

AGENDA ITEM

REPORT TO CABINET

13 July 2023

**REPORT OF THE MONITORING
OFFICER**

CABINET DECISION

Portfolio Title - Lead Cabinet Member – Councillor Bob Cook

**Local Government and Social Care Ombudsman Report in the Public Interest
following Investigation Reference 22 010 732**

SUMMARY

On 30 May 2023 the Local Government and Social Care Ombudsman wrote to the Chief Executive to confirm that after consideration of a complaint they had received, they have decided to issue their findings as a public interest report. The Ombudsman can issue a public interest report where they think it is important to raise awareness of an investigation, because of its seriousness and significance and that by highlighting the learning from complaints, it can help to improve services for others.

REASONS FOR RECOMMENDATION(S)/DECISION(S)

The purpose of this report is to ensure elected members are notified of the reasons for, and outcomes of, the Investigation Reference 22 010 732, and the actions and recommendations connected with it, as required by the Local Government and Social Care Ombudsman.

RECOMMENDATIONS

Cabinet agrees to consider the Local Government and Social Care Ombudsman's Report in the Public Interest following Investigation Reference 22 010 732, and to seek assurances that all recommendations contained within it will be fully implemented.

DETAIL

1. The case relates to a young adult (Mr Y) with an Education Health and Care Plan ("EHCP") who was entitled to transport to and from college free of charge. Initially free transport was provided in shared transport, paid for by the Council. The arrangement broke down due to the Mr Y's anxiety, because of this his mother (Ms X) considered the transport provided as unsuitable.
2. The Council offered an alternative option to Mr Y, by offering to arrange Independent Travel Training. Ms X complained and following Stage 1 of the Council's complaint process the option of transport on a dedicated college vehicle was offered. The Council noted that Mr Y had accessed transport to his previous college and school for several years in a shared vehicle. Ms X did not consider this suitable for Mr Y.
3. Ms X complained at stage 2 of the Council complaint process, the Council upheld its previous decision, Ms X then complained to the Ombudsman that the Council had refused to pay costs she incurred taking her son, Mr Y, to college from September 2019 to the end of

summer term 2022 and delayed considering her appeal. Ms X says she suffered financially and had to give up work.

4. In reviewing her complaint, the Ombudsman found that the Council did not properly consider Ms X's concerns and did not make other suitable arrangements for Mr Y's transport. The Ombudsman found the Council's post-16 transport policy was not in line with its statutory duties. The Ombudsman notes that the Council should have provided transport free of charge if it considered transport necessary, but instead it required a contribution from the mother.

5. The Ombudsman also criticised the delays by the Council in addressing the mother's concerns. The Ombudsman's investigation also found the Council's appeals process did not fully follow statutory and good practice guidance in that it did not offer a hearing at stage two of the complaints process, and then did not signpost people who were not happy to the Ombudsman. Additionally, the Ombudsman criticised the Council for poor record keeping in particular the Ombudsman identified problems in accessing information after staff had left employment with the Council as the service did not have a central system for recording decisions.

6. The Ombudsman made the following recommendations to remedy the injustice caused (within three months of the Ombudsman Report) the Council:

- a) provides Ms X with a further apology;
- b) pays Ms X £2,632.50 to reimburse fuel costs;
- c) pays Ms X £500 for distress and uncertainty;
- d) pays Ms X £300 for time and trouble;
- e) amends its stage 1 letter template to include information on how to escalate to stage 2;
- f) amends its stage 2 letter template to include a referral to us [the Ombudsman];
- g) amends its Post 16 transport policy to ensure it addresses its adult duty correctly and to ensure its appeal process is in line with statutory guidance; that is to:
 - i) make clear that where it decides it necessary to make transport arrangements for adults or relevant young adults with an EHCP under section 508F of the Education Act 1996, such transport will be free of charge;
 - ii) remove any requirement to pay a charge or contribution where s508F applies;
 - iii) allow for a hearing with verbal representations at stage 2 of the appeal process;
 - iv) signpost to the Ombudsman.
- h) provides training/guidance to those staff responsible for school transport on its new policy and reminds them to give clear evidence-based reasons for decisions; and
- i) amends its processes to ensure it can access records of school transport decisions even if decision-makers leave the Council.

7. The Ombudsman requires that the Council discuss their findings and recommendations at a high decision-making level of elected members, which for Stockton-on-Tees Borough Council is Cabinet.

8. The Council have accepted the Ombudsman's recommendations in full and the actions to improve processes and policies to ensure other young adults and their families are treated fairly and in line with statutory and good practice guidance will all be fully completed within the three-month timeline.

9. The Ombudsman completed the investigation into this complaint by issuing a report because it was considered to be in the public interest to do so, given the significant injustice caused to the complainant, and because it was considered to be a significant topical issue.

10. To comply with requirements surrounding a Report in the Public Interest, a notice is required to be put in two local newspapers advising of the existence of the report and how a copy could be obtained by any member of the public. A physical copy will be available through the Customer Service access point at the main library.

COMMUNITY IMPACT IMPLICATIONS

11. A Community Impact Assessment is not required to support the implementation of these recommendations.

CORPORATE PARENTING IMPLICATIONS

12. There are no direct Corporate Parenting Implications as a result of this report.

FINANCIAL IMPLICATIONS

13. The total amount payable as set out in this report of £3,432.50. This will be funded from the transport service budget. This cost is not recurrent and there is no impact on the MTFP.

LEGAL IMPLICATIONS

14. Under the Local Government Act 1974, the Ombudsman has the power to investigate the complaint and to issue a report where there has been maladministration causing injustice. The Ombudsman has the power to make recommendations to the Council on how to improve its services and to put things right for the complainant.

15. On receiving a report in the public interest from the Ombudsman, the Council is required to give public notice in two local newspapers and make the report available to inspect by the public at the Council's offices.

16. An Ombudsman's report should not normally name or identify any person. Therefore, the young adult and his mother are referred to as 'Mr Y' and 'Ms X' and officers are not identified by name.

RISK ASSESSMENT

17. The proposed actions in response to the Ombudsman's report are categorised as low medium risk. Existing management systems and daily routine activities are sufficient to ensure they are implemented.

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

18. The proposals do not have an impact on any specific wards.

BACKGROUND PAPERS

19. Post 16 transport policy.

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