

## COUNCIL



Report subject	<b>Public Report into a complaint against BCP Council by the Local Government and Social Care Ombudsman - outcome of complaint</b>
Meeting date	14 September 2021
Status	Public Report
Executive summary	<p>This report provides a summary on the Decision Notice made by the Local Government and Social Care Ombudsman whose investigation found maladministration causing injustice to a complainant and the remedy actions taken.</p> <p>The Ombudsman under the Local Government Act 1974, section 31(2), as amended, has requested that the Council consider the report at its full Council.</p>
Recommendations	<b>It is RECOMMENDED that the Council considers the report, acknowledges the findings of the LGSCO, supports the action plan as detailed in Appendix 3 to the report and asks the Chief Executive to write to the LGSCO to confirm compliance and that the Council has addressed the weaknesses identified in the Ombudsman's findings.</b>
Reason for recommendations	Adherence to the recommendations of the Ombudsman is key to ensuring that customers have objective and effective recourse should they be unhappy with the way in which the Council has responded to their complaint.

Portfolio Holder(s):	Mike White - Children and Young People.
Corporate Director	Elaine Redding - Children's Services.
Report Author	Penny Davies - Head of Quality Assurance.
Wards	Council-wide
Classification	For Decision

## **Background**

1. The Local Government and Social Care Ombudsman has issued a formal report against BCP Council (Appendix 2) following its investigation of a complaint that the Council failed to consider relatives as family foster carers and therefore they had not received the full support to which they were entitled.
2. The Council is asked to consider the report and the outcome of the Ombudsman's findings in accordance with the relevant legislation as detailed below. Members are referred to Appendix 3 of the report which sets out the Action Plan in response to the Ombudsman's recommendations.

## **Summary of legal implications**

3. The Local Government Act 1974, s31 (1) provides that where the Local Government and Social Care Ombudsman reports that there has been:
  - a) maladministration in connection with the exercise of the authority's administrative functions,
  - b) a failure in a service which it was the function of an authority to provide, or
  - c) a failure to provide such a service.

And at s31 (2) that:

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

## **Financial Implications**

4. As fault was found, the Council was required to pay compensation as outlined in Appendix 3. The cost of this has been paid for by the fostering service. If other cases come to light these will be considered on a case-by-case basis.

## **Summary of human resources implications**

5. There are no human resource implications arising from this report

## **Summary of environmental impact**

6. There are no environmental impact implications arising from this report

### **Summary of public health implications**

7. There are no public health implications arising from this report.

### **Summary of equality implications**

8. There are no equalities implications flowing directly from the contents of this report.

### **Summary of risk assessment**

9. There are no risk management implications. Policies and procedures have been updated to reflect the findings of the Ombudsman

### **Background papers**

Published works.

Relevant case files which are exempt by virtue of paragraphs 1, 2 and 3 of Part I of Schedule 12A of the Local Government Act 1972

### **Appendices**

Appendix 1: Public Report into a complaint against BCP Council by the Local Government and Social Care Ombudsman - outcome of complaint

Appendix 2: Ombudsman has issued a formal report against BCP Council.  
<https://www.lgo.org.uk/assets/attach/6057/REPORT-19014589-Bournemouth-Christchurch-and-Poole-Council.pdf>

Appendix 3: Action Plan to Ombudsman recommendations

## **Public Report into a complaint against BCP Council by the Local Government and Social Care Ombudsman - outcome of complaint**

The Local Government & Social Care Ombudsman's (LGSCO) provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending suitable remedies.

The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area. In instances where maladministration with injustice is found, the Ombudsman will usually make non-legally binding recommendations which they consider to be appropriate and reasonable.

Often these cases are complex, with individual needs and issues to be considered and although we get the vast majority right, there are occasions where we could do better. This has been a complex and challenging case for the council, as the children were the responsibility of Borough of Poole which ceased to exist and services for the area became the responsibility of BCP Council, following the LGR.

