



TUESDAY 6TH DECEMBER

Report Title:	LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN REPORT
Report of:	DIRECTOR FOR CHILDREN, FAMILIES AND EDUCATION DIRECTOR FOR ADULT CARE AND HEALTH

REPORT SUMMARY

The Constitution and Standards Committee has referred a report of the Local Government and Social Care Ombudsman (LGSCO) to the Children, Young People and Education Committee for consideration and monitoring, following its meeting of 29th September 2022.

The report provides members of the Children, Young People and Education Committee with an opportunity to review the Ombudsman's report and agree to monitor the recommendations as part of its role in monitoring the SEND Improvement Programme and 'Wirral Statement of Action'.

The report also provides an update on the progress against the recommendations since its consideration by the Constitution and Standards Committee.

The report is not a key decision.

The report contributes to the Wirral Plan priority 'Brighter Futures'.

RECOMMENDATIONS

The Children, Young People and Education Committee is recommended to:

- a) endorse progress made to date on the recommendations as outlined; and,
- b) agree to continue to monitor progress as part of its role in overseeing progress of the Wirral Statement of Action.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATIONS

- 1.1 To ensure the recommendations are monitored in line with the Local Government and Social Care Ombudsman requirements.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Referring the report to an alternative Committee such as Adults Social Care and Health has been discounted given the role of the Children, Young People and Education Committee in monitoring the progress of the Wirral Statement of Action.
- 2.2 Doing nothing has been considered and discounted to ensure that there is public oversight and assurance for monitoring of the recommendations.

3.0 BACKGROUND INFORMATION

3.1 Case summary and finding

- 3.2 Mr Y's complaint was investigated at Stage 2 of the Council's SEND Complaint Procedure which upheld his complaint. A formal response to the Stage 2 investigation was made in February 2021 and a financial remedy offered.
- 3.3 In May 2021 Mr Y's advocate approached the LGSCO as they were dissatisfied with the level of financial remedy offered. The LGSCO decided to proceed with an investigation.
- 3.4 On 17 September 2021 the Council responded to the investigator enquiries. Having reviewed the financial remedy offered in response to Stage 2 it was determined that this did not comply with the LGSCO remedy guidance, and an increased financial remedy was offered.
- 3.5 On 4 November 2021 the LGSCO issued a draft decision, accepting the increased financial remedy as appropriate. The Council responded to the LGSCO draft decision accepting its findings and recommendations.
- 3.6 On 29 November 2021 the LGSCO notified the Council that a decision had been made to issue its findings as a public interest report based on the following criteria i) significant fault/injustice or remedy and ii) significant topical issue.
- 3.7 On 3 February 2022 the LGSCO provided the Council with its final decision, with a proposed publication date of 17 March 2022. The Council were instructed not to make any aspect of the report publicly available until after the publication date.
- 3.8 The LGSCO found that the Council took too long to review Mr Y's Education, Health and Care (EHC) plan, despite being aware he was not in education, failed to secure any of the provision in the EHC plan and failed to issue an amended plan or other decision which delayed their appeal rights. As a result, Mr Y missed out on education and social care support and the Council's proposed remedy did not reflect the injustice to them.

3.9 Some minor procedural faults were found with the Adult Social Care Service provided to Mr Y but the LGSCO found this did not cause Mr Y any injustice. Adult Social Care have apologised to Mr Y and agreed to incorporate learning from his complaint into their practice and procedures.

3.10 The LGSCO recommended that to remedy the injustice the Council should:

- pay Mr Y £4,400 to reflect the poor practice identified in this report which resulted in a loss of education.
- pay Mr Y's mother £250 to reflect her avoidable distress and time and trouble.
- apologise in writing to Mr Y and his mother for the fault and injustice.
- complete its review of the annual review process including compliance with the statutory timescales set out in this report.
- arrange training for relevant officers.

A copy of the full report is attached at appendix A.

3.11 Progress on recommendations

3.12 The Council has provided Mr Y and his mother with the agreed financial remedies and a written apology.

3.13 A review of the annual review process has been initiated and new procedures and guidance has been developed. This went live on 5th September.

