

By: Amanda Beer – Corporate Director for Engagement Organisation Design and Development

To: Governance and Audit Committee

Date: 25th January 2018

Subject: Customer Feedback – Local Government Ombudsman decisions 2016/17 in depth

Classification: Unrestricted

Summary: The paper was compiled at the request of the Governance and Audit Committee and focuses on the complaints received by the Ombudsman, with a particular focus on Special Educational Needs (SEN) Ombudsman cases.

Recommendation: Committee is asked to note the contents of this report for assurance.

1. Introduction

- 1.1 Following the presentation of the Annual Complaint report on November 8th, this report has been compiled at the request of the Committee. The report will focus on the complaints received by the Ombudsman and the decisions made and cover the request for more detailed information regarding SEN Ombudsman cases.

2. Overview of Ombudsman and KCC Performance

- 2.1 The annual review statistics are publicly available, allowing councils to compare their performance on complaints against their peers; copies of the Annual Review letter as well as any published Ombudsman complaints are issued to the Leader of the Council and Head of Paid Service to encourage more democratic scrutiny of local complaint handling and local accountability of public services.
- 2.2 Decision statements made in 2016/17 will have been published on the Local Government Ombudsman website three months after the date of the final decision. The information published will not name the complainant or any individual involved with the complaint. Cases in which the complainant, despite redaction of names, can be easily identified are not published.
- 2.3 This report replicates the information available publicly from the Ombudsman. In some cases where the complainant may be identified by the nature of their complaint the information is not made available for wider public consumption.

- 2.4 The level of complaints received by KCC for the size of population, volume of services and interaction is low but each complaint is an opportunity to learn from our customers and improve our systems. We need to focus on those complaints that are upheld to ensure that lessons are learned.
- 2.5 The authority actively encourages customers to exercise their right to contact the Ombudsman for an impartial view on their case.
- 2.6 Of the 140 LGO complaints seen by the Council and considered by the Ombudsman, 12 related to SEN. 9 of these were upheld and 3 were not upheld.
- 2.7 The Ombudsman's report noted that the national average that the Ombudsman upheld is 54% of complaints they investigated, this is up nationally from 51% last year. Kent County Council's average is **63%**; this is an increase on 55% in 2015/16.
- 2.8 The authority received a decision of Upheld in 42 or Not Upheld in 25 cases. The authority also received a Maladministration report (this is explored in Children Social Care section of this report).
- 2.9 The increase nationally could be a result of the Ombudsman selecting cases to investigate that it believes will result in an upheld decision and closing cases earlier as out of jurisdiction/no further action or withdrawn, these results do not impact on the Council's percentage.
- 2.10 For further information on interpretation of statistics click on this link to go to <http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

3. Complaints and enquiries received

- 3.1 The following table examines the number of complaints received by the Ombudsman over the last three years against the LGO's service categories.

	Adult care services	Benefits and tax	Corporate and other services	Education and children's services	Environmental services	Highways and transport	Housing	Planning and development	Total
2014/15	60	0	8	96	14	25	1	1	205
2015/16	62	0	5	98	7	10	2	0	185
2016/17	62	0	4	89	12	14	1	1	184*

* This figure excludes 6 complaints received by the LGO that have not been classified against a service.

4. Decisions made

- 4.1 The following table examines the number of complaints received by the Ombudsman over the last three years and decision category given by the LGO.

Local authority	<u>Detailed Investigation Carried out</u>		Advice given	Closed after initial Enquiries	Incomplete/Invalid	Referred back for local resolution	Total
	Upheld	Not upheld					
2014/15	32	34	3	55	6	75	205
2015/16	34	28	1	44	3	74	185
2016/17	42	25	2	46	13	62	190

5. KCC Cases and their context

- 5.1 Appendix A examines cases that were investigated by the Ombudsman where the decision was made as either Upheld or Not Upheld. The complaint and the subsequent decisions are taken from the Local Government Ombudsman's website where all decisions (in which the complainant cannot be identified) are published.
- 5.2 KCC's upheld rate for all LGO complaints is 63%, this is comparable with other local County Councils.

County Council	LGO Upheld Rate
Essex	62%
Hertfordshire	72%
Hampshire	63%
Buckinghamshire	67%
East Sussex	66%
Surrey	63%

6. Special Educational Needs

6.1 Context

- 6.2 KCC, along with all other Local Authorities, is facing an increasing demand and our services are finding the statutory timescales challenging. New referrals for statutory assessment are increasing at an unprecedented rate; In 2016 KCC had 1004

compared with 880 in 2014 with three of every four requests originating from parents. Education, Health and Care Plan (EHCP) (and residual Statements) have increased by 23% between January 2014 and January 2016 against a national increase of 24%.

- 6.3 There are also additional pressures on the service for example the Department of Work and Pensions (DWP) higher rate disability allowance asks whether the child has an EHC plan, and there is an increase of cases where NHS professionals are advising parents that they require a plan to access some services.
- 6.4 We are meeting our new statutory duties within the context of funding pressures throughout the education system. Despite the increased volumes and additional external pressures KCC is significantly above average in meeting assessments in the timescale, achieving 74 % where nationally this figure is at 55.7% and more locally in the South East this is actually lower at 42.5%.
- 6.5 Our performance is regularly monitored through the quarterly performance report and through the CYPE Cabinet Committee meetings. The following papers regarding High Needs Funding and the SEN Strategy which discusses the progress in delivering the EHCPs and converting the statements have been debated at cabinet this year;
- <https://democracy.kent.gov.uk/documents/s80912/Item%2011%20-%20High%20Needs%20Funding%20Report.pdf>
- <https://democracy.kent.gov.uk/documents/s76228/Item%20B5%20SEND%20Strategy.pdf>
- 6.6 Going forward we recognise that there is still much to do to keep pace with demand, to improve the quality of provision further and to ensure that more children and young people can have the specialist support they need in local schools and early years settings, particularly support for children with autism.

7. Local Government Ombudsman Complaints for Special Educational Needs

- 7.1 Special Educational Needs received 12 complaints considered by the Ombudsman in 2016/17. 9 were upheld and 3 were Not Upheld.

