

SPSO decision report

Case: 201806620, East Lothian Council
Sector: Local Government
Subject: child services and family support
Decision: some upheld, recommendations

Summary

Mr C complained that for over three years, the council failed to reasonably respond to his and his wife's (Mrs C) concerns about their child's (Child A) additional support for learning needs. Child A has a developmental learning disability. Mr C also said that the council unreasonably removed Child A's 25 hours of care and support (provided by members of school staff), without first contacting him or Mrs C and that the council behaved unreasonably towards them both.

We found that the council responded appropriately to a number of Mr and Mrs C's concerns about Child A's additional support for learning needs. However, there was a significant failure by the council to appropriately signpost Mr and Mrs C to resolution mechanisms for disagreement regarding additional support needs. Therefore, we upheld this aspect of Mr C's complaint.

We were also concerned about the lack of notes of the meetings between Child A's school head teacher and Mrs C, which appeared to have been a substitute for Staged Assessment and Intervention meetings and review of Individualised Education Programme targets, and we provided feedback on this point to the council.

In relation to Child A's support hours, we found that Child A was assessed as requiring a total of 17 hours 50 minutes of support rather than 25 hours. There was no evidence that Child A's support was unreasonably removed in the manner Mr C described, but that the head teacher contacted Mr C to inform him that the support teacher was leaving the school at around the time they became aware themselves and steps were taken to address the shortfall. Therefore, we did not uphold this aspect of Mr C's complaint.

On the matter of the council's behaviour towards Mr and Mrs C, we found that the council referred Mr C to their Antisocial Behaviour Policy when they had been advised by their Safer Communities Team (SCT) staff that this was not the correct policy in Mr C's case, and failed to explain their actions in this regard to our office. We were also concerned that the council failed to respond to Mr C's complaint about the council's treatment of the SCT staff's advice and that their explanation about their decision not to proceed with mediation could have been clearer. Therefore, we upheld this aspect of Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr and Mrs C for failing to signpost them to resolution mechanisms for disagreement regarding additional support needs; referring Mr C to their Antisocial Behaviour Policy, when they had been advised by their SCT staff that this was not the correct policy; failing to respond to their complaint about the council's treatment of the SCT staff's advice; and not explaining further what they meant by their consideration of 'previous correspondence between you and the council' when making their decision not to proceed with mediation. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsa.org.uk/information-leaflets.

What we said should change to put things right in future:

- Where internal advice is sought and a decision taken to act or not act on it, this should be documented; and council staff should explain their reasons not to proceed with mediation in full to parents.

In relation to complaints handling, we recommended:

- The council should appropriately signpost parents to resolution mechanisms for disagreement regarding additional support needs in cases of this type; and to respond to complaints in line with the Model Complaints Handling Procedure.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.