

# ***Careless:***

## ***Helping to improve council services to children in care***

*Focus report: learning lessons from complaints  
December 2020  
[www.lgo.org.uk](http://www.lgo.org.uk)*

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# Ombudsman's foreword



Every child deserves – and most have – a secure and stable home life. But for those children not able to live with their parents, they rely on their council to provide an environment in which they can flourish.

We have chosen to highlight our findings from complaints about the services given to children in care – despite them being a smaller proportion of our caseload – in the hope of helping to improve outcomes for a particularly vulnerable group of people.

The evidence shows that, on the whole, children in the care of their local authority have a tougher start in life than most.

They are more likely to have a special educational need (56% compared with 15% of all children<sup>1</sup>) or a mental health difficulty<sup>2</sup>. The most likely reason for coming into care is because they were at risk of trauma<sup>3</sup> and those leaving care are less likely to be in education or employment<sup>4</sup>.

The number of children in care is also growing: the latest figures show a 28% increase in the last decade (up from 60,900 in 2009 to 78,150 in 2019).

For these reasons it is ever more important councils make decisions that minimise further disruption or harm to children in their care.

1. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/884758/CLA\\_Outcomes\\_Main\\_Text\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/884758/CLA_Outcomes_Main_Text_2019.pdf)

2. <https://learning.nspcc.org.uk/media/1622/statistics-briefing-looked-after-children.pdf>

3. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/850306/Children\\_looked\\_after\\_in\\_England\\_2019\\_Text.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/850306/Children_looked_after_in_England_2019_Text.pdf)

4. For care leavers aged 19 to 21-year old, 39% were NEET (compared to around 12% of all young people aged 19 to 21 years). [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/850306/Children\\_looked\\_after\\_in\\_England\\_2019\\_Text.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/850306/Children_looked_after_in_England_2019_Text.pdf)

This report uses real case studies to highlight the breadth of the investigations we undertake about children in care. We see a range of common issues, which we have set out here to broadly follow the journey a child may make through the system, from entering to leaving care.

Some of the stories are saddening. Such as the young man discovering years later that he might have been deprived of his chance to say goodbye to his dying mother. Or the young woman coming home unawares to find her bags packed and asked to leave her foster home that day.

While the councils' actions in these cases were disappointing, we want to drive home the importance to all councils of learning from mistakes. In doing so this can help avoid repetitions and therefore improve the lives and opportunities for all children in care.

For each case study, we highlight how we not only put things right for the people who complained, but how we made practical recommendations to improve services for everybody.

The successes of these service improvements rely on councils taking a proactive approach to learning. We now highlight every service improvement each council has committed to making on our [Councils Performance Map](#).

Our map is an invaluable resource for anybody interested in building a picture of how their council responds to complaints. For example, local councillors can use this to scrutinise their council's performance. We also offer some specific questions for councillors to ask at the end of this report.

*I hope councils providing children's services will take on board this report and reflect on their procedures and processes. At every turn, I invite them to ask themselves, 'would this be good enough for my child?'*

I hope councils providing children's services will take on board this report and reflect on their procedures and processes. At every turn, I invite them to ask themselves, as the statutory guidance alludes: 'would this be good enough for my child?'



**Michael King**

**Local Government and  
Social Care Ombudsman**

**December 2020**

# Complaints to the Ombudsman



In the last five years we have received more than 150 complaints and enquiries a year in which we identified problems about services to children in care as the key issue. We have regularly upheld more than two thirds of complaints we go on to investigate in detail.

The cases we do not investigate in detail include instances where the people had yet to complete the council's complaint process, or were about issues we do not have power to investigate.

In the year 2019-2020, we investigated 30 complaints in detail and upheld 67% of these. Our uphold rate for investigations across all our work was 62%.

The case studies in this report are from investigations completed before the Covid-19 outbreak.

