

Report Title:	Investigation into a complaint about Royal Borough of Windsor and Maidenhead Council (Reference number: 21 012 481)
Contains Confidential or Exempt Information	No – Part I
Cabinet Member:	Councillor Amy Tisi – Children’s Services, Education and Windsor
Meeting and Date:	Schools Forum 13 July 2023
Responsible Officer(s):	Lin Ferguson - Executive Director of Children’s Services and Education Louise Dutton - Head of Finance Achieving for Children (RBWM)
Wards affected:	All

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## REPORT SUMMARY

The purpose of this report is to provide Schools Forum with the findings from the report by the Local Government and Social Care Ombudsman where a local setting had provided fair access to a free place but felt a “top-up” fee had been applied due to unclear invoicing. The report found that Council had not ensured the setting issued clear and transparent invoices.

### 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Schools Forum notes the report:

- Including the findings by the Ombudsman and the next steps that the Council has taken

### 2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

#### Options

**Table 1: Options arising from this report**

Option	Comments
Schools Forum to note the contents of the report and impact	The Early Years’ Service to continue to request example invoices from all Early Years’ providers throughout the funding year to ensure that they are clear and transparent regarding funding and consumables
Do nothing. This is not recommended.	Continue to allow providers to create invoices and not be checked by the Early Years’ Service

2.1 The Ombudsman found that the invoices provided showed only the total amount payable each month. The invoices do not itemise the charges, show how they

were calculated, or list a breakdown of the charges for consumables. It was considered therefore not possible, from the invoices, to see how the total monthly figure was calculated or whether parents received the free hours entitlement completely free of charge.

- 2.2 Government guidance says Councils should work with providers to ensure their invoices are clear and transparent. The law says Councils must exercise their functions with a view to securing the provider's compliance with these requirements. While the Council did meet with the setting in September 2021, it had failed to work with the nursery to ensure its invoices were clear and transparent.
- 2.3 The provider uses an automatic invoicing system and provides parents with a letter/notice of how charges are made but this was found not to be sufficient as providers can charge for consumables and this charge must be voluntary. The provider responded directly to the Ombudsman and said information on how invoicing itemised is displayed on its notice board to show how charges for consumables were voluntary.
- 2.4 The provider also provided a letter, stating, "*the funded hours do not cover food and consumables for which a charge will be made whilst using the government funded hours.*" but the investigation found that there was no mention that the fee was voluntary.

### **3. Next Steps**

- 3.1 The provider concerned has since switched to a new invoicing system which itemise consumables to eliminate the above confusion.
- 3.2 The Early Year's Team are requesting example invoicing from all providers to ensure consumables are itemised throughout the funding year.

### **4. KEY IMPLICATIONS**

- 4.1 The Council to apologise to Mr X in writing.
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- 4.2 A payment to Mr X £100 for his time and trouble in bringing his complaint as the Council did not initially investigate his concerns and referred him back to the setting.
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- 4.3 Pay Mr X 50% of the consumables charge from January 2021 (when he first
  - contacted the Council about his concerns) until the date Y left the setting.
  -
- 4.4 Work with the provider to ensure it amends its invoices and receipts, so they are clear and transparent. Invoices and receipts should itemise all charges so parents can see they have received their child's free entitlement and understand any extra charges. If any of the charges are voluntary, this should also be made clear.
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- 4.5 The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its

full Council, Cabinet or other appropriately delegated Committee of Elected Members and we will require evidence of this.

## 5. LEGAL IMPLICATIONS

5.1 There are no legal implications directly arising from this report.

## 6. RISK MANAGEMENT

6.1 There are no potential risks directly arising from this report, however, we have issued a public notice in two local newspapers on the request of this Ombudsman report and made the report available to the public via the Town Hall in Maidenhead.

## 7. POTENTIAL IMPACTS

7.1 Equalities. Equality Impact Assessments are published on the [council's website](#). The Equality Act 2010 places a statutory duty on the council to ensure that when considering any new or reviewed strategy, policy, plan, project, service or procedure the impacts on particular groups, including those within the workforce and customer/public groups, have been considered. It has been assessed that there are no Equality Impact risks arising from this report. Link to Equality Impact Assessments. <https://www.rbwm.gov.uk/home/council-and-democracy/equalities-and-diversity/equality-impact-assessments>

