

Surrey child misses two years of education

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A child missed out on two years of education due to shortages in SEND school places. Surrey County Council (SCC) has been forced to pay a mum almost £11,000 after the social ombudsman ruled there had been “excessive delay” in providing full-time suitable academic tuition.

Even as the decision was issued on 24 June, the child – who is also disabled – was still without a specialist educational placement. The local authority was found to have made a “service failure” as the child has received no academic tuition since Autumn 2022. SCC said they accept the ombudsman’s findings and sincerely apologise for any distress caused.

The ombudsman’s damning statement said: “As well as the failure to provide a school place and special educational provision, the Council failed to provide the usual education that all children expect to receive.” The report added: “The fault has caused significant injustice to the whole family and loss of education to the child.”

The mum, named Ms X in the report, complained the child’s special educational needs and disability (SEND) requirements were not being met at school. Banned from school in autumn 2022 due to their behaviour, the child received 1.5 days of alternative provision for months. The education was centred on holistic development like building confidence and creativity rather than formal academic education, according to the report.

Ms X complained to the Council in Spring 2023 that her child was not receiving any academic tuition during this period. SCC responded in Summer 2023 that a full time school place was being funded but the Council recognised Ms X’s child was not attending. SCC recognised its education offer was inadequate and agreed to increase it, offering £2400 payment to acknowledge the loss of education from Autumn 2022 to June 2023.

Despite recognising the provision was unsuitable, the ombudsman said the council had “allowed the same fault and injustice to continue from June 2023 to date”. The ombudsman judged it should not have been necessary for Ms X to come to the Ombudsman as the council “should have fixed the problems upstream”.

Legal duty remained with the council so SCC should not have relied on sourcing alternative education to the specialist school. According to the report, SCC “failed” to provide the child with special education support during their time out of school. SCC was also found wanting in showing how it tried to eliminate discrimination and advance opportunities to support the disabled child.

SCC argued that the school staff knew Ms X’s child best, but accepted it should have monitored this more closely and the provision has a ‘lack of academic focus’. SCC will pay £8,800 to Ms X, on behalf of her child, to acknowledge the impact of the lost education, calculated at £1600 per term for 5.5 terms. If SCC’s previous compensation offer of £2,400 has been paid this will be deducted.

In Autumn 2022, SCC held an annual review of the child’s educational, health and care plan (EHCP) in autumn 2022. The final review was completed in Autumn 2023, a whole year after the annual review meeting. The legal timeline for the plan to be completed is 12 weeks, yet SCC delivered the plan in 12 months. The ombudsman found the delay “excessive” and a service failure from SCC. Ms X initially received £300 to compensate for the EHCP delay in 2023, and was granted a further £200 by the ombudsman.

Despite having a year to find a specialist school place, SCC did not name a school in its new EHCP and only listed the type of school as ‘specialist’. SCC was criticised for an “excessive delay” and “service failure” in failing its legal duty to find a school placement, as only five schools were contacted in fifteen months. According to the report, there were long gaps when no consultations were sent.

SCC tried to get a specialist school placement for the next academic year (2024/25), consulting four schools last winter and during spring 2024. But Ms X said there was “no expectation” for her child to return to school for the 2024 summer term. During this time the child was still only receiving 1.5hrs of education a week.

The ombudsman said it would “expect councils to make a sustained effort to find a place for a child”, expanding its search to a wider area and independent schools if no place could be found. Although it was appreciated the number of specialist places was a national problem, the ombudsman said SCC had failed in its service.

Ms X told the ombudsman that she tries to teach her child with academic workbooks, but she does not feel equipped to do so, and that sometimes it is difficult to get her child to cooperate. Due to the time her child has now been out of school and becoming “socially isolated”, the mum said there would need to be a gradual introduction of academic work with tutors taking time to build up her child’s trust.

Ms X added the situation has impacted her other child as they cannot attend clubs or activities due to caring demands of their sibling. Ms X said she had been unable to return to work as her child has been out of school for 5.5 terms and now her income is half what it was when both her children were in school.

The ombudsman ruled “the fault has caused significant injustice to the whole family and loss of education to the child.” The report said Ms X provided additional hours of unpaid care every week to her child, which she might have been eligible for support. SCC will pay Ms X £1500 for the impact of her being unable to work, the additional caring demands, the uncertainty and frustration for the period her child has been without education.

SCC is unable to comment on any individual children specifically, but said it is “working hard to improve services”. The Leader of SCC, Tim Oliver highlighted that the most recent Local Area SEND Inspection noted progress is underway at the council.

Tim Oliver said: “We accept the findings from the Ombudsman report and sincerely apologise for any distress caused. I am aware that the Council has not always got things right for all families, that the support and service that some children with additional needs and disabilities and their families receive is not always of the standard that we would expect, and that our communication with parents and carers needs some improvement, and I am sorry about that.”

He added: “We know how important access to full time education is for all children to support their development and wellbeing, including when this must be provided outside of school”. Mr Oliver said SCC has been reviewing its arrangements for Alternative Provision in situations where young people are unable to attend school. SCC is also pursuing a multi-million capital programme to increase the availability of, and access to high quality specialist school provision across the county.

SCC said it is treating timeliness of EHCPs as a priority and has committed to spending £15m over three years to increase the capacity for key teams for EHCP. Mr Oliver said: “In line with our multi-agency EHCP Recovery Plan, we have been working hard to complete all delayed assessments and annual reviews alongside managing new applications.”

He added: “We are working closely with partners to ensure any support agreed in these plans is provided as quickly as possible, and we are committed to listening to the views of families in the completion of annual reviews and key transitions to improve outcomes for children and young people with additional needs and disabilities so that they are happy, healthy, safe and confident about their future.”

Image: Surrey County Council headquarters. Credit: Emily Coady-Stemp