## How we put things right

Where we find a council at fault, and this has caused injustice, we will recommend how it should put things right. This might include:

- > properly considering whether a child meets the criteria to be accommodated
- > providing leaving care services or making long term plans to ensure the young person's security and stability
- > a symbolic payment to recognise lost opportunities, avoidable distress, or reimbursing money for missed support

Where our investigations identify a practice or policy fault, we recommend how councils should make changes to improve services for everyone, often through reviewing procedures and training staff.

Our service improvement recommendations for every council are mapped out on our [Your Council's Performance page](#).

We also have the power to investigate matters during an investigation where other people, who have not complained to us, may have suffered because of a systemic failure we have found. We often ask councils to identify if anyone else has been affected and provide an appropriate remedy to each of those people.

# Legal context

A child who has been in the care of a council for more than 24 hours is considered a looked after child. The term 'children in care' is also commonly used.

Children in care generally live with foster parents, in a children's home, or in a residential setting like a school or secure unit. They come into care for a range of reasons, usually:

- > their parent(s) have agreed to them being placed elsewhere, often with a relative<sup>5</sup>
- > the council or police have taken out a protective order because they are at risk of significant harm
- > they have been abandoned or are unaccompanied, and have no adult with parental responsibility for them

Councils are normally required to seek a care order from the family court to bring a child into care. Where the plan is for adoption, councils should seek a placement order.

Under the Children Act 1989 councils have duties to safeguard and promote the welfare of children they look after. These include:

- > drawing up a care plan to ensure the child's health, education, family, and social needs
- > having a long-term plan for the child's care and placing them with a relative where possible
- > making a permanent placement, where possible
- > regular reviews of the placement chaired by an independent reviewing officer
- > seeing the child regularly

The principles of good corporate parenting are set out in the Children and Social Work Act 2017. This involves councils promoting best interests and high aspirations, securing safe and stable home lives, and taking into account the views of, children in care and those previously in care who are eligible for support.

Children stop being looked after when they are adopted, return home, or turn 18.

Councils also have a duty to support children who have left care until they are at least 21, and can be up to 25 for those in further education or training<sup>6</sup>. Support can include a pathway plan (which sets out the care to be received), a personal adviser, and help with expenses connected with work and education. It may involve them staying with their foster family.

Family courts can also make private orders to relatives, a child arrangement order or a special guardianship order, to secure the child's placement long term and give the carer some parental responsibility.

It is not generally in the best interests of children to move between short-term placements. Councils must plan for a permanent arrangement, wherever possible, to encourage a stable and secure environment for children to flourish.

*5. A section 20 agreement under the Children Act 1989*

*6. The Children Act 1989, the Children (Leaving Care) Act 2000 and the Children and Social Work Act 2017*

# Legal context



## Reviewing support

All children will have an independent reviewing officer (IRO). They are responsible for ensuring the council acts in the child's best interests and listens to their wishes to inform their care planning.

Key decisions about care are normally taken at a child's statutory review meeting, held at least every six months. These meetings include all agencies involved with the child and, if appropriate, the child should attend them.

## Education

Councils also have a duty to promote the educational achievement of current, and former, children in care<sup>7</sup>. All children should have a Personal Education Plan incorporated into their care plan and be placed in a school within 20 days of a placement move, and they have priority on school admissions.

## Complaint handling

The Children Act requires councils to set up a three stage complaints process for complaints from, or about, children in care. It consists of:

- > Stage 1 – local resolution
- > Stage 2 – an independent investigation with an independent person overseeing it
- > Stage 3 – a review panel with an independent chair

The complainant has the right to progress through all stages of the procedure. However, we do see examples where councils refuse to allow a complaint to progress through all the stages.

7. Promoting the education of looked after children and previously looked after children; Department for Education statutory guidance; 2018.

# Legal context

## Case Study - complaint handling

We issued a [public interest report](#) when a council refused to consider a complaint under stage two of the statutory children's complaints process. The council said nothing could be achieved by a stage two investigation and it did not have the child's consent to do so. It is not for councils to decide what can or cannot be achieved at stage two. If someone asks for their complaint to be considered at stage two, the council must normally comply with this. The council did not need the child's consent to do this.

