

Report of Director of Children and Families

Report to Scrutiny Board (Children and Families)

Date: 25 September 2019

Subject: Local Government and Social Care Ombudsman report on the provision of suitable education for a child absent from school due to anxiety



Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- The Local Government and Social Care Ombudsman has made a finding of maladministration with injustice in a complaint and has issued a public report against the authority (attached at appendix 1)
- The case concerns the provision of suitable education for a child who was absent from school due to anxiety
- The Ombudsman has issued a report of its findings and recommendations for the Council to remedy the complaint.
- The Children and Families Service has worked with the family and local schools to resolve the problem for this individual and to reform working policies and practice to ensure this does not happen again in the future.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

Making Leeds the best city for children and young people to grow up in

- Improving educational attainment and closing achievement gaps for children and young people vulnerable to poor learning outcomes

The Ombudsman's report and the council's response will provide an opportunity to review and develop actions under the city's Three As Strategy and also strengthen the governance around cluster working.

3. Resource Implications

The service will make payments to the family as compensation for the family's time and trouble, for the service's failure to assess your child's needs and finally to reimburse the family for the money they had to pay out for education between October 2018 and January 2019. This will be met through existing budgets.

Recommendations

The Scrutiny Board is requested to:

- a) Note the Ombudsman's report and the recommendations for improvement.
- b) Note that the Ombudsman's report is being reported to the Executive Board on 18th September 2019.
- c) Note that the Deputy Director for Learning, Children and Families is responsible for ensuring that all actions agreed in response are completed.

1. Purpose of this report

- 1.1 The purpose of this report is to inform the Children and Families Scrutiny Board of the outcomes of a recent Ombudsman report and to provide assurance to the Board that the Council has taken effective action in response.

2. Background information

- 2.1 Section 31(2) of the Local Government Act 1974 requires that where the Ombudsman issues a report with a finding of maladministration and injustice, the authority will consider the report. The Executive Board is expected to consider this matter at its meeting on 18th September 2019.
- 2.2 The Act requires that Ombudsman's findings must also be advertised in two newspapers and copies of the report made available for public inspection. These notices were placed in the Yorkshire Post and the Yorkshire Evening Post on the 8th August 2019. The report will be made available at the Civic Hall and the main reception at Merrion House for three weeks.
- 2.3 The Ombudsman report relates to Child A, who was 10 years old when they stopped attending school in March 2018 due to anxiety. Various attempts to support the family were tried by the school, the local cluster and different Council services but it took until February 2019 to agree satisfactory support through the Medical Needs Teaching Service.
- 2.4 The parents of the child (A), submitted a formal complaint to the Council's Children and Families service regarding a lack of educational provision since their child stopped attending school in March 2018. The complaint was considered at two formal stages and was not upheld.
- 2.5 At this point the complainant then asked the Local Government and Social Care Ombudsman to consider their case.
- 2.6 The substance of the complaint :
- that the council had a statutory duty to provide alternative education under [Section 19 Education Act 1996](#)
 - that no alternative provision has been provided

3. Main issues

- 3.1 The Ombudsman undertook an investigation and concluded that there had been maladministration with injustice. The Ombudsman's findings:
- The Ombudsman did not accept that the provision offered from the school was sufficient and lack of evidence of a medical need should not have prevented alternative provision being provided.
 - The Ombudsman judged that the Council's approach was not in line with the Education Act 1996 and has asked the Council to develop an updated local policy for children missing school due to illness and other reasons
 - The Ombudsman did accept that cluster working arrangements were being further developed in Leeds and welcomed the information that the council was working with schools on its Three As' Strategy and that a new system was being introduced

which allowed schools to update the authority immediately on absence and exclusions.

