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Council pays £3,900 to mother of SEND child

Surrey County Council failed to provide suitable full-time education to an SEND primary school child, causing the youngster to miss valuable learning time and creating undue stress for his mother, a local government watchdog has ruled.

The county council was ordered to pay £3,900 and apologise to the boy and his mother to acknowledge the injustice caused after the Local Government and Social Care Ombudsman completed its investigation into the matter.

The council must pay £2,900 for the lack of education provided over a six-month period and a further £1,000 for the inconvenience, distress, time and trouble caused to his mother – including the impact on her employment. It must also provide updated guidance clarifying the legal position on complaints and appeals as well as evidence it has complied with the ruling.

The Ombudsman said it would not make further recommendations for service improvements to the council's alternative education provision as these have been covered in "similar findings against the council in other cases in the recent past covering the same period". Staff are also to be retrained and better records kept to "prevent a recurrence of the same fault in future cases."

In 2020 the boy was on a waiting list for an autism assessment by the Child and Adolescent Mental Health Services (CAMHS). In November 2021, his mainstream school then placed the youngster on a part-time, mornings only, timetable and by January 2022 it was assessed he should no longer attend school due to mental health concerns.

His mother said he was then given worksheets but no online or face-to-face tuition was offered. His mother, a single parent, said she had to cut her hours at work as her son could not attend school.

In late March 2022, the council offered the family two hours per week teaching assistant (TA) support.
Convinced her son was falling behind, his mother began paying private tutor to help for one hour a week.
Shortly after this the council increased TA time to three hours a week, and then later added one hour tutor time. By late June this was extended to four hours, increasing to seven and a half hours in September, and 14 hours in October 22.

Eventually, the council said the boy should have access to mainstream provision for the remainder of his time at primary school but he would not be in a position to return immediately. Discussions then turned to offering 25 hours educational provision through the county's SEN team from September and a draft plan proposed he stay with his current school but likely to require specialist provision at secondary age.

In July, a meeting was then held with tutors, the school, and CAMHS – and an Education otherwise than at school (EOTAS) programme was suggested. His mother asked for this to be continued on an ongoing basis.

However, Surrey County Council decided he should continue with his current school in Summer 2022 and did not specify EOTAS or interim provision, or details of how he would reintegrate into the school.

His mother complained that the council failed to provide her son with proper education from January 2022 and failed to follow professional advice that he should receive EOTAS until he transferred to secondary school in September 2023 – instead proposing he be sent back to mainstream primary school for the remainder of the school year.

The Ombudsman upheld her complaint and found fault by the council in "failing to provide suitable fulltime education when a child was unable to attend school." The report said: "This caused the child to miss out on education and caused the parent carer unnecessary inconvenience and distress. The agreed actions set out above are a satisfactory resolution to the complaint."

A spokesman for Surrey County Council said: "We take the findings from the Ombudsman very seriously and we apologise for any distress the family experienced. We are not able to comment on any individual children specifically, however we know how important access to fulltime education is for all children to support their development and wellbeing, including when this must be provided outside of school.

"We remain committed to improving outcomes for children with additional needs so that they are happy, healthy, safe and confident about their future."

Image – Emily Coady-Stemp

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