We provide good practice guidance for councils on applying the children's complaints process in our recently revised [Guidance on good complaint handling](#).

Councils usually do not accept complaints about something that happened more than a year after the person knew about it. However, in children's services complaints, the statutory guidance requires councils to consider exercising their discretion to look at 'out of time' complaints where it is practicable and appropriate. Young people are less likely to be fully aware of their rights and it may not be until they grow older that they realise what they experienced was wrong.

A good example of this is in the case study found later in this report, [Donna's story](#). We decided to investigate a complaint from a care leaver who came to us more than a year after she was aware of the events.

***It is not for councils to decide what can or cannot be achieved at stage two. If someone asks for their complaint to be considered at stage two, the council must normally comply with this.***



# Common Issues



## Coming into care

The type of ongoing support and financial assistance children, and their carers, receive is especially reliant on the decisions councils make when children first come into care.

Often relatives or family friends step in to provide stability and prevent children going into care. Our investigations have seen examples where those stepping in are given inadequate advice from their council or receive promises of financial assistance and support that do not materialise.

Cases often centre on the legal basis for the child entering care. If councils claim the arrangement was a private matter, the child is not classed as 'looked after' and the council has no duty to provide support.

On the next page we highlight a recent case study. For more detail on these issues we have published previous focus reports specifically about [Family and Friends Carers](#) and [Special Guardianship Orders](#).

# Common Issues - coming into care



## Sally's story

Case reference: [18 007 945](#)

Sally and her husband had helped care for their two grandchildren for some years because their daughter had a history of mental health difficulties. When their daughter was compulsorily detained under the Mental Health Act, the grandchildren went to live with Sally as an emergency placement.

Sally asked the council for help and support in caring for her grandchildren. She said she had serious concerns about her daughter's ability to care for the children in the long term. The council agreed to help but advised Sally to make a private law application in court for a child arrangement order, which would ensure the grandchildren could continue to live with them. The court granted this order.

The council then said this meant legally she was an informal carer, who had agreed with the children's mother to care for them. The council claimed it was not involved in placing the grandchildren with Sally and so it had no duty to support her or her grandchildren.

Sally complained about this. The council's own investigation found it should have intervened sooner to protect the children and it had not told Sally of the care options available to her. This prevented Sally and her husband making an informed choice.

## What we found

The council did not meet its duty to accommodate the children when immediate action to protect them was required.

When the children's mother could not care for them, the council had a duty to consider placing the children with family carers. In those circumstances, Sally would have been entitled to receive a fostering allowance as a family and friends carer.



### An individual remedy

#### The council agreed to:

- > backdate the family and friends' carer's allowance
- > support and pay for Sally's legal costs to apply for a special guardianship order
- > pay Sally £500 to remedy additional injustice caused by the fault



### Service improvements for all

#### The council agreed to:

- > review its policy on child arrangement order allowances

## Learning points

### Councils should:

- > accept their responsibilities to support family carers when placing children with them because of child protection concerns
- > not rely on the goodwill of family carers and claim a child was placed as a private arrangement when the facts of the case indicate otherwise
- > have clear procedures for emergency placements under section 20 of the Children Act, when placing children with family carers who have previously provided support on an informal basis

# Common Issues



## Care planning

When a child comes into care, a care and placement plan must be written. Social workers must visit children in care every six weeks. Care plans must be reviewed a minimum of every six months. Independent reviewing officers must ensure decisions are in the child's best interests and there is no undue delay in meeting their needs.

If children cannot return home to their birth parents, councils must consider alternative long-term placements, first with family members. Councils should apply for a Placement Order if adoption is considered the best option. This gives the council authority to place a child with prospective adopters without parental consent.

# Common Issues - care planning



## Albert's story

Case reference: [18 015 593](#)

Albert was 11 and living with foster parents, when he was told his birth mother had died. Four years later, during a statutory review meeting, Albert learned his mother had been on life support, but it had been decided to switch this off.

