

North Tyneside Council Report to Regulation and Review Committee Date: 24 October 2019

ITEM 6

Title: Complaints Annual
Report

Report from Service Area: Law and Governance

Responsible Officer: Emma Rothery (Tel: 0191 643 5361)

Wards affected: All

1.1 Purpose

To inform Regulation and Review Committee of the complaints received by the Authority and progress in relation to the one corporate complaint they have considered during 2018-19.

1.2 Recommendation

1. Note the actions taken.
2. Refer any dissatisfaction regarding progress to the Head of Service of the responding Department.

1.3 Information

- 1.3.1 Corporate complaint 102395925 relating to Health, Education, Care and Safeguarding Skills and Learning Service.
Committee Date: 3 September 2018

The complaint related to the complainant's son and the process that had been followed in creating and implementing an Education and Health Care Plan (EHCP). The complainant felt that the way in which North Tyneside Council had dealt with the situation since February 2017 had demonstrated maladministration, incompetence and a lack of empathy/support throughout. The specific points of complaint were:

- 1) Failure to finalise the EHCP on time; specifically around the delay in starting and completing the EHC needs assessment;
- 2) Extensive delay in securing suitable, full-time alternative education under s.19 Education Act 1996 following exclusion from Marden Bridge Middle School (MBMS) on 6 February 2018;
- 3) Lack of recognition of the array of hardships to the family, including the stress of having to bring the complaint.

The Committee upheld the complaint and made six conclusions:

- 1) The case highlighted issues with communication and a lack of clarity over responsibility of roles between schools, parents and the Local Authority when

assessing the SEN of pupils and the triggering of the statutory process and that this needed to be addressed;

- 2) The Local Authority needed to ensure that parents were kept informed and supported throughout the process;
- 3) From the notes of the February TAF meeting, it was clear why the complainant understood the statutory process should have begun at that time and improved communication between the school and the Local Authority, and a more proactive approach, could have resulted in the EHCP being put in place sooner;
- 4) The Local Authority needed to be clear on when a statutory process was triggered and that procedures complied with legislation;
- 5) The delay in finalising the EHCP was unacceptable;
- 6) The complainant's son had experienced an extended period of disruption to his education, which impacted on the complainant's ability to work and placed emotional strain on the family.

The Committee made two recommendations:

- 1) That a full review take place of all processes related to beginning and developing EHCP's, to include ensuring that legislation is being correctly applied, that correspondence with parents is clear and demonstrates an understanding of the difficult time for parents and that communication between schools and the Local Authority is strengthened. It is recommended that this review be completed by the end of October 2018 and that the outcomes of this review be reported to a future Regulation and Review Committee; and
- 2) That consideration be given to offering payments to the family of £1,000 for the delay, stress and emotional impact that the process and bringing the complaint has caused and a further £2,000 for the months in which the complainant's son was not in school nor receiving suitable alternative education (based on £500 per month for 4 months), for the disruption to his education and the restrictions this placed on the complainant's ability to work.

The complainant proceeded to take her complaint to the Local Government and Social Care Ombudsman who found maladministration causing injustice. The Ombudsmen ordered the Authority to:

- 1) To apologise to the child and his parents to recognise the injustice caused to them by the additional faults identified.
- 2) To pay a further £3,000 to the child, in addition to the £2,000 it has already paid. This recommendation is based on: £400 per month for eight months between July 2017 and March 2018, where child would have received suitable provision in school had the Council finalised his EHC plan within the statutory timescales; and £600 per month for three months, from March to June 2018, where the child did not receive EHC provision and, in addition, was out of school without a suitable alternative education.
- 3) To pay a further £1,000 to the complainant. The panel's recommendation recognised they had experienced distress, however it did not fully recognise the extent of this.
- 4) To issue a staff reminder to ensure its officers are aware of its duty to begin the EHC process when it becomes "*responsible for*" a child. It will explain in the reminder what this means in practice for its officers.

1.4 Appendices

There were no appendices.

1.5 Contact officers

Jacqui Old
Emma Rothery

1.6 Background information

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- North Tyneside Council Constitution
- Minutes of Regulation and Review Committee