Of the 9 Upheld (75% received for SEN);

- One related to poor customer service.
- Five (55%) were related to delay in producing the EHC plan however two were deemed to result in no injustice as the Council continued to make provisions for the children's needs.
- Three (33%) related to gaps in NHS therapy which ultimately fell to KCC. The Special Educational Needs service recognise unfunded health services as a risk and this is regularly reported on

Of the 3 Not Upheld; (25% received for SEN);

- Two related to the alternative provision of education put in place
- One related to the provision of services in line with the Child's Statement.

7.2 The Ombudsman has published a special report on EHC plans which highlighted that as of October 2017 the Ombudsman had received 100 complaints nationally relating to EHC plans of which 80% have been upheld. In Kent, upheld complaints relating to EHC plans are below the national average at 75%.

7.3 The report can be found at the following link:
<http://www.lgo.org.uk/information-centre/news/2017/oct/a-disproportionate-burden-families-struggling-with-new-special-educational-needs-system-when-councils-get-it-wrong>

7.4 The report highlights that authorities across England are struggling to keep up to date with the change from Statements to EHC plans however, in Kent to date over 5,500 statements have been transferred to EHC plans and KCC is on track to meet the deadline of April 2018.

7.5 Amongst the common issues identified by the LGO in the SEN report were:

- Delay in producing the EHC plan; the report states that nationally only 59% EHCP within 20 weeks. In Kent our actual performance during the same period was better; with over 70% being completed within the 20-week timescale. 5 of 9 LGO complaints about Kent found there was delay in producing EHCP. In 2 of these 5 cases, the LGO found no injustice.
- Transfers from Statements to EHCP; nationally there is a lack of strategic planning to ensure the right year groups are prioritised. In Kent we published an initial strategic plan and a revised, updated version during the transitional period. In the case of 15 015 267 the LGO did not uphold the complaint about transfer arrangements in Kent and in case 16 007 033 the LGO found no evidence of fault dealing with the EHCP.
- Use of panels to make decisions was criticised because of the resultant lack of transparency and fairness. In Kent we removed SEN panels in September 2016 in favour of manager decisions. Kent parents have given the service positive feedback on the impact this has had.

7.6 Kent families tell us they are most concerned about a lack of help (and therefore progress) with social skills. As mentioned three of the nine (33%) the complaints upheld were related to gaps in NHS therapy which ultimately fell to KCC. One of the biggest challenges for the authority is to ensure that we can improve joint commissioning with the NHS for speech and language across all schools and in the early years. Unfunded health services are on the department's risk register and regularly reported on.

- 7.7 We have seen a decrease in the number of complaints received this year about SEN from the Ombudsman with one decision returned as upheld, one closed after initial enquires, no further action and a further two still being considered.

8. RECOMMENDATIONS

- 8.1 Committee is asked to note the content of this additional report.
- 8.2 It is recommended that any additional review of the topic is undertaken at the CYPE Cabinet Committee.

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Appendix A – Summary Details of Cases Upheld and Not Upheld

The below tables outline the Complaint and the Ombudsman decision as published by the Ombudsman. Although there are 67 decisions not all have been published by the Ombudsman so these statements will not be included in the below tables.

Education and Young People Services

	Kent Test/Grammar School appeal	School Admissions appeal	Home to School Transport/Free School Meals	Special Educational Needs	Total
Upheld	0	1	2	9	12
Not upheld	1	2	1	3	7
Closed: out of jurisdiction/ no further action or withdrawn	1	11	1	0	13
Premature	0	0	1	0	1

Special Educational Needs

Outcome	The Complaint	Ombudsman Summary
Not upheld – 16 006 610	Mrs J complained the Council has not fulfilled its responsibilities in relation to her son L's special educational needs (SEN). She says it has not complied with the instructions of the Special Educational Needs and Disability Tribunal and has failed to ensure his school provides the support and services outlined in his Statement of Special Educational Needs ("the statement"). Mrs J also complained that the Council's SEN Team has not communicated with her effectively or provided satisfactory responses to her complaints.	The Council has fulfilled its responsibility to ensure L has support with his special educational needs. It has complied with the tribunal decision and L's school has put the agreed provision in place. The Council has worked with Mrs J but does not have to provide services that are not in L's statement.
Upheld – 15 007 742	Ms X says the Kent County Council ('the Council') failed to meet the assessed special educational needs of her child ('C') because it: <ul style="list-style-type: none"> • did not provide or pay for agreed therapies; 	The Council failed to provide suitable education for C, which caused C and C's family substantive injustice. The Council had accepted it was at fault but the steps it had taken to put matters rights did not adequately and reasonably address that injustice. So, the Council should apologise to C and make further financial

	<ul style="list-style-type: none"> • provided inadequate home schooling; • did not make an agreed change to C's statement; • failed to carry annual reviews after 2010; • failed to complete an Education Health and Care Plan ('EHCP') for C under the pilot scheme; • delayed replying to correspondence; and • delayed providing appropriate support for C's move to post 16 education. <p>Ms X also complains about the Council's complaints handling as its responses were delayed, factually incorrect, and accusative.</p> <p>Ms X says, since 2011, the Council's delays and failures:</p> <ul style="list-style-type: none"> • denied C a formal education; • isolated C from social involvement with other young people; • severely impacted on the time, cost and emotional well-being of C's family in providing full time care, support and education for C. <p>Ms X wants the Council to:</p> <ul style="list-style-type: none"> • deliver C's agreed needs; • keep to guidelines for reviewing and changing statements and EHCPs; • ensure there is cover when staff are away and on leave; • keep accurate and clear notes; • provide timely and effective action to help C's move to post 16 education; and • ensure procedures work so, in future, other people do not have similar problems. 	<p>payments to C and C's family in recognition of the injustice it caused them.</p>
Upheld – 16 006 294	<p>The complainant, whom I shall call Ms X, says the Council delayed finding her son, Y, an alternative school place following an annual review meeting in March 2016 when it agreed to identify a different school.</p>	<p>There is no evidence that the Council delayed in looking for an alternative school place for Ms X's son, Y. The Council agrees it did delay in completing the assessment for an updated Education, Health and Care Plan for Y but Y continued to attend the school that was named in the Plan when it was completed so</p>

