

Report

on an investigation into
complaint no 10 010 527 against
Isle of Wight Council

8 November 2012

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The Local Government Act 1974, section 30(3) generally requires me to report without naming or identifying the complainant or other individuals. The names used in this report are therefore not the real names.

Key to names used

Mr and Mrs X	the complainants
J	his daughter
School O	the school named in J's statement

Report summary

Subject

Mr and Mrs X's daughter, J, was sectioned in 2006 at the age of 13. The Council acknowledged, in response to a complaint Mr X made about subsequent events, that lack of clarity about ownership and co-ordination had resulted in children's services wrongly withdrawing its involvement in J's case. In 2007, in consultation with other agencies, the Council funded a residential school placement for J. The Council then discontinued its social services involvement with the family in 2008. It was wrong to do this, because J remained a child in need under the Children Act, and was a looked-after child being accommodated by the Council.

In 2009 the Council took the view that because social services were no longer involved with the family, it should discontinue the residential element of the school placement. When Mr and Mrs X objected, the Council failed to explain that J had been a looked-after child since the residential element of the placement began, and wrongly told them that her legal status would need to change for the weekly residential placement to continue. From September 2010 J's residential placement was limited to two nights a week. The placement broke down in the summer of 2011.

The effect of the Council's failures was serious. J lost the structure and security provided by the weekly boarding placement, and her family had significantly less respite from her difficult and sometimes frightening behaviour. And Mr X had the time and trouble of bringing a complaint to me which, given the outcome of his previous complaint, should not have been necessary.

Finding

Maladministration causing injustice, remedy agreed.

Recommended remedy

I consider the Council should:

- make a full apology to the family;
- pay J compensation of £5,000 to be used for educational purposes;
- pay Mr and Mrs X £2,000;
- pay Mr X a further £250; and
- carry out a thorough review of its practices and procedures, to ensure that it learns the lessons from this complaint, and provide Mr and Mrs X with a copy of the resulting action plan.

Introduction

1. Mr and Mrs X complain that the Council has failed to provide appropriate support to their daughter, J, so she lost the opportunity of continuing the weekly residential placement which had benefited both her and her family since 2007.
2. During the course of the investigation of this complaint, the Commission's investigator has discussed the complaint with Mr and Mrs X, and also interviewed officers of the Council and considered information provided by the Council.

Legal and administrative background

Children's services

3. The Children Act 1989 imposes a general duty on local councils to provide a range of services to 'children in need' in their area if those services will help keep a child safe and well. A child in need may be disabled, or unlikely to have, or to have the opportunity to have, a reasonable standard of health or development without services from a local authority.
4. S20 of the Act allows councils to provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare. Councils may not provide accommodation if the child's parent objects, and a parent may remove a child from accommodation provided under S20 at any time. So such an accommodation arrangement is generally referred to as a child being 'voluntarily accommodated under S20'. Parental agreement is not necessary if the child is sixteen or over.
5. A child accommodated under S20 has the legal status of 'looked-after child'. In March 2010 the Government introduced new regulations setting out the statutory duties of councils to looked-after children.¹ Before that date, the statutory duties relevant in this case can be summarised as:
 - a. Conduct reviews, after four weeks, three months, and then every six months.
 - b. Provide 'leaving care' services such as a pathway plan and personal advisor, once the child is 16.
6. The Council may decide that a child known to social services and having a residential school placement is not accommodated under S20, and is instead receiving support under S17 of the Act.² Government guidance says:

¹ Care Planning, Placement and Case Review (England) Regulations 2010
² Looked After Children 2003 (13) Guidance

“This judgement should be made following a thorough assessment of the needs of the child and family. It will consider whether the child needs the local authority to take responsibility for the provision of accommodation, with attendant looked after status. In particular, it will need to take into account the length of time spent away from the child's family, the degree of contact between the child and his parents, the quality of the child's primary attachments and any particular vulnerabilities of the child. Where this assessment concludes that section 20 criteria are not met, the local authority may then consider providing financial support for the placement under section 17.”

