

CABINET  
20 MAY 2008

CHILDREN'S SERVICES SCRUTINY COMMITTEE  
22 MAY 2008

---

**MONITORING OFFICER'S REPORT ON A FINDING OF  
MALADMINISTRATION LEADING TO INJUSTICE**

**Purpose of Report**

1. The Local Government Ombudsman has made a finding of maladministration leading to injustice. As Monitoring Officer I have a statutory duty to report on any such findings to the Cabinet. This report brings the main findings and recommendations of the report to Cabinet's attention and outlines the authority's response to the Ombudsman's recommendations.

**Background**

2. On 17<sup>th</sup> April 2008 the Ombudsman issued a report finding maladministration leading to injustice in a case involving the Department for Children and Education. A copy of the report is attached (Appendix 1). The names of the complainants have been changed by the Ombudsman for reasons of confidentiality.
3. The main facts of the case are outlined in the summary and findings pages of the Ombudsman's report (pages 1 and 2 of Appendix 1). A draft of the report was issued to the council in advance of its publication, and officers were given the opportunity to comment. They agreed with the facts as stated in the report.
4. The Ombudsman has recommended that in order to provide a remedy for this case, the council should:
  - Apologise to the complainants;
  - Make them an *ex gratia* payment of £10,000
  - Review administrative arrangements to prevent a recurrence of the maladministration identified.

**Main Considerations for the Council**

5. Officers have accepted the Ombudsman's findings in their entirety, and have therefore already taken steps to implement the remedy suggested by the Ombudsman.

6. The Director of the Department for Children and Families has written a letter of apology to the complainants, and the recommended *ex gratia* payment has been made. In addition, the Director has offered to visit the family. We have not yet received a reply to this offer.
7. In 2007 the Department had already changed its administrative procedures such that Special Educational Needs panels are now multi-disciplinary, and are therefore able to take into consideration the wider needs of children and their carers. The decision about the appropriate level of provision is now made by the panel members, and not by individual officers after the panel hearing. This should reduce the likelihood of the circumstances in this particular case recurring.
8. Officers have noted the Ombudsman's comments about the transition of young people with special educational needs from primary to secondary education. They found the comments helpful, and as a result have decided to review both these and arrangements and those for the transition of young people who use social services from the Department of Children and Education to the Department of Adult and Community Services. They are looking at how best to ensure that these key transitions take place smoothly in order to ensure the continuity of an appropriate level of care. Because of the complexities involved, this is likely to take some time, because officers recognise that this is a complex end-to-end process that needs to be looked at in the round in order to achieve the best outcomes.
9. The Chief Executive and the Director of the Department for Children and Education have met with the Corporate Standards Manager to consider the Ombudsman's findings. They discussed other cases that are currently with the Ombudsman and the authority's general approach to serious complaints. The Chief Executive has asked for a monthly report on all such complaints, and the Corporate Standards Manager has been asked to explore ways in which, in appropriate cases, an early resolution to serious complaints can be sought.
10. The Chief Executive and the Director of the Department for Children and Education have also arranged to meet the Ombudsman. They will discuss the wider implications of his findings and to canvass his views on how the council might best address some of the issues that have emerged in this particular case. They will also discuss wider issues arising from recent cases where a local settlement has been negotiated.

### **Environmental Impact of the Proposal**

11. None.

### **Equalities Impact of the Proposal**

12. There are no direct equalities implications arising from the recommendations in this report. However, the process improvements that are anticipated should deliver improved education and social services for children and young people with disabilities.

### **Risk Assessment**

13. Not applicable, since there are no recommendations associated with this report.

### **Financial Implications**

14. Cost of settlement £10,000.

### **Legal Implications**

15. None.

### **Proposal**

16. That Cabinet notes this report and the findings of the Local Government Ombudsman.

**Stephen Gerrard**

**Monitoring Officer and Solicitor to the County Council**

---

Report Author: Nina Wilton

Corporate Standards Manager, 01225 713078

4 May 2008

### **Background Papers**

None

### **Appendices**

Report of the Local Government Ombudsman