### **Report Summary:**

The Ombudsman has issued a formal report against BCP Council (appendix 2) following its investigation of a complaint by Ms X that the Council failed to consider her and her partner, Ms Y, and her sister, Ms D, as family foster carers and therefore they had missed out on appropriate financial and other support from the Council when caring for their nephew and niece. The LGSCO upheld the complaint finding fault causing injustice and 11 recommendations to address this. The LGSCO has given the Council credit that it has agreed to its recommendations.

The LGSCO published the report on their website on 8 June 2021. In line with Section 30 of the 1974 Act, the Council placed two public notices in local newspapers and/or newspaper websites within two weeks of the Ombudsman publishing the report and made copies of the report available free of charge at our offices.

The Ombudsman recommendations are included in the action plan attached at Appendix 3 of this report alongside the Council's actions.

## Action Plan re: Ombudsman Findings regarding Ms X and Ms Y

### Background

Ms X complained that the Council failed to consider her and her partner, Ms Y, and her sister, Ms D, as family foster carers and therefore they have missed out on appropriate financial and other support from the Council when caring for their nephew and niece. The Ombudsman found fault causing injustice and 11 recommendations made. This action plan is BCP response to the recommendations.

	Ombudsman's Recommendation	Agreed action	By whom and by when	Action Taken	Measures implemented
1	BCP Council to apologise to Ms X and Ms Y and to Ms D for the faults identified	A full apology to be issued Ms Y and to Ms D	Brian Relph	An apology has been issued in person with follow up letters to Ms X and Ms Y and to Ms D *	
2	BCP Council to calculate what Ms X and Ms Y should have received in family fostering payments between March and July 2017	<p><b>£51,740</b> is the calculated payments Ms X and Ms Y should have received in Fees and allowances for caring for their niece and nephew.</p> <p>This has been broken down as follows Total of <b>£4,386</b> in Fostering Allowance and a total of <b>£3,434</b> in Fostering Fees between March and July 2017.</p> <p>From the Fostering Allowance there is an expectation that the following amounts will be put aside for the children: Savings: £85 per child (17 weeks (£5 pw) <b>£170</b></p>	Brian Relph	The payment has been issued to Ms X and Ms Y	There were two separate rates which could have been considered and we have chosen to offer the carers the most favourable rate which would have been the Poole Local Authority rate.

	Ombudsman's Recommendation	Agreed action	By whom and by when	Action Taken	Measures implemented
		<p>Pocket Money: £85 per child (17 weeks (£5 pw) <b>£170</b></p> <p>Birthday Payment of <b>£129</b> per child should also be put aside for the children.</p> <p>Total to be put in savings/trust (this covers pocket money/birthday allowance and will be deducted from the allowance): <b>£598</b></p>			
3	BCP Council to calculate what Ms D should have received in a family fostering allowance between late October to early December 2017	<p>Fostering Allowance for the two children of £2,010 and a total of £2,580 in Fostering Fees between late October to early December 2017</p> <p>Savings £50 per child. Pocket Money £50 per child.</p> <p>Total to be put in savings/trust for the children £200</p>	Brian Relph	The payment has been issued to Ms D	
4	BCP Council to calculate what Ms X and Ms Y should have received in a family fostering allowance from 12 December 2017 to 2 September 2019, when the Council reached its final complaint decision. For all these family fostering	<p>Fostering Allowance total of £25,740 and a Fostering Fee total of £18,180 from 12th December 2017 to 2nd September 2019.</p> <p>Savings: £450 per child: £900</p>	Brian Relph	The payment has been issued	There were two separate rates which could have been considered and BCP have chosen to offer the carers the most favourable rate which would have been the

