

Audit Committee – 25 February 2022

Title of paper:	SEND Transport Monitoring Report, following the Local Government Ombudsman's Report in the Public Interest relating to Investigation Reference 18 018 188			
Director(s)/ Corporate Director(s):	Nicholas Lee, Director of Education Services Catherine Underwood, Corporate Director for People	Wards affected: All		
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Does this report contain any information that is exempt from publication?				
No				
Recommendation(s):				
1.	To note and consider the Monitoring Report, as requested by The Audit Committee in February 2021. This relates to the Local Government Ombudsman's Report in the Public Interest following Investigation Reference 18 018 188 (originally dated August 2020), and the activity connected with it.			
2.	That this report is the final annual monitoring report, given the progress and improvements made.			

1 Reasons for recommendations

- 1.1 In February 2021, the Audit Committee requested that it receive a monitoring report to ensure that new procedures and improved management oversight are effective in ensuring learning from the Local Government Ombudsman's Report in the Public Interest is embedded and effective in improving the experience of applicants for SEND travel assistance.

2 Background

- 2.1 In 2020, a Nottingham City resident parent complained to the Local Government Ombudsman (LGO) around her experience of Home to School Transport eligibility decisions between autumn 2017 and spring 2019.
- 2.2 The LGO investigation found ‘fault causing injustice’, and recommended an apology, payment of compensation, and that the Council review its processes and be able to demonstrate the new measures and procedures it will put in place to ensure its decisions and appeals are robust and defensible.
- 2.3 The LGO completed the investigation into this complaint by issuing a Report in the Public Interest.
- 2.4 Much of the detail of the recommendations were primarily based on the LGO’s understanding that recommendations made following a previous unrelated investigation had not been followed. When comments were invited on the draft report, clarity was provided which was acknowledged in the final report:

- In respect of procedural and policy changes, we accept that the Council has carried out the actions agreed in response to our earlier investigations and appreciate that the Council has already done much to avoid the circumstances which have led to the fault in this case. We also welcome the further steps that the Council has agreed to take to seek to ensure the robustness, fairness, clarity, and consistency of its decisions.
- 2.5 We believe our commitment to responding to the needs of families is reflected in a low incidence of second stage appeals, despite very clear signposting advice given in the response letters to first stage appeals. Transport appeals are not commonplace and it follows that second stage appeals are even more rare. During the three years between January 2018 and January 2021, our independent panel has heard second stage appeals from just nine families. Since we amended our policy and practice in response to LGO advice in July 2019, the panel has heard 3 second stage appeals. Our mistakes over time have been acknowledged and owned, and our policy and practice amended to reflect all learning and advice. Without detracting from the findings in the report, we believe that the failings identified in the 18 018 188 investigation, which covers a period of time between autumn 2017 and spring 2019, are guarded against under our current arrangements, and the LGO recognised this in the final version of the report.
- 2.6 To clarify the ‘further steps’ referred to in 2.4 above, when responding to the invitation to comment on the draft report, we provided the following information:
- Transport appeals are not commonplace, and as such we currently have no central log for them. They are investigated and responded to at Stage 1 by any senior SEN officer not involved in the original decision-making. Going forwards, we will pull together the data into a central monitoring system to allow for stronger management oversight and consistency of communication. We note particularly the advice contained at paragraphs 5, 8 and 12 [of the LGO report], which focus on transparency and consideration of the wider family circumstances, including any potential disruption to a child’s education, and this is reflected in the recommended actions. We aim to ensure the consistency of this through the central monitoring system.
- 2.7 On 25 February 2021, the Audit Committee requested an annual monitoring report, and the Chair indicated that, on receipt of a monitoring report in 12 months’ time, the Committee could consider if further annual monitoring reports should be submitted.

3 February 2022 Monitoring Report

- 3.1 To clarify and confirm current procedures:

- There is a central monitoring system in place for special educational needs travel assistance requests, which facilitates management oversight for more consistent decision-making, and ensures that risk is appropriately assessed and managed at each stage.
- A senior officer with experience in SEN case management considers initial travel assistance requests. A decision support tool has been developed, which guides the gathering and consideration of information, records the views of the assessor, and supports both eligibility decision-making and the recommendation

of mode of travel assistance to be offered. For transparency, this document becomes part of the casework, and is therefore available for viewing at the request of the family.

