

Report of the Director of Children’s Services

Executive Board

7th September

Public reports of the local government ombudsman regarding complaints

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<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
Is the decision eligible 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 of main issues

1. This report provides details of three public reports produced by the Local Government Ombudsman (LGO).
2. They follow investigations into complaints regarding the provision of education and care for children with a range of complex educational, care, and health needs. One of the complaints related to a looked after child. The complaints themselves relate to service provision from 2003 and 2008 in one case, provision between 2004 – 2009 in another case and a single episode in 2008 in the other case.
3. The context of these cases is that the services involved have undergone significant improvement in the time since these concerns came to light. These improvements are well documented through inspection and review reports. The Ombudsman recognises that the council has reviewed and reorganised education and children’s services and that these changes will address the concerns raised in the cases. The Ombudsman therefore does not recommend further review. Nevertheless, even in the context of these more recent improvements, it remains a matter of very deep regret for the service that these children and their families were so badly served at the times in question.
4. The Council fully accepts the Ombudsman’s findings. Apologies in person and in writing have been given to those involved, and the required compensatory payments have been made. In addition, action plans have been drawn up to address the other areas of learning for these cases and the services as a whole.

Recommendations

5. Members are asked to consider the reports and to note the actions taken by the council to remedy the issues raised.

1.0 Purpose of this report

- 1.1 To inform members of a recent finding of maladministration with injustice in three reports issued by the local government ombudsman.

2.0 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.
- 2.2 This requirement is fulfilled by reporting to the Executive Board. The ombudsman's findings must also be advertised in two newspapers and copies of the report made available for public inspection. For these cases notices were placed in the Yorkshire Post and the Yorkshire Evening Post on the same day, 12 July 2011. The reports were also made available at the city centre library and the main reception at Merrion House for three weeks commencing 11 July 2011.
- 2.3 The full public reports for these cases are to be found in appendix 1, 2 and 3. A brief summary of the complaints and remedies is as follows:

COMPLAINT 1.

The substance of the complaint regarding child H is:

- that the education service failed to meet the provision in H's statement of SEN and in particular placed H in a school which was not equipped to meet her needs.
- that the social care service failed to assess H's needs and those of her family and over a number of years failed to provide appropriate respite care for them all.

The ombudsman has proposed the following remedies:

- To offer H and her mother an apology.
- To offer financial recompense for respite care, for the days when H could not attend school due to the absence of a BSL signer and for H personally in recognition of pain, discomfort and indignity.
- To carry out a specialised assessment of H's educational potential and implementation of the resulting proposed provision.

COMPLAINT 2.

The substance of the complaint regarding child D is:

- that D's learning difficulties were not adequately addressed, including lack of structure and regular review of his Personal Education Plan (PEP);
- insufficient support for D's behavioural difficulties;
- insufficient individualised support for D from a source consistent with his ethnic group; and
- insufficient support for D's foster parents.

The ombudsman has proposed the following remedies. The council should:

- fund specialist provision up to £2500 to improve D's learning ability and educational achievement;
- make efforts to identify an appropriate mentor for D;
- apologise to, and pay his foster carers £3000 in recognition of their efforts on D's behalf and for the stress caused; and
- ensure a report is made to the executive board or an appropriate scrutiny committee summarising the changes in services, policies and procedures and that a copy is sent to D's foster carers.

COMPLAINT 3.

The substance of the complaint in relation to child Y is that there was:

- insufficient support following an incident in 2008, involving the Police where Y was charged with a criminal offence and subsequently given a final warning.
- that once the council knew about the incident and that Y had been arrested and was facing a serious charge, it should have sought legal advice – as any responsible parent would have done. It provided no support to Mr and Mrs X and relied on the duty solicitor. It failed to ensure that Y, at this time a very vulnerable child of 13, was properly advised. These failures were maladministration.

The ombudsman has proposed the following remedies. The council should:

- ensure the ombudsman's report regarding the incident where Y was given a final warning, is made available for any response to a criminal records check;
- set up a fund of £2000 to support Y's transition into independent living and make an immediate payment of £500 with an apology to him;
- apologise to his foster carers and pay £1500 for their time and trouble and stress caused;
- ensure all teams working with looked after children are aware of their responsibilities in protecting the child's interests; and
- ensure foster carers are provided with information about what to do if their child is involved with the Police.