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	payments, the Council is entitled to deduct any benefits the family received which they would not have received if they had been regarded as family foster carers	<p>Pocket Money: £450 per child: £900</p> <p>Birthday Payment of £143 (x2) per child and a Christmas Payment: £129 (x2) per child should also be put aside for the children. This is a total of: £544</p> <p>Total to be put in savings/trust for savings, pocket money, birthday and Christmas per child and deducted from the allowance: £2,344</p> <p>The final calculation of money owed is £51,740 Gross for Fees and allowances, minus £2,942 to be paid directly to the children</p>			Poole Local Authority rate.
5	BCP Council to make a payment of £750 to Ms X and to Ms Y and £300 to Ms D for the avoidable distress and time and trouble	<p>The £750 payment to be issued to the Ms X the complainant</p> <p>The £750 payment to be issued to Ms Y Ms X's partner</p> <p>The £300 payment to be issued to Ms D Ms X's sister</p>	<p>Brian Relph</p> <p>Brian Relph</p> <p>Brian Relph</p>	<p>The £750 payment has been issued to Ms X</p> <p>The £750 payment has been issued to Ms Y</p> <p>The £300 payment has been issued to Ms D</p>	
6	BCP to provide £1,000 for each child to be used in the way Ms X and Ms Y consider	£1,000 for child B & C to be paid to Ms X & Y for the lack of statutory support	Brian Relph	The £2000 payment has been issued to Ms X & Ms Y to be specifically used for the children's needs, in compensation	

	Ombudsman's Recommendation	Agreed action	By whom and by when	Action Taken	Measures implemented
	appropriate for the lack of statutory support to the children			for the support they should have been entitled to while in care	
7	BCP to provide legal funding, up to a limit, for Ms X and Ms Y's application for a Special Guardianship Order (SGO). It would be in the children's interests if they now formalise the current arrangement	BCP will provide legal funding, up to agreed limit, for Ms X and Ms Y's to submit an application to a Special Guardianship Order (SGO).	Brian Relph	This has been agreed	
8	<p>The council to produce a written leaflet or booklet which sets out the different permanency options for children, who cannot live with their parents, along with explaining the financial implications of each for the carer.</p> <p>The Council should share this with Stage 2 investigators and complaint review panels</p>	Booklet setting out permanency options for children to be developed	Brian Relph Penny Davies with Comms to support	<p>Policies have been refreshed and implemented</p> <p>booklet setting out permanency options for children has been completed.</p> <p>Staying Put arrangements are on TriX</p> <p>Ombudsman report has been shared with Stage 2 investigators and complaint review panels</p>	Training developed to be delivered across Children's Services
9	BCP Council to inform the ombudsman how many other cases there are where family members have taken on the	These cases to be identified. Quality Assurance have review whether there should have been a connected carers	Brian Relph	Possible cases have been identified and recommendations made to the fostering service to	



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	responsibility for the care of children when the Council has been actively involved under child protection procedures. This is to check whether there are other family carers, who have been disadvantaged by the same faults identified in this complaint. It would be reasonable for the Council to consider cases from April 2019 because this is when the authorities amalgamated;	arrangement with fostering allowance and recommendations made to the Service Director of Corporate Parenting.		make arrangements for appropriate payments to be made.	
10	Inform the ombudsman whether, on reviewing these cases, it will also be willing to backdate fostering allowances	Head of Corporate Parenting to inform Ombudsman of any cases	Brian Relph		
11	BCP to exercise discretion to look at historic complaints from families which approach it within 12 months of our final report and who are complaining about events up to five years ago	Service Director of Corporate Parenting to consider any historical complaints received within 12 months of the Ombudsman's report	Brian Relph		
12	The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected	Report tabled for Overview and Scrutiny Committee	Elaine Redding	The findings will be incorporated into the Complaints annual report 2021/22	

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	members and we will require evidence of this. ( <i>Local Government Act 1974, section 31(2), as amended</i> )				

**Key**

- Ms X The complainant
- Ms Y Ms X's partner
- Child B Nephew
- Child C Niece
- Ms D Ms X's sister

