

Cabinet Committee on Performance Improvement

Meeting to be held on 10 December 2015

Electoral Division affected: None

Update on a Finding of the Local Government Ombudsman – August 2015

(Appendices 'A' to 'E' refer)

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Executive Summary

On 5 August 2015 following an investigation, the Local Government Ombudsman published a report which found fault causing injustice and made a number of recommendations, three relating to the specific case and five intended to prevent injustice to other members of the public.

As a result of this finding the Cabinet Member for Children, Young People and Schools recommended Full Council to agree to actions addressing these recommendations and these were approved at the meeting of Full Council held on 22 October 2015.

The Cabinet Committee on Performance Improvement's terms of reference include the consideration of actions required arising from recommendations contained in external audit and assessment report and this report provides a follow-up on the actions taken since Full Council.

Recommendation

The Cabinet Committee on Performance Improvement is asked to note and comment on the actions taken in response to the Local Government Ombudsman's recommendations.

Background and Advice

On 5 August 2015 the Local Government Ombudsman (LGO) published a report which found fault causing injustice by Lancashire County Council. A copy of the report is set out at Appendix 'A'.

The findings of the LGO report were accepted, and involved concern about a case where it was necessary to take the unusual step of placing a young person in bed and breakfast accommodation. Systems are in place to minimise the risk of using bed and breakfast as this is not considered to be a suitable option for young people

presenting as homeless and statutory guidance relating to the provision of accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation makes clear that the use of bed and breakfast accommodation is unsuitable even in an emergency. However, this exceptional step has only been used in a very small number of cases and in 2014/15 it was used on only 6 occasions for no more than 4 nights.

Since 1 April 2015 bed and breakfast accommodation has had to be used as a very temporary measure until a more detailed assessment was undertaken in order to facilitate either a return home or provide alternate accommodation to meet needs. Four of the young people were in bed and breakfast accommodation overnight only. Two of the young people refused to engage with services and bed and breakfast accommodation was offered to prevent homelessness. Both largely slept at friends or acquaintances. As a backup measure to chaotic lifestyles, bed and breakfast accommodation was made available but rarely used. Of these two, one young person did not access the bed and breakfast offer on any night over an 8 week period, and the other young person used the facility for 8 out of 12 nights.

The issue in all cases has been a lack of alternative suitable provision to meet the needs of vulnerable older young people (16/17) who present with high risk behaviours.

Action will now be taken to comply with the statutory guidance. These actions include discussion with housing and residential providers and foster carers who may be willing to accommodate young people at short notice and in emergency situations. However, the status of statutory guidance is that it is issued under section 7 of the Local Authority Social Services Act 1970 and section 182 of the Housing Act 1996. Section 7 requires local authorities in exercising their social services functions, to act under the general guidance of the Secretary of State; unless there are exceptional reasons in individual cases, authorities are expected to comply with the guidance. Section 182 requires housing authorities and social services authorities in the exercise of their functions relating to homelessness and the prevention of homelessness, to have regard to such guidance as may be given from time to time by the Secretary of State.

In the case that was the subject of the complaint it is clear that staff were not aware of the guidance and the decision to use bed and breakfast accommodation was not therefore taken in the light of that guidance.

The County Council's response therefore reflects that whilst young people should only be provided with supported accommodation which is suitable and of high quality, and staff should be aware that the statutory guidance provides that the use of bed and breakfast accommodation is unsuitable even in an emergency, there may nevertheless be circumstances where there is no other option. In these circumstances a decision may have to be taken to use bed and breakfast accommodation notwithstanding the statutory guidance, if it becomes clear after searching for suitable accommodation that there is simply no other option available.

However, since the LGO report was considered by Full Council, Ofsted have published their review of children's services and their conclusions included reference to the assessment of children presenting as homeless. Ofsted's conclusion was that

as the Council does not hold general data on the number of 16-17 year olds who present as homeless, only those who then become accommodated, it is difficult for the Council to know what the need is and to ensure that sufficient accommodation is available for these young people. Consistent with the LGO report they also concluded that, whilst only used as a last resort, placing young people in bed and breakfast accommodation is not appropriate.