		this did not cause injustice. Ms X had a right of appeal to the SEND Tribunal if she was dissatisfied with the school named and so this is not a matter we pursued.
Upheld – 16 007 033	Mrs R complains that the Council took too long to provide an EHCP for her son, X. When it was in place, from January 2016, not all the provision was arranged as the EHCP required. X received no speech and language therapy in year 11 at school. X started at a college in September but his EHCP was been amended to reflect the support he needed.	The Council was at fault in delaying the issue of the final amended EHCP for the transfer of Mrs R's son, X, to college. There is no evidence of fault by the Council in dealing with the EHCP before for that or in monitoring the provision for X's special educational needs.
Upheld – 16 004 423	Mrs R says the Council took too long to provide an EHCP for her son, Y. After it was in place in March 2016 the Council did not arrange all the provision as required. Y has not received the right amount speech and language therapy. None was provided until the summer term 2016 and then it was insufficient. Y was refused a place in a specialist unit because he was in year 10 and so it was too late. Mrs R tried to complain to the Council but her complaint was not accepted. She was directed to complain to the health service.	The Council delayed by around 11 weeks in issuing a final EHCP for Mrs R's son, Y. The delay did not cause an injustice. There is no evidence of fault otherwise by the Council in making provision for Y's special educational needs.
Not upheld – 15 004 573	The complainant, whom I shall refer to as Mrs B, complains on behalf of her son, whom I shall refer to as H, about the care and treatment he received from Darent Valley Hospital, and the support he received from a Child and Adolescent Mental Health Service and Kent County Council during and following a crisis period in May 2014. Mrs B says the medical care H received fell below an acceptable standard, and that the Council and CAMHS failed to arrange suitable education and support for H following the crisis, until a suitable school place was found in March 2015.	The Ombudsmen have found evidence of fault in how CAMHS arranged a package of home care in lieu of a specialist hospital placement. The Ombudsmen have not found fault with how a Council arranged for the child's education during this same period, although they have recommended the Council makes a payment for home to school travel assistance. The Ombudsmen have found a Hospital Trust which provided support to the family have taken reasonable steps to improve practice at the Trust, and the Ombudsmen have found no fault with another Hospital Trust which was asked to arrange an MRI scan for the young person.
Upheld – 16 002 518	Ms B complains on behalf of her daughter C. She complains about the Council's delay in providing an Education, Health and Care (EHC) plan. She says this meant that C did not receive the support she needed for a year.	Ms B complains about the delay in the Council's provision of an Education, Health and Care Plan for her daughter. The Ombudsman has found fault and has recommended a remedy.

Upheld – 16 000 247	Mrs X complains the Council did not ensure her son, B, got the occupational therapy support required by his Statement of Special Educational Needs. He did not get this after the Statement was amended in March 2015 at Tribunal, naming a new school.	The Council failed to ensure delivery of the occupational therapy required by child B's Statement. It held an annual review of the Statement so complied with statutory requirements. However, its monitoring systems, including the annual review, did not alert the Council that therapy was not being delivered. The Council has agreed to apologise to Mrs X for not providing the therapy required by B's Statement. It has also agreed to improve how it monitors Statements through annual reviews. The Council has tried to find appropriate therapy since it became aware of the problem. So far it has not been able to identify suitable provision. The Council has agreed to pay a financial remedy for Mrs X to use for B's educational benefit. This should reduce B's disadvantage from missing out on occupational therapy for the past 18 months.
Upheld – 15 015 485	Mr and Mrs X say the Council failed to provide education for their son (Y) when he was excluded from School. They say the Council failed to carry out an emergency review of their son's statement of special educational needs (SEN) when he was excluded. They also say the Council supported a proposal by his previous School to place him in a locked padded room when his behaviour became difficult.	There is no fault in the way the Council acted in trying to secure suitable education for Mr and Mrs X's son, Y. Y has complex needs and the Council has explored a wide range of options to try and deliver a suitable education and the provisions set out in his statement of special educational needs. The Council has not changed Y's statement since he left his previous school however Mr and Mrs X have a right of appeal to Tribunal so the Ombudsman cannot investigate this aspect of their complaint. There was a delay in the Council arranging occupational therapy and speech and language therapy for Y. The Council should pay Mr and Mrs X £1500 for the benefit of Y to acknowledge the impact this has had.
Not upheld – 15 019 779	The complainant, whom I shall call Mrs X, complains that the Council failed to support her son, Y at school between September 2014 and December 2015. She also says the Council failed to make alternative educational provision after Y was excluded from school in December 2015.	The Council acted without fault by meeting its duties under the SEN Code 2001 and in seeking to arrange home tuition for Mrs X's son, Y while finding a new school place after he was permanently excluded.
Upheld – 15 015 267	The complainant, whom I shall call Mr X, complains there was fault in the way the Council converted his Statement of Special Educational Needs (SEN) into an Education	The Council issued an EHC Plan for Mr X according to the SEN Code 2014, but an officer failed to deal properly with a phone call from Mr X, who is a young person with special educational needs, when he called during this time. The Council will

	<p>Health and Care (EHC) Plan.</p> <p>He also complains a Council officer refused to speak to him on the telephone because his mother is not permitted to contact the Council by telephone and that she told him to email the Council when his condition means he is unable to communicate by email.</p> <p>Mr X says he has no idea what is happening with his EHC Plan.</p>	apologise for this.
Upheld – 16 003 167	<p>Mrs X complains the Council delayed in providing her daughter with appropriate school transport, with an escort, when she began to attend a special school 25 miles from her home in January 2016. She says as a result of the Council's failure to arrange an escort for four weeks she had to provide the transport herself.</p> <p>In addition, Mrs X says the Council took two months to respond to her complaint and it only provided a partial response to the points she had raised. Her outstanding complaints related to delays in transferring her daughter to an EHC Plan and naming the special school and problems communicating with its SEN Officers.</p>	The Council failed to finalise an Education, Health and Care Plan within the required timescales when Mrs X's daughter was moving from a mainstream primary school to a special school. It failed to communicate regularly and effectively with Mrs X during this period and delayed in responding to her complaint. The Council failed to arrange suitable and safe home to school transport for the child for four weeks at the beginning of 2016 when it failed to properly consider her need for an escort in the taxi. The Council has agreed to our recommendation to apologise to Mrs X and offer her a financial remedy for the disadvantage caused by those faults.

