Practice Note for ICS cases with SEN Tribunals

This practice note has been devised as a result of a recent case to the Ombudsmen following a complaint about Kent County Council’s decision not to follow a recommendation made by the Special Educational Needs and Disability Tribunal (SENDIST) about her social care needs. Whilst the Ombudsmen found that the Local Authority had given proper consideration to the recommendation, it was found that the recording of the discussions that led to the decision was at fault.

The statutory guidance sets out that while any recommendations made by the Tribunal on social care elements of an EHC plan are non-binding and there is no requirement to follow them, a Council is generally expected to do so. They are recommendations made by a specialist Tribunal and should not be ignored or rejected without careful consideration. Any reasons for either taking a decision forward or not taking them forward must be explained and set out in writing, with sufficiently detailed reasons for that decision.

Within this case, although KCC wrote to the complainant detailing the reasons that it had considered the recommendation and was not progressing with the reasons outlined- the details of this discussion was not recorded on Liberi and neither was the outcome of the tribunal.

This practice note serves as a reminder that there is an expectation that all SENDIST outcomes are recorded on EHM/Liberi. Furthermore practitioners should record all decision making and all communication to evidence the consideration of non-binding recommendations. as a result of SENDIST on ICS systems.