

**Cabinet – 11<sup>th</sup> September 2019**

**Report of the Strategic Director People**

**Response to the Local Government and Social Care Ombudsman Report  
(reference number: 17016386)**

**Purpose**

1. To brief Cabinet about the Ombudsman's Findings in relation to the Special Educational Needs and Disability (SEND) Team report reference number: 17016386 (See attached Appendix).
2. To issue an apology to the complainant and account for actions taken to remedy the complaint.
3. To set out wider actions to improve the quality of service provided by the SEND Team.

**Recommendations**

4. It is recommended that Cabinet:
  - Accept the findings and recommendations of the Ombudsman's report.
  - Considers the actions taken to remedy the performance of the Council.
  - Considers and approves the wider actions taken to improve the quality of the SEND service.

**Background**

5. The complainant has been seeking an Education Health and Care Plan (EHCP) from Dudley Metropolitan Borough Council for her son since October 2015.
6. The Ombudsman has found:
  - Dudley Metropolitan Borough Council did not follow the time guidelines specified in the Special Educational Needs Code of Practice 2014;
  - That a member of staff in the Dudley Metropolitan Borough Council SEND Team recorded inappropriate comments in correspondence;
  - The complainant incurred additional expenditure to secure the EHC Plan.

7. The complainant first requested an EHCP in October 2015. The Council did not provide a plan. The complainant appealed to a SEND tribunal in October 2015 and the Council were directed to assess her son. The Council assessed her son but refused to issue an EHC plan.
8. The complainant appealed for a second time. Shortly before the date of the tribunal hearing the Council conceded and agreed to issue an EHC plan.
9. The complainant again appealed about the content of the plan to the Tribunal. The Tribunal instructed changes to the plan. Her son started education at the school named in the Appendix in September 2018. The complainant stated that her son spent longer without the specialist education support he needed. The Local Authority should have responded to the initial request for an EHCP within six weeks of an initial request and did not do so.
10. The Council sent a copy of official documentation to the complainant that included inappropriate comments made by a senior officer who was dealing with the complainant's case.
11. The Council dealt with the member of staff in question under the Council's disciplinary procedures.
12. The Ombudsman has completed the investigation into this complaint and has found evidence of fault by the Council causing the complainant and her son injustice. The Ombudsman has suggested action to remedy this injustice (set out in section 4).
13. **Ombudsman's Recommendations: (the Council's response is in bold)**
  1. The Council should pay Mrs B £1800, to be used for educational purposes, for the loss of specialist educational support to C. And £500 for the time and trouble she was put to both in the EHC plan process and in the complaint handling. **The Council has issued the payment to the complainant alongside a formal apology.**
  2. The Council should provide information about the action it has taken to ensure the issues that arose in this complaint will not recur and say how it has reviewed its complaint handling. **These actions are set out below.**
  3. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at Cabinet and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended) (*Recommendations Page 7 – Paragraph 33*). **Cabinet will consider the report on 11<sup>th</sup> September 2019.**

14. The Council accepts the findings of the report in full. The service offered by the Council was significantly below the level of service standard expected. We acknowledge the complainant was not responded to within statutory timescales.
15. We further acknowledge that the complainant was not treated with professionalism and respect. We apologise unreservedly to both the complainant and her son for the unjust treatment the Local Government and Social Care Ombudsman has rightly identified.
16. We are committed to improving the quality of service offered to the people of Dudley and this report sets out a clear plan to do so.

### **Action Plan**

17. The Council has undertaken the following actions to ensure the overall quality of service improves:
  - Mandatory staff training has commenced to ensure staff are fully aware of their statutory obligation to meet deadlines and to follow the SEND Code of Practice and Children's and Families Act. This training will continue until the service consistently exceeds the standards expected.
  - Specialist training is planned in relation to legal training on appeals and tribunals, supervision, EHCP completion, SEN Review.
  - Peer review and internal audit will commence to provide quality assurance and escalate issues for resolution.
  - Revised and reviewed tracking systems have been put in place to improve management controls.
  - The SEND 0-25 Team has now been moved into the Dudley Disability Service.
  - A new staffing structure to support families and young people is being implemented.
  - Internal processes and policies have been reviewed and updated.
  - A recruitment exercise has commenced to ensure Officers with appropriate skills and experience lead the SEND service. New Senior Managers are also in place.
  - Formal staff supervision, team meetings, training sessions and mandatory briefings are being introduced from June 2019 onwards.
  - A Nominated Officer has been put in place to provide technical oversight and assurance.

- The Council has committed £330,000 additional investment for a short term period to drive up the quality of service and address previous performance issues with further resources identified through the Integrated Commissioning HUB budget to support officer resources.
- A SEND OFSTED Area inspection has recently taken place and Dudley MBC will draft an improvement plan to drive towards a good standard of service.
- The SEND complaints process has been re-visited to ensure a faster process with acknowledgement of mistakes and a robust process of addressing poor performance.

### **Finance**

18. £2,300 has been paid to the complainant as per the Ombudsman recommendation.
19. £330,000 temporary additional infrastructure has been put into the SEND Team to drive improvement.

### **Law**

20. The Children and Families Act 2014 reformed legislation relating to children and young people with special educational needs and disabilities. The SEND Code of Practice 2014 is statutory guidance for organisations including the Council that work with and support children and young people with special educational needs and disabilities.

### **Equality Impact**

21. There are no perceived negative impacts on any protected characteristics. It is viewed that learning from this case will enhance the service provision and future experiences of all our children and young people and their parent/ carers.

### **Organisational Development/Transformation**

22. The increase in staffing was approved by the Cabinet Members for Children and Young People and Procurement, Transformation and Commercial.

### **Commercial/Procurement**

23. There is no impact on the potential to commercially trade or a positive / negative impact on our customer base.

## **Health, Wellbeing and Safety**

24. The Council is committed to improving the health, wellbeing and safety of the Borough's citizens. This is consistent with building stronger, safer and more resilient communities in line with the Dudley Vision and to protect our residents' physical, and emotional health for the future.

*Martin Samuels*

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**Martin Samuels**  
**Strategic Director People**

Contact Officer: Santokh Dulai  
Telephone: 01384 815904  
Email: [Santokh.Dulai@dudley.gov.uk](mailto:Santokh.Dulai@dudley.gov.uk)

## **Appendix**

Local Government & Social Care Ombudsman report reference number: 17 016 386