Home to School Transport

Outcome	The Complaint	Ombudsman Summary
Upheld - 15 017 301	The complainants, who I shall refer to as Mr and Mrs X, complain that Kent County Council's (the Council's) Transport Appeal Committee (the Committee) failed to consider their evidence properly.	The Council's Transport Appeal Committee failed to consider properly the information the complainants provided about their difficulties in getting their son to and from his special school on the bus provided by the Council. The Council has now agreed to pay for the complainants' mileage costs. The Ombudsman is satisfied this resolves the complaint.
Not upheld –	The complainant, whom I shall refer to as Mr B,	The Council was not at fault for how it dealt with Mr B's

15 011 881	<p>complained the Council:</p> <ul style="list-style-type: none"> • failed to tell him his granddaughter had lost her entitlement to free school meals which meant he had to pay the full amount for a travel pass; • delayed sorting that out; and • unreasonably refused to refund the extra cost he paid for the travel pass. 	application for free school meals and a young person's travel pass.
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School Admissions Appeals

Outcome	The Complaint	Ombudsman Summary
Upheld – 16 012 403	Miss B and Mr C complain that the Council was wrong to refuse their daughter, D a place in Year 1 at School 1 and the Independent Appeals Panel was wrong to turn down their appeal for a place.	There was fault in the way the independent appeals panel considered Miss B and Mr C's appeal for a Year 1 place at School 1 for their daughter D. However, the Ombudsman does not consider that this affected the outcome, and so sees no grounds to ask for a fresh appeal. That said, the Ombudsman has asked the Council to provide sufficient information to panels on where children attending specialist units are on roll. The Council strengthened its processes when collecting roll information on schools with specialist units.
Not upheld – 16 012 409	Miss B and Mr C complain that the Council was wrong to refuse their daughter, D a place in Year 1 at School 3 and that the independent appeals panel (the Panel) was wrong to turn down their appeal for a place.	There was no fault in the way the independent appeals panel considered Miss B and Mr C's appeal for a Year 1 place at School 3 for their daughter D. So the Ombudsman cannot question its decision to refuse their appeal.
Not upheld – 16 012 408	Miss B and Mr C complain that the Council was wrong to refuse their daughter, D a place in Year 1 at School 2 and that the Independent Appeals Panel was wrong to turn down their appeal for a place.	There was no fault in the way the independent appeals panel considered Miss B and Mr C's appeal for a Year 1 place at School 2 for their daughter D. So the Ombudsman cannot question its decision to refuse their appeal.
Not upheld – 16 005 072	Mr B complains that there was fault in the way the independent appeals panel considered his son's appeal for a place in the Reception Year at his first preference primary school (School 1). He considers that the panel did not take proper account of the difficulty of taking C to a different school from his two cousins or the distress it	There was no fault in the way the independent appeals panel considered Mr B's appeal for a Reception place for his son C at his preferred primary school. The Ombudsman has also found no fault in the way the Council has considered C's priority for a place on the waiting list at the school.

	would cause C if he could not attend School 1 with them. He has also questioned whether the Council is giving correct priority to his son on the waiting list for a place at School 1.	
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Growth, Environment and Transportation

	Household Waste Recycling Centres	Highways & Transport	Planning	Total
Upheld	0	2	0	2
Not upheld	1	0	0	1
Closed: out of jurisdiction/no further action	4	9	1	14
Premature	0	3	0	3

Household Waste Recycling

Outcome	The Complaint	Ombudsman Summary
Not upheld – 16 002 537	Mr A complains Kent County Council (the Council) refused to let him use his car at a recycling centre.	There is no injustice to Mr A as he has a second car which he could use to access a recycling centre. So I have stopped investigating his complaint.

Highways and Transportation

Outcome	The Complaint	Ombudsman Summary
Upheld – 14 019 349	The complainant, to whom I shall refer as Mr H, complained that the Council has failed to carry out effective highway drainage repairs and improvements to the highway outside his home. Consequently, during periods of prolonged heavy rain, his garden and home are	The Council was not at fault in failing to carry out drainage repairs and to clear ditches near to Mr H's home. But, it did cause him a degree of injustice through fault in failing to respond properly to his complaints, and thus in not explaining matters properly.

	flooded. In addition Mr H complained about the Council's failure to respond to his complaints about the matter.	
Upheld – 15 006 721	<p>The complainant, to whom I shall refer as Mrs D, complained about:</p> <ul style="list-style-type: none"> • the Council's decision to turn off its street lights late at night without regard to the safety of vulnerable people in the community. This had a particular impact on Mrs D as the carer for a disabled son. It was frightening and dangerous for her to try to move him in darkness when he needed medical attention. In addition doctors were unwilling to visit alone at night; • the way in which the Council reviewed this decision, in particular the way in which it consulted, and the revised Equality Impact Assessment (EQIA) officers drafted; and • the way in which council members and officers responded to her complaints about matters, in particular the Council's failure to honour an undertaking in February 2015 to switch the street lighting in her road back on all night. 	The Council was at fault in not restoring all-night street lighting in Mrs D's street as it had agreed to do. But, it has apologised and rectified matters. The Council has since decided to restore all-night lighting county wide, as it installs new LED street lights.

Strategic and Corporate Services

	Financial	HR	FOI	Total
Upheld	0	0	0	0
Not upheld	1	0	0	1
Closed: out of jurisdiction/no further action	0	1	1	2
Premature	0	0	0	0

Strategic Services received notice of three complaints, none were upheld.