7. The Ombudsman expects councils to be clear about the legal basis of their decisions.
8. The Council says that S37 of the Fostering Services Regulations 2002 is relevant to this case. Part V of the Fostering Services Regulations 2002 dealt with the placement by local authorities of children with foster parents. In my opinion, placement in a ‘boarding school’ does not fall within the scope of regulation 37.
9. The Council also refers to revised Children Act 1989 guidance of March 2010³ and regulation 48 of the Care Planning, Placement and Case Review (England) Regulations 2010. The purpose of regulation 48 is that certain short-term breaks (that is, those that do not last for more than 17 days at any one time and do not exceed 75 days in total over a year) do not attract the same level of involvement by the local authority in terms of care planning, reviews and visits as other short-term breaks.
10. In my view, the Council is wrong to interpret the guidance and regulation 48 as a means of applying a limit to the timescale that accommodation can be provided before a child acquires looked-after status. Regulation 48 is relevant only when the child is looked after.

Special educational needs

11. The SEN code of practice is a lengthy document detailing how special educational needs (SEN), including statements and funding, should be managed. Of particular relevance to this case are the following paragraphs:
 - Paragraphs 8:70 onwards refer to residential placements and outline the circumstances under which a residential placement might be considered appropriate. Where the local authority considers there is a need for

3 Statutory guidance on how to safeguard and promote the welfare of disabled children using short breaks

residential provision because there is multi-agency agreement that this is necessary, there should be a plan to enable shared funding;

- Section 9 describes the requirements and arrangements for the annual review of statements. Paragraph 9:6 says that where a child is 'in need' consideration should be given to holding the SEN review and a 'child in need' review at the same time. It will rarely be advisable for all the same people to attend the whole review but such joint arrangements are likely to contribute to effective collaboration. Similarly, paragraph 9:27 refers to the care plan for a child accommodated by the local authority, and suggests that the annual review of the care plan could be linked to the annual SEN review. This allows a more holistic view to be taken of the child's needs.
- Paragraph 9:34 outlines the role of the Council following the annual review meeting. The Council considers the report of the review meeting and the recommendations prepared by the head teacher. It must then review the statement, in the light of the report and recommendations and any other information it considers relevant. The Council must decide whether to accept the head teacher's recommendations. It must issue its decision, within one week of making it, to the school, parents, and anyone else it considers appropriate.
- Paragraph 9:59 makes clear that multi-agency input at year 9 is important for all young people with SEN. Under the Children Act 1989 social services departments may arrange multi-disciplinary assessments and must establish Children's Service Plans which may include the provision of further education for children in need (likely to include those with significant special needs). Social services departments should ensure that a social worker attends the year 9 annual review meeting and contributes to the formation of the Transition Plan where a young person is subject to a care order, accommodated by the local authority or is a 'child in need'.

Alternative remedy

12. The 1974 Local Government Act says that the Ombudsman will not normally investigate a complaint where there is an alternative way of remedying the matter, for example by appealing to tribunal. Most decisions relating to SEN carry such appeal rights. Parents may appeal against the description in the statement of the child's special educational needs, the special educational provision in the statement, and the school named, or if no school is named, that fact.
13. However, there is no direct right of appeal to tribunal regarding the non-educational needs or provision specified in the statement. I have discretion to investigate if I am satisfied that it was not reasonable to expect the complainant to have appealed. I have exercised that discretion in this case, because the issue in dispute was the non-educational provision.

Investigation

Key facts

14. In 2006, Mr and Mrs X's thirteen-year-old daughter J was sectioned under the Mental Health Act and transferred to a secure unit in London. Her behaviour was dangerous to other family members, notably her mother, and extremely frightening for her younger siblings. For a period after this she became a looked-after child, voluntarily accommodated in a foster placement with limited contact with her family.
15. In October 2006 J refused to return to the foster placement after a visit home. She was reluctant to stay away from home overnight again so in December 2006 the Council offered the family one day of respite care a month. This offer came through the Council's children and family services section, as the children's disability team did not deal with young people with mental health difficulties.
16. Once J's diagnoses – which were complex, but included autistic spectrum disorder, reactive attachment disorder, and bi-polar disorder – were confirmed, and a treatment plan in place, the Council began to assess J's special educational needs. Mr X identified a school on the island, School O, which he felt would be able to meet J's needs. In early 2007 the Council's educational psychologist agreed that day placement at School O could meet J's special educational needs. Health professionals had identified a need for the family to have a significant level of assistance, as J's mental health was such that her behaviour was extremely difficult for her parents and siblings to cope with, and could at times put them in danger. So in February the case was put to the Council's Joint Commissioning Panel for a weekly boarding place at School O. J did not at that point have an allocated social worker and the panel's view was that a weekly boarding placement should not go ahead until the Council had been able to assess firstly how J was coping at the school, and secondly the level of family support the Council could provide. The Council issued J's statement in March 2007, naming a day placement at School O.
17. The Council started a core assessment of J's social care needs in March 2007 and completed it in May 2007. The core assessment recommended that, in accordance with Mr and Mrs X's wishes and the recommendation of health professionals, J should have a weekly boarding placement at School O. This also represented a more cost-effective use of Council resources, as the transport arrangements for daily travel were more expensive than the boarding package.

