

Cabinet 7 February 2017	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director - Children's Services	Classification: Unrestricted
Ombudsman Report – Case Reference 15 018 561	

Lead Member	Councillor Rachel Saunders, Cabinet Member for Children's Services
Originating Officer(s)	Nasima Patel, Service Head - Children's Social Care Ruth Dowden, Service Manager – Complaints and Information
Wards affected	All wards
Key Decision?	No
Community Plan Theme	One Tower Hamlets

Executive Summary

The Local Government Ombudsman issued a Report finding maladministration regarding a decision made in November 2010 when Ms X commenced caring for 3 children whose mother was not able to provide her children with suitable care.

The Council formed the view that this was a private arrangement but is now in agreement with the Ombudsman that it should have been recognised as a family and friends foster care arrangement and suitable payments be made.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Note the content of the Report
2. Note the action taken in Children's Social Care to remedy the situation

1. REASONS FOR THE DECISIONS

- 1.1 The Council accepts the Ombudsman's findings

2. ALTERNATIVE OPTIONS

- 2.1 The Council does not wish to challenge the findings, so no alternative options are proposed.

3. DETAILS OF REPORT

- 3.1. The Commission for Local Administration in England, commonly known as the Local Government Ombudsman (LGO), was established under the Local Government Act 1974 (amended by the Local Government and Housing Act 1989) to consider complaints against local authorities and other public bodies. Their remit is broad and covers actions of the authority that fall under the corporate complaints procedure, statutory Adults Social Care complaints and statutory Children's Social Care complaints. The notable exception to their remit, since April 2011, is non-strategic housing complaints which are considered by the Housing Ombudsman.
- 3.2. Since 2013, arising from the Local Government and Public Involvement in Health Act 2007, the LGO has issued and published either a 'statement of reasons' or 'report' of their findings for each complaint.
- 3.3. Complaints considered by the Local Government Ombudsman and Housing Ombudsman are reported to Members by way of an Annual Report and a Half Year Report to the Overview and Scrutiny Committee,
- 3.4. Over and above this requirement, complaints to the Council where fault (or maladministration) is found and a formal report against the council is issued, should also be considered by Cabinet (executive functions) and full Council (non-executive functions).
- 3.5. It is a rare occurrence for this Council to receive a formal report; this is the first since 2009.

Summary

- 3.6. This complaint hinges on the decision made in November 2010 which resulted in Ms X looking after 3 children whose mother was not able to provide her children with suitable care.
- 3.7. The Council formed the view that this was a private arrangement but is now in agreement with the Ombudsman that it should have been recognised as a family and friends foster care arrangement and suitable payments be made.
- 3.8. One of the children remains in the care of Ms X, the other two siblings were placed with family members the month after Ms X's initial involvement.

Findings

- 3.9. The Ombudsman determined that the decision regarding the arrangement was taken by the Council and not solely by the family. It was determined that the lack of financial support as applicable for such a placement amounted to maladministration with injustice.

Action

- 3.10. Children's Social Care has completed a management review to examine the Ombudsman findings and to consider the implications for the placement of the other two siblings. The review found one of them had been placed on similar a basis to the child subject to the complaint and revised payment arrangements are being put in place.
- 3.11. Financial remedies have been agreed. In addition to paying the equivalent of the carer's allowances, £300 will be paid for the costs of caring for the three children until December 2010, £500 for legal fees, and £500 for the time and trouble in pursuing the complaint.
- 3.12. The Council is grateful to Ms X for the care she has provided to the children and continues to provide to one.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 The Council has agreed to pay the complainant £1,300 plus the equivalent of the carer's allowances as per the Ombudsman's recommendation. This expenditure will be managed within existing Children Social Care budgets.

5. LEGAL COMMENTS

- 5.1 The Local Government Act 1974 (as amended), Section 30 provides that if the Local Government Ombudsman completes an investigation he shall prepare a report and send a copy to the complainant, the authority and to other parties not relevant in this case.
- 5.2 The authority must give public notice in newspapers and such other ways as appear appropriate that copies of the report shall be available for inspection by the public for a period of not less than three weeks. The public notice was placed in the East London Advertiser on 12 January and the report was available for public inspection until 3 February. The notice and report were also published on the Council's website. Publication of the Ombudsman's report as an appendix to this report ensures that it remains in the public domain in perpetuity.
- 5.3 Under Section 31 of the Local Government Act 1974 (as amended) where the Ombudsman reports that there has been maladministration resulting in injustice the report shall be laid before the authority and it shall be the duty of the authority to consider the report and within 3 months of receipt thereof (or such longer periods as the Ombudsman may agree in writing) to notify the

Ombudsman of the action which the authority has taken or proposes to take. This report to Cabinet complies with these requirements.

- 5.4 Where it appears to the authority that a payment should be made to, or some other benefit should be provided for a person who has suffered injustice in consequence of the maladministration to which the report refers, section 31 (3) of the Act provides that the authority may incur such expenditure as appears to it to be appropriate in making such a payment or providing such a benefit.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 Children's Services aim to provide an effective service to all Children in the borough who require Social Care support. In noting the outcomes of this complaint adjustments can be made to another support arrangement.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 Not Applicable

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 Not Applicable

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The Council's consideration and evaluation of complaints amounts to a risk evaluation. In this instance wider implications for other placement arrangements have been assessed to ensure effective service and mitigation of risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 None

11. SAFEGUARDING IMPLICATIONS

- 11.1 None

Linked Reports, Appendices and Background Documents

Linked Report
NONE

Appendices
Ombudsman Report – Reference 15 018 561

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

NONE

Officer contact details for documents:

N/A