombudsman and welcome the lessons learned and actions taken in response to the findings

Marjorie Toward

Monitoring Officer and Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

Richard Elston Team Manager – Complaints and Information Team

Constitutional Comments (HD (Standing))

14. Governance & Ethics Committee is the appropriate body to consider the content of this report. If the Committee resolves that any actions are required, it must be satisfied that such actions are within the Committee's terms of reference.

Financial Comments (SES 27/03/2024)

15. The financial implications are set out in paragraph 13 of the report.

16. The details of the financial payments are set out in Appendix A.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All