Further steps will now be taken to avoid the need to use bed and breakfast accommodation, including discussions with housing providers around emergency "crash bed" facilities. Further steps will be taken to develop data collection systems to satisfy ourselves that we are able to identify need and plan sufficiency accordingly. Since the publication of the LGO report a similar case involving the need to place a young person in suitable accommodation involved arranging an emergency placement with a neighbouring local authority and further work will also explore the development of such arrangements as an alternative option. This process will inform the production of a revised Policy for homeless 16 and 17 year olds which will be submitted to the Cabinet Member for Children, Young People and Schools for approval in due course.

Attached at Appendix 'B' is the full action plan.

The LGO report at paragraph 83 (Appendix 'A') includes three recommendations as to how the County Council could best remedy the injustice caused. The actions taken in response to these recommendations are set out below.

Within two months of the final report, the County Council should:

1. Apologise to the complainant for failing to involve the complainant in its 'child in need' assessments and for the additional time it took to consider the complaint at all three stages of the statutory complaints procedure.

Action: A letter of apology was sent to the complainant by the Chief Executive on 13 September 2015.

2. Pay the complainant £200 for the frustration caused by not being able to contribute to the complainant's child's 'child in need' assessments.
3. Increase its offer to the complainant for the additional time and trouble spent pursuing the complaint over that allowed by the statutory complaints guidance from £250 to £300 due to the delays at Stage 3.

Action: A total payment of £500 has been made to and has been accepted by the complainant.

The report at paragraph 84 also includes five recommendations to prevent injustice to other members of the public. The actions taken in response to these recommendations are set out below.

Within three months of the final report the County Council should:

1. Ensure it involves both parents in its child in need assessments unless there are specific and recorded safeguarding reasons not to. Also, ensure it shares copies of those assessments to parents where it is safe to do so, in a timely manner, redacted where necessary.

Action: All staff have been briefed and a booklet for children, young people and families regarding the assessment process has been produced. This has been issued (Appendix 'C' and 'D').

2. Improve its policy for homeless 16 and 17 year olds to include reference to bed and breakfast accommodation not being suitable even in an emergency. It should then ensure its children's services' staff are aware of this condition.

Action: All staff are aware that bed and breakfast will only be used in an emergency when there is nothing else available. The County Council's Scheme of Delegation has been updated to ensure that only the Director for Children's Services can approve bed and breakfast for homeless 16/17 year olds and care leavers. A review of the Homeless Protocol for 16/17 year olds is being undertaken.

Our quality assurance audit activity will measure compliance.

3. Ensure it does not place homeless 16 and 17 year olds in bed and breakfast accommodation (including the use of unsupported hotels) even in an emergency. If the County Council decides to act in breach of the statutory guidance, the decision to do so should be made by Director of Children's Services. The Director for Children's Service's decision, and the reasons for it, should be recorded on the child's file.

Action: Staff are aware and this will be included in the review of the Homeless Protocol for 16/17 year olds.

Our quality assurance audit activity and data monitoring will measure compliance.

4. Ensure it records important decisions on the child's case file when considering providing accommodation to 16 and 17 year olds covering such areas as:

- whether a section 20 duty arises;
- whether it is obliged to conduct a new Initial Assessment of the child's needs now they are homeless;
- how it has explained the implications of becoming a 'looked after child' to the young person;
- any refusal by the young person to become a 'looked after child' and how it was explained that assistance may be available to them from the housing department;
- any contact with the council's housing department after a young person who requires accommodation refuses to become a 'looked after child'.

Action: Staff are aware and this will be included in the refreshed protocol guidance for staff.

5. Carry out a review of whether it is meeting its sufficiency duty regarding the provision of accommodation to its 'looked after children'.

Action: A Programme Board has been established with our housing partners to address sufficiency, scope, need and develop provision to meet demand. The sufficiency element will take longer to review with our housing partners. Demand/need and current provision is being scoped over a 12 month project linked to young people who are Not in Education Employment or Training (NEET). (Appendix 'E')

It is the requirement of the Local Government Act 1974 as amended, that where there is a finding of fault causing injustice, the report is laid before the Authority and within three months of receipt of the report, the authority notifies the Local Government Ombudsman of the action taken that it has taken or proposes to take.

The Cabinet Member recommended to Full Council that the actions detailed above should be notified to the Local Government Ombudsman as the action taken in response to the report.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

If the authority fails to comply with the legislation, the LGO has power to require the authority to publish a statement detailing why they have not complied with the recommendations in the report.

Financial

Should the actions not be put in place there may be further claims payable by the County Council.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
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N/A.

Reason for inclusion in Part II, if appropriate

N/A.