Albert complained to the council about not being told this at the time, potentially denying him the opportunity to visit her before she died. He also complained the information was shared with him in an insensitive way.

The council upheld his complaints. It was not possible from the care records to establish why he had not been told his mother was seriously ill. The information in the care plan report also used insensitive language and was inaccurate. There was also a significant delay in dealing with his complaint.

## What we found

Our investigation found the council's poor record keeping meant Albert is left never knowing whether he missed a chance to say goodbye to his mother. While we credited the council's approach to learning from the case, it should have offered more to recognise the distress it caused Albert.



### An individual remedy

#### The council agreed to:

- > apologise to Albert and pay him a token amount for the distress caused by its poor record keeping, the way he was told of his mother's death and the delay in dealing with his complaint



### Service improvements for all

#### The council agreed to:

- > improve how it communicates important life events with children in its care and the way it manages staff performance

### Learning points

This case illustrates the importance of considering carefully how distressing information is shared, and of keeping accurate records. In particular, young children need to be able to understand years later the decisions being made by their corporate parent.

# Common Issues - care planning



## Marcus' story

Case reference: [19 005 254](#)

Marcus was born abroad and came to this country with his parents. He was placed in care in his early teens under a Care Order.

Marcus had no birth certificate. The council made efforts to obtain one, but both the embassy of his birth country, and the hospital in which he was born, had no record of his birth. Marcus' parents did not cooperate to help resolve this.

By the time Marcus was 16, his independent reviewing officer raised concerns he did not have the necessary identity documents to obtain a passport. The council made further attempts to get hold of them, but these were unsuccessful. It meant Marcus missed a wedding abroad with his foster family.

At 18, Marcus left care but still had no passport or identity documents. The council appointed him a personal advisor. It agreed to pay for Marcus' immigration solicitor and a weekly allowance because he had no access to benefits.

Marcus says his 'life was on hold and his pathway to independence curtailed'. He could not work, obtain benefits, housing, a provisional driving licence or further education because of the lack of appropriate identity documents.

He had three job offers but could not take them up without proof of identity. He was also very worried about his status in this country.

With the help of an advocate, Marcus complained to the council and it acknowledged it had got things wrong in planning his care. Marcus did not think the council properly recognised the impact this had on him and wanted to ensure services were improved for other children in care, so he complained to us.

## What we found

As a child in its care, Marcus was reliant on the council to safeguard his welfare. Ensuring he had appropriate identity documents and a passport was fundamental to this.

We said the council should have started resolving this matter as soon as it applied for a Care Order. But seven years later, the matter remains unresolved.

We decided the council should have referred Marcus to an immigration solicitor sooner. We also said there were other options open to the council to ensure Marcus had the right documentation.

# Common Issues - care planning



## Marcus' story

Case reference: [19 005 254](#)



### An individual remedy

#### The council agreed to:

- > pay Marcus £1,000 for his avoidable distress and £600 for losing out on three job opportunities
- > continue funding Marcus' immigration solicitor until he obtains a passport. If this does not happen, he can complain again to us
- > regard Marcus as a 'new' care leaver once he obtains a passport. This includes preparing a new pathway plan, and giving him access to the usual support services he missed out on in leaving care at 18
- > ensure Marcus has appropriate accommodation

### Learning points

Councils have a duty to ensure children in its care have the appropriate identification documents so that, when 18, they are able to obtain the benefits, services and other opportunities to which other 18 year olds are entitled. Obtaining immigration advice also at an early stage, if cases are complex, is essential and no child should be left trying to resolve these matters themselves.



### Service improvements for all

The council was keen to learn from this complaint and had taken steps to better monitor children in its care to ensure that nobody left at 18 without appropriate documentation. So, the council agreed to:

- > test its new monitoring arrangements by reviewing all current cases of children in its care without a passport
- > ensure that, when care proceedings are initiated, and there is a likelihood of the child being placed in care, the council obtains from the parents the child's identification documents, at this stage, as a matter of routine

# Common Issues



## Ensuring stability

A key function of a child's care plan is to ensure there is a long-term plan for their upbringing. This is known as permanency planning, and it identifies which option is most likely to meet the needs and wishes of the child.