- Where medical evidence has been provided, but we are unsure of the implications relative to the safe travel to and from school of the pupil, advice is sought (with permission) from the medical professionals involved, or from the Designated Clinical Officer for Nottingham City and Nottinghamshire.
 - Decisions are reviewed at Team and Service Manager Level via a decision support tool audit process. In response to specific advice in the LGO report, we are able to consistently demonstrate the assessment of a pupil's specialist needs relating to their ability to travel to and from their educational setting safely, in the context of their wider family circumstances, including any potential disruption to a pupil's education.
 - Stage 1 appeals are generally responded to by a different senior officer than who completed the original assessment. Parents are invited to submit any additional evidence in support of their appeal. A decision support tool is again used to support consistent decision making and risk management. This facilitates clear communication with families, allowing us to demonstrate that we have considered each of their concerns, what information has been used, and how a decision has been reached.
 - Stage 2 appeal panels are chaired by a Service Manager from a different service area, with support from appropriately trained professionals – for example, specialist teachers from the SEND Inclusion Support Services. Parents are invited to submit any additional evidence in support of their appeal, the appeal panel process is explained to them, and they are advised that they can attend and present their views in person if they choose to.
- 3.2 SEND travel assistance appeals remain uncommon. During the 2021 calendar year, there have been 210 applications for free home to school travel assistance relating to a pupil's special educational needs. Of these 168 were approved, 38 were declined and 4 remain in progress. Of the 38 applications declined, 9 (23%) were taken to a stage 1 appeal, where 7 were upheld and 2 dismissed. There has been one stage 2 appeal heard by panel within this time frame, this appeal was dismissed. This information demonstrates that:
- although there will always be appeals around decision-making, our communication with families provides clarity, and, despite very clear signposting advice given in the response letters, the majority of decisions not to provide free home to school transport are not appealed against;
 - there has been a reduction in the average number of stage 2 appeals per year (please see data set out in 2.5 above);
 - decision-making is well-evidenced and robust, and stands up to scrutiny by officers external to the Service.
- 3.3 Since Investigation 18 018 188 in 2020, there have been no further LGO investigations of Nottingham City decision-making in regard to free home to school

travel assistance relating to a pupil's special educational needs. Rather than investigate a complaint, the LGO refers families back to the Council if all stages of our appeals process have not been completed. As the incidence of Stage 2 appeals is so low, the associated risk of investigation by the LGO is also minimal. If a new investigation were to be launched, any associated reputational and financial risk would be minimised by our ability to evidence that:

- Our SEND Home to School Travel Assistance Policy is legally compliant and meets the standards expected by the LGO.
 - Our central monitoring system and revised procedures support consistency of decision-making, transparency and clarity of communication with families.
 - As specifically recommended by the LGO, our decision support tool promotes consideration of wider family circumstances, including any potential disruption to a child's education.
- 3.4 We are looking to develop the service further, by reviewing the language of the policy and online content to make it more parent-friendly, and to provide associated short guides for specific groups, for example parents with children moving to Post16 settings, or parents with children undergoing Independent Travel Training.
- 3.5 As part of the Council-wide Transformation Programme, we are also aiming to move the initial travel assistance application process and associated correspondence to an online portal via Firmstep. We are addressing with the Web/ Digital Team how this action can be prioritised.

4 Published documents referred to in compiling this report

- 4.1 Local Government Ombudsman's Report in the Public Interest following Investigation Reference 18 018 188.
- 4.2 The Home to School and College Travel Assistance Policy, August 2019

5 Finance Observations (made by Graeme Black 01/02/2022)

- 5.1 As outlined above, this report seeks for Audit Committee to note and consider SEND Transport Monitoring Report, in relation to the Local Government Ombudsman's Report in the Public Interest relating to Investigation Reference 18 018 188.

The compensation settlement incurred from the outcome of the Local Government Ombudsman's Report in the Public Interest relating to Investigation Reference 18 018 188 was £2,059. These costs were included in last year's accounts, and are non-recurrent with no direct impact this year or in future years.

This report outlines the process through which appeals are completed by the appropriate staff, and the rarity of appeals, and indeed have identified that no further examples of LGO investigation. As previously mentioned in a previous report, the development of a central monitoring system would benefit from including any financial risk for such cases that may attract reimbursement and compensation. Furthermore, a robust and fair appeals process will continue to avoid and mitigate future financial risks and their impact.