



COUNCIL MEETING

22 NOVEMBER 2018

**REPORT OF THE LOCAL GOVERNMENT AND SOCIAL
CARE OMBUDSMAN – COMPLAINT OF INJUSTICE**

Sheena Ramsey, Chief Executive

Mike Barker, Strategic Director, Corporate Services and Governance

Caroline O'Neill, Strategic Director, Care, Wellbeing and Learning

EXECUTIVE SUMMARY

1. The report proposes a response to the Local Government and Social Care Ombudsman arising from a report published following his investigation of a complaint against the Council.
2. The Ombudsman has now concluded investigations into a complaint that the Council had wrongly refused to provide free home to school transport for a child they foster for the Council who is the subject of a Full Care Order, has special needs and attends a special needs school.

During the course of the investigation the Council gave detailed explanations and supplied evidence to demonstrate the way in which the matters had been handled.

3. The Local Government and Social Care Ombudsman published his report on the complaint against the Council on 3 October 2018. In accordance with the Local Government Act 1974, section 31(2), as amended, the Council has three months from the date of the report to formally consider the report and confirm the action it has taken or proposes to take.

The Council's Representations to the Local Government and Social Care Ombudsman

4. Following representations from the complainants, and mindful of any risk to the child's placement stability, the Council agreed to support the complainants' wish to move the child to a different school which was further away from their home.

The complainants were advised that no school transport would be provided as this was an Independent Foster Agency placement. In accordance with the terms of the arrangement between the Council and the Agency and the agreement between the complainants and the Agency, the cost of daily transport to school within a 15 mile radius was the responsibility of the Agency and they would be expected to transport the child to and from school but that a contribution to mileage costs above the 15 mile radius would be paid by the Council.

When the Council raised the provision of school transport in regard to its contract with the Independent Fostering Agency, the Agency felt that if it was required to pay the costs, this would place unnecessary strain on the stability of the child's placement.

The provision of a standard agreement with all Independent Fostering Agencies is a common arrangement across all Local Authorities and the Agency is remunerated for the cost of day to day travel which is built into the fee it receives.

The Independent Fostering Agency suggested to the Council that they felt the complainants could continue to provide home to school transport using their own vehicle under the terms of the Agency's agreement and the Council agreed to pay additional mileage costs over and above the 15 mile radius to the complainants to protect the stability of the child's placement.

OMBUDSMAN'S REPORT

5. The Ombudsman's report on this case is appended to the report. The Ombudsman's conclusions are outlined in Sections 39 to 42 in his report.

OMBUDSMAN'S RECOMMENDATIONS

6. The Ombudsman has recommended that the Council should:-
 - apologise to the complainants for the failings identified;
 - ensure the complainants are not out of pocket for costs related to transporting of the child to and from school from 2016. To achieve this, it should pay the costs of transporting the child for the first 15 miles of his school trip to and from school on the days that the child has attended. It should pay this at its usual mileage rate for foster carers and include payment for the foster carers' return journey for each trip. Its payment calculation should subtract the costs already covered by the Council when the taxi was provided and paid for in early 2017 and not include the additional two miles for which it has already been paying;
 - make a further payment of £500 to recognise the distress, uncertainty, inconvenience and frustration caused by the Council's faulty handling of their requests for provision of transport from Autumn 2016 and/or its failure to reconsider the details of its contract with the fostering agency;
 - take responsibility now for arranging transport or covering the additional costs incurred by taking the child to and from the specified school;
 - undertake a comprehensive review of its policies regarding consideration and provision of free home to school transport to looked

after children where contracted placements with independent fostering providers are in place;

- clarify what its expectations are with the independent fostering agency with regard to whether the cost of home to school transport is met by the agency out of the total fee it pays to the agency rather than passed on to the foster carers to pay out of their element of the fee. Ensure this is clear in future contracts/tendering details; and
- pay the complainants a further £250 to recognise the avoidable time and trouble they have incurred in having to bring this matter to us for resolution.

RECOMMENDATION

7. The Council is recommended to accept the Ombudsman's recommendations outlined in his report.