Councils have a duty to secure suitable accommodation within their area, as far as possible (The Children Act 1989). The definition of permanence planning was extended to incorporate where the child will live, and any harm they have suffered or are likely to suffer (The Children and Social Work Act 2017).

When considering placing a child for adoption, courts and adoption agencies must have regard to the child's relationship with the prospective adopters (where they are already placed) as well as with relatives.

Independent reviewing officers (IROs) have an important role in ensuring a council keeps to its plans for children in care and that their best interests are promoted.

Councils also have specific duties on deciding school places for children in their care. They appoint a 'virtual school head' who is responsible for promoting educational achievement for these children and working with social workers to ensure they understand the admission process as it affects each child.

# Common Issues - ensuring stability



## Tom and Nikki's story

Case reference: [17 003 962](#)

Tim and Nikki fostered two particularly vulnerable children when their birth parents were no longer able to look after them. Professionals reported the children made good progress and started to see Tom and Nikki as their permanent carers.

After two years, Tom and Nikki told the council they wished to adopt the children and would need continued support to help with the children's complex needs. The council agreed to assess the couple as prospective adopters and apply for a placement order, but it delayed in carrying out these actions.

The council started to have concerns about Tom and Nikki's ability to care for the children, given the substantial amount of support they were requesting. It also questioned whether the children were making an expected level of progress.

The council decided the children should be removed from Tom and Nikki's care and not to give them any notice. Social workers collected the children from school and told them Tom and Nikki had gone on holiday.

## What we found

We found the council did not follow most of the required care planning procedures in this case. There was no evidence to support the council's concerns and there was no statutory review meeting. The council did not consult the independent reviewing officer on the plan to remove the children, whose role it is protect the best interests of the children.

By failing to give Tom and Nikki notice of its plan to remove the children, the couple were unable to legally challenge this decision before it happened. We decided on balance, had they been able to, Tom and Nikki would have taken legal action to prevent the children's removal. It would then have been for the courts to decide their application to adopt and decide what was in the best interests of the children.

In this case, we used our powers to also consider the injustice the children suffered. We found the children would have been harmed by the sudden removal from the home. While, happily, they were found another foster placement which became long term, the way the council acted denied them the chance to voice their own wishes on the matter.



# Common Issues - ensuring stability



## Tom and Nikki's story

Case reference: [17 003 962](#)



### An individual remedy

#### The council agreed to:

- > apologise and pay Tom and Nikki £5,000 for the distress caused and loss of the family life they had wanted
- > set aside £2,000 in a savings account, for each child when older, for their avoidable distress
- > place a copy of our report on the children's social care files so they could understand what happened when older



### Service improvements for all

#### The council agreed to:

- > ensure independent reviewing officers are always involved in decisions to significantly change a looked after child's care plan
- > ensure social work staff hold a statutory review meeting when making significant decisions about care planning, other than in safeguarding emergencies
- > report back on its review of its foster care procedures and its training regarding record keeping

### Learning points

#### Councils should:

- > make decisions transparently, and not seek to change care plans without proper consultation with the child, where appropriate, and those involved in the child's life
- > think particularly carefully about disrupting a foster placement, where a child has remained for some time, without carrying out a proper analysis of the risks and benefits
- > usually plan a placement move and prepare children for the move

# Common Issues - ensuring stability



## Adele and Manjit's story

Case reference: [18 006 028](#)

Adele is a long-term foster carer for Manjit, who was due to move to secondary school. Manjit has special educational needs and a learning disability. She has an Education, Health and Care (EHC) plan.

When the council started planning for Manjit's transfer to secondary school, Adele recommended a placement at an independent school. The council and virtual head considered a special school was more appropriate. They took this decision, having considered it was not Adele's preference and that Ofsted had said it required improvement. Guidance says councils should try to choose 'good' or 'outstanding' schools.

