

REPORT TO:	GENERAL PURPOSES AND AUDIT COMMITTEE 27 January 2021
SUBJECT:	Local Government & Social Care Ombudsman Report Finding of Fault with Injustice
LEAD OFFICER:	Nick Pendry, Director of Children's Services
CABINET MEMBER:	Councillor Alisa Fleming
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:	
<p>The recommendations and actions from the Local Government & Social Care Ombudsman (LGSCO) will be carried out by senior managers in Early Help and Children's Social Care.</p> <p>The activity will support our journey to outstanding and ensure children and young people referred to the department are protected, referrers are responded to in a timely way and we continue to support and protect children and young people across the Borough.</p>	
FINANCIAL IMPACT: None by way of compensation; Children's Services to complete an audit of 50 cases closed in similar circumstances between 2018 to date. If more than 25% of those cases identify similar issues the Council should make resources available to conduct a full case audit 2018 to date.	

1. **RECOMMENDATIONS**

1.1. The Committee is asked to note the recommendations made by the Local Government & Social Care Ombudsman (LGSCO) in relation to Croydon Council in a public interest report dated 26 November 2021 as follows:-

- share the learning points from this case across its organisation, to ensure staff are aware of their responsibilities in respect of information sharing, professional curiosity, and cross border child protection referrals; and
- conduct an audit of 50 cases closed in similar circumstances between 2018 to date. If more than 25% of those cases identify similar issues the Council should make resources available to conduct a full case audit. The full audit should review all cases closed in similar circumstances between 2018 to date.
- Within three months the Council should confirm the actions they have taken or propose to take. The Council should consider the report at a full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this.

1.2 The Committee is further asked to agree the progress and time line to implement the recommendations as per section 7 below.

2. EXECUTIVE SUMMARY

2.1 On 21st August 2020 the LGSCO wrote to the then Chief Executive Jo Negrini to confirm that after consideration of a complaint they had received, they decided to issue their findings as a public interest report.

2.2 The LGSCO consider six criteria when deciding whether to issue a public interest report, these are:

- Recurrent faults (for example, the organisation keeps making similar mistakes)
- Significant fault, injustice or remedy (by scale or the number of people affected)
- Non-compliance with an Ombudsman's recommendation (it has not agreed or has not carried out their recommendations)
- A high volume of complaints about on subject
- A significant topical issue
- Systemic problems and/or wider lessons (for example, problems with how the organisation does things that if not put right are likely to affect others, and this is an opportunity for others to learn).

2.3 In this case the reasons for issuing the report are:

- The seriousness of the fault
- The systemic problems identified and
- The opportunity of wider lessons that could be learnt from this case.

2.4 The LGSCO also felt that the case engages with two important topical issues – the recurring problems we see with partnership working between public bodies and the role of Councils in acting to protect children from sexual exploitation.

3. BACKGROUND

3.1 Mrs B complains about the way Kent County Council and Croydon Council responded when her daughter, child C disclosed sexual abuse.

3.2 For the purposes of this report we will concentrate on concerns that the LGSCO has raised in respect of Croydon Council.

3.3 The LGSCO draft report confirmed that Croydon Council failed to :

- convene a strategy discussion following Cs disclosure of sexual abuse
- carry out an investigation into the potential risk posed by the alleged offenders, and
- share information with Kent County Council

3.4 The inaction at 3.3 above caused a delayed and uncoordinated response and caused additional distress. The LGSCO also says it placed other children at risk.

- 3.5 Croydon Council responded to the draft report and factual changes were made to the draft, and requests for removal of some of the recommendations based on the situation having moved forward considerably since the customer's initial complaint, in July 2018.
- 3.6 The Ombudsman's Final Report was received 26 November 2020, with some amendments duly made.

