

## **COUNCIL**

**22 JULY 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

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## **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. The Cabinet considered the report at a meeting on 4 May 2021, the Children and Young People Overview and Scrutiny Committee considered it at a meeting on 9 June 2021 and the Business Support Overview and Scrutiny Committee considered it at a meeting held on 1 July 2021.

### **1. Budget and policy framework**

- 1.1. The report was 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 attached at Appendix A, which the Cabinet were required to consider at its meeting on 4 May 2021, identified fault that had caused injustice and set 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. Children and Young People Overview and Scrutiny Committee

- 4.1. The Ombudsman's report was considered by the Children and Young People Overview and Scrutiny Committee at its meeting on 9 June and the record of the discussion is as follows:

##### **Discussion:**

The Director of People – Children and Adults Services introduced the report which set out the findings of a recent investigation undertaken by the Local Government and Social Care Ombudsman that related to both housing and children's services. The Director confirmed that learning from the incident had occurred and it was an incident not to be repeated.

Members then raised a number of questions and comments which included:

- Hard to reach families – the point was made that a number of families involved with both housing services and children's social care have difficult and complex lives and are therefore hard to reach. Officers concurred with this and confirmed that the two services were now working

together much more earlier when risk factors involving young people and homelessness were apparent.

- Southwark judgement – in response to a question about whether the Council had breached this, which obliges children’s services to provide accommodation and support for homeless 16 and 17 year olds, officers confirmed that the young person had refused support so this has not been breached.
- Location of the family – in response to a question about whether the location of the family was known in order to visit them, officers confirmed that visits were offered but no location was provided.
- Young people in temporary accommodation – clarity was given that although some young people were living in temporary accommodation, there were no young people in bed and breakfast accommodation and usage of bed and breakfast accommodation was very low.

**Decision:**

The Committee noted the report.

## 5. Business Support Overview and Scrutiny Committee

- 5.1. The Ombudsman’s report was considered by the Business Support Overview and Scrutiny Committee at its meeting on 9 June and the record of the discussion is as follows:

**Discussion:**

Members considered a report which set out the findings of an investigation undertaken by the Local Government and Social Care Ombudsman that related to both housing and children’s services. Officers confirmed that the Ombudsman had been satisfied with the Council’s response to its findings and had closed the complaint.

Members raised the following issues which were responded to:

- **Member involvement** – It was confirmed that there had been no Member involvement in the issues which had led to the complaint being made.
- **How the Council dealt with hard to reach families with complex issues, particularly in relation to homelessness legislation** – Officers advised that, in response to this case, Housing and Children’s Services had worked to ensure that there was early intervention to resolve issues before it was necessary to make determinations under the definition of intentionally homeless in the homelessness legislation.
- **Given that the child was known to Children’s Services, the absence of a ‘red flag’ to signpost the child through the service** – Officers said that they had recognised the need for a joined-up approach by the two

services from the outset, rather than a sequential approach. The use of Personal Housing Plans ensured that all services were brought together to address the needs of the whole family. In this instance, the family had not wanted to engage with Children's Services on the terms offered and the Ombudsman had concluded that more could have been done by the Council.

- **As a unitary authority, there needed to be shared learning and improved communication between services to ensure there was not a similar case** – Officers said that it was not possible to completely rule out the risk of there being a similar case as front-line staff were making difficult decisions every day. However, learning from this case had been shared across teams within the Council and also with other authorities through the Kent Housing Group. Central to the case was the intentionally homeless decision under the legislation and a different approach was now adopted with temporary accommodation being offered for a longer period of time whilst this decision was considered. Also, an extra layer of governance had been put in place to ensure that challenging cases were discussed, and a way forward agreed, by a joint panel involving colleagues from a range of services.

**Decision:**

The Committee noted the report and the Ombudsman's report attached at Appendix A to the report.

## 6. Lessons Learned / Progress Update

- 6.1. On 2 June 2021, the Local Government and Social Care Ombudsman (LGSCO) for England wrote to Mr Davies, the Chief Executive for Medway Council, to welcome the action the Council has taken following the complaint. This letter formally acknowledged that the LGSCO was satisfied with the Council's response and recorded a compliance outcome of remedy complete and satisfied.
- 6.2. To embed the learnings from the complaint Children Services have worked cooperatively with colleagues from Housing and Finances to review the function of the Finance panel and have introduced an additional level of scrutiny for families who are assessed as intentionally homeless.
- 6.3. In addition to the above, clear arrangements are also in place for the Housing Service to continue providing accommodation to intentionally homeless families that would otherwise be accommodated by Children's Services. This will enable more time to provide services to resolve the particular household circumstances.

## 7. 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

## 8. Financial implications

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

## 9. Legal implications

- 9.1. The Local Government Act 1974 established the then Local Government Ombudsman for England and for Wales.
- 9.2. 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.

## 10. Recommendations

- 10.1. It is recommended that Council notes the comments of the Children and Young People Overview and Scrutiny Committee and the Business Support Overview and Scrutiny Committee, as set out at sections 4 and 5 of the report.
- 10.2. It is recommended that Council notes the report, including the update set out in section 6 of the report and the Ombudsman's report attached at Appendix A.

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## Appendices

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

## Background papers

None.