

The Ombudsman and alternative educational provision

Evan Lerwill – Assistant Ombudsman

Assessment phase – deciding whether to start an investigation

Can we look at a complaint?

- Are there jurisdictional bars? Time; prematurity; alternative remedies; actions of schools

Should we look at a complaint?

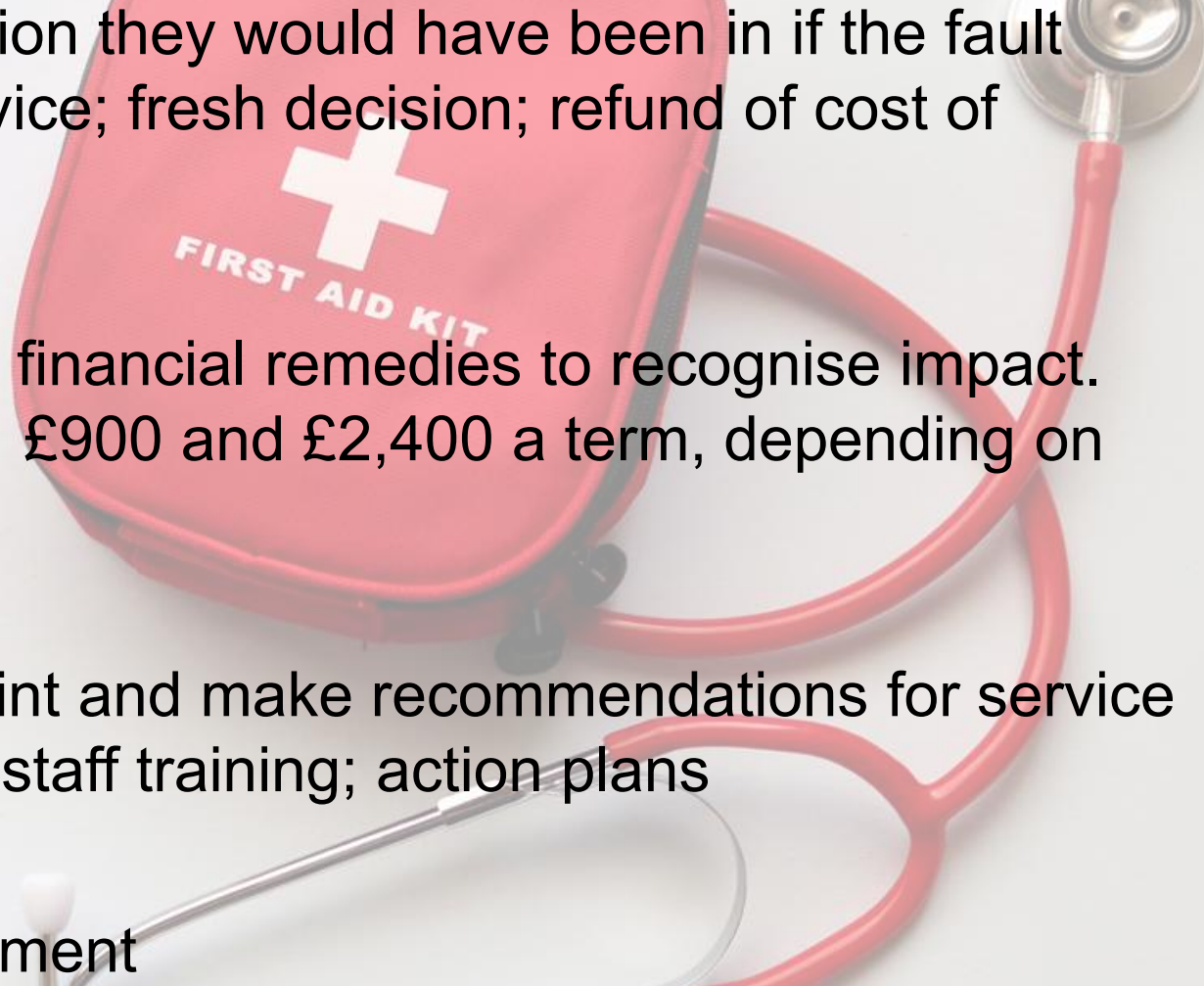
- Is there public interest? Is there significant injustice? Is it likely we will find fault? Can we achieve a meaningful outcome?

Around 75% of all cases to LGSCO decided at assessment phase

Investigation – how we make decisions

- > **Establish what should have happened**
 - > The law
 - > Policies and process
 - > Standards of good administrative practice
- > **Establish what did happen**
 - > Testimony from all parties
 - > Contemporaneous records
 - > Correspondence
 - > Complaint records
- > **Compare the two set of circumstances**
 - > Is there fault?
 - > Did it cause injustice?
 - > Can you put things right?

Recommendations and outcomes

- > We put the complainant in the position they would have been in if the fault hadn't happened – provision of service; fresh decision; refund of cost of therapies;
 - > If no other way to remedy, symbolic financial remedies to recognise impact. Termly tariffs for loss of education - £900 and £2,400 a term, depending on circumstances.
 - > Look at wider learning from complaint and make recommendations for service improvements – changes to policy; staff training; action plans
 - > Share learning with Ofsted, Government
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Complaints about alternative provision

Reporting year (April – March)	Number of detailed investigations completed	Number of investigations upheld	Upheld investigations as % of total investigations
19/20	53	49	89%
20/21	52	46	85%
21/22	40	37	92.5%
22/23	107	99	92%
23/24	292	273	93%
24/25	400	368	92%

Themes – being decisive

- Failure to record clear decisions on whether there is a section 19 duty.
- Leads to cases being upheld – often on the basis of ‘uncertainty’
- We recommend councils:
 - Speak to all relevant parties/teams
 - Seek medical or other evidence relating to non-attendance
 - Look at the actions of schools to support reintegration (reasonable adjustments/out-of-class tuition/reduced timetables)
 - Communicate the decision to parents to ensure clarity