4. CHRONOLOGY OF THE COMPLAINT

- 4.1 What follows is a brief case chronology. It does not contain all the information reviewed during the investigation.
- 4.2 In June 2018, C disclosed she had been sexually abused at an address in Croydon when she was younger. Mrs B reported this to the police. The police told her it would refer the information to children's services and a social worker would contact her about support for C.
- 4.3 Mrs B says she waited for contact but when this did not come, she contacted both councils herself. She says Croydon told her she needed to speak to Kent because that was the area that they lived in. She says Kent told her to speak to Croydon because that is where the alleged offence happened. Following this contact Croydon Council liaised with Lambeth Local Authority as there was some confusion as to where the perpetrator lived and where the offence took place.
- 4.4 Following a further police referral in September 2018, Kent contacted Mrs B and was offered support through its early help provision.
- 4.5 In November 2018, C made a further disclosure of non-recent sexual abuse by a different perpetrator in Croydon. By this time C's mental health had deteriorated and Mrs B reports she made three suicide attempts. Mrs B requested a Child and Adolescent Mental Health Services (CAMHS) referral. C also went missing for a period around this time.
- 4.6 In January 2019, C's CAMHS psychologist made a referral to Kent children's services. She felt early help support did not meet C's needs. Following this referral, a social worker attended Mrs B's address to complete a Child and Family,(CAF) assessment.
- 4.7 Mrs B withdrew consent for the CAF assessment, and it was not completed. She says she felt it was her parenting under scrutiny rather than C's needs. Kent closed the case in February 2019. C was to continue to attend CAMHS.
- 4.8 Mrs B asked for support for herself. Kent provided Mrs B with information about mediation and an "understanding your teenager" course.
- 4.9 In April 2019, Mrs B complained to Kent. Kent responded at stage one of its corporate complaints process in June 2019 and stage two in July 2019. Mrs B remained dissatisfied with Kent's response and complained to the Ombudsman.

- 4.10 Mrs B complained to Croydon in September 2019. Croydon responded in November 2019. The Ombudsman accepted Mrs B's complaint about Croydon, and they decided to consider it alongside her complaint about Kent because the cases were inextricably linked.
- 4.11 In May 2020 a strategy discussion was held by Croydon Social Care as C made an allegation of historic sexual abuse against her Father. Based on the information available it was indicated that the incidents occurred in the Croydon area thus the strategy discussion was necessary as the area in which the offences took place. The notes from the strategy discussion confirmed:
- There are two paternal half siblings, and the other is an adult; both reside with their mother in Lewisham.
 - Father resides in Lambeth.
 - Kent, Lambeth and Lewisham Children's Services were invited to the Strategy Meeting but did not attend.
- 4.12 The conclusion of the Strategy Discussion was that C has suffered significant harm following allegations of sexual abuse from her Father and a joint Section 47 Investigation is required. Whilst it was acknowledged that the historic incidents occurred in Croydon, it was viewed that there were no other links connected to Croydon as C resides in Kent and has done for quite some time, her support networks are in Kent, including her school, counselling & peer group. Therefore in terms of what's best for C and her social needs it was determined that this was for Kent to consider. The strategy discussion concluded that there was to be no further action for Croydon CSC to consider in relation to C, and the case was considered closed in this respect.
- 4.13 Based on this information Croydon Local Authority requested that the Ombudsman's direction for LBC to assess the alleged perpetrators be removed from the final report. While we understand the importance of such a request, it was confirmed that neither of the alleged perpetrators reside within the Borough of Croydon, and therefore we do not have the power to assess any risk moving forward. This was passed to Kent County Council to take the lead and recommended that this be referred to Lambeth Borough Council going forward.

5. Conclusions

- 5.1 The LGSCO concluded there had been failings by both Councils. They suggested that although the period subject of this investigation is 2018/19, the nature of the faults and the Councils' responses to the draft report, suggests wider systemic issues rather than being simple one-off errors. Croydon disagreed with this.
- 5.2 Croydon pointed out it has since received a 'good' rating in its recent Ofsted inspection (February 2020). The Ombudsman considered this a positive development but noted that they were disappointed Croydon appear to suggest this indicates the fault identified in this report is confined to the past. The Ombudsman felt this case is an opportunity to learn and make improvements to prevent other children and families experiencing the same issues.

5.3 The Ombudsman confirmed that both Councils should address the concerns in this report and identify learning from this case to prevent a repeat of these failures.

6. RECOMMENDATIONS

6.1 To remedy the injustice caused, the Ombudsman recommend the Councils take the following actions.

6.1.1 Kent County Council

Kent should:

- pay C £1,000;
- pay Mrs B £1,000 to acknowledge the distress and impact of the faults;
- pay Mrs B £150 for the additional time and trouble she experienced pursuing her complaint; and
- remind all staff dealing with children's services complaints when the statutory complaints process should be used. It should also ensure its staff understand who can make a complaint in this process.

6.1.2 Kent County Council and London Borough of Croydon

Kent and Croydon should:

- share the learning points from this case across its organisation, to ensure staff are aware of their responsibilities in respect of information sharing, professional curiosity, and cross border child protection referrals; and
- conduct an audit of 50 cases closed in similar circumstances between 2018 to date. If more than 25% of those cases identify similar issues the Council should make resources available to conduct a full case audit. The full audit should review all cases closed in similar circumstances between 2018 to date.

6.2 Both Councils must consider the report and confirm within three months the actions they have taken or propose to take. The Councils should consider the report at a full Council, Cabinet or other appropriately delegated committee of elected members and the LGSCO will require evidence of this.