Adele attended a planning meeting and argued the special school could not meet Manjit's needs. Officers said she could not appeal the decision to name the school because the council had accepted the place.

Adele said Manjit's wishes had not been considered and should be respected by involving an advocate. She also said that there was another school more suitable.

When Adele complained to the council, it said it could not get a place for Manjit at the alternative school or change her EHC plan. It would not appeal the final EHC plan to the Tribunal because it considered the special school was appropriate.

Adele then complained to us and pursued an appeal to the Tribunal.

## What we found

We found there had been unnecessary delay in making plans for Manjit's secondary school transfer. Manjit was anxious about changing schools and this caused further additional anxiety and uncertainty.

The council took few steps to involve Manjit in the choice of school and, although it subsequently agreed to appoint an advocate for her, this was too late as the school choice had been made.



### An individual remedy

The council agreed to pay Manjit and Adele a token amount for the failures we identified.



### Service improvements for all

The council reviewed its delegation procedures so that those involved are clear about respective responsibilities in this area.

### Learning points

- > councils should ensure its children in care are consulted on school changes and, where there are difficulties in communication, appoint an advocate
- > while it is ultimately the council's responsibility to take key decisions for children in care, it is important the views of foster carers are taken into account

# Common Issues



## Contact arrangements

Section 34 of the Children Act gives councils a duty to provide birth parents, and other relevant people, reasonable contact with children in care.

When courts make a Care or Placement Order, they may specify the level of contact the child should have, but often it is left to the council's discretion. When decided by the council, contact arrangements are considered at the statutory

review meeting. A contact plan is produced which takes into account the child's wishes and considers their best interests.

Parents can apply for a contact order if they are dissatisfied with the level of contact a council is allowing under section 34 of the Children Act. Siblings taken into care, but not placed together, often wish to have continued contact.

# Common Issues - contact arrangements



## Mayte and Blanca's story

Case reference: [18 015 286](#)

Daniel is a young boy looked after in long-term foster care. The council held a care order for him.

Daniel's mother, Mayte, and grandmother, Blanca, complained the council did not arrange and support contact with him properly. They said the council did not give them input into decisions about Daniel or take their views into account.

The council's own investigation upheld some of their complaints, including the council cancelling or rearranging contact at short notice. On one occasion, contact should have taken place on Mayte's birthday, but did not.

## What we found

Our investigation acknowledged the council accepted fault for not sending Mayte minutes of statutory review meetings. It also failed to convey Mayte and Blanca's views at those meetings. The council also communicated with them poorly.

We also decided that, because there was a difference of opinion between the family and the council regarding Daniel's wellbeing, he would benefit from having an advocate. The council appointed one.

Mayte separately decided to take legal proceedings to secure the contact arrangements she thought appropriate.



### An individual remedy

#### The council agreed to:

- > explain why it intended not to involve Mayte in the statutory review meeting
- > review Mayte and Blanca's contact arrangements through the review process



### Service improvements for all

The council agreed to properly share information between different meetings, when those take place outside of the statutory review meetings, when parents are not allowed to attend.

### Learning points

Care plans must properly consider contact with relatives, in a timely way, recording the frequency of contact and where it should take place.

# Common Issues



## Accommodation for 16 and 17 year olds

Children aged 16 or 17 can provide their own consent to being accommodated and do not need a parent's agreement. When children of this age approach councils for help finding somewhere to live, a common issue we see is councils failing to properly consider whether they should provide accommodation under section 20 of the Children Act 1989.

Case law and Government guidance has restated the legal position that a council's duty under section 20 of the Children Act towards

young people aged 16 or 17 who require accommodation, takes precedence over its duties under the Housing Act. (Statutory guidance - Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation 2010).

Councils also have a 'sufficiency' duty to secure enough appropriate accommodation to meet the needs of the children in their care, which is located in their local authority area.