Social Care, Health & Wellbeing

	Adults	Childrens	Total
Upheld	18	10	28
Not upheld	9	7	16
Closed: out of jurisdiction/no further action or withdrawn	11	10	21
Premature	9	10	19

Adult Social Services

Outcome	The Complaint	Ombudsman Summary
Upheld – 16 014 449	Mrs B complains on behalf of her late stepfather, whom I refer to as Mr C. She says the Council did not tell her it would pay Mr C's residential care fees, so she paid the care home directly. She says the Council also invoiced her for a client contribution towards Mr C's care, even though she had already paid the fees in full.	I have discontinued Mrs B's complaint because she says the Council has now remedied the injustice it caused. She has been refunded for additional fees she paid, and the Council has apologised for providing advice that was unclear.
Upheld – 15 016 231	Ms P complains the Council: <ul style="list-style-type: none"> • Insisted 2 carers visit her instead of one which is an additional financial cost for her; • Failed to respond to her requests for details about care providers approached which refused to help; and • Failed to ensure the provision set out in her care plan was given. As a result, she suffers as the care she needs is not provided.	The Ombudsman found fault on Ms P's complaint that the Council failed to provide her with information about potential care providers it approached. There is no evidence it provided this information to her. The Council also failed to provide evidence of Ms P's refusal of care over a 16 month period or of attempts made to arrange care during this time. The agreed action remedies any avoidable injustice caused.
Not upheld – 15 014 698	Mrs Q complains that the Council, the Trust and the CCG have not properly supported her or her son, Mr T. In summary: <ul style="list-style-type: none"> • Mrs Q believes Mr T is entitled to an increased number of social care support hours than his existing care package. 	Mrs Q complained about the Council, Trust and CCG's failure to properly support her son, Mr T. There is some evidence the Trust, at times, did not have an appropriate level of input and this is fault. However, this has not caused Mr T an injustice as his engagement with services has been variable.

	<ul style="list-style-type: none"> • The support provided by a charity (Charity X) on behalf of the Council, Mrs Q says, is inadequate and does not meet Mr T's needs. • Mrs Q says she has not had a recent carer's assessment. She explains she has consistently asked for respite support but the Council has failed to put respite in place. • The CCG and Trust, Mrs Q says, has failed to ensure Mr T has appropriate access to mental health and psychology services. She says there are no such services locally 	
Upheld – 16 005 464	<p>The Complainant, whom I shall refer to as Mr X, complains that when Mrs Y went into respite care for one week:</p> <ul style="list-style-type: none"> • Bruises on her arms and legs turned out to be from an assault by a male resident which family were not notified about; • Her hair was cut and "hacked about"; • Staff had mislaid her clothes and she wore an old pair of jogging bottoms and jumper; and • She had to leave in a wheelchair although she had been able to walk when she arrived. <p>Mr X says this caused the family much distress because Mrs Y should have been safe. He would like to know what happened and for someone to be held to account.</p>	The Council was at fault when it failed to assess the risk to Mrs Y and put in place vital care plans on admission to its respite unit. It will pay Mrs Y £300, apologise to Mr Y and Mr X, and review the procedures at the unit.
Not upheld – 16 007 769	<p>The Complainant, whom I shall refer to as Mrs X, complains about the Council's poor handling of her late mother's (Mrs Y's) move into residential care following time in hospital. She says Mrs Y spent five weeks unnecessarily in hospital because the Council did not act quickly enough to authorise funding for her chosen care home.</p> <p>Mrs X felt bullied and believes staff lied to her. Sadly Mrs Y died shortly after moving. She would like the Council to compensate Mrs Y and herself for the unnecessary time in hospital, the stress it caused and the costs of unnecessary travelling to visit; she estimates this at £107,500.</p>	I have ended my investigation because the Council has already offered Mrs X a remedy which would address any injustice.

Upheld – 15 018 672	The complainant, whom I shall refer to as Mrs S, complains the Council has failed to deal properly with the assessment of her daughter's needs and her needs as her daughter's main carer.	The Council has failed to deal properly with the need for respite care. It needs to review the care plan with a view to providing funding which will enable Mrs S and her daughter to have some respite.
Not upheld – 16 005 584	Ms A complains about the Council's actions in placing her in a care home where the majority of residents have dementia and its delay in moving her into an alternative home. As a result, Ms A receives no mental stimulation and her current room is too small to easily accommodate her wheelchair.	Ms A complains about the Council's actions in placing her in a care home where the majority of residents have dementia and its delay in moving her into an alternative home. There is no evidence of fault by the Council and as it is currently looking into alternative accommodation for Ms A the Ombudsman will not pursue the complaint any further.
Upheld – 16 006 425	The complainant, whom I shall refer to as Mr K, complains about the Council's decision to reduce his care and the charges for his care	The Council was wrong to say Mr K did not have an eligible need for help with washing and dressing, and could prepare a three course meal. However, these faults have not caused an injustice as it has continued to provide help with washing and dressing, and has provided advice on alternative meal provision. There was no fault by the Council over his financial assessment.
Not upheld – 16 003 610	Ms A complains about Kent County Council (the Council.) She says the Council is obstructing her involvement in her father Mr C's care arrangements. She also says the Council is preventing her from using the care provider of his choice.	I have stopped investigating this complaint at Ms A's request.
Upheld – 15 019 443	The complainant, whom I shall refer to as Mrs X, complains the Council has failed to deal properly with her sister's need for emergency respite care	The Council has failed to put in place robust contingency plans for meeting Mrs Y's care needs when her husband goes into hospital. The Council should put a more robust plan in place and remedy the injustice caused to Mrs Y.
Upheld – 15 018 466	Mr B complains about the Council's support. He says the Council are not meeting his needs and do not understand his Autism and learning difficulties. He also feels the Council is not fulfilling its role in safeguarding him as he is a vulnerable person and he is often attacked when he leaves his house.	Mr B complains about the Council's assessment of his needs, its failure to meet his needs and to safeguard him. The Council has started the correct safeguarding process and has assessed his needs and provided a care package. However there is limited fault as the Council has not pursued Mr B's assessment for an Autistic Spectrum Condition and learning difficulties sufficiently. Therefore it is not entirely clear what Mr B's needs are.
Upheld – 15 018 867	The complainant, whom I shall refer to as Mr M, complains the Council has failed to follow his mother's wish to return home following her discharge from hospital. He complains about the actions of specific Council officers and says the	The Council's assessment of Mrs A's mental capacity was flawed. It needs to reconsider her mental capacity and take the necessary action depending on the outcome.

