

From: Rory Love, Cabinet Member for Education and Skills
Sarah Hammond, Corporate Director of Children, Young People and Education

To: SEND Sub-Committee – 28 September 2023

Subject: LGSCO Public Report Actions

Classification: Unrestricted

Past Pathway of report: None

Future Pathway of report: N/A

Summary:

This report outlines the actions the Council has taken and proposes to take in response to the Report by the Local Government and Social Care Ombudsman (LGSCO) Investigation into a complaint about Kent County Council (reference number: 22 003 403) published on 26th June 2023.

The Ombudsman has outlined in the report that the Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and they will require evidence that this has happened by the 5th October. In light of this, due to timescales, this committee was deemed most appropriate.

Recommendation(s):

The SEND Sub-Committee is asked to note the contents of the report.

1. Introduction

1.1 The Local Government and Social Care Ombudsman published a public report on the 26th June where it found fault by the Council. Within this report there were a series of recommendations, that advised that KCC must:

- 1.1.1 Review its EHCP annual review procedure to ensure it follows statutory timescales set out in SEND regulations. Ensure decisions about maintaining, amending or discontinuing plans are communicated clearly and promptly to the young person and their family to enable appeal rights to the SEND Tribunal to be engaged.
- 1.1.2 Develop an action plan to show how it intends to address ongoing delays with EHCP annual reviews and complaints about them.

- 1.1.3 Update the Ombudsman on its complaint process for stage one and stage two responses and its timeliness.
- 1.1.4 Write to each of the 170 people it has identified to apologise for its delay responding to their stage one and stage two complaints.

Actions on the recommendations

2. Review its EHCP annual review procedure to ensure it follows statutory timescales set out in SEND regulations. Ensure decisions about maintaining, amending or discontinuing plans are communicated clearly and promptly to the young person and their family to enable appeal rights to the SEND Tribunal to be engaged.

- 2.1.1 The Improvement Notice included a paragraph specifically related to the development of a plan within 6 months on the sufficient capacity of the SEND case work team to enable the effective delivery of the Education, Health and Care (EHC) needs assessment and review system, and to improve both the timeliness and quality of EHC plans. This was last reported on to the sub-committee on the 25th July.
- 2.1.2 Kent has in place an Accelerated Progress Plan. This has now been agreed by the DfE and has been published on Kent.gov.uk (see Appendix B – Accelerated Progress Plan). The above actions are being undertaken within the Accelerated Progress Plan, the majority are held under area of weakness 6: *The inconsistent quality of the EHC process; a lack of up-to-date assessments and limited contributions from health and care professionals; and poor processes to check and review the quality of EHC plans.*
- 2.1.3 The action plan was agreed and will be published in early September. The plan will be provided to the Ombudsman as evidence of the Council's actions and proposed actions going forward.
- 2.1.4 Specific actions from APP:
- 2.1.5 3E1: Involve parents and young people in developing the revised communications sent by KCC in the EHC processes.
- 2.1.6 6C1: Develop and implement quality assurance on quality of EHC plans before issuing in draft format, to ensure draft plans are of high quality before they are issued.
- 2.1.7 6D1: Process Improvements for Annual Reviews.
- 2.1.8 6D3: Development of annual review best practice model and dissemination to frontline teams.
- 2.1.9 6G1: Review the timescales and workload of Education Health and Care Needs Assessment (EHCNAs).

- 2.1.10 6H1: Review the staffing capacity required to ensure compliance with statutory review timescales.
- 2.1.11 6J1: Kent PACT to work with Quality Assurance process for EHCP reviews.
- 2.1.12 6J2: Parents and Carers to co-design/co-produce a simple feedback form which works for them on the EHCP process.

3. Develop an action plan to show how it intends to address ongoing delays with EHCP annual reviews and complaints about them.

