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Our reference: ic377664

Dear

**Your complaint to the Local Government & Social Care Ombudsman ref: 16012609**

I have been asked by the Local Government and Social Care Ombudsman to write to you following the outcome of your complaint, made to the Ombudsman's office in February 2017.

The Ombudsman has considered your complaint, reached a determination and chosen to publically report his findings. As part of those findings, the Ombudsman has made a number of recommendations which I would like to address on behalf of the Council. Before I continue to do that, I want to thank you for your time and trouble in pursuing your complaint and giving the Council the opportunity to put right the things we have got wrong and make sure we do not make the same mistakes in the future.

As part of the outcomes reached by the Ombudsman the Council has been asked to:

- Apologise to you and to [redacted] for the faults that have been identified;
- Retake its decision whether it owes a transport duty to [redacted] under s508f(1) of the Education Act 1996 or is willing to make provision under that act; and
- Share our decision with you and with the Ombudsman.

The Council acknowledges its error in how it reached the decision not to provide home to college travel assistance to [redacted]. There was a failure to consider section s508f(1) of the Education Act (1996), and whether it was necessary to make travel arrangements so that [redacted] could access his educational placement. The 'Post-16 transport to education and training, Statutory guidance for local authorities (October 2017)' states;

*"The statutory walking distance of 3 miles to school (along the nearest available route) for those of compulsory school aged 8 and over is set out under section 444(5) of the Education Act 1996. This can be used as a benchmark by local authorities in defining the distance a young person might reasonably be expected to walk to access education or training."*

As such, based on the distance from your former home to college, and mobility issues, you were in fact entitled to travel assistance in September 2016.

I sincerely apologise for that error and for the inconvenience, time and trouble it caused, you and those friends and family who supported you both, and the Council will pay the associated remedies recommended by the Ombudsman which I will refer to again shortly.

The Ombudsman has also recommended that the Council:

- Reviews its Care Act and Carers assessments to: set out total eligible needs including consideration of:
  - o transport to college (if this is not to be met by the Council under s.508F);
  - o transport to leisure activities;
  - o holidays;
  - o include an assessment of mental capacity;
  - o detail which needs a carer is 'able and willing' to meet;
  - o detail unmet eligible needs the Council will meet;
  - o detail carer's needs; and
  - o consider whether a personal budget or direct payments are suitable for any further provision identified

I have liaised with Joan Hutton, the Council's Head of Adult Social Care regarding the recommendations. First and foremost, Joan would like to apologise to and yourself for the failings identified by the Ombudsman in regard to the Council's Care Act assessment of needs and yours as his carer, both during term time and holiday periods.

I understand that the Council's Adults with Learning Disabilities team has been in contact with you recently and that, at present, you and are not living in the borough of Lewisham, having moved to our Neighbouring borough of Southwark. As such, we're not able, at this time, to complete an assessment of needs. We will though, of course, work with Southwark in terms of providing comprehensive information in relation to needs. Assistance with needs and support for you as a carer will be the responsibility of Southwark while you are both resident there and you will need to make contact with them so that they can carry out a fresh assessment. If you haven't already made contact, you can do so either by email at [OPPDContactteam@southwark.gov.uk](mailto:OPPDContactteam@southwark.gov.uk) or by phone on 0207 525 3324. Alternatively, if you prefer, we can make a referral on behalf.

More information about Southwark's local adult social care offer is available on its website at:

<http://localoffer.southwark.gov.uk/care/how-to-make-a-referral-for-adult-social-care/>

The Ombudsman has recommended that the Council makes the following financial payments as part of its suggested remedy:

- Make a financial payment of £100 a week (calculated from September 2016) to recognise time and expenses (and those of friends) providing unpaid care and transport. This payment also recognizes that the resident was not able to seek employment and later, when she became unwell, was caused additional stress finding alternative drivers. Payments will continue until new arrangements are in place so that the resident is no longer responsible for driving her son to college:

- Pay £1,500 in recognition of the seven months delay in providing social care support between September 2016 and March 2017 during which time the resident had to support her son's activities and the uncertainty whether a more thorough social care assessment may have led to a higher level of support being provided;
- Pay £300 for the loss of one term's additional therapist input due to the delayed EHC assessment and subsequent appeal; and
- Pay £300 for the time and trouble spent pursuing the complaint.

The Council will pay the suggested remedy of £9,700  
(76 weeks @ 100 per week = £7,600 + £1500 + £300 + £300).

The payment can be made directly into an account(s) of your choosing. I will instruct an officer to make contact with you shortly after I have sent this letter to discuss that with you and retrieve the necessary banking information from you.

I am sorry for the time and trouble you have been put to through pursuing your concerns and I hope that my response on this occasion goes some way to reassuring you that the Council will do its best to improve its services as a result of your complaint.

Yours sincerely



Sara Williams  
**Executive Director for Children & Young People**

cc: LGSCO