

SURREY COUNTY COUNCIL**CABINET****DATE: 15 DECEMBER 2020****REPORT OF: MRS JULIE ILES, CABINET MEMBER FOR ALL-AGE LEARNING****LEAD OFFICER: LIZ MILLS, DIRECTOR, EDUCATION, LIFELONG LEARNING AND CULTURE****SUBJECT: LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN PUBLIC REPORT REGARDING CONCERNS ABOUT THE DELIVERY OF HOME TO SCHOOL TRANSPORT****ORGANISATION EMPOWERING COMMUNITIES STRATEGY PRIORITY AREA:**

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SUMMARY OF ISSUE:

This report concerns the findings of the Local Government and Social Care Ombudsman (the Ombudsman) in response to a complaint concerning the service provided to a Surrey family. The Council was found at fault for the handling of Y's post 16 school transport arrangements in 2019 causing Mrs X and her son Y injustice.

As the Ombudsman has found that maladministration causing injustice has occurred, under Section 31(2) of the Local Government Act 1974, the report must be laid before the authority concerned. The Ombudsman welcomed the Council's willingness to reflect on his findings to inform future improvements.

The Council has accepted the recommendations of the Ombudsman. The Council will pay a total of £2650 for reimbursement of costs, distress, uncertainty, time and trouble. for the complainant in pursuing the complaint. It will also apologise to the family, invite families who were receiving travel assistance from September 2018 to September 2019 to make a retrospective application for transport if necessary, to make sure another family does not have the same experience.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Consider the Ombudsman's report and the steps that will be taken by the Service to address the findings, and
2. Consider whether any other action should be taken.
3. Note that the Monitoring Officer will be bringing his 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 public report issued by the Ombudsman about the Council which identifies it is at fault and has caused injustice as a result.

DETAILS:

1. The Local Government and Social Care Ombudsman has investigated a complaint made by a parent of a child with special educational needs. A report into the investigation was published on 2 December. The identity of the family in question is not made publicly available and the Ombudsman refers to the parent as 'Mrs X' in this report, and her son as 'Y'.
2. Mrs X complains the Council failed to tell her in 2019 that she had to apply for post 16 transport for her son, Y. She says Y previously received school transport under his Education, Health and Care Plan (EHCP). Mrs X says she incurred taxi costs of £2400 while awaiting the Council's transport provision and Y missed the start of school.
3. Y was due to move to post 16 education in September 2019. Mrs X was told by the Council that Y would be able to stay at the same school for sixth form and free transport would continue. The Council acknowledges that it referred to transport in Y's annual review, however it had been the Council's policy since 2018 that all families had to reapply for transport once their child reached the end of year 11.
4. Mrs X says she was unaware of the policy or the need to reapply as she had not done so in the past and the Council did not make her aware of this. The SEND caseworker had previously arranged transport without any input from her.
5. Mrs X was informed by the Council that she would need to apply for transport and to make alternative arrangements whilst the application was being processed. Mrs X applied on 4 September and transport was in place by 2 October. This was within the service level agreement.
6. On 14 September Mrs X made a formal complaint to the Council which was escalated through the process. The stage two review explained that it was up to parents to apply for school transport and so it did not agree it was at fault. However, it accepted that it should be more proactive in communications with parent. The Council recommended that SEND case officers remind parents of the requirements of the Transport Policy, for example, during transition through key stages in future. It told Mrs X to contact the LGSCO if she remained unhappy.
7. In response to enquiries, the Council said it wrote to post 16 students who were already receiving transport in 2018/19 and needed to know to reapply for 2019/20. However, it did not write to the families of children in Year 11 because, under its policy, these families would have to reapply in any event. This was not a change of policy for 2019 and it had been the case since 2018 that families had to reapply once their child reached the end of Year 11.

8. The Council accepted it could have made the process clearer for Mrs X. It apologised and offered to reimburse them £2,400 for the taxi costs and pay £150 as a goodwill gesture. It also explained it would review the operational procedure of how the SEND Transport Policy can be shared to facilitate awareness and inform families of their obligations.
9. This complaint dates back to events that took place in 2019. The Service is aware that further improvement is required and has begun an end to end review of its home to school transport process. The review will be used to ensure the process for families and young people is customer focused and an efficient service.
10. In accordance with statutory requirements, Surrey County Council will place public notices about the Ombudsman's public report in the *Surrey Mirror* and the *Surrey Advertiser*.

CONSULTATION:

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

RISK MANAGEMENT AND IMPLICATIONS:

12. The Ombudsman findings highlight service failures that caused injustice to a vulnerable child and his family. Staff training and ensuring families are aware of the need to reapply will be delivered to prevent a recurrence of these issues.

Financial and Value for Money Implications

13. The Council will pay £2,650 to the family as recommended by the Ombudsman.

Section 151 Officer Commentary

14. The Section 151 Officer confirms that the payment to the family can be met from existing budgets. There are no further material financial implications regarding the matters raised in this paper.

Legal Implications – Monitoring Officer

15. The Ombudsman has made a finding of fault (described in law as maladministration) causing injustice. The inadequacies identified include failures on the part of Children's Services to comply with statutory duties placed upon them. The Local Government and Housing Act 1989 places a duty on the Monitoring Officer to report these findings to the Cabinet and draw his report to the attention of each Member of the Council.
16. Ombudsman's recommendations are not legally enforceable although it is extremely unusual for an authority not to accept them. In this instance Officers have accepted the findings of the Ombudsman, agreed to pay the amounts recommended as compensation and have agreed to make an apology.

Equalities and Diversity

17. 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 concerns a young person with special educational needs). 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. 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 their families. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	No significant implications arising from this report.
Safeguarding responsibilities for vulnerable children and adults	No significant implications arising from this report.
Environmental sustainability	No significant implications arising from this report.
Public Health	No significant implications arising from this report.

WHAT HAPPENS NEXT:

- An apology letter will be sent to the family by 1 December 2020 and the recommended financial redress payment will be paid.
- Contact to families to make them aware they can make a retrospective claim will be completed by 1 April 2021.
- A report of the Cabinet's response to the Ombudsman's recommendations will be produced and sent to all Members and to the Ombudsman.
- The matter will be reported to the council for it to note.

Contact Officer:

Jo Lang, Service Manager – Customer Engagement, 07896 998796

Consulted:

See paragraph 10 above.

Annexes:

Annex 1- Report of the Local Government Ombudsman - Reference number: 19 016
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Sources/background papers:

None

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