J becomes a weekly boarder

18. On 29 May 2007 the Council's Joint Support Panel approved a weekly boarding place at School O. The Council did not immediately inform Mr and Mrs X of this because there was some internal dispute about which social care team should be

leading the case (and funding the boarding placement). In June 2007 the Council included the boarding placement in J's child-in-need plan as an element of the care it provided to her. J became a weekly boarder in September 2007. The next review of J's child-in-need plan was scheduled for February 2008.

19. There is no evidence that this review took place, but the weekly boarding arrangement was noted at the annual review of her SEN statement in February 2008. The review meeting recommended several amendments to J's statement, including an amendment confirming the residential placement. The Council's education section did not consider that a residential placement was necessary for educational reasons and decided not to amend the statement.
20. In May 2008, J's social worker visited the family. The situation at home had significantly improved since J had become a weekly boarder and no additional support was necessary. So in June 2008, social services closed the case, but said that support would be available if the family asked for it.
21. Social services did not attend a review of J's statement held in November 2008, because it had closed J's case. J's statement still did not reflect the fact that she was a weekly boarder at the school and the meeting recommended amendments to sections 2, 3, 5 and 6. The Council's SEN representative at the meeting undertook to follow-up social care's closure of the case; both she and the educational psychologist queried the need for boarding. Mr and Mrs X explained the history of the placement and made it clear that they wanted weekly boarding to continue.
22. The Council considered the SEN review meeting's recommendations and wrote to Mr and Mrs X on 4 February 2009. This letter proposed a number of amendments to J's statement, including clarifying in part 6 that J's weekly boarding placement was part of a social care package.
23. The Council did not follow this up by issuing a proposed amended statement. Officers indicated in interview that this was because J's case was not at the time open to social services, so social services were not in a position to agree to the residential element as part of a social care package.
24. School holidays continued to be flashpoints for J's mental health. In August 2009 she was arrested and taken into custody for her own safety and that of her family, after attacking her mother. A duty worker from the mental health assessment team visited the family and the agreed outcome was to contact the relevant agencies to gain appropriate help.

The Council reviews the funding arrangements for the placement

25. In early October 2009, officers in the education section began preparing for J's next annual SEN review meeting. The issue of funding for her post-16 placement was relevant for this meeting and this prompted officers in the education section

to request information about the current funding arrangement for J's placement. The education section had always taken the view that a day placement would meet J's educational needs, and that the residential element had been to meet social care needs. So officers were surprised to find that the education section had been paying the full cost of the placement – including the residential element – since J had started at School O.