# Common Issues - accommodation for 16 and 17 year olds



## Billy's story

Case reference: [17 005 652](#)

Billy was 17 when he was thrown out of accommodation he had been sharing with his father and had nowhere to go. Neither of his parents was able to provide him with accommodation. Billy was known to his local children's services department to be vulnerable, with identified difficulties with drug use, previous contact with mental health services and known criminal behaviour.

The council offered Billy somewhere to live but it was a long way from where he ordinarily lived and so Billy refused this. Rather than consider whether it should accommodate Billy nearer, the council gave him a tent.

Billy changed his mind about coming into care, but the council was unwilling to accommodate him due to his challenging behaviour. At one point they gave him a new tent when the first one broke and later placed him in a static caravan. After around two months the council placed Billy in supported accommodation.

Billy's mental and physical health had seriously deteriorated during his ordeal. Very shortly afterwards, he was detained under the Mental Health Act 1983 where he remained for nearly a year.

## What we found

The council had seriously failed Billy by not offering him suitable accommodation under section 20 of the Children Act 1989. It had also failed to plan for the foreseeable need for suitable accommodation for homeless young people, and had considered the use of bed and breakfast accommodation and static caravans routinely acceptable as accommodation for homeless young people.



## An individual remedy

### The council agreed to:

- > apologise to Billy
- > pay him £2,500 for the distress it caused and placing him at risk

## Learning points

### Councils should:

- > properly consider the risks to vulnerable 16 and 17 year olds if they refuse offers of accommodation
- > ensure staff are fully aware of their councils' duties to, and there is sufficient suitable accommodation for, this age group

# Common Issues



## Care leavers

Councils should publish a Local Offer, informing care leavers of the services available to them. The Children and Social Work Act 2017 extended the length of time all care leavers should have personal advisor, up to the age of 25.

In 2018 the government launched the Care Leaver Covenant – a pledge to help people leaving care to become independent. It was said at the time: *“we are the parents for these children and young people and the way to think about that is what would I want for my child”*.

# Common Issues - care leavers



## Donna's story

Case reference: [17 012 557](#)

Donna grew up in the council's care. She had to leave foster care when she turned 18, which was the policy at the time. Donna moved into a hostel despite telling the council she did not feel ready.

On the day she moved, she was surprised to find her belongings had been packed up. She was put in a taxi alone and sent to the hostel.

Over the next two years the council failed to support Donna well. She was told she had to bid for council accommodation although she was anxious about taking on this responsibility.

She took on the tenancy of a one bedroom flat but was not helped or advised about claiming housing benefit. She fell into rent arrears.

The council, as landlord, took eviction procedures. Donna approached the leaving care team but was told to approach an advice agency. A Possession Order was granted, and she lost her property. Donna had to put her possessions in storage and, for the next three years, lived with friends.

Donna complained to the council. It was a year before the council sent a reply.

During our investigation, the council agreed to pay Donna's rent arrears and she successfully bid for another one bed property.

## What we found

We investigated Donna's complaint even though she did not approach us within a year of her knowing about the issue. We recognise care leavers may not be well versed in their rights and it is often not until they are older that they begin to understand the council's actions were wrong.

We found the council had not talked to Donna properly about how it could support her or help her with her anxieties. It had never told Donna when she would be moving, and the social worker did not accompany her to the hostel. She also did not visit her within 24 hours as required or meet the hostel provider within three days.

The council accepted it had "systematically failed" Donna and this had a significant impact on her being homeless for three years.



### An individual remedy

#### The council agreed to:

- > reimburse Donna's storage costs
- > pay Donna £6,000 for not providing suitable accommodation and her avoidable distress
- > help Donna to manage her tenancy



### Service improvements for all

The council agreed to review its leaving care procedures in light of Donna's case.

### Learning points

Care leavers must be helped to move into independent living and be fully supported, as required. They should have a personal adviser and pathway plan. No child in care should have their belongings packed for them and be told unawares that they must move that day.



# Promoting Good Practice

While remedying individual injustice is an essential part of what we do, we also have a wider role to help councils tackle systemic failures and improve the way they deal with complaints. In many cases we ask councils whether other people are currently, or could be, affected by the same issues raised in a particular complaint.

