

## **CABINET**

**4 MAY 2021**

### **FINDINGS FROM THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN**

Portfolio Holder: Councillor Howard Doe, Deputy Leader and Portfolio Holder for Housing and Community Services,  
Councillor Josie Isles, Portfolio Holder for Children's Services  
(Lead Member)

Report from: Richard Hicks, Director of Place and Deputy Chief Executive,  
Lee-Anne Farach, Director of People – Children and Adult  
Services

Author: Mark Breathwick, Head of Housing Services  
Ingrid Crisan, Head of Service, Children's Social Work

#### **Summary**

This report sets out the findings of a recent investigation undertaken by the Local Government and Social Care Ombudsman that relates to both Housing and Children's Services.

1. Budget and policy framework
  - 1.1. The report is being presented to the Cabinet at the direction of the Ombudsman. A copy of the Ombudsman's report is attached at Appendix A.
  - 1.2. The report from the Ombudsman makes recommendations in respect of statutory services delivered in line with the Council's responsibilities under the Children Act and the Housing Act.
2. Background
  - 2.1. The Local Government and Social Care Ombudsman investigates complaints of maladministration and service failure. Following investigation, the Ombudsman will consider whether fault has occurred that has impacted upon the complainant, causing injustice.
  - 2.2. The report that the Cabinet are required to consider has identified fault that has caused injustice and sets out a range of recommendations.

2.3. The complaint was made to the Ombudsman in relation to how the Council dealt with Ms E and her son Mr F's, homelessness. Due to the circumstances of the case the Ombudsman took the complaint up immediately instead of referring it back to the Council's complaints process.

### 3. Advice and analysis

3.1 Timeline: Ms E and Mr F approached the Council for help with homelessness in February 2018 following eviction from privately rented accommodation. The Council provided temporary accommodation and assessed the case in respect of any Housing duties that may be owed.

3.2 The assessment determined that Ms E was intentionally homeless and in line with the Homelessness Code of Guidance, a referral was made to Children's Services.

3.3 Further temporary accommodation was provided by Children's Services from February 2019 and, following a period of non-engagement from Ms E, ended this accommodation in July 2020.

3.4 In order to ensure that Mr F was not left without accommodation, a Joint Housing Assessment (JHA - a process for homeless 16/17-year-olds), was booked to assess Mr F's need for accommodation. Multiple appointments were not kept, meaning the JHA did not take place.

3.5 Ms E had contacted a number of Council Teams through July and August 2020 to highlight that she and Mr F were sleeping in a tent. Ms E approached the Council as homeless again in September 2020.

3.6 After initially determining that no new homelessness application should be taken on 03 September 2020, this decision was overturned on 11 September and Ms E and Mr F were placed into temporary accommodation.

3.7 Ms E and Mr F have now been re-housed into permanent accommodation.

3.8 Ombudsman's findings and recommendations: The full report is attached at Appendix A.

3.9 To remedy the issues detailed in the report the Ombudsman recommended the following - The Council should, within one month:

- Apologise to Ms E and Mr F
- Decide whether Ms E is owed the full housing duty and issue a written decision on her homelessness application
- Decide whether Mr F is owed any duty or service under the Children Act 1989 and provide that service. If the Council decides Mr F is not owed any duty under the Children Act 1989, it should go on to consider if it owes Mr F any duty under the Housing Act 1996
- Pay them £1500 each to reflect the avoidable distress and hardship caused by being homeless and sleeping rough for almost two months

- Pay Ms E an additional £200 to reflect her avoidable frustration when failing to get a service from the Council after reporting her homelessness
- Within three months, the Council should provide refresher training to staff in its housing allocations and housing options teams to ensure all officers are competent to identify information from potential applicants which triggers the duties in sections 184, 188 and 189 of the Housing Act 1996.

3.10 The Council did not contest the findings of the draft report and recognises that, whilst the circumstances are complex, improvements could be made in the handling of Ms E and Mr F’s homelessness.

3.11 Furthermore, the Council has complied with all of the recommendations set out in the Ombudsman’s report and as detailed earlier in the report, can confirm that Ms E and Mr F were made a permanent offer of social housing and re-housed.

3.12 The respective services have made changes to the operational process for dealing with JHA’s to ensure that they are undertaken in all cases or escalated where the young person has not approached themselves to request support, ensuring that any safeguarding issue is addressed. To further reduce the risk of a similar issue occurring, the strategic approach, to families that are found “intentionally homeless” under the Housing Act, will also be reviewed.

3.13 As directed to the Ombudsman, further training has been delivered to Housing staff to ensure that the local authority is correctly identifying changes in circumstances that would trigger a new homelessness application.

#### 4. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Reputational Risk	There could be detrimental reputational risk for the Council in not implementing LGSCO recommendations.	Accept the LGSCO findings and recommendations and implement the learning.	C2

#### 5. Financial implications

5.1. Costs associated with the recommended remedy will be met from existing general fund budgets

#### 6. Legal implications

6.1. The Local Government Act 1974 established the then Local Government Ombudsman for England and for Wales.

6.2. The Local Government and Social Care Ombudsman does not have the power to force Local Authorities to follow its recommendations, however almost all Local Authorities will do so.

## 7. Recommendation

7.1. The Cabinet is asked to consider the contents of the report and the contents of the Ombudsman's report attached at Appendix A.

## 8. Suggested reasons for decision

8.1. The Cabinet is required to consider the report at the direction of the Local Government and Social Care Ombudsman.

## Lead officer contact

Mark Breathwick, Head of Housing, Gun Wharf, 01634 333540,  
[mark.breathwick@medway.gov.uk](mailto:mark.breathwick@medway.gov.uk).

Ingrid Crisan, Head of Service, Children's Social Work, Gun Wharf, 01634 331505,  
[Ingrid.crisan@Medway.gov.uk](mailto:Ingrid.crisan@Medway.gov.uk)

## Appendices

Appendix A – Report by the Local Government and Social Care Ombudsman,

## Background papers

None