



Northumberland

County Council

CABINET

09 MAY 2023

LGSCO Public Interest Report – Case ID 21 004 235

Report of Cabinet Member Guy Renner Thompson, Lead Member for Children's Services
Executive Director of Children, Young People and Education, Audrey Kingham

Purpose of report

A Public Interest Report has been issued by the Local Government and Social Care Ombudsman (LGSCO) in relation to a complaint raised by a Northumberland County Council resident in relation to the Post 16 Transport Policy.

In accordance with Section 31(2) of the Local Government Act 1974, "*The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.*" Cabinet are asked to consider recommendations made to rectify council policy relating to the Post-16 Transport Policy and address any subsequent injustice to service users.

In an email dated 14/03/23, the LGSCO confirmed "we are satisfied the Council has completed the remedy action, but we cannot confirm compliance until the Council has formally considered the report."

Recommendations

Cabinet is recommended:

1. To receive the LGSCO's Public Interest report at Appendix A. The LGSCO has confirmed that it is satisfied that the Council has completed all remedy actions as set out in 2, 3 and 4 below.
2. To note that officers have acted on recommendations in the report in that:
 - a. Miss X has been sent a letter of apology and been paid the remedy of £200 for time and trouble and £100 to "*recognise the avoidable uncertainty caused by the failure to keep her properly updated and informed through the application and appeals process*";
 - b. have reviewed the young person's application;
 - c. have reviewed all other applications refused, at that time, under the "flawed" policy;

- d. have reviewed and proposed amendments to the Council's Post 16 Transport policy in view of the LGSCO recommendations;
 - e. reminded staff working on appeals of the need for timely and clear communications
3. To note revisions to the Council's policy as set out at Appendix B
 4. To note that in line with the requirements of Section 30 of the Local Government Act 1974 the Council have "placed two public notices" in the News Post Leader dated 11/11/2022 and the Northumberland Gazette dated 10/11/2022; and also made copies of the report available free of charge at County Hall, Morpeth.
 5. To consider whether any further internal scrutiny is required in relation to the handling of LGSCO findings.

Link to Corporate Plan

This report is relevant to the "living" priority in the Corporate Plan

Key issues

The LGSCO identified the following key issues with how the Council considered the young person's application for Post 16 Transport and the following appeal process:

1. The Council did not discuss within the young person's EHCP review how the young person's college choice would affect transport provision before deciding on this and it was not explained to them. This caused an injustice as it meant they lost the opportunity to make an informed decision on which college, or course, the young person should be moving onto.
2. The Council's policy explains it calculates distances using a system called QGIS but it does not explain what this is, or how parents can use it for themselves. The Council is entitled to define which measurement system will be used but it should inform parents they can contact the Council to check and compare school distances.
3. The Council's policy does not make it clear to parents or young people how they can establish which level courses are at. It references progression through levels but does not give any indication as to which courses are at each level. This makes it difficult for applicants to know with any certainty if their chosen course is at a higher level even if they are moving onto further education. The Council should inform parents they can contact the Council about how to check suitability of the course level.
4. The Council's policy recommends applicants check their eligibility carefully before applying for a course or transport. However, the policy wording makes it difficult for applicants to do this. For these reasons, we find the Council's policy flawed.
5. The Council did not keep Miss X properly informed throughout the appeals process or stick to the timeframe set out in its published policy. This is fault and meant Miss X experienced uncertainty while awaiting answers.
6. The Council failed to provide information to Miss X about the outcomes at each stage. The Council's responses were vague and informal, and they lacked consistency in the eligibility criteria that was being relied on. They did not give full details about the outcome of the reviews, how they were conducted, what was considered, or the

rationale for the decisions. The responses also failed to explain how Miss X's appeal points were considered or why they were deemed not to apply.

With regard to point 1, changes have been made in relation to the EHCP review process to account for this and ensure that when discussions are held regarding progression to further education, the learner and their representatives have a clear understanding of how their decisions regarding college placement may impact on any Post-16 transport provision.