26. The Council's education section took the view that since social services were no longer involved with J, it was not appropriate to continue funding the boarding element of her placement at School O, as this was not an educational need. Officers from the education section put forward this view at the annual SEN review meeting held on 14 October 2009. J, her parents, and the school, all held the view that the weekly boarding arrangement was essential for J.
27. On 19 October 2009 the case went to the Joint Commissioning and Solutions Panel for a view on the percentage split of the fees for J's placement. A representative from social care informed the panel that as J's case had been closed in 2008, social care would not contribute to the cost of her boarding placement. The panel agreed that if the placement changed, the SEN section should call a multi-agency review meeting. The SEN section undertook to do this but decided not to involve representatives from CAMHS (Child and Adolescent Mental Health Services).
28. The Council received a referral from CAMHS on 5 November 2009, requesting additional support for the family during school holidays. The consultant child and adolescent psychiatrist who made the referral drew attention to the significant impact of J's behaviour on her younger siblings. Social services wrote to the family the following day to offer an initial assessment. The letter did not arrive.
29. The SEN section referred the case to its SEN panel on 18 November 2009. The referral summarised J's diagnoses and said that:
 - the residential placement had been made on social care grounds;
 - the education section had been paying for the placement with no contribution from social care;
 - social care had closed the case in June 2008 and had not responded to requests from the SEN section for a meeting to discuss the case;
 - the appropriateness of the residential placement had been discussed at the most recent annual review. The school felt the residential placement had given J stability, and Mr and Mrs X wanted J to remain as a weekly boarder for post-16 provision.
30. Officers asked the panel to consider the annual review meeting report, and decide if J's SEN could be met as a day pupil, or whether the residential

placement should continue. The panel agreed that there was no educational need for the residential placement to continue, but said that it should not end immediately, to allow social care to look at the case again.

The issue of looked-after child status

31. Senior officers at the Council met on 24 November 2009 to consider the case. Officers from the education section said that there were no educational reasons for the residential element of the placement, and therefore insufficient grounds for the education section to continue funding the residential element. Social services said that because of the number of nights J was boarding at School O (more than 75 a year), there was a statutory requirement that J would need to become a looked-after child for the arrangement to continue. The meeting decided that social services would need to re-open the case and discuss with Mr and Mrs X the possibility of J becoming a looked-after child.
32. Officers also sought legal advice, about this and a number of other cases where children were in residential educational establishments but not classed as looked-after children. In cases where the residential element of a placement had not been made for educational reasons, but was to meet the child's social care needs, then the legal advice was that the child should be considered as a looked-after child voluntarily accommodated under S20 of the Children Act 1989. The legal advice recommended that there should be a core assessment of the needs of the child and family, and a review of whether the residential placement was meeting the child's needs. The legal advice also said:

“In cases where parents refuse to sign the S20 forms in my view we need to either (a) consider care proceedings (if the threshold is met) or (b) treat the child as Looked after regardless of the forms being signed (working on the assumption that the parents wish the placement to continue) or (c) consider whether the placement should continue. Option (c) may not be in the child's best interests!”
33. In January 2010 Mr X contacted the Council. He understood from CAMHS that the Council had written offering to assess J (an assessment he expected to result in the continuation of the weekly boarding placement) but said that this letter had not arrived. He confirmed that he would like the Council to carry out an assessment. The Council arranged to meet with the family on 28 January to begin the assessment, and following this transferred the case to its children's disability team for further assessment.
34. The Council issued a final amended statement of SEN for J on 1 March 2010. This named a day placement at School O, with transition to the school's sixth form provision, in part 4. J's need for social care intervention was noted in part 5, non-educational needs. Mr and Mrs X did not appeal.

35. The Council arranged a child in need planning meeting, which took place in April 2010. The child in need plan noted that J's statement of SEN had not been amended to reflect the arrangement for weekly boarding. Action points arising from the meeting included "education and [social] services to ascertain who is funding the placement." Social services told Mr X that J would have to become a looked-after child to be able to continue with a full weekly boarding placement. Mr and Mrs X wanted the weekly boarding placement to continue, but they did not want J to become a looked-after child, because of their previous experience of this in 2006, when professionals had significantly restricted their contact with J. So social services suggested J's boarding at School O could be reduced to two nights a week, with additional nights available for J to access in an emergency. This would bring her total nights away to less than 75 a year, which was the threshold at which the Council considered she would have to become a looked-after child.
36. J's case was considered by a meeting of the Council's Joint Commissioning and Solutions Panel on 14 June 2010. Panel members were informed that J attended School O as a day pupil and her placement was funded by the education section. The cost of J becoming a boarder would be approximately £6,000 a year, which social care would need to pay. It was felt that social care would probably support a move to a full-time residential placement with a view to independent living away from the family home once J reached 18. The panel asked for a completed core assessment for its next meeting, and for the social worker to explore whether the disability living allowance could be used to contribute to the cost of a boarding package, and whether the family could pay some of the cost itself.
37. J's social worker met Mr and Mrs X on 10 June 2010 to inform them of the panel outcome. Initially Mr and Mrs X agreed for J to become a looked-after child, provided it was documented that this was due to her need for a residential school placement rather than because of any concerns with their parenting. J's social worker felt that as J was over 16 she should be informed if she had the status of looked-after child. Mr and Mrs X were very concerned about how J would react to this, because of her previous experience when she had this status. They opted for a package of two nights' boarding a week with additional emergency nights if needed, to avoid the need for J to have looked-after child status. Mrs X has confirmed that she did not know, and was not told, J already had this status. If she had realised this, her view would have been very different.
38. At a meeting of the Joint Commissioning and Solutions Panel of 19 July 2010, officers informed the panel that J was now spending more nights at home and usually spent two nights a week boarding at School O. Social care records indicate that this was a deliberate attempt by the family to acclimatise J and her siblings to the discontinuation of the weekly boarding arrangement, but this information was not shared with the panel. The panel agreed in principle to fund a boarding package of 75 nights a year, subject to clear agreement with Mr and Mrs X about what constituted an 'emergency'. The panel reviewed the situation at