3.14 A dedicated training and development sub-group has been established to review and develop an annual learning and development programme. Training on SEND law and bespoke workshops with post-16 providers and commissioning has improved knowledge and understanding of statutory requirements and good practice in reducing placement breakdown and working with young people over 16.

3.15 Public interest report

3.16 In November 2021, the LGSCO informed the local authority that the findings of their investigation would be issued a public interest report. The local authority was required to:

- place two public announcements in local newspapers and/or newspaper websites;
- make the report available free of charge at one or more of its offices; and
- discuss our findings and recommendations at a high decision-making level, such as cabinet or relevant committee; and

3.17 Following issuing of final report, the above requirements were actioned, and a report was presented to the Constitution and Standards Committee on 29 September. Responsibility for monitoring progress was referred to the Children, Young People and Families Committee.

3.18 Wirral Statement of Action

3.19 In line with agreed reporting timescales, an update on progress of the Wirral Statement of Action will be presented to the Children, Young People and Education Committee at its next meeting.

3.20 The Wirral Statement of Action includes actions which correlate directly with the recommendations outlined in the LGSCO report. In summary, these include:

Action ref	Action
2.3.a	Develop a clear multi agency approach for Annual reviews to be completed in a timely manner with all relevant stakeholders involved.
2.3.b	Identify plans for prioritising based on data on timeliness of Annual Reviews
2.3.c	There are clear lines of communication with schools, settings, parents, carers and young people with regards timescales for Annual Review
2.3.d	Use evidence gathered from Annual Reviews to help evaluate the impact of specialist services identified in EHCPs, feeding back to the SEND transformation board
2.3.e	Annual Reviews take account of key transition periods which are reflected in updated professional advice, updated content in Section A, and update as needed to all related sections of the EHCP
2.1.h	Develop training for EHC Coordinators that ensures that existing and new members of the team have access to the same quality training and are competent and informed, transferring these skills to all aspects of the EHC process
2.2.d	Training is developed around all quality assurance activity to ensure a shared understanding and knowledge of what a good EHCP looks like, and to understand the processes that support the writing of an effective, high quality EHCP
3.2.g	Training needs for EHCP coordinators are addressed with a published programme of mandated and optional training relating to the SEND reforms, the SEND Code of Practice (2015) , the Children and Families Act (2014), coproduction, person-centred planning and other key SEND themes

3.21 Members of the Committee will receive an update on these actions as part of the next monitoring report.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising out of this report. The financial remedy provided to Mr Y to the sum of £4,650 has been paid out of the Directorate budget and does not present a pressure in the current financial year.

5.0 LEGAL IMPLICATIONS

5.1 The Children and Families Act 2014 placed new duties on local health, care and education services for children and young people with SEND. This led to the SEND code of practice being published.

5.2 The Council has a duty under S31(2) of the Local Government Act 1974 to consider the Ombudsman's report.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no direct resource implications arising out of the report.

7.0 RELEVANT RISKS

7.1 Failure to consider and comply with the findings of the report may result in financial implications and reputational damage. The Council has responded to the recommendations and incorporated learning into new practice moving forward.

8.0 ENGAGEMENT/CONSULTATION

8.1 Two public notices have been placed in local papers/newspaper websites as per S30 of the Local Government Act 1974 and free copies of the report made available to interested parties on request.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no environment and climate implications arising from the report.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no community wealth implications arising from the report.

REPORT AUTHOR: Hannah Myers
Head of Improvement and Effectiveness (Interim)
email: hannahmyers@wirral.gov.uk

APPENDICES

Appendix A Report by the Local Government and Social Care Ombudsman

BACKGROUND PAPERS

Local area inspection of services for children and young people with SEND

TERMS OF REFERENCE

This report is being considered by the Children, Young People and Education Committee in accordance with Section G of its Terms of Reference, undertaking the development and implementation of policy in relation to the Committee's functions, incorporating the assessment of outcomes, review of effectiveness and formulation of recommendations to the Council, partners and other bodies, which shall include any decision relating to: SEND

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Constitution and Standards Committee	29.02.22
Children, Young People and Education Committee	12.10.22
Children, Young People and Education Committee	21.06.22