3.0 Actions taken.

- 3.1 Action plans are in place in respect of each individual case, and these are attached at Appendix 4. Apologies in writing and in person have been given to the families involved by senior officers including the Director of Children's Services, and the compensatory payments have been made.
- 3.2 In addition to the actions specific to these cases, a very broad range of improvements have been made over the past two years. The Ombudsman recognises in her reports that these changes give confidence for effective service delivery. She states

"I am aware of the major reorganisation of education and children's services that has brought them together in a unified management structure. This integration programme should be fully implemented by the end of 2011 and will provide a single integrated service for the most challenged families. "

3.3 She also notes the ongoing Scrutiny Enquiry into services for children with disabilities and special educational need, and says

“It seems to me that the proposals emerging from that Enquiry would, if implemented effectively and with adequate resources, have a positive impact on the issues raised by (child) and her family.”

3.4 In addition to the overall service redesign, members’ attention is also drawn to some of the key areas of improvement which have taken place across the key service areas:

- (i) The local authority has aligned and strengthened its commissioning arrangements for children with complex needs and disabilities through revised arrangements for placements and decision making in social care and education. These were introduced in August 2010.
- (ii) New processes and proceedings for the management and monitoring of short breaks were introduced in 2008.
- (iii) A disabled children’s allocation panel has been set up that approves specialist short breaks and a new database established that records all specialist short breaks and reports on any un-met needs.
- (iv) An additional occupational health post has been established to assess the moving and handling needs of disabled children in short breaks.
- (v) A new joint transitions service was established across adults and children’s services in 2010 to address the needs of children as they move into adulthood.
- (vi) A review of the special educational needs service and statutory assessment processes was commissioned in 2009. As a result of the review, actions were taken to further improve service delivery. Interim leadership arrangements were secured pending the appointment of a new head of service who joined the service in September 2009.
- (vii) Significant work has been completed over the last two years to improve practice in special educational needs including revising the SEN handbook which contains guidance and advice for schools and services, systematically improving and updating statements, and making changes to reviewing statements through the annual review process.. The DfE reviewed progress towards this in autumn 2010 and concluded good progress was been made particularly in relation to the specificity of statements.
- (viii) Further work is being undertaken to strengthen the process around annual reviews and core reviews. Officers have identified that further training is required to train lead officers in further challenging providers and supporting families and carers through this challenge process. Training for this is planned for the autumn term.
- (ix) Liaison across education and social care has significantly improved and officers from the care placement service meet weekly with the senior case work officer for SEN.
- (x) All care plans are now reviewed within 28 days of changing statements.
- (xi) Service re-structures have ensured that supervision arrangements have been strengthened across both services.

- (xii) Work is ongoing to bring together the special educational review; annual review and Personnel Education Plans (PEPs).
- (xiii) The provision made by a school identified in one of the complaints has been reviewed and significant action taken. The school has been subject to new leadership and management arrangements since February 2011. The recent Ofsted report of the SILC found a number of improvements since this time. An interim intervention board was agreed by the DFE and has been fully established since July 2011.

3.5 Given the long history involved in some of the cases, some of the staff who were involved are no longer in the employment of the Council. For those who remain in the service, each has had their practice reviewed through supervision and appraisal arrangements. Additional training and development has been put in place where appropriate.

4.0 Legal Implications, Access to Information and Call In

4.1 The council has a statutory responsibility to ensure the provision in a statement of special educational needs is met (Education Act 1996, part IV). There are further responsibilities to promote the educational achievement of looked after children (Children Act 2004). There are statutory duties to disabled children which fall under Children Act 1989, section 17, Chronically Sick and Disabled Persons Act 1970 sections 1 and 2, Carers (Recognition and Services) Act 1996.

5.0 Conclusions

5.1 The Ombudsman's proposed remedies either have been implemented, are to be implemented immediately, or where possible will form part of the longer term action plan.

5.2 A detailed action plan is in place for all the cases. These plans include actions for the individual young people and also wider actions for services. Details are attached.

6.0 Recommendations

6.1 Members are asked to consider the reports and to note the actions taken by the council to remedy the issues raised

Background documents

Appendix 1 – local government ombudsman public report child H

Appendix 2 - local government ombudsman public report child D

Appendix 3 - local government ombudsman public report child Y

Appendix 4 – Actions plans relating to the cases.