

DECISION TO AWARD COMPENSATION AS RECOMMENDED BY THE LOCAL GOVERNMENT OMBUDSMAN

COUNCILLOR LYNNE AYRES - CABINET MEMBER FOR EDUCATION, SKILLS AND THE UNIVERSITY

April 2023

Deadline date: 17th May 2023 to be able to meet the deadline for the actions to be completed as per the final LGSCO decision.

Cabinet portfolio holder: Responsible Director:	Cllr Lynne Ayres – Cabinet Member for Education, Skills and the University Elaine Redding – Interim Executive Director: People and Communities
Is this a Key Decision?	NO
Is this decision eligible for call-in?	YES
Does this Public report have any annex that contains exempt information?	NO
Is this a project and if so, has it been registered on Verto?	NO

RECOMMENDATIONS

The Cabinet Member is recommended to authorise the payments of £1,350 to reflect the distress to Miss X:

- Pay Miss X £1200 for the educational benefit of B, to recognise the impact of its failings on B's education.
- Pay Miss X £150 to acknowledge the distress caused by the faults identified in this statement.

Total financial remedy of £1,350 in line with the settlement amount recommended by the Local Government Ombudsman.

1. PURPOSE OF THIS REPORT

- 1.1 This report is for the Cabinet Member for Education, Skills, and the University to consider exercising delegated authority under paragraph 3.4.3 of Part 3 of the constitution in accordance with the terms of their portfolio at paragraph (a) to award compensation at the recommended level.
- 1.2 Authority is required for settlements over £1,000. Under Part 3, Delegations, Section 3, Executive Functions, para 3.13.5 (g) the Chief Executive/Director of People and Communities can only pay such settlements up to a value of £1,000.

2. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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3. **BACKGROUND AND KEY ISSUES**

- 3.1 The Cabinet Member is requested to approve the award of compensation as recommended by the Local Government and Social Care Ombudsman (LGSCO).

4. **CONSULTATION**

- 4.1 This decision does not require any public consultation.

5. **ANTICIPATED OUTCOMES OR IMPACT**

- 5.1 It is anticipated that the Cabinet Member will approve or reject award of the recommended level of compensation as recommended by the Local Government Ombudsman.

6. **REASON FOR THE RECOMMENDATION**

- 6.1 The LGSCO investigated a complaint where Miss X complained that the Council has failed to offer her son suitable alternative provision, to secure the provision in her son's education, Health and Care Plan and to consult with providers suitable for her son. The LGSCO found that the Council was at fault for failing to provide Miss X's son with alternative education. This caused distress to Miss X and B has been out of education. The LGSCO have made several recommendations to address the injustice caused by these faults two of which are a financial remedy detailed in the recommendations section of this CMDN.

- 6.2 As a result, the LGSCO has recommended that within eight weeks of the final decision 21st June 2023 the Council should:

- Apologise to Miss X for the faults identified in their review.
- Pay Miss X £1200 for the educational benefit of B, to recognise the impact of its failings on B's education.
- Pay Miss X £150 to acknowledge the distress caused by the faults identified in this statement. 50.

In addition to the financial outcome, there is a requirement that within two months, the Council has agreed to issue written reminders to relevant staff to ensure they are aware of:

- The Council's duties under section 19 of the Education Act 1996 to provide provision or suitable education for children of compulsory age who cannot attend school because of exclusion, medical reasons or otherwise.
- The section 19 duty applies to all children of compulsory school age living in the local council area.

The Council are required to provide the LGO with evidence it has complied with all the above actions.

- 6.3 Following this case, the Council have written an apology letter to Miss X. A team meeting has also been arranged so that all staff will be reminded of the Council's duties under section 19 of the Education Act 1996 to provide provision or suitable education for children of compulsory age who cannot attend school because of exclusion, medical reasons or otherwise. The section 19 duty applies to all children of compulsory school age living in the local council area.

7. **ALTERNATIVE OPTIONS CONSIDERED**

7.1 The Local Government Ombudsman cannot make the Council do what is suggested in their Notice of Decision, however if the Council were to disagree with the suggested remedy the Ombudsman may be required to write a formal report in response to this. Where a formal report against a Council is issued the Ombudsman will make this public unless there are special reasons not to.

7.2 The complainants made a complaint to the Local Government Ombudsman about the Council's decision and the subsequent investigation has identified evidence of fault and suggested the Council take steps to remedy the injustice. The Council agrees with the suggestions proposed by the Ombudsman.

8. IMPLICATIONS

Financial Implications

8.1 The amount recommended by the LGO will be paid from the 2023/24 financial year.

Legal Implications

8.2 There are no legal implications arising from this decision.

Equalities Implications

8.3 There are no equalities implications arising from this decision.

Carbon Impact Assessment

8.4 There are no Carbon Impact implications arising from this decision.

9. DECLARATIONS / CONFLICTS OF INTEREST & DISPENSATIONS GRANTED

9.1 None.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

10.1 None.

11. APPENDICES