

COMPLAINT AGAINST COUNCIL – OMBUDSMAN DECISION
Monitoring Officer

1 PURPOSE OF REPORT

- 1.1 This report is to appraise the Council of a finding of maladministration with injustice by the Local Government Ombudsman (“the Ombudsman”) against Bracknell Forest Council in response to a complaint by Miss X with regard to the conduct of the Council’s care assessment of her child AB, as well as its decision to pursue a safeguarding investigation based on concerns about how her decisions were impacting on AB’s care needs.

2 RECOMMENDATION

- 2.1 **That the Ombudsman’s report findings be noted (Appendix A)**
- 2.2 **That it be agreed that no further action be taken in relation to the matter set out in this report**
- 2.3 **That it be noted that a copy of this report has been circulated to all members of the Council**
- 2.4 **That the draft report of the Executive attached hereto as (Appendix B) be approved (to comply with the requirements of the Local Government and Housing Act 1989)**

3. REASONS FOR RECOMMENDATIONS

- 3.1 To comply with the provisions of the Local Government and Housing Act 1989

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 In view of the fact that the Ombudsman has categorised the complaint as “Upheld: maladministration and injustice”, the statutory process for reporting the decision must be followed.

5 SUPPORTING INFORMATION

The Statutory Framework

- 5.1 The Ombudsman Service was established by the Local Government Act 1974. Any person who feels aggrieved in the delivery of a local authority service which is not covered by other statutory complaint processes may complain to the Ombudsman. The Ombudsman will almost invariably expect the complainant to exhaust the Council’s own complaints process before considering the complaint. If the Ombudsman does decide to investigate a complaint he/she will determine whether, in their opinion, the local authority has been guilty of “maladministration” and if so whether the complainant has sustained “injustice” in consequence.

- 5.2 Section 5A of the Local Government and Housing Act 1989 imposes a duty upon the Monitoring Officer to prepare a report to the Executive if at any time it appears to him/her that there has been maladministration in the exercise of its functions. The duty does not arise unless the Ombudsman has conducted an investigation. The report is required to be copied to each Member of the Council.
- 5.3 As soon as practicable after the Executive has considered the Monitoring Officer's report it must prepare a report which specifies:-
- (a) What action (if any) the Executive has taken in response to the Monitoring Officer's report,
 - (b) What action (if any) the Executive proposes to take in response to the report, and
 - (c) The reasons for taking the action or for taking no action.

6. **Background**

- 6.1 The Ombudsman's report is self explanatory, but in summary relates to a complaint by Miss X (the mother of AB) about the Councils handling of an assessment of AB's care needs as well as its initiation and conduct of a child protection safeguarding investigation.

The Decision

- 6.2 The Ombudsman accepted that the Council had investigated the safeguarding concerns without fault.
- 6.3 With regard to its assessment of AB's care needs in 2014, the Council had already accepted the findings of its stage 2 external investigators report pursuant to its own complaints procedure. This had found fault in the way that it had conducted the assessment and had upheld 21 out of 23 limbs of Miss X's complaint.
- 6.4 The Council offered to amend the assessment or complete a new assessment following the outcome at stage 2. Miss X did not take up this offer. In any event the Ombudsman's report concludes that as AB is now receiving continuing health care services from the NHS a new assessment would not be necessary.
- 6.5 **The finding against the Council is disappointing given the focus by the Ombudsman on what in effect is no more than a technicality. It should be emphasised that officers did take steps to acknowledge and resolve the issues identified following the Stage 2 review through the offer of a reassessment of ABs needs, but despite this, Miss X failed to take up the remedy offered. The Ombudsman's conclusion that officers acted "without fault" in reviewing safeguarding concerns relating Miss X's care of AB suggests that the overarching finding of maladministration and injustice fails to reflect the time and effort expended by officers in seeking an outcome to this matter which placed the welfare of AB as a paramount consideration in accordance with its statutory duty.**

7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

7.1 The Borough Solicitor is the author of this report.

Borough Treasurer

7.2 There are no financial implications directly arising from this report.

Equalities Impact Assessment

7.3 Not required.

Strategic Risk Management Issues

7.4 None.

8 CONSULTATION

Principal Groups Consulted

8.1 Chief Executive and Borough Treasurer

Method of Consultation

8.2 Not applicable.

Representations Received

8.3 Not applicable.

Background Papers:

Appendix A - LGO final report dated 15 December 2016

Appendix B- Draft report for Council approval pursuant to S5A Local Government & Housing Act 1989

Contact for further information

Sanjay Prashar, Borough Solicitor, 01344 355679

Sanjay.Prashar@bracknell-forest.gov.uk