

Report of Director of Children and Families

Report to Executive Board

Date: 20th July 2020

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 checked="" type="checkbox"/> Yes <input 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 made a finding of maladministration with injustice in a complaint and issued a public report against the authority in July 2019 (attached at appendix 1).
- The case concerned the provision of suitable education for a child who was absent from school due to anxiety.
- The Ombudsman 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.
- A report was provided to the Executive Board of the council on the 18th September 2019.
- The Executive Board in noting that the matter was scheduled to be considered by the Scrutiny Board (Children and Families), recommended that the matter returns to the Executive Board in order to update on progress made on the recommendations for improvement.

- A Scrutiny Board was held on the 3rd June 2020 (delayed due to the Coronavirus outbreak).
- Scrutiny Board commended the actions taken whilst also acknowledging the importance of the ongoing governance review work aimed at achieving greater consistency amongst clusters.
- The Ombudsman has formally confirmed he is happy with the actions taken.

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 has provided 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**

None applicable. Amends to policy and processes are within current structure capacity.

Recommendations

- a) Executive Board to note the Ombudsman's letter (Appendix 2) to say that they welcome the actions taken by the Council following the report and to formally confirm that they are satisfied with the council's response in accordance with section 31(2) of the Local Government Act 1974.
- b) To note that Scrutiny Board (Children & Families) welcomed the actions that had been taken in response to the Ombudsman's report.
- c) To acknowledge the importance of the ongoing governance review work aimed at achieving greater consistency amongst clusters.
- d) To note the responsible officer is the Head of Learning Inclusion.

1. Purpose of this report

- 1.1 The purpose of this report is to update and provide assurance to the Executive Board that the Council has taken effective action in response to the Ombudsman recommendations and that both the council's Children and Families Scrutiny Board and the Ombudsman are satisfied with the actions taken.

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. This requirement is fulfilled by reporting to the Executive Board.
- 2.2 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 support through the Medical Needs Teaching Service.
- 2.3 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.
- 2.4 At this point the complainant then asked the Local Government and Social Care Ombudsman to consider their case.
- 2.5 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.

4. Corporate considerations

4.1 Consultation and engagement

Consultation has been undertaken on the new policy and procedures for improving support for children and young people missing school. The policy is now in operation.

Equality and diversity / cohesion and integration

- 4.1.1 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.
Screening form attached at appendix 4.

4.2 Council policies and the Best Council Plan

4.2.1 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

4.2.2 Not applicable.

4.3 Resources, procurement and value for money

4.3.1 No significant resources issues.

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

4.4.1 The Board has formally reviewed the outcomes of the Ombudsman's report, in line with the statutory requirements of Section 31(2) of the Local Government Act 1974. It has review the actions taken at Children and Families Scrutiny Board and has received formal confirmation from the Ombudsman that they are satisfied with actions taken.

4.5 Risk management

4.5.1 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 fully accepted the findings of the Ombudsman and the recommendations for remedy that have been put forward. The Children and Families Service has put together a comprehensive action plan (Appendix 3) to address the Ombudsman recommendations. The Ombudsman has formally communicated his satisfaction with the plan and the actions taken. Children and Families Scrutiny Board have also commended and are satisfied with the actions taken whilst also acknowledging the importance of the ongoing governance review work aimed at achieving greater consistency amongst clusters.

6. Recommendations

6.1 Executive Board to note the Ombudsman's letter (appendix 2) to say that they welcome the actions taken by the Council following the report and to formally confirm that they are satisfied with the council's response in accordance with section 31(2) of the Local Government Act 1974.

6.2 To note that Scrutiny Board (Children & Families) welcomed the actions that had been taken in response to the Ombudsman's report.

6.3 To acknowledge the importance of the ongoing governance review work aimed at achieving greater consistency amongst clusters.

6.4 To note the responsible officer is the Head of Learning Inclusion.

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.