its meeting of 16 August 2010 and noted that under this arrangement J would not be a looked-after child.

39. From September 2010 J was no longer a weekly boarder at the school. A meeting of the Joint Commissioning and Solutions Panel held on 18 October 2010 noted that because J had changed the times she attended the placement, she was no longer in the category of looked-after child. The education section no longer funded the limited boarding she now accessed.

Mr X's complaints to the Council

40. Mr X complained to the Council in August 2006 about its actions since 2002, specifically the level of support provided by social services and the communication between social services and the family. The Council commissioned an independent investigation and accepted the findings in April 2007. Among other things, the Council acknowledged that lack of clarity about ownership and co-ordination had resulted in children's services withdrawing its involvement in J's case. The complaint was finally settled in October 2007. Mr X reiterated in his closing letter the importance to him of knowing that lessons had been learned by the Council.
41. In March 2010 Mr X complained to the Council about its closure of J's case in 2008, its failure to carry out an assessment within the required timescale, and its failure to learn lessons from his previous complaint.
42. The Council took the view that as it had closed J's case in 2008, 21 months previously, Mr and Mrs X's complaint was out of time. The Council offered alternative dispute resolution. Mr and Mrs X declined this, as they were also pursuing a complaint against CAMHS and thought that the two complaints might run together.
43. In September 2010 Mr X complained to me. In response to my investigator's enquiries, the Council said it had consistently taken the view that J had never had an educational need for a residential placement, and that Mr and Mrs X were fully aware that social services had closed the case in 2008. In response to a draft of this report, the Council said that:
- all the decisions about naming day placement only in the statement were appealable;
 - the complainants agreed to the closure of the case in 2008, and only complained about it 21 months later;
 - the Council worked with the family to continue the residential placement by offering to make J a looked-after child, which Mr and Mrs X refused to do;

- there was no multi-agency agreement in place regarding funding of the placement, and because of an administrative oversight, education funded the full cost of the placement instead of just the educational element.

44. The Council also says that it did not have the opportunity to review and resolve the complaint through the statutory complaints process.

Events since April 2010

45. Since April 2010 J's social worker has:

- put in place the processes for J's transition to adult services;
- convened child-in-need review meetings at six-monthly intervals;
- referred J's siblings to an organisation for young carers, which provides them with support and respite;
- attended the SEN review meeting held in October 2010;
- visited J every six weeks, and made more frequent contact with her family, including providing direct access by mobile phone during working hours;
- researched and arranged activities for J during school holidays to provide a greater degree of structure and reduce the risk of family disruption;
- assisted with applications for bus pass, blue badge and higher rate disability living allowance;
- offered a carer's assessment to Mrs X.

46. In July 2011 J decided that she did not want to return to School O. The Council subsequently helped her to take up training in hospitality, and is currently looking at the possibility of short-break respite.