Case study: [24 002 809 - Local Government and Social Care Ombudsman](#)

Themes – person centred provision

- Provision should be based around child's individual needs
- We uphold cases where there are no records about how provision was set, and where low levels of provision aren't review
- We recommend councils:
 - Make a record of how provision was set
 - Ongoing reviews to ensure provision remains appropriate, or adjust to changing needs
 - EHCP provision should be made available where possible
 - Supported by plan for reintegration to normal education setting

Case study: [23 019 509 - Local Government and Social Care Ombudsman](#)

Themes – clear communication

- Practical and emotional challenges when children not in school
- Parents shouldn't be left in the dark about decisions being made, or shut out of the process.
- We recommend councils:
 - Ensure clear channels of communication with parents
 - Promote information sharing with internal/external partners to support early identification of section 19
 - Treat expressions of dissatisfaction as complaints
 - Clearly communicate decisions about section 19
 - Signpost to Ombudsman

Themes – Good practice

- Less likely to receive complaints where things have gone well!
- We highlight good practice in our decisions
- We recommend councils:
 - Acting decisively; working closely with all parties to understand reasons for non attendance.
 - Decisions written in plain English – reasonable adjustments made where needed
 - Signposting to other relevant support services in the absence of section 19
 - Good use of template letters to capture key points from each party, and summarise the relevant law
 - Effective complaint handling, providing early remedies where appropriate

Case study: [23 019 475 - Local Government and Social Care Ombudsman](#)

Further resources

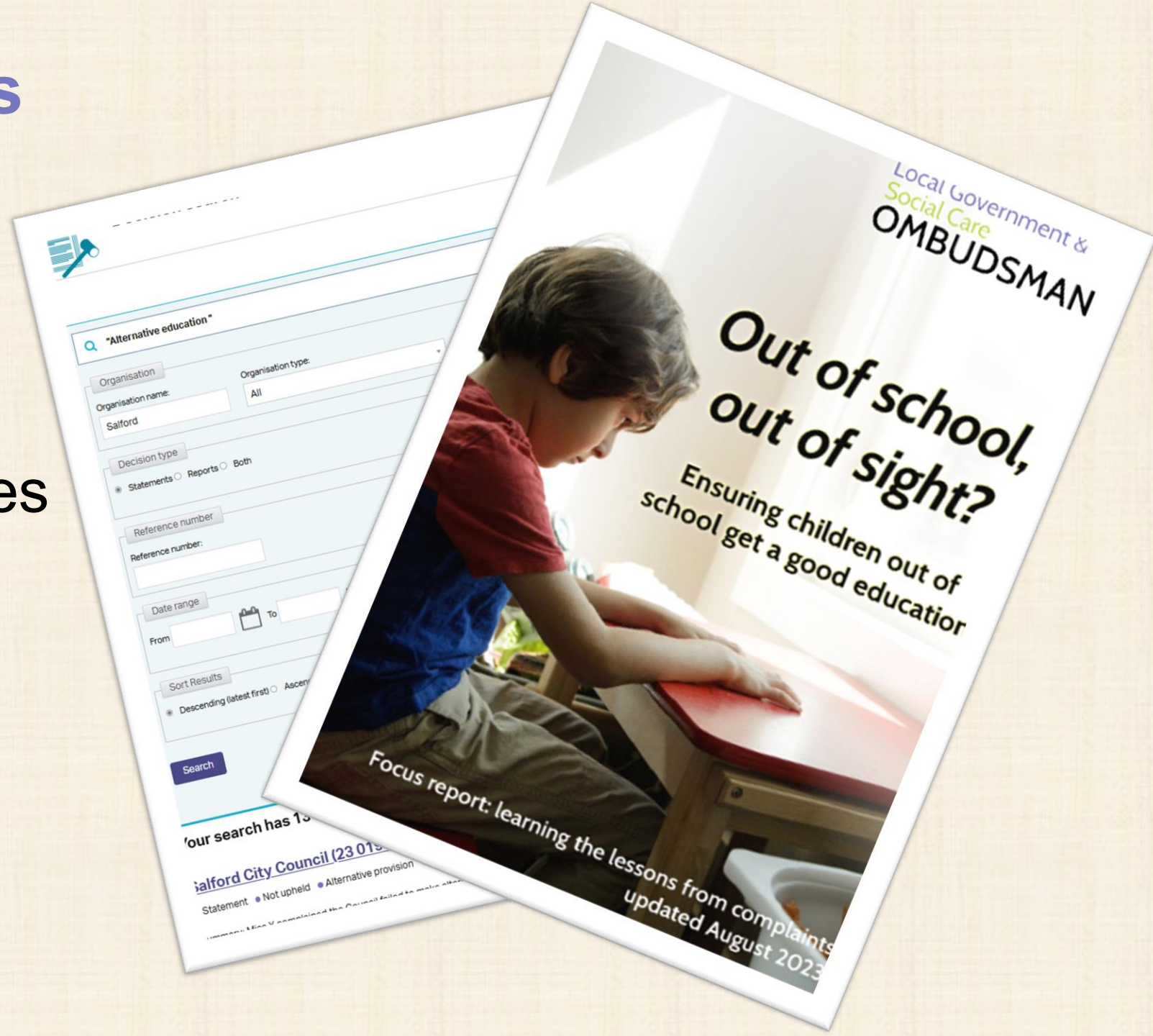
Practice notes

Focus report

Guidance on remedies

Interactive map

Published decisions



Questions and queries



www.lgo.org.uk/



e.lerwill@lgo.org.uk



(+44) 0330 403 4755