

## **Divisions Affected – All**

### **CABINET 15 July 2025**

#### **Education Act 1996 (Section 19) – Response to the report of the Local Government and Social Care Ombudsman Report of Education and Young People Overview & Scrutiny Committee**

### **RECOMMENDATION**

1. The Cabinet is **RECOMMENDED** to —
  - a) Note the recommendations contained in the body of this report and to consider and determine its response to the Education and Young People Overview and Scrutiny Committee, and
  - b) Agree that, once Cabinet has responded, relevant officers will continue to provide each meeting of the Education and Young People Overview & Scrutiny Committee with a brief written update on progress made against actions committed to in response to the recommendations for 12 months, or until they are completed (if earlier).

### **REQUIREMENT TO RESPOND**

2. In accordance with section 9FE of the Local Government Act 2000, the Education and Young People Overview & Scrutiny Committee requires that, within two months of the consideration of this report, the Cabinet publish a response to this report and any recommendations.

### **INTRODUCTION AND OVERVIEW**

3. The Education and Young People Overview and Scrutiny Committee considered a report on the Council's response to the Local Government and Social Care Ombudsman's ('the Ombudsman') report at its meeting on 13 June 2025. The Ombudsman had directed the Council to review 13 cases in the past two years where the Ombudsman had found fault with the Council's compliance with its section 19 duty to provide alternative education to a child out of school.

4. The Council had been directed to produce a dated action plan of how it will avoid recurrence of the same fault and also to report both the review and the action plan to the relevant Scrutiny Committee. The report set out learning from complaints to the Council relating to s.19 provision and the process of developing the Council's s.19 approach and pathway of action to manage applications for provision following 15 days of school absence.
5. The Committee would like to thank the Leader of the Council, Cllr Liz Leffman, the Director of Children's Services, Lisa Lyons, the Deputy Director of Education and Inclusions, Kate Reynolds, and Deb Smit, Assistant Director for SEND and Inclusion, for attending to present the report and to answer the Committee's questions.

## **SUMMARY**

6. The Leader of the Council acknowledged the importance of addressing the issues raised by the Ombudsman's report and thanked those members of the public who had addressed the Committee for highlighting their concerns.
7. The Director of Children's Services set out the challenges faced in meeting the 15-day timeframe for alternative education provision or in children returning to school. The requirement was that either the child was to return to school within 15 days or alternative provision was to be arranged within 15 days. If neither was achieved, it was expected that the Council would prosecute parents for their child's non-attendance.
8. Members discussed whether prosecution might not be counter-productive and it was acknowledged that this was a difficult position for staff who aimed to prioritise a child's needs. Members also discussed the clarity of the action plan and sought assurance that complainants had received apologies. There was discussion of co-design and training for officers. The culture of the Council and its relationship with families was also raised as was training and dialogue.
9. The Committee made two recommendations: the first relates to clarity of its processes and the second to resourcing.

## **RECOMMENDATIONS**

10. The Committee received, at Annexe B to the report (and attached as annexe 1 to this report), a process chart which set out how the Council will respond when fulfilling its duty under s.19 provision for illness, exclusion, or otherwise. The Committee recognised that it is a complicated process and also recognised that the flowchart aimed to clarify processes for legal compliance and was intended for officers rather than the public.
11. The Committee established that the process chart had been drafted by the Council but that schools would be consulted for their agreement to its content.

12. The Committee was concerned that the process chart was so complex that it could easily confuse rather than clarify the steps that should be undertaken and the process that should be followed. In order to avoid that, and given the importance of officers understanding their responsibilities as highlighted by the Ombudsman, the Committee was strongly of the view that the process chart should be re-drawn and made significantly clearer.
13. ***Recommendation 1: That, notwithstanding the complexity of the processes being set out, the Council should ensure that the process chart at Annexe B is re-designed to make it clearer and easier to follow.***
14. The report to the Committee set out that the absence of a clear approach and pathway of action from the Council contributed to misinterpretation of its statutory duty. This had a negative effect and the Committee heard that the Council was committed to improved outcomes and continual monitoring to ensure this is achieved. The Committee hoped that this would be achieved and was committed to playing its part in monitoring that.
15. However, the Committee was clear that of the need for adequate resource to ensure that the approach and pathway of action could function adequately. The Committee was pleased to hear how trauma-informed education and restorative practice were being developed in schools but recognised the constraints on school budgets.
16. In order for the approach set out to function well, though, the Committee considers that Cabinet should have a strong awareness of the need for the Council to work well with schools and governing boards, regardless of whether or not the schools are maintained. That will require enthusiasm and engagement on the part of Council offers but there will also be financial implications.
17. The Financial Implications set out in the report to the Committee notes that the introduction of the interim section 19 officer is being managed within the overall existing staffing budget for the Education service. It also sets out that it is not possible to accurately estimate what the change to the Council's financial position will be arising from the actions set out in the report as they will vary on a case-by-case basis.
18. The Committee recognises that the Council's s.19 duties are funded from the High Needs Block with its annual and accumulated deficit but, if there is to be success in this area, both practical and financial resource need to be committed to it.

***Recommendation 2: That the Council should highlight how there will be sufficient resource – both financial and practical – to ensure the s.19 approach and Pathway of Action can function adequately.***

## **FURTHER CONSIDERATION**

19. The Committee expects to receive a monitoring report on the embedding of the s.19 approach and Pathway of Action early in 2026.

## **LEGAL IMPLICATIONS**

20. Under Part 6.2 (13) (a) of the Constitution Scrutiny has the following power:  
'Once a Scrutiny Committee has completed its deliberations on any matter a formal report may be prepared on behalf of the Committee and when agreed by them the Proper Officer will normally refer it to the Cabinet for consideration.
21. Under Part 4.2 of the Constitution, the Cabinet Procedure Rules, s 2 (3) iv) the Cabinet will consider any reports from Scrutiny Committees.

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Annex: 1. Process chart  
2. Pro-forma Response Template

Background papers: None

Other Documents: None

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