Interviews with officers

47. In interview, officers made the following points:

- the Council did not at the outset make clear arrangements for the residential placement – the residential placement meant that J was a looked-after child, and the Council failed to recognise this. J and her family were not disadvantaged by this, because the placement continued; but the placement should have been regularly reviewed and this would have happened if it had been set up properly from the start;
- Mr and Mrs X could have appealed to tribunal to have part 4 of J's statement amended to include the residential element;

- the educational psychologist's opinion in 2009 was that J's attachment disorder could not be resolved unless J and Mrs X worked together, and continuing with the residential placement was effectively delaying the start of this;
- a child cannot be voluntarily accommodated without parental consent, but parental consent is not in itself a reason for a child to become 'looked-after';
- the Council does not keep cases open if there is no role for social care, and in this case J's needs were being met by the school and CAMHS;
- the risk of harm to J's siblings in 2007 was mitigated by the package of support put in place (that is, the residential placement);
- J is growing up, and now has an improved understanding of the consequences of her actions.

Mr X's view

48. Mr X has made the following points about the impact on J and the family of the ending of the weekly boarding package:
- J became extremely unsettled and frustrated by the loss of structure to her time and the separation from her friends outside the teaching day. Her anxiety levels increased and she began eating more, wetting and soiling herself, and suffering disrupted sleep. Her social and independence skills, which had improved, deteriorated. J decided to leave school altogether and now requires constant supervision at home. She cannot attend an alternative college on the island as she needs constant support and is unable to travel independently;
 - J's three younger siblings lost the respite from her behaviour. Mr and Mrs X have arranged some respite for them through after-school clubs and dance lessons. It has also been difficult for her siblings to have friends round to the house as this is dependent on J's behaviour. So Mr and Mrs X pay J's cousin to take her out for one evening a week so that her siblings can have friends round to the house in a relaxed atmosphere;
 - since J's weekly residential placement ended, Mr and Mrs X have had no respite from her behaviour. J has damaged the home. Her behaviour has prevented Mrs X from setting up a hair and beauty business, which she intended to run from home to improve the family's financial situation. The pressure on Mr and Mrs X has resulted in the failure of their marriage.
49. In June 2011, the consultant child and adolescent psychiatrist working with J wrote to me expressing her clear view of the importance of the weekly boarding

package to J's wellbeing, and describing the detrimental impact on J of the reduction in boarding provision from September 2010.

Conclusion

50. Mr X accepted compensation for full and final settlement of his 2006 complaint and I do not propose to cover that ground in detail here. But it does seem to me that Mr X is correct to say that this complaint follows on from his previous one. A key issue in his previous complaint, as the Council itself acknowledged, was a lack of clarity about ownership and co-ordination which led to social services withdrawing its involvement. And that is what happened here.
51. In 2007 the Council identified that J was a child in need. The support it provided to address this was the residential element of her school placement. This was very successful in meeting the needs of J and her family, during term time at least. But that success led the Council to close the case, and discontinue its involvement. Instead, it should have recognised that J remained a child in need, and regularly reviewed the arrangement to ensure that the residential placement continued to meet her complex mental health needs. I accept that these needs meant that J did not easily fit into the usual categories for children's services. But that should not have prevented the Council from recognising the role it had to play in supporting her.
52. J's weekly residential placement at School O was a voluntary accommodation arrangement under S20 of the Children Act. So at that point she became a looked-after child, with Mr and Mrs X retaining full parental responsibility, but with the Council having a duty to review the suitability of the arrangement periodically. The Council, in closing the case, failed to carry out that duty; and it also failed to explain the legal position to Mr and Mrs X. Their previous experience of J being a looked-after child was that foster-carers took on the role of parenting her, and their own contact with J was significantly restricted. But that experience was the result of the situation at the time, not the inevitable result of J's looked-after status, and this should have been clearly explained to Mr and Mrs X in 2007 when the residential placement began. Failure to communicate was also a key element of Mr X's 2006 complaint and it seems that the Council did not learn from that complaint outcome.
53. It is not reasonable to suggest now that because Mr and Mrs X agreed to the closure of the case in 2008, there are no grounds for complaint. We do not expect complainants to have the same level of understanding of local government law that officers should have, and Mr and Mrs X could not be expected to foresee that the closure of the case in 2008 would result in the discontinuation of the boarding placement in 2010.
54. It is also not reasonable to claim that the discontinuation of the residential element was a decision against which Mr and Mrs X could have appealed to

tribunal. There was no evidence for Mr and Mrs X to present to the tribunal to show that the residential element was necessary for educational reasons. And annual review meetings consistently recommended that the residential element should be included in parts 5 and 6 of J's statement, which are not appealable, rather than part 4.

