

**05 March 2025**

**Agenda Item: 4**

## **REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE AND EMPLOYEES**

### **LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS DECEMBER 2024 TO JANUARY 2025**

#### **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 28<sup>th</sup> November 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/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of eight 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 two 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 two cases. Both cases were in Childrens. The first complaints is from Ms C who complained the Council failed to provide their child, D, with access to a fulltime education during years nine and ten of their education (the academic years 2022/23 and 2023/24). Ms C said as a result D missed a significant portion of their education, feeling unsupported during this time. Ms C wasn't happy with EHCP but the Ombudsman has found no fault with how the Council managed that, engaged with relevant parties and dealt with it within timescales. The Council knew of D's absence from school by December 2022. The Fair Access Protocol Team monitored events between then and July 2024. So, it held an active interest in D's case, except for a few weeks around September 2024 when D attempted a return to school which sadly failed. The Ombudsman state that the Council did not then show enough engagement with D's case. Despite knowing of D's long-term absence from school there was no record it ever asked itself if it should do more to help D gain access to education given its legal duties. During the Spring Term 2024 D could not access the alternative provision identified by their school because it had no capacity. Yet it did not look for any different provider or ask the school to do so. The Ombudsman state that this didn't necessarily cause a lack of provision but cited the distress caused to Ms C and D. It also stated that the complaint response did not address the complainant's concern about lack of support. The Council has agreed to pay £1900 which was offered by the Council previously.

Following this, the complaints team are working with the department to ensure they give necessary information to compile a response, the complaints team are reliant on the knowledge of the legislation for education and social care and what support is being in put in place for families. Complaints Officers agree records of complaint with complainants if there is anything unclear and each point is addressed in a response. This case is being used as a case study for learning and collaborating with departments to ensure we as a Council address each point on the agreed record of complaint

It is evident that families were not always clear that the Local Authority were acknowledging it's responsibilities under Section 19 or about the work that Local Authority teams were undertaking to support their child to access appropriate learning. The Local Authority will ensure that future complaint responses from Childrens department to parents that relate to education access for pupils who qualify under Section 19 will clearly acknowledge the Local Authority's role and will provide a point of contact if parents wish to discuss their individual situation as the situation progresses

8. The second complaint is also in Childrens. Mr X complained the Council failed to properly consider its duty to provide alternative education provision for his child, Z, and failed to put in place school transport. The Council was not at fault in how it considered and later arranged alternative provision. However the Council did provide incorrect information to Mr Z through its complaint response which implied it had not properly considered its education duties to Z. It did follow its duties and was in regular contact however it caused confusion to Mr X with its response as to who was responsible for the provision. The Council has agreed to apologise for the uncertainty this caused to Mr X and issue reminders to its complaints officers to prevent recurrence of the fault in future

## **Other Options Considered**

9. 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**

10. 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**

11. 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**

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

### **Financial Implications**

13. The details of the financial payments are set out in Appendix A. £1900 will come from the Children and Families' Department budget.

### **Implications for Service Users**

14. 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))**

15. 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**

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

17. 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.

- N/A

### **Electoral Division(s) and Member(s) Affected**

- All