	Council failed to communicate adequately with him.	
Upheld – 15 015 067	Ms J complains that the Council has not arranged care to meet her care needs.	There was fault in the Council's assessment, planning and delivery of Ms J's care. The Council should make a new assessment and support plan, pay Ms J 500 to acknowledge the impact of its fault, and review the availability of services in its area.
Upheld – 15 012 483	<p>The complainant, whom I refer to as Ms Y, complains about services provided to her late grandfather, who I refer to as Mr S.</p> <p>Ms Y complains that Woodside; part of Charing Way Limited, the care provider commissioned by the Council; failed to provide suitable residential care to Mr S. In particular Woodside:-</p> <ul style="list-style-type: none"> failed to properly record information about falls and to monitor bowel movements; failed to review or re-assess Mr S's care and care plans and to review the suitability of the placement; failed to get Mr S health care when he needed it; delayed in providing a suitable bed; failed to provide suitable moving and handling equipment; failed to provide adequate nutrition and hydration care and failed to act when carers saw Mr S holding food in his mouth; failed to properly support Mr S to maintain his personal hygiene (hand and nail care and shaving); failed to involve and communicate with family members about Mr S's care; failed to adequately administer medication to Mr S and to take appropriate steps when he was not compliant with taking medication; and inappropriately served notice for Mr S to leave. <p>Ms Y also complains that the Council's safeguarding investigation was inadequate and throughout the process it failed to communicate properly with the family.</p> <p>An independent investigating officer commissioned by the</p>	The Council needs to take further action to remedy the complaint about the service failure of a Council commissioned care home. These actions are in addition to those the Council has already agreed to take.

	<p>Council considered Ms Y's complaint. Out of the complaints considered 27 were upheld, four were partially upheld, 33 were not upheld and eight had no finding. The complaints ranged from the general care provided to Mr S and the Council's safeguarding process. It found fault in both the care provided and the safeguarding completed.</p>	
Upheld – 15 019 793	<p>Ms B complains about the Council's response when she reported injuries her mother sustained in a care home. In particular, Ms B complains:</p> <ul style="list-style-type: none"> • the Council's safeguarding investigation took almost 12 months; • the family were forced to make a decision about where their mother should live following her discharge from hospital before the safeguarding investigation had concluded; and • Ms B disagrees with the findings of the Council's safeguarding investigation. 	<p>The Council took too long to investigate Mrs C's fractured hip, but there are no grounds for the Ombudsman to question the Council's decision that there is not enough evidence to say how she sustained the injury. The Council's apology is an appropriate remedy for the delay.</p>
Not upheld – 15 018 194	<p>The complainant, whom I have called 'Mr E', is the son-in-law of the late 'Mrs F'. Mr E complains about correspondence the Council sent to him and his wife ('Mrs E') about a debt Mrs F owed for unpaid care charges. In particular Mr E complains the Council:</p> <ul style="list-style-type: none"> • should not write to him or his wife about this matter as they were not responsible for the care arrangements for Mrs F; • should not pursue the debt as he understands the care was of poor quality; • should not pursue the debt as Mrs F did not leave enough funds in her estate (after funeral expenses) to pay it. 	<p>The Council is not at fault for how it has sought to recover a debt owed by the complainant's late mother-in-law.</p>
Upheld – 14 011 218	<p>Mrs J complains about the standard of care her late husband, Mr J, received in a care home placement that was commissioned by Kent County Council (the Council). She says the care home (Home D) failed to properly deal with pressure sores her husband developed and that a</p>	<p>There is no evidence to show a Medical Centre falsified records to cover up allegations of poor care in a care home. There is no fault in the way the Council investigated a safeguarding alert and it found fault by the care home. However the Council did not remedy the injustice caused to the complainant. The</p>

	<p>doctor from Abbey Court Medical Centre (the Medical Centre) falsified records to cover up the situation. She also says the Council did not properly investigate the allegation of neglect under its safeguarding adults procedures.</p>	<p>Ombudsmen recommend a written apology and a financial remedy for the complainant.</p>
<p>Not upheld – 15 008 959</p>	<p>Ms S complains for her brother Mr B about Kent County Council (the Council). She says when Mr B moved from supported housing into his own flat, the Council:</p> <ul style="list-style-type: none"> • Failed to put in place support to help Mr B with his benefit claims and paperwork. • Failed to ensure his bills were set up and paid properly or advised him how to access his savings. He is unclear whether he has contents insurance and has outstanding debts on some utility accounts. • Failed to provide him with support for day to day concerns such as electrical problems and lost keys. • Does not provide him with support to develop his skills and occupy his time productively. • Did not respond to her request for information. 	<p>The Council gave Mr B appropriate support when he moved into his own flat. There is no fault.</p>
<p>Upheld – 15 020 520</p>	<p>The complainant, whom I shall refer to as Mrs V, complains the Council has failed to deal properly with charges for her son's residential care.</p>	<p>The Council has failed to deal properly with the charges for a young man's residential care. The Council has offered to take action which will remedy any injustice it has caused.</p>
<p>Upheld – 16 000 166</p>	<p>The complainant, whom I shall refer to as Mr R, complains the Council is wrong to propose a move to an alternative nursing home for his friend Mrs J.</p>	<p>The Council is no longer proposing to move Mrs J to another nursing home. It is taking action to address the failure to follow the Mental Capacity Act 2015 when arranging her placement in a nursing home.</p>
<p>Upheld – 15 010 503</p>	<p>A lady I will call Miss B complains about the service she received from Kent County Council (the Council) and Kent & Medway NHS & Social Care Partnership Trust (the Trust). Miss B's mother, who I will call Mrs D, represents her. Specifically, Miss B complains that:</p> <ul style="list-style-type: none"> • the Trust abruptly withdrew her Support, Time & Recovery (STR) worker without warning in May 2014; • it then offered her 'totally inappropriate' group therapy 	<p>The Trust and the Council failed to ensure a lady with mental health needs received community care services to meet her assessed eligible needs. The Ombudsmen recommend actions to address this.</p>

	<p>instead;</p> <ul style="list-style-type: none"> • she has never had a care co-ordinator; • she has never been given a copy of her care plan despite asking for one several times; • there was a delay in arranging direct payments for her; • the Trust only offered a 'short term intervention' through direct payments; • the Trust took too long to deal with her complaint and made no attempt to put right the mistakes in her care. 	
Not upheld – 15 014 888	Mrs T complains the Trust and the Council failed to appropriately support her and her husband in 2012.	Mrs T complains about the Council and Trust's failure to support her and her husband. The Trust has completed an investigation into the complaint and acknowledged fault. There is little more the Ombudsman can achieve for Mrs T.
Not upheld – 15 013 099	<p>The complainant, whom I shall refer to as Mr B, complains on behalf of his late father, whom I shall call Mr A. He complains about Kent County Council (the Council) and Kent and Medway NHS and Social Care Partnership Trust (the Trust).</p> <p>During the night of 20/21 September 2013 Mr A went missing from his home. In the afternoon of 21 September 2013 his body was found in a railway tunnel approximately eight miles from his home. He had been hit and killed by a train.</p> <ul style="list-style-type: none"> • Mr B complains that, in the months preceding this, the Council and the Trust did not act with sufficient urgency when notified of concerns about his father. Further, he complains that the decision not to undertake a Mental Health Act assessment was incorrect. Mr B complains that, as a result, the Council and Trust missed opportunities to intervene and protect his father. He complains that his father's death was avoidable. Further, Mr B complains that the Council and the Trust have refused to accept liability for his father's death. 	The Ombudsmen found no fault in the Council's and Trust's handling of referrals they received about a vulnerable adult showing signs of dementia. In particular, the decision not to complete a Mental Health Act assessment was within the range of established good practice.