Practical examples of action taken by councils following our investigations include:

- > Updating local procedures to ensure better communication between council departments, for example, protocols for housing and children's social care departments. Also providing staff training on implementing these when dealing with homeless 16 and 17 year olds
- > Ensuring that local policies properly include family and friends' carers in their fostering payment rates
- > Reviewing procedures for accommodating children with family members in an emergency, to ensure that they are recognised as carers and paid accordingly
- > Amending working procedures to ensure plans for children in care are properly kept under review using the statutory review process and avoiding children drifting in care
- > Carrying out a review of other similar cases, to identify people also affected by the faults we had identified

Drawing on our casework we have identified some recommendations based on examples of good practice in councils. The list below sets out some positive steps councils can take:

- > Providing children in care with promotional material, for example on its website, highlighting how to complain under the statutory children's complaints procedure
- > Providing guidelines about exercising discretion to look at historical complaints from young people, who have been in care
- > Providing information about advocacy services to children in care
- > Providing specially trained social and housing workers to work with homeless 16 and 17 year olds
- > Ensuring compliance with the statutory review process and ensuring children's voices are heard
- > Promoting contact with relatives if in the interests of the child and they wish to see family members
- > Preventing drift and delay in care planning
- > Ensuring care leavers receive their entitlements
- > Ensuring children in care, who are subsequently deprived of their liberty, receive services as a looked after child, to which they remain entitled, and ensuring they have access to the statutory complaints system

# Encouraging local accountability – questions for scrutiny

We want to share learning from complaints brought to us with locally elected councillors who have the democratic right to scrutinise the way councils carry out their functions and hold them to account. This is particularly important for looked after children where the council is their corporate parent.

Our experience has highlighted key questions elected members could ask officers when scrutinising services for looked after children:

## Accommodation for 16 and 17 year olds

- > How many 16 and 17 years old are in bed and breakfast accommodation or in unregulated homes?
- > What action is the council taking to ensure their welfare is promoted and safeguarded?

## The placing of children in care

- > How many children in care are placed out of area, or at a distance, and are social workers visiting these children in accordance with statutory requirements?
- > How many placement moves does a child in care have on average?
- > How many children in care are now in permanent placements?
- > Have children in care been placed in a school within 20 days of a placement move if they are unable to attend their previous school?
- > What action is the council taking to ensure sufficient accommodation is available for children in their care within their home area?
- > Do children in care have up to date personal education plans?
- > How does the virtual school head manage the school age pupil premium?
- > Are there delays in the Education, Health and Care plan process?

# Encouraging local accountability – questions for scrutiny

## Learning from complaints

- > What concerns have independent reviewing officers raised about children in care and are they satisfied that care planning is appropriate and that recommendations, made at their statutory review meetings, are being implemented promptly?
- > Is there a robust dispute resolution process to ensure cases are appropriately escalated to senior managers by independent reviewing officers?
- > Are the council's leaflets or website information about how to make complaints clear to children and young people? Are they easily available?
- > Are children and young people told about their entitlement to ask for an advocate?
- > How many complaints has a council received from children in care (either from them or on their behalf)? What has been the outcome and the learning from them?

## Children in secure accommodation

- > How many children in care are deprived of their liberty either in youth offending units, secure children's homes or in a child or adolescent psychiatric unit? Are they still receiving services as a child in care?
- > Is there sufficient planning and support for these children when released or discharged from these secure settings?
- > Has the council agreed with its health partners an aftercare policy for children in care, who have been detained under the Mental Health Act then discharged into the community?

## Children leaving care

- > How many care leavers are being provided with services and are the arrangements satisfactory?
- > Does the council have a Local Offer on its website which explains what care leavers are entitled to?

We would encourage councillors to look at the issues highlighted in this report, as well as the complaints raised locally, to ensure that their services to children in care receive proper and effective scrutiny and that those services are accountable to local people.

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