

<b>REPORT TO:</b>	<b>GENERAL PURPOSES AND AUDIT COMMITTEE</b> <b>7 December 2017</b>
<b>AGENDA ITEM:</b>	<b>Local Government Ombudsman Report</b>
<b>SUBJECT:</b>	<b>Local Government Ombudsman</b>
<b>LEAD OFFICER:</b>	<b>Barbara Peacock, Executive Director of People</b>
<b>CABINET MEMBER</b>	<b>Councillor Louisa Woodley, Lead Cabinet Member, Families, Health and Social Care</b> <b>Councillor Alisa Flemming, Lead Cabinet Member, Children, Young People and Learning</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>	
<b>FINANCIAL SUMMARY:</b> The findings of this Local Ombudsman Report have resulted in a financial cost to the Council of £8,206.52. These costs have been funded from within existing social care budgets.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO: N/A</b>	

## **1. RECOMMENDATIONS**

- 1.1 The Committee is asked to note the Council's response to the Local Government Ombudsman report.

## **2. EXECUTIVE SUMMARY**

- 2.1 A complaint came in to the Council from a service user which escalated to the Local Government Ombudsman (LGO). After the investigation was completed, The LGO asked the Council to view the draft decisions and recommendations. The Council accepted the report with no disagreement to the recommendations that were advised by the LGO. The Council expressed the view that it accepts the investigation findings and recommendations and the service team have formulated a timetable of actions in line with these recommendations and these have been completed (or are in progress) in line with the time scales given. (See appendix 1)

### **3. DETAIL**

A complaint was made regarding how the Council failed to provide support to the complainant's daughter for a year. The complainant provided support using his own funds over that year which meant his daughter missed out on services she should have had as he could not afford to fund the whole package of care the Council failed to provide. It also meant the family missed out on things as there was no spare money after paying for the care.

#### **3.1 Findings of the Ombudsman**

In November 2017 the Local Government Ombudsman published a report detailing significant failings around the support provided to this young person. The report clearly outlined the areas of failing and made clear recommendations as to how these problems can be avoided in the future.

The new leadership of the services involved have taken the issues that have been identified very seriously and have implemented the recommendations as directed by the LGO. The service has also taken action to learn from this case and ensure that measures are put in place to avoid similar issues from arising in the future.

The key findings and recommendations by the LGO are detailed in Appendix 1.

#### **3.2 Actions taken by the Council**

The actions the Council have taken are as follows:

- Letter of apology sent on 24 October 17.
- Compensation and backdated direct payments made November 17.
- Carers assessment completed in November 17.

The above actions were completed within one month of the report being published.

Additionally, the LGO required the Council to consider the report at its full Council, Cabinet or other decision making committee within 3 months from the publication of the report. Therefore, we will be presenting the report and this cover note to the General Purposes Audit Committee on 7<sup>th</sup> December 2017.

#### **3.3 Lessons Learnt, Improvement and Prevention**

The All Age Disability Service apologises unreservedly for the poor experience provided to the complainant and his daughter, and is committed to ensure that situations like this do not arise again.

There are a number of lessons learnt from this case and we are ensuring that these mistakes are avoided in the future as follows:-

- We have reviewed and amended our procedures to ensure we fulfil our obligations under the Guidance to The Care Act 2014. Previously our procedures did not reflect our duty when a client relocates to the borough, to

agree to continue funding their existing care package until we have completed our own assessment. This update has been communicated to all relevant staff and funding panels.

- The complex care panel is now chaired by experienced senior managers who have a greater depth of understanding of the Care Act and the duties within. During 2012 to 2016, all heads of service posts were covered by interim staff
- A recruitment and retention campaign is underway to improve work-force stability and reduce staff case-loads, improving outcomes for all clients.
- Training and lessons learned sessions are being held with staff and managers to ensure that poor performance and service delivery is improved significantly.
- Quality assurance and data monitoring is more robust. Managers have been trained and held to account in terms of improving front line practice alongside driving service improvement
- The new senior management of the service is committed to improving the customer experience and now have robust oversight of all complaints and or concerns raised by clients and are working much more closely with the Complaints Manager and team
- Croydon also recently commissioned an independent review of its SEND and has an improvement plan in place to improve key areas of our performance, particularly focussed on customer care and significantly improving the customer journey.

#### **4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

- The financial recommendations made by the LGO, will result in costs of £8,200. These costs are made up of the following elements and will be funded from within the existing 0 to 25 Disability Services Budget:-
  - apologise to the family for the faults identified;
  - pay £2,500 to the complainant which the family can use towards a holiday or activities that they have missed out on over the last year;
  - pay £750 to his daughter to recognise the distress and impact on her wellbeing over the last year;
  - pay £1,500 to the complainant to recognise the distress, time and trouble the Council's actions had caused him over the last year; and
  - pay the complainant the missed direct payments of £3,456.52 to support him in his role as a carer since July 2016, and complete a carer's assessment as soon as possible.

Approved by Lisa Taylor, Director of Finance, Investment and Risk

#### **5. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

The Solicitor to the Council comments that the Local Government and Social Care Ombudsman (LG&SCO) is the independent body responsible for investigating complaints made against the Council where it is alleged that there has been maladministration causing injustice.

The LG&SCO its power to investigate and its jurisdiction are governed by three primary pieces of legislation:

- the [Local Government Act 1974](#) (LGA 1974)
- the [Regulatory Reform \(Collaboration etc. between Ombudsmen\) Order 2007 \(SI 2007/1889\)](#) and
- the [Local Government and Public Involvement in Health Act 2007](#) (LGPIHA 2007).

The LG&SCO can only investigate claims where there has been 'maladministration' by a public body that has caused 'personal injustice' to the complainant ([section 26\(1\)](#), Part 3, LGA 1974).

A local commissioner must issue a report if they have finished the investigation of a complaint. This report can include recommendations for action (section 30(1), 30(1A) LGA 1974).

The Council cannot appeal against an LG&SCO report but the actions of an individual local commissioner can be judicially reviewed.

The remedies that the LG&SCO can recommend are intended to put the complainant back in the position that they would have been in had there been no fault. The remedy should be 'appropriate and proportionate to the injustice' ([LG&SCO: Remedies: Guidance on good practice](#)) and should remedy the immediate injustice as well as preventing it recurring in the future ([sections 30\(1A\)](#) and [31](#), LGA 1974).

Approved by Sandra Herbert, Head of Litigation and Corporate Law for and on behalf of Jacqueline, Harris-Baker, Director of Law Monitoring Officer.

## **6. HUMAN RESOURCES IMPACT**

6.1 None

## **7. EQUALITIES IMPACT**

## **8. ENVIRONMENTAL IMPACT**

## **9. CRIME AND DISORDER REDUCTION IMPACT**

**CONTACT OFFICER:** Clare Davies, Complaints Manager

**BACKGROUND PAPERS:** None

**APPENDICES:** Appendix 1- Actions timetable