7.2 Climate change/sustainability. There are no climate change/ sustainability risks arising from this report.

7.3 Data Protection/GDPR. There are no data protection/ GDPR risks arising from this report.

## 8. CONSULTATION

8.1 There is no requirement for stakeholder consultation arising from this report.

## 9. BACKGROUND DOCUMENTS

9.1.1 This report is supported by one background document:

- Investigation into a complaint about Royal Borough of Windsor and Maidenhead Council (Reference number: 21 012 481)  
<https://www.lgo.org.uk/decisions/education/other/21-012-481>

## 10. CONSULTATION

○ Name of	○ Post held		

<b>consultee</b>				
○ <i>Mandatory:</i>		○ <i>Statutory Officers (or deputies)</i>		
○ Andrew Vallance		○ Executive Director of Resources/S151 Officer		
○ Emma Duncan		○ Director of Law, Strategy & Public Health/ Monitoring Officer		
○ <i>Deputies:</i>		○		
○ Vacant		○ Head of Finance (Deputy S151 Officer)		
○ Vacant		○ Head of Law (Deputy Monitoring Officer)		
○ Vacant		○ Head of Governance (Deputy Monitoring Officer)		
○ <i>Mandatory:</i>		○ <i>Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>		
○ Lyn Hitchinson		○ Procurement Manager		
○ <i>Mandatory:</i>		○ <i>Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>		
○ Samantha Wootton		○ Data Protection Officer		
○ <i>Mandatory:</i>		○ <i>Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>		
○ Ellen McNamus-Fry		○ Equalities & Engagement Officer		

○ Other consu ltees:	○		
○ Direct ors (wher e releva nt)	○		
○ Steph en Evan s	○ Chief Executive		
○ Andre w Durra nt	○ Executive Director of Place		
○ Kevin McDa niel	○ Executive Director of Adult Services and Health (DASS)		
○ Lin Fergu son	○ Executive Director of Children’s Services and Education (DCS)		

○ Confir mation releva nt Cabin et Mem ber(s) consu lted	○ Cabinet Member for		○
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## REPORT HISTORY

Decision type:	Urgency item?	To follow item?
For information	No	No
Report Author: Kelly Nash, Education Support and SEND Strategy Manager		

# Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact [equality@rbwm.gov.uk](mailto:equality@rbwm.gov.uk)

## 1. Background Information



Title of policy/strategy/plan:	Investigation into a complaint about Royal Borough of Windsor and Maidenhead Council
Service area:	Early Years
Directorate:	Children's Services

**Provide a brief explanation of the proposal:**

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The intended outcome of the proposal is to provide Schools Forum with the findings of the Ombudsman report and for the forum to note the steps taken.

## 2. Relevance Check

**Is this proposal likely to directly impact people, communities or RBWM employees?**

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

No

If 'No', proceed to 'Sign off'. If unsure, please contact [equality@rbwm.gov.uk](mailto:equality@rbwm.gov.uk)

### 3. Evidence Gathering and Stakeholder Engagement

<p><b>Who will be affected by this proposal?</b> For example, users of a particular service, residents of a geographical area, staff</p>
<p><b>Among those affected by the proposal, are protected characteristics</b> (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) <b>disproportionately represented?</b> For example, compared to the general population do a higher proportion have disabilities?</p>
<p><b>What engagement/consultation has been undertaken or planned?</b></p> <ul style="list-style-type: none"><li>• How has/will equality considerations be taken into account?</li><li>• Where known, what were the outcomes of this engagement?</li></ul>
<p><b>What sources of data and evidence have been used in this assessment?</b> Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.</p>
<p>Not Applicable</p>

## 4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age			Not Applicable
Disability			
Sex	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Race, ethnicity and religion	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Sexual orientation and gender reassignment	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Pregnancy and maternity	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Marriage and civil partnership	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Armed forces community	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Socio-economic considerations e.g. low income, poverty	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable
Children in care/Care leavers	There is nothing in the report which is considered to impact on this protected characteristic	Not Applicable	Not Applicable



## 5. Impact Assessment and Monitoring

*If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.*

<b>What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it?</b> For example, adjustments needed to accommodate the needs of a particular group
Not Applicable
<b>Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?</b> <ul style="list-style-type: none"><li>For planned future actions, provide the name of the responsible individual and the target date for implementation.</li></ul>
Not Applicable
<b>How will the equality impacts identified here be monitored and reviewed in the future?</b> See guidance document for examples of appropriate stages to review an EQIA.
Not Applicable

## 6. Sign Off

<b>Completed by:</b> Kelly Nash	<b>Date:</b>
<b>Approved by:</b>	<b>Date:</b>

If this version of the EQIA has been reviewed and/or updated:

<b>Reviewed by:</b>	<b>Date:</b>
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