

Report No.  
RES12201

## London Borough of Bromley

### PART ONE - PUBLIC

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**Decision Maker:** Executive

**Date:** 28 November 2012

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** LOCAL GOVERNMENT OMBUDSMAN REPORT

**Contact Officer:** Jim Kilgallen, Senior Lawyer  
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**Chief Officer:** Mark Bowen, Director of Resources

**Ward:** Boroughwide

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1. Reason for report

- 1.1 The Council has been the subject of an Ombudsman complaint which has led to adverse finding by the Ombudsman of maladministration causing injustice. As a result of which the Council is statutorily obliged to consider the report and inform the Ombudsman of the action that it has taken or proposes to take in respect of the findings in the report (Section 31(2) Local Government act 1970).The full report of the Ombudsman is attached to this report.
- 1.2 The means by which this consideration takes place is via the Executive.

**Options**

- 1.3 Members may accept the recommendations and comply with the requirement for payment of compensation totalling £7,000.00 .The necessity for policy amendments has already been addressed by the ECS department and can be relayed to the Ombudsman
- 1.4 Members may choose to reject the report in which case the Ombudsman may publish a further report.
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2. **RECOMMENDATION(S)**

- 2.1 **Members are recommended to accept the findings of the Report of the Ombudsman and authorise payment of the suggested compensation to the complainant.**

### Corporate Policy

1. Policy Status: Not Applicable Existing Policy New Policy: Further Details
  2. BBB Priority: Children and Young People Excellent Council Quality Environment Safer Bromley Supporting Independence Vibrant, Thriving Town Centres Not Applicable: Further Details
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### Financial

1. Cost of proposal: Estimated Cost No Cost Not Applicable: Further Details
  2. Ongoing costs: Recurring Cost Non-Recurring Cost Not Applicable: Further Details
  3. Budget head/performance centre:
  4. Total current budget for this head: £
  5. Source of funding:
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### Staff

1. Number of staff (current and additional):
  2. If from existing staff resources, number of staff hours:
- 

### Legal

1. Legal Requirement: Statutory Requirement Non-Statutory - Government Guidance None: Further Details
  2. Call-in: Applicable Not Applicable: Further Details
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected):
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes No Not Applicable
2. Summary of Ward Councillors comments:

### **3. COMMENTARY**

- 3.1 The Ombudsman's report criticised the Council for delay in implementing the requirements of a young persons statement of SEN, undue delay in issuing a statement of SEN and conducting an annual review and transition meeting of the young persons SEN was undertaken using a draft SEN rather than a final statement.
- 3.2 The issues raised above relate to the statutory requirements placed upon the Council to adhere to the SEN Code of Practice and timescales for dealing with statements of SEN.
- 3.3 As a result of the Ombudsman findings the Council's SEN department has reviewed its process whereby draft statements of SEN are to be finalised within the statutory time periods, further staff are made aware of the necessity when producing statements to ensure that provisions are realistic and achievable by way of delivery to prevent a repetition of this type of incident happening again.
- 3.4 There is an expectation on the part of the Ombudsman that the Council will within 3 months of receiving the report from them will inform them of what action it will take, this is as outlined in para 3.3 above.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 The Ombudsman has recommended that the Council should pay compensation totalling £7,000. This amount can be funded from within the Education Adult Social Care Services budget for 2012/2013.
- 4.2 Additional tribunals may be instituted as a result of a less flexible approach to finalising statements of SEN.

### **5. LEGAL IMPLICATIONS**

- 5.1 The Council is not obliged to accept the Ombudsman's findings but if it does not do so he will issue a second report. The Director of Resources considers that the Ombudsman's report should be accepted in this case.
- 5.2 The Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (as amended) deal with the requirements placed on the Authority to comply with time limits for amending and issuing Statements of Special Educational Needs.

<b>Non-Applicable Sections:</b>	Policy Implications, Personnel Implications
Background Documents: (Access via Contact Officer)	[Title of document and date]