Upheld – 15 011 101	<p>The complainant, whom I shall refer to as Mr B, complained the Council:</p> <ul style="list-style-type: none"> • failed to meet with care home providers as it promised during discussions about a new contract in 2014; • delayed resolving payment of interest on amounts owed to the care home; • failed to respond to a solicitor's letter; and • ignored the evidence Mr B provided when investigating his complaint. 	the Council provided contradictory information to Mr B about what it agreed to do when negotiating a new contract for older people's residential and nursing care homes, although that did not cause Mr B a significant injustice. The Council delayed resolving interest payments and failed to respond to a solicitor's letter. An apology, £100 compensation and provision of a response to Mr B's solicitor's letter is satisfactory remedy for the injustice caused.
Upheld – 15 011 179	The complainant, whom I refer to as Mr S, complains that Kent County Council failed to provide him with permanent ramps which resulted in him having to privately finance the ramps at a cost of £565.	The process the Council followed in referring Mr S for a Disabled Facilities Grant (DFG) did not cause Mr S any injustice.
Not upheld – 15 013 506	The complainant, whom I shall refer to as Mrs X complains the Council forced her to continue to provide support and act as an advocate for her cousin after she had advised the Council she was unable to continue in this role.	Mrs X's complaint is not upheld. There is no evidence the Council compelled Mrs X to provide informal support or act as an advocate for Ms Y after she had said could not continue in this role.

Children Social Service

Outcome	The Complaint	Ombudsman Summary
Upheld – 16 011 659	<p>Mr C and Ms T are foster carers and their complaint concerns Kent County Council's actions when they cared for a child (who I will call A) between 15 December 2015 and 13 January 2016. They believe the Council was unreasonable when it told them they should call the police to take A home, after she refused to go. They are also unhappy about the Council's decision not to pay them a fostering allowance from this point.</p> <p>Mr C and Ms T felt the Council had not explained what they did wrong in this case, and how they should act if a similar situation arises in future. They were seeking clarification on this, improvements in the Council's</p>	The Council's decision to end A's placement with Mr C and Ms T was not fault. However, there was some fault with how it managed a difficult situation when she refused to return home. The Council agreed to pay Mr C and Ms T a maintenance allowance for the extra time A was with them, which was suitable remedy

	procedures and practice, and payment of the fostering allowance for the period in question.	
Upheld – 15 007 344	<p>Miss B complained about the Council's Children's Services department. This involved:</p> <ul style="list-style-type: none"> • Not fulfilling its responsibilities towards her after she left a secure hospital at the age of 17 in 2012; • Lack of contact from her social worker between 2012 and 2015; • Failing to provide support as agreed following her complaint in 2015; • Not fully responding to her complaints, and not giving her information about the statutory complaints process for children's social care. 	The Council has agreed to arrange an independent investigation of Miss B's complaint under the statutory complaints procedure for children's social care, so I have discontinued my investigation.
Not Upheld - 16 010 292	<p>The complainant, whom I shall call Mr X, has a son, Y, who is a looked after child and with whom Mr X has supervised monthly contact. Mr X complains that: The Council has failed to respond properly to his concerns that:</p> <ul style="list-style-type: none"> • Y is unhappy in his current foster placement; • Y was assaulted in his placement in 2014 and on three other occasions before that; • it is unclear what the foster carers' spend Y's Disability Living Allowance (DLA) on; • the looked after child (LAC) review meetings are inadequate because Mr X is not permitted to attend the main part of the meeting, is not properly consulted before the meeting or allowed to meet with the Independent Reviewing Officer (IRO) before the meeting and Mr Z has been refused permission to attend these meetings to support Mr X; • the activities he is required to undertake with Y at contact sessions are unnecessarily prescribed; and • It has wrongly refused to consider his current complaints under the statutory complaints procedure and its decision to treat Mr S as a persistent complainant is without 	There is no fault in this complaint about the care the Council is providing to Mr X's son who is in foster care on a full care order.

	<p>foundation.</p> <p>Mr X has a representative, Mr Z, who has supported his complaint to this office. I note that Mr Z questions the decision that Y has been made the subject of a full care order by the court.</p>	
Not upheld - 16 000 228	<p>The complainant, whom I shall call Mr X, complains the Council wrongly withheld information about decisions involving his children, W and Y, from him in March and April 2016.</p> <p>He says the Council wrongly took sides by assisting his former partner, Ms Z, in March and April 2016.</p> <p>Mr X says the Council cancelled contact arrangements without good reason in the summer of 2015.</p> <p>Finally, he complains the Council made too many changes of social worker even when unavoidable changes caused by staff leaving the Council are excluded.</p>	An allegation made by Mr X's ex-partner meant the Council had to withhold information from him in the spring of 2016. It was also entitled to cancel contact arrangements in the summer of 2015.
Upheld – 16 002 053	<p>The complainant, whom I shall call Ms F, complains the Council failed to treat her and her family appropriately. This included failing to properly assess needs and referring them to the wrong services.</p> <p>Ms F also says there was a lack of joined up service between health and social care. As a result, she says G did not receive an offer for a residential placement or had consistent social care input to his Education, Health and Care Plan. She thought the Stage Two (children's services) investigation should have looked at the 'Council's performance in relation to legislation and good practice'.</p>	Ms F was unhappy with the way her and her family was treated by the Council and the services the Council offered to them after they arrived in the country. There is evidence of fault and the Council has been asked to apologise and make a payment.
Not upheld - 16 004 991	<p>The complainant, whom I shall refer to as Mrs F, complains on her own behalf and on behalf of her daughter, whom I shall refer to as Miss G. Miss G has a diagnosis of autism.</p>	Mrs F complains that the Council had failed to assess her needs as a carer or provide care services to her disabled daughter. There is no evidence of fault by the Council that has caused a significant injustice to Mrs F or Miss G.