- 3.2 The Children and Families Service has worked hard with the family, school, cluster and Ombudsman to resolve the specific challenges for this child and to update its wider approach to improve support for children and young people in a similar situation in the future.
- 3.3 Child A has been accessing education through the Medical Needs Teaching Service since February 2019. An Education, Health and Care Plan (EHCP) has now been finalised to ensure the pupil is receiving more comprehensive support in school, and it has been agreed that the child will start at a new high school in September.
- 3.4 To improve our work in this area the Council has developed a wide range of improvements to policy and practice. This include:
 - *Updating policy:* A new draft policy has been produced which details the arrangements for providing education for children with additional health needs including a named manager as a point of contact. This policy will be implemented once consultation with Area Inclusion Partnerships, schools and parents is completed in the autumn term.
 - *Strengthening work with clusters:* As part of a revised structure for the Council's Learning Inclusion Service, funding has been agreed to recruit a senior teacher to become a Headteacher of a new 'virtual school for social, emotional and mental health'. This will adapt the model and build on the success of the virtual school for Children Looked After in Leeds that has helped significantly improve results and attendance. This post will work with schools and clusters to improve joint working and ensure there are appropriate plans for all children who are not in mainstream education. This post should be filled during the autumn term.
 - *Improving early help support:* Recent appointments in the early help service has allowed us to review the structure and governance of clusters. This work will ensure there is consistency and clarity around process and roles and also robust arrangements for escalation. A multi-agency working group will be established with Targeted Service Leaders and schools to improve communication, procedures and joint working in this area. The working group will agree and implement actions by December 2019.
 - *Sharing data:* A new 'live school roll' – a new system to share attendance data between schools and the Council - is due to be introduced in the autumn. Schools will be strong encouraged but cannot be obliged to take part in this new system but where they do this will enable school absence to be accessed on a real time basis and will mean the authority is notified of all cases where a child is absent for 15 school days. This will hugely improve the Council's ability to actively monitor on a regular basis whether all children are receiving a suitable education. The new data collection system (SID) is voluntary and will support more up to date child/school data collection on attendance, exclusions and on roll numbers. The LA does not have a duty to collect attendance data as this is reported direct to DFE and Ofsted by schools. Currently the LA receives the data on school attendance once verified by the DFE which is usually lagged by at least 2 terms. Parents/carers are accountable for ensuring that children have access to a suitable education through attendance at school (unless EHE) – and if they do not undertake this duty then the school (not the LA) can choose to start legal action. The LA then provides the processes for the legal action to be taken forward through the school attendance team and legal team.

4. Corporate considerations

4.1 Consultation and engagement

Consultation is planned with local parents and schools on the new policy and procedures for improving support for children and young people missing school. This will be completed in the autumn term.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 This case relates to a young person with a mental health condition that is likely to be both long-lasting and have a significant impact on day to day activities. As such people in these circumstances should be considered as disabled and should benefit from the protections of the Equality Act 2010 and the Council's positive duty to promote equality. The improved policies and procedures and support for better practice should lead to better joined up support for these children in future.

4.3 Council policies and the Best Council Plan

- 4.3.1 Effectively resolving the issues raised by this case are important to the Best Council priority to make Leeds the Best City for Children and Young People, and the priorities of the Three As Strategy.

Climate Emergency

- 4.3.2 Not applicable.

4.4 Resources, procurement and value for money

- 4.4.1 The service will make payments to the family as compensation for the family's time and trouble, for the service's failure to assess your child's needs and finally to reimburse the family for the money they had to pay out for education between October 2018 and January 2019. This will be met through existing budgets.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The Council is required to formally review the outcomes of the Ombudsman's report, in line with the statutory requirements of Section 31(2) of the Local Government Act 1974. It is important that the Council effectively responds to all recommendations of the report in order to comply with its duties under the Equality Act 2010.

4.6 Risk management

- 4.6.1 Ensuring that policies and practice are strengthened is important to meet statutory requirements and also as cases such as these could contribute to key corporate risks including those relating to inspection and safeguarding failure.

5. Conclusions

- 5.1 The Council has fully accepted the findings of the Ombudsman and the recommendations for remedy that have been put forward. The Children and Family Service regrets the delays and problems in providing a suitable education for Child A and is committed to ensuring this case is used properly for learning and improvement. The Service has now ensured A's needs are properly assessed and a new school has been agreed for September. Wider work is now underway to ensure procedures and practice are stronger and better in future and all work should be completed by the end of the autumn term 2019.

6. Recommendations

The Scrutiny Board is requested to:

- 6.1 Note the Ombudsman's report and the recommendations for improvement.
- 6.2 Note that the Ombudsman's report is being reported to the Executive Board on 18th September 2019.
- 6.3 Note that the Deputy Director for Learning, Children and Families is responsible for ensuring that all actions agreed in response are completed.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.