

SURREY COUNTY COUNCIL**CABINET****DATE: 31 OCTOBER 2017****REPORT OF: ANN CHARLTON, MONITORING OFFICER****SUBJECT: LOCAL GOVERNMENT OMBUDSMAN REPORT WITH A FINDING OF MALADMINISTRATION****SUMMARY OF ISSUE:**

This report concerns the Local Government Ombudsman's findings in response to a complaint concerning the service provided to a Surrey family.

The production of this Monitoring Officer report is a statutory requirement under Section 5A of the Local Government and Housing Act 1989. The Council's Monitoring Officer has to report to the Council's executive body (Cabinet) when the Local Government Ombudsman has conducted an investigation into a complaint against the Council and has found that maladministration causing injustice has occurred.

Children's Services have apologised unreservedly to the family, who experienced drift and delay in receiving the right help and support for their son. They have told me that, since the time they let the family down, they have reviewed and are improving the system and processes to ensure children with special educational needs are identified better and earlier and supported well for as long as is needed. This has been overseen by the Improvement Board with a focus to improve outcomes for children in Surrey. More details of the improvements made are set out in paragraph 6, below.

RECOMMENDATIONS:

It is recommended that that Cabinet:

1. consider the Ombudsman's report and the response from Children's Services,
2. satisfy itself that steps have been taken to address the findings and consider whether any other action should be taken, and
3. note that the Monitoring Officer will be bringing her report to the attention of all councillors.

REASON FOR RECOMMENDATIONS:

There is a statutory requirement for the Monitoring Office to bring to Members' attention any Ombudsman report on the Council that identifies it is at fault and has caused injustice as a result.

DETAILS:

1. The Local Government Ombudsman has investigated a complaint made by parents of a severely autistic child about SCC's Children's Services. A report into the investigation was published on 6 July 2017. The events leading to the complaint all happened between October 2009 and August 2013. Although the LGO does not usually investigate events which happened more than twelve months before a complaint, he decided that on this occasion there was good reason to investigate, because SCC itself took a long time to respond to the complaint made by Mr and Mrs P to Children's Services in October 2013 (the investigator's report was not completed until October 2014). This left them with little option other than to pursue a late complaint with the LGO when they were dissatisfied with SCC's response.
2. The identity of the family in question is not made publicly available and the LGO refers to the complainants as "Mr and Mrs P" in his report. They have four children, the eldest of whom, described as "S", has severe autism. The LGO has found that when Mr and Mrs P asked for help in October 2009 the Council failed to properly assess the family's need for support. As a result the family was left without appropriate support until July 2011. When it did assess the family's need for support it was inadequate and in January 2012 Mr and Mrs P asked the Council to take S into care as they could no longer cope. SCC did so and then delayed considering Mr and Mrs P's request for a 52-week residential school placement for S. The LGO comments that it only addressed the family's concerns when threatened with legal action.
3. The LGO also investigated the way in which Mr and Mrs P's complaint was handled by SCC and found that it did not initially follow proper procedures, set out in law.
4. The LGO concludes that SCC's mistakes had a significant impact on Mr and Mrs P and their children. There was fault by the Council which caused injustice. The LGO recommended that the Council apologise and compensate the family, including paying legal cost they occurred in challenging the Council. The LGO's findings and recommendations were accepted by SCC and the LGO report acknowledges this. The full report is appended to this report and has been published on the LGO website.
5. The LGO report found significant fault on the part of SCC's Children's Services and recommended a substantial compensation payment, which has been made. The Monitoring Officer is therefore bringing it to the attention of Cabinet.
6. The Service has asked me to draw to members' attention the specific changes that have been made in areas identified within the investigation report since the time of the complaint, which include the following:
 - i) SEND developments have introduced joint decision making processes, such as the Partnership Resource Forum and the High Needs Panel. This ensures joint plans can be agreed for children.
 - ii) links between SEN and CWD Teams have strengthened and joint discussions take place at an early stage to identify solutions and to work with parents to agree plans. This may include residential school options where this provision would best meet the child's needs.

iii) there is clearer guidance for CWD, and all social care teams, on thresholds and the introduction of Signs Of Safety has ensured risk within a family are identified and addressed within safety / care plans.

iv) The introduction of single Child & Family Assessments (replacing initial and core assessments) means that the assessment is more comprehensive and considers the needs of all children within the family.

v) Significant incidents for children placed in residential schools are reviewed within supervision to ensure an overview placement is maintained and any concerns are addressed.

CONSULTATION:

7. The Chief Executive and S151 Officer have been consulted on this report in accordance with the statutory requirements.

RISK MANAGEMENT AND IMPLICATIONS:

8. The LGO findings highlight service failures that caused injustice to a vulnerable child and his family. More recent Ofsted inspections have identified a need for improvements in this area and improvement plans are in place. The effectiveness of improvements, to clearing backlogs for assessments and improving monitoring systems will be key to preventing similar failures in future years.

Financial and Value for Money Implications

9. The Council has paid a total of £18,400 compensation to the complainants as recommended by the Ombudsman.

Section 151 Officer Commentary

10. The Section 151 Officer confirms that there are no material financial implications regarding the matters raised in this paper and that the £18,000 compensation to the complainant has been paid.

Legal Implications – Monitoring Officer

11. The Local Government and Housing Act 1989 places a duty on the Monitoring Officer to report the Ombudsman's findings to the Cabinet and draw her report to the attention of each Member of the Council.

12. Ombudsman's recommendations are not legally enforceable although it is extremely unusual for an authority not to accept them. If the Ombudsman is not satisfied with a council's response he can publish a further report and can compel an Authority to publicise his views. In this instance Officers have accepted the findings of the Ombudsman, agreed to pay the amounts recommended by the Ombudsman and have agreed to make an apology.

Equalities and Diversity

13. The Council has to have due regard to its equality duties under the Equality Act 2010 and to consider the impact of its decisions and actions on individuals with protected characteristics. Particularly relevant here are the characteristics of disability and age (in so far as this is concerns a disabled child). The duties relating to special educational needs are enshrined in law to ensure that such children get the support that they require to help them with their education. The sum of money identified here has been recommended by the Ombudsman as a proportionate response in recognition of the failure to provide the support in this case. Members will no doubt wish to consider whether there are any other lessons to learn to avoid any future similar adverse impact on children with disabilities, those who care for them and on their families.

Corporate Parenting/Looked After Children implications

14. There are no implications for corporate parenting/looked after children arising from this report.

Safeguarding responsibilities for vulnerable children and adults implications

15. There are no implications for safeguarding responsibilities for vulnerable children and adults arising from this report.

Public Health implications

16. There are no implications for public health arising from this report.

Climate change/carbon emissions implications

17. There are no implications for climate change and carbon emissions arising from this report.

WHAT HAPPENS NEXT:

18. A report of the Cabinet's response to the Ombudsman's recommendations will be produced and sent to all Members and to the Ombudsman.
19. The matter will be reported to the Council for it to note.

Contact Officer:

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Consulted:

See paragraph 9 above

Informed:

See paragraph 9 above

Sources/background papers:

Report of the Local Government Ombudsman no 15 012 105

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