	<p>Mrs F complains:</p> <ul style="list-style-type: none"> • The Council failed to consider her needs as a carer or carry out a carer's assessment when her daughter's behaviour became problematic in or about February 2015 and in particular when she stopped attending school in or about June 2015. • When the Council decided Miss G did not meet its criteria for short breaks for disabled children, it failed to consider the needs of the whole family, or Mrs F's needs as a carer, given she now had three disabled children to care for. • The Council delayed in putting social care support in place for Miss G when her behaviour deteriorated from in or about February 2015 onwards. By the time provision was in place, it was too late to prevent Miss G's school placement breaking down or her isolation from peers. 	
Not upheld - 15 020 839	<p>Mr X complained the Council ignored his complaints that his daughter, Miss Z, was abused from 2002 to 2013 by her care providers.</p> <p>He also complains the Council did not carry out a proper investigation when he complained in November 2015 and is covering up these alleged incidents of abuse.</p>	<p>There is no fault in how the Council handled an investigation into Mr X's complaints that his daughter, who had severe learning difficulties, suffered abuse by different care providers from 2002 to 2013.</p>
Upheld – 15 019 269	<p>The complainants, who I will call Mr & Mrs Q, complain the Council dealt poorly with them in relation to the adoption of a child ('R') they were fostering. They also complain about the way the Council dealt with them about their deregistration as foster carers and in their requests for references to register as foster carers in a new area. They complain specifically that:</p> <ul style="list-style-type: none"> • their requests for investigation have been ignored; • they were not offered bereavement counselling or other support when R left their care; • the Council failed to act on their request to deregister them as foster carers when they first asked for this. It gave them misleading information which delayed their application to be foster carers in their new home area; 	<p>Mr & Mrs Q complained about the way the Council dealt with them in relation to the adoption of a child they were fostering and their transfer as foster carers to another area. The Council acted with fault in the way it communicated with them over various issues. However, this fault should not have delayed their transfer to another authority. The Ombudsman has closed the complaint as the Council has agreed to apologise and to review the training it gives foster carers about the end of a placement.</p>

	<ul style="list-style-type: none"> • the Council failed to reply to requests for references when they were applying to foster in their new home area; • the Council failed to reply to requests for references for Mrs Q when she applied for employment in her new area; • a social worker did not act professionally and breached their confidentiality by bringing her partner with her on a statutory visit to them in their new area; • The Council did not allow Mr & Mrs Q to be present when a professionals meeting discussed their concerns about the suitability of the prospective adoptive parents for R. They were not given updates about the outcome of this meeting; • the Council failed to respond to an FOI request about information held about them; • social workers lied about having met them and about statements they are alleged to have made. 	
Upheld – 15 009 119	<p>Mrs X's complaint follows a stage two investigation by the Council into the accuracy of a children's services assessment it conducted of her family in 2015. Mrs X complains the Council has:</p> <ul style="list-style-type: none"> • Taken too long to complete the stage two investigation. • Failed to act on its findings. 	The Council took too long to start a stage 2 investigation into Mrs X's complaint and is at fault. The Council has accepted the stage 2 findings and offered to apologise to Mrs X and to pay her £350. This is an appropriate remedy.
Not upheld - 15 014 009	Mr M complains the Council held meetings about his son N, without his knowledge. He says it also does not received information about matters involving N.	There is no fault in the way the Council has dealt with Mr M. It has attempted to contact him and involve him in matters relating to his son.
Not upheld - 15 000 163	The complainant (whom I shall call Mrs G) complains about the way the Council investigated her complaints in connection with her son's foster care. She complains about inaccuracies on the Council's files which she says the Council will not amend.	The Council considered Mrs G's complaints properly and apologised where it upheld complaints. There is no worthwhile outcome to achieve from continued investigation.
Upheld – 14 016 729	Mr B complains about the Council's decision to assess his family, the way it carried out this assessment and its response to his complaint.	There is no evidence of fault in the Council's decision to carry out an assessment of Mr B's family and in the way it carried out the assessment. However, there were failings in the Council's reply to Mr B's complaint.
Upheld –	Ms X says failings by the Council's children's services	Failings by the Council's children's services department meant

16 006 992	department meant she was not provided with housing as a care leaver in 2014 and was not afforded the priority she could have received on the local housing authority's housing register.	the complainant was not provided with housing as a care leaver in 2014 and was not afforded the priority she could have received on the local housing authority's housing register. To remedy the injustice the Council offered Ms X a sum of compensation and the local housing authority has also offered her priority on its housing band for a period of time.
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Maladministration Report - 14 015 230

The council received a Maladministration report in 2016/17. The below examines the summary details of the complaint and the actions the Council took to remedy the injustice caused.

Summary

Complaint from a woman that the council refused to consider her need to work when assessing her son's care needs. She complains the council failed to consider awarding direct payments to provide for care of her son while she is at work. The woman also complains the council delayed responding to her complaint.

The complaint

The woman complains that the council:

- refused to consider her need to work when assessing her son's care needs;
- fettered its discretion when considering what direct payments can be used for;
- discriminated against a working carer;
- failed to understand the impact of her caring relationship with her other child;
- failed to consider Government legislation and guidance; and
- delayed considering her complaint.

Finding

The Ombudsman found fault causing injustice.

Recommendations

To remedy the injustice caused, the council should:

- pay the woman £1,000 to reflect the time and trouble she had to go to pursuing her complaint, the added stress she was under during the period and the uncertainty about whether the council would have provided additional support if it had considered her case properly;
- revise its direct payments policy;
- review the sufficiency of childcare and range of short breaks available for older disabled children; and
- provide training for officers and managers carrying out social care assessments and dealing with direct payments

The council agreed to carry out these recommendations.

The Ombudsman has confirmed that it is satisfied with the Council's response to its report. The full report can be accessed on the Ombudsman's website <http://www.lgo.org.uk/decisions/children-s-care-services/disabled-children/14-015-230>