With regard to points 2, 3 and 4, the Post-16 Transport policy has been revised to make explicitly clear how to self-assess measurements of distance to providers and that applicants can contact the Council about course levels and to check or compare measures of school distances. Policy attached at Appendix B.

With regard to points 5 and 6, staff dealing with transport applications and appeals have been closely involved in analysing the events that led to the scenario in question occurring and the cause of it escalating to the point of appeal and complaint. As part of this analysis, it was acknowledged that staff had indeed fallen short of their own standards but also that it was an unfortunate and isolated scenario at the peak demand period for staff at the beginning of the academic year, where DfE guidance on actions to be taken around COVID 19 had also been released requiring implementation, and a route review of home to school transport which had been deferred due to COVID 19 was also recommencing. This convergence of conflicting pressures explaining in part, if not excusing, the lapse in timely, clear, consistent, and well-reasoned decisions and failure to meet the Council's own standards.

Being involved in this analysis has directly reinforced with staff the need for timely, clear, consistent, and well-reasoned decisions.

Council systems and process having also been considered; the administration system now requires the user to select from a range of reasons when transport is not offered before a response can be issued to the applicant which assists in ensuring consistency when recording decisions.

Background

A complaint was received from Miss X in relation to how the Council had considered her child's application for Post 16 Transport and issues with the statutory appeals process. This was considered via the Council's 2-stage Corporate Complaint process. Miss X then escalated the matter to the LGSCO for independent consideration.

The LGSCO initially offered a draft finding in relation to this complaint in February 2022, where they identified fault with the Council decision making and were likely to recommend "*it apologises, makes a payment to Miss X to recognise the poor complaint and application handling, reassess Y's application, and reword its policy*". However, in June 2022, the LGSCO notified the Council that after reconsideration they were to issue a public interest report due to the case being considered a "*significant topical issue and represents systemic problems and wider lessons*". Copy of the Public Report is attached at appendix A.

The public interest report was published on 17 August 2022.

The LGSCO asked that their recommendations be implemented within one to three months of the decision being published. The timescale for remedy action was adhered to, however, the requirement for this to be formally considered by the Local Authority within 3 months was not. This was due to the issue becoming entrenched in a wider policy review, which in hindsight should not have occurred.

Communications have been held directly with the LGSCO to explain this delay and advise what process is being put in place to ensure there is no such re-occurrence. This includes the introduction of a new casework management system for complaints; I-Casework.

In an email dated 14/03/23, the LGSCO confirmed “we are satisfied the Council has completed the remedy action, but we cannot confirm compliance until the Council has formally considered the report.”

A copy of this report and the subsequent Cabinet minutes will be provided to the LGSCO as evidence to conclude this matter.

Implications

Policy	Change of Post 16 Transport policy undertaken.
Finance and value for money	Payment of £300 in financial to individual complainant.
Legal	Cabinet is asked to formally receive the Public Interest Report in accordance with Section 31(2) of the Local Government Act 1974. All other legal implications have been addressed within the body of the report.
Procurement	There are no direct implications
Human Resources	There are no direct implications
Property	There are no direct implications
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	There are no direct implications

Risk Assessment	
Crime & Disorder	There are no direct implications
Customer Consideration	Complaints are one of a range of methods by which the Local Authority receive feedback on the quality and consistency of our services. They are also invaluable for learning lessons and quality improvements.
Carbon reduction	There are no direct implications.
Health and Wellbeing	There are no direct implications.
Wards	All

Background papers:

Appendix A - LGSCO Public Report – Case ID 21 004 235
Appendix B - Post-16 Transport policy

Report sign off.

Authors must ensure that officers and members have agreed the content of the report:

	Full Name of Officer
Monitoring Officer/Legal	Lynsey Denyer / Suki Binjal
Executive Director of Finance & S151 Officer	Jan Willis
Relevant Executive Director	Audrey Kingham
Chief Executive	Helen Paterson
Portfolio Holder(s)	Cllr Renner-Thompson

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