- 3.1 The Accelerated Progress Plan sets out the actions being taken to address ongoing delays with EHC plan Annual reviews.
- 3.2 At the last meeting of the SEND Sub-Committee, it was reported that there was a proposal to strengthen the Annual Review backlog team and establish a Complaints backlog team and EHCP backlog team which has been agreed in principle.
- 3.3 Recruitment to the Complaints backlog team is underway. Once recruited and trained they will be working through the complaints to ensure that all complaints are responded to. In addition, there will be work undertaken to ensure that managers and officers within the service are equipped to deal with feedback going forward, avoiding escalation of issues wherever possible and excessive wait times for families and carers.
- 3.4 A manager has been identified to oversee this team to ensure that the quality and regularity of communication with families is of a high standard. One of the outcomes of this backlog team will be additional training materials to support case officers.
- 3.5 Once this team is fully established, there will be a significant acceleration in the number of outstanding complaints that are satisfactorily resolved each month. This will work in conjunction with improved the processes for new complaints outlined above, which will ensure that new complaint backlogs do not develop.

4. Update the Ombudsman on its complaint process for stage one and stage two responses and its timeliness.

- 4.1 This will be reported in October as requested by the Ombudsman. As of August 15th there are 297 overdue Stage 1 complaints and 50 Stage 2 complaints overdue. In the time period April 1st to August 15th 217 Stage 1 complaints were received and 30 stage 2 complaints. 103 Stage one complaints were completed and 19 Stage 2 complaints.

4.2 Write to each of the 170 people it has identified to apologise for its delay responding to their stage one and stage two complaints.

4.3 This was carried out in July, all parents/carers and children were written to, who had complaints that were overdue at that time. See Appendix C.

4.3 Evidence SALT provision has started and is being delivered in accordance with the requirements of the EHCP

4.4 SALT is actively being sought. Through the EHC needs assessment advice from speech and language therapists (and OT and Physio) may be submitted. A CYP SLCN may include therapies interventions that include direct input from a therapist as advice support and training for schools. This may also include working directly with the CYP delivering a speech and language therapy programme over a specific timed period or number of sessions with advice on how and when this will be reviewed. Where this advice is written by Local NHS we would expect this to be written into the CYP EHC plan and arrangements made by local NHS for this to be delivered in line with their recommendations.

4.5 Due to national and local shortage of speech and language therapists some schools/ parents/carers are being advised of waiting lists for CYP to receive their recommended programmes. If an initial assessment has been completed it is likely that there will be advice and recommendations to be followed by school/parents/carers. Ultimately the Local Authority is responsible for the delivery of Section F provision. When we receive advice from independent therapists who are appropriately registered (HCPC), and a decision is taken that this is written into the EHC plan, we are responsible for sourcing this. Due to the national shortage of therapists which is affecting the NHS we are also experiencing significant delays in sourcing suitably qualified providers.

4.6 We are addressing this situation by establishing a list of qualified providers who have been quality assured through our commissioning team.

4.7 We are reviewing our current processes for the sourcing and agreeing of appropriately qualified therapists to provide Section F SLT and OT in order to reduce the waiting times where the recommendation of an independent report exceeds the provision which has been recommended by our local NHS partners.

5 Financial Implications

5.1 Other than the payments to the individual involved in this case, there are potential further financial implications from those complaints that have not yet been resolved. At this time, it is not possible to quantify what those may be. All complainants have been informed of their right to take complaints that have been heard by KCC to the Ombudsman for independent review.

6 Legal implications

6.1 The Council as far as it can so far, have fulfilled the obligations to the Ombudsman's public report. Should the Council comply with the Ombudsman's recommendations and improve the service in line with the APP, there should be no further public reports on this particular case.

6.2 However, there may be other public reports the Ombudsman may wish to issue, should it find further evidence of systemic issues in the course of their investigations that is not covered by this report or where they feel we have not made sufficient progress in rectifying the issues raised in this public report.

7 Governance

7.1 Following the Committee's discussion, we will be supplying the link to the webcast and the remaining evidence asked for by the Ombudsman.

8 Recommendation(s)

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The SEND Sub-Committee is asked to note the contents of the report.

9 Background Documents

Appendix A – Local Government and Social Care Ombudsman Case 22 03 403

Appendix B – Accelerated Progress Plan ([Kent improvement plan for special educational needs and disabilities \(SEND\) - Kent County Council](#))

Appendix C – Template of parental communication

10. Contact details

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