7. **ACTIONS TAKEN BY CROYDON COUNCIL**

7.1 Children's Social Care will identify all contacts, referrals and assessments between January 2018 and November 2020 where:-

- The contact was from another local authority or it was closed to another authority.
- A multi-agency strategy meeting / S47 Children Act 1989 was held and sexual abuse was identified as an issue.
- The Contact, referral or assessment resulted in No Further Action.

7.2 In order to meet the audit requested by the LGSCO: A cohort of 50 cases will be identified where the criteria above is met.

7.2.1 5 Senior Managers within Children's Social Care will audit 10 cases each during the first week of February 2021.

7.2.2 The findings will be considered at an internal 'Learning Loop' meeting by the end of February 2021.

8. **LESSONS LEARNT, IMPROVEMENT AND PREVENTION**

8.1 If 25% or greater, of cases audited identify similar issues, then resources for a full audit will be identified.

8.2 Learning from the audits will be provided through learning summaries and workshops.

8.3 A review thematic audit will be scheduled for quarter two 2021/22 to ensure any practice changes identified are embedded.

9. **FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

9.1. The financial recommendations made by the LGSCO were:

None in respect of compensation. Please see Financial Impact for staff impact.

The LGSCO's recommendations, have a reputational impact on the Council's Children's Services, it should however be noted the case in question was in the service in 2018, during our improvement journey. Following Ofsted monitoring visits and Croydon's inspection of local authority services for children (ILACS) in January / February 2020 services were graded as good. The LGSCO's recommendations will allow senior managers to audit cases to ensure a consistency of good practice and appropriate cross authority working.

(Approved by: Kate Bingham, (Interim) Head of Finance, Children, Families and Education on behalf of the Director of Finance, Investment and Risk and Section 151 Officer)

10. LEGAL CONSIDERATIONS

10.1 The Head of Litigation and Corporate Law comments on behalf of the interim Director of Law and Governance that the Council's responsibilities to safeguard children are found in the Children Act 1989 and statutory guidance 'Working together to Safeguard Children 2018'.

10.2 The Local Government Ombudsman was established under the Local Government Act 1974 Part 3 (LGA 74). Changes to the Act were included in the Local Government and Public Involvement in Health Act 2007 and the Health Act 2009. The LGA 74 sets out the Ombudsman's powers. Case law has further clarified how the LGA 74 should be interpreted.

10.3 The Local Government Ombudsman changed their name to The Local Government and Social Care Ombudsman (LGSCO) in June 2017.

10.4 The main statutory functions of the LGSCO are:

- to investigate complaints against councils and some other authorities;
- to investigate complaints about adult social care providers from people who arrange or fund their adult social care (Health Act 2009); and
- to provide advice and guidance on good administrative practice.

10.5 Under sections 26(1) and 26A(1) of the LGA 1974, as amended, the LGSCO investigates complaints about 'maladministration' and 'service failure' referred to as 'fault'. They consider whether any fault has had an adverse impact on the person making the complaint referred to as 'injustice'. If there has been fault which has caused injustice they will suggest a remedy.

10.6 The LGA Act 1974, as amended, also specifies how the LGSCO issues decisions which is either by:

- a statement of reasons for their decision (sections 30(1B) and (1C)); or,
- a report (section 30(1)).

10.7 There are six criteria applied by the LGSCO when deciding whether to issue a public interest report which are set out in paragraph 2.2 of this report. The issue of a public interest report under section 30(1) ensures the council remains accountable to people who use its services and help to improve services for others.

10.8 Section 31(2) provides that the Council has a period of three months from the date of the LGSCO's report for Members to formally consider the report and its recommendations following which a formal written response must be sent to the LGSCO explaining what steps the council has taken and will take to comply with the recommendations in the report. The report should be considered at a full Council, Cabinet or other appropriately delegated committee of elected members.

10.9 Where a finding of maladministration is made the Council the Monitoring Officer has a duty to report that finding to its Members under section 5 of the Local Government and Housing Act 1989.

Approved by: Sandra Herbert, Head of Litigation and Corporate Law on behalf of the interim Director of Law and Governance.

11. HUMAN RESOURCES IMPACT

- 11.1. The recommendations in this report do not have any human resources implications. Following the audit activity, the learning from the case and the audits will be fed back to practitioners and managers through existing learning and development activities within the department.
- 11.2 (Approved by: Nadine Maloney, Head of HR; Children, Families and Education on behalf of the Director of Human Resources)

CONTACT OFFICER: Nick Pendry, Director of Children's Services

APPENDICES TO THIS REPORT: N/A

BACKGROUND DOCUMENTS: None