55. The Council was also at fault because it failed to clarify internally at the outset how it would fund J's placement. The education service was consistent in its view that the boarding element did not meet an educational need, which would suggest that social services had a shared responsibility for funding the placement. But this is not something which should properly concern Mr X, and his outrage when the education service discontinued the weekly boarding arrangement is entirely understandable. Mr X, his family, and particularly his daughter J, effectively found themselves at the centre of an internal squabble about who should pay for her residential accommodation. If the Council had agreed this properly at the outset, its social services involvement would have continued, and the issue would not have arisen.
56. The Council has suggested that the weekly residential placement would have continued, if Mr and Mrs X had agreed to J having the status of a looked-after child. But the Council's own legal advice – provided in November 2009 – was that this consent was not necessary and that the Council could treat the child as looked-after regardless of the forms being signed. The Council appears to have disregarded this advice, as there is no evidence that it considered this option, even though it is likely to have been in J's best interests.
57. The Council's legal advice also recommended the completion of a core assessment of the needs of the child and family, and a review of whether the residential placement was meeting the child's needs. The Council carried out a core assessment, but it did not complete this until the following summer, by which time the Council had already effectively taken the decision to discontinue the weekly residential placement with effect from September 2010. And the Council's assessment was incomplete, as it did not seek the views of medical professionals working with J. So when the Council's Joint Commissioning and Solutions Panel approved the new arrangement of 75 nights' accommodation a year, it did so without having all the relevant information about J's needs. In 2007 the decision that J and her family needed a weekly boarding package had been a multi-agency decision by health and social care professionals, together with the school and educational psychologists. The decision to discontinue that package should also have been a multi-agency decision.
58. It was also in my view incorrect of officers to indicate to the panel that J had by this time already reduced her overnight stays at school, without making it clear this reduction was only made in preparation for the new arrangement. The implication was that the reduction in overnight stays corresponded to a reduction

in need for the residential accommodation but Mr and Mrs X are clear that this was not the case.

59. So the Council's maladministration in this case was serious:
- it failed to learn the lessons clearly demonstrated by Mr X's complaint of 2006;
 - it failed to carry out its ongoing duty to J as a child in need accommodated under S20;
 - it failed to communicate effectively with Mr and Mrs X to ensure they properly understood the Council's role in their daughter's life;
 - it failed to clarify internally at an early stage how, and on what legal basis, it would fund J's residential placement at School O; and
 - it failed to follow its own legal advice and properly assess and consider J's social care needs in a timely and accurate way.
60. And that maladministration had serious repercussions. Given the view of J's consultant psychiatrist, I do not consider there is any doubt that proper and timely review of J's residential placement would have confirmed the need for it to continue. So J was wrongly deprived of the continuity of care and security that is so vital to her wellbeing, at the very time where there were significant other changes in her life, as she transferred from school to sixth form college. And her parents and siblings had significantly less relief from J's challenging and at times frightening behaviour, than would have been the case had she remained a weekly boarder.
61. Mr X was also put to the time and trouble of bringing a complaint to me. Given the outcome of his previous complaint, this should not have been necessary.

Finding

62. For the reasons given in paragraphs 51 to 61 above I find maladministration causing injustice in this case.

Remedy

63. There is no practical way the Council can remedy the injustice caused by its maladministration. So I recommend that the Council:
- pays J £5,000, to be used for educational purposes, to compensate her for avoidable distress, uncertainty, lost opportunity, stress, and frustration;
 - pays Mr and Mrs X £2,000, to be spent on some additional family enjoyment to make up for that lost as a result of the Council's failings;

- pays Mr X £250 for his avoidable time and trouble in pursuing the complaint; and
 - makes a full apology to the family.
64. In addition, the Council should carry out a thorough review of its practices and procedures, to ensure that it learns the lessons from this complaint, and provide Mr and Mrs X with a copy of the resulting action plan.
65. The Council has agreed to my recommendations. I welcome this recognition of the impact its maladministration had in this case.

**Dr Jane Martin
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

8 November 2012