

The Ombudsman's final decision

Summary: The Council was at fault for the way it disclosed information to Ms X about the risk from her adopted son's birth father. It has agreed to apologise and make a symbolic payment to recognise her injustice. However, the Council was not at fault in the other ways it considered managing the risk. Its view – that this was primarily the Police's responsibility – was not unreasonable.

The complaint

1. The complainant, whom I refer to as Ms X, complains about what she believes was the Council's failure to protect her and her adopted son from the risk posed by his birth father. I refer to Ms X's son as Y. I refer to his birth father as Mr Z.
2. The Council considered Ms X's complaint under the formal Children Act 1989 complaints procedure. This included an independent investigation at stage 2 and a review panel at stage 3. However, she remains dissatisfied.
3. Ms X complains that:
 - A. At stage 2 of the Children Act complaints procedure, the investigator found failings in how the Council told Ms X about the risk from Mr Z. But the investigator recommended nothing to recognise Ms X's injustice.
 - B. The Council failed to give information to Mr Z's mental health team. This led to him moving to a secure unit – with day release – close to Y's school. This placed Y at risk.
 - C. The Council closed Y's adoption support case in early 2019 without Ms X's knowledge or agreement and left her without support.
 - D. The Council completed an assessment in June 2019, which:
 - lacked clarity about the risk from Mr Z;
 - failed to consider concerns Ms X had about Y's birth family, including how they may pose a risk during Y's daytime respite ('short breaks') away from the family home;
 - did not consider various issues such as finances, life story, school and house moves, and general daily living; and
 - did not address Y's needs or put support in place, and failed to consider whether Ms X needed help managing Y's violent behaviour.

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- E. In 2021, the Council accepted the risk to Ms X and her family should Mr Z ever leave the secure mental health unit. But it did not agree to warn her if this happens, and did not support her to manage future risks.
 4. Ms X also says the Council delayed finding a new school for Y in 2019, despite how close Mr Z's secure unit was to Y's school.
 5. Ms X says she suffered a distress because of the Council's failure to deal with the risk to her and her family. She wants the Council to update its assessments, amend inaccurate records, discipline social workers and provide her with a payment to recognise her injustice.

What I have and have not investigated

6. I have investigated complaints A-E, above.
7. I have not investigated Ms X's complaint about Y's delayed school move. Even if the Council did cause a delay, this probably only led to Y being in his school for a maximum of three weeks longer than he needed to be. This injustice was not significant enough to justify further investigation.

The Ombudsman's role and powers

8. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
9. We provide a free service, but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide any injustice is not significant enough to justify our involvement. (*Local Government Act 1974, section 24A(6)*)
10. We consider whether there was fault in the way an organisation made its decision. If there was no fault in the decision making, we cannot question the outcome. (*Local Government Act 1974, section 34(3), as amended*)
11. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
12. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this decision with Ofsted.

How I considered this complaint

13. I considered:
 - Information from Ms X and the Council.
 - Relevant parts of the Adoption Support Services Regulations 2005.
 - The government's 2018 statutory guidance on child safeguarding, 'Working together to safeguard children'.
14. Ms X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

What I found

Complaint A: did Ms X suffer an injustice from how the Council told her about the risk from Mr Z?

What happened

15. In mid-December 2018, the Council told Ms X that Mr Z would be released from prison at the end of the month. It told her Mr Z was a potential risk to Y, and provided information about his history of violence.
16. Shortly after this the Council assessed the risk from Mr Z and decided it was low. It tried to email Ms X to tell her this. In its email it said:
 - Mr Z had not talked about the adoption recently.
 - He did not appear to know where Ms X or Y lived.
 - He did not appear to have any contact with Y's birth mother (who may have known the area in which Ms X and Y lived).
 - If released, he would likely live in a different area.
17. The Council sent this email to the wrong email address and did not realise for over a month. Ms X was not fully aware that the Council considered the risk to be low during that time.
18. At stage 2 of the Children Act complaints procedure, the investigator considered how the Council had provided information about Mr Z to Ms X. She found:
 - The Council informed Ms X about risk without offering any solutions.
 - She was left knowing Mr Z had a history of violence, had previously spoken about going to get his son and was due to be released from prison. But the Council made no suggestions how she could keep herself and Y safe.
 - Although Mr Z's risk had been considered by a multi-agency meeting beforehand, there was no real clarity about what information should be shared with Ms X and by whom. As the Council was part of that meeting, it shares the responsibility for this lack of clarity.
19. The Council accepted the investigator's findings. But neither the investigator nor the Council offered Ms X a remedy for her injustice.

My findings

20. Having reviewed the Council's records, I am satisfied that the investigator's findings were fair. And the Council thought so too.
21. It is likely Ms X suffered distress from the failings the investigator identified. She did not have access to the same information about Mr Z that the Council or other services did, which meant she needed help to make decisions about risk management. She did not receive this help when the Council told her about the risk.
22. I note that the Council did try to advise Ms X afterwards. However, it sent this advice to the wrong email address. Ms X did not receive it for over a month.
23. The Council should now recognise Ms X's injustice by apologising and making a symbolic payment in line with the Ombudsman's guidance on remedies.

Complaint B: did the Council fail to share information with Mr Z's mental health team?

What happened

24. Shortly after the Council told Ms X about the risk from Mr Z, it spoke to two different mental health teams involved in Mr Z's care. Both said it was unlikely that Mr Z would be released into the community. Professionals believed he would be detained under the Mental Health Act instead.
25. The Council shared this information with Ms X.
26. Three days before Mr Z left prison (at the end of December), the Council recorded that it appeared he would not be staying in the areas near Y's home or school.
27. Mr Z then moved to a secure unit around two miles from Y's school. Ms X did not know this at the time.
28. Mr Z's mental health team told the Council that Mr Z was on a six-month detention order. They said he had not mentioned Y or the adoption since moving into the secure unit.
29. The Council passed this information onto Ms X in mid-January. It said Mr Z would remain in secure accommodation until June 2019 (although this was later extended).
30. Ms X did not find out where Mr Z was until May 2019. She said she was anxious about how close he was to Y's school, and that he may get 'day release'. However, it appears the Police did not believe there were any plans to allow Mr Z day release.

My findings

31. The Council had no part in the decision-making which led to Mr Z's transfer to the secure unit, and it did not know where he had gone until afterwards. It knew about three other places Mr Z may have gone on his release, none of which were near Y's home or school.
32. Ms X's view is that Mr Z should have gone somewhere else, and possibly would have done had the Council shared where Y's school was beforehand. However, I have seen no evidence to support this view.
33. Mr Z was in a secure unit for at least six months, and he had no day release at the time. In short, he could not leave. So the closeness of Y's school may not have made any difference to where Mr Z went, even if the Council had mentioned it beforehand.
34. I am, however, satisfied that the Council shared information with Mr Z's mental health team and that, where necessary, it passed on information to Ms X which affected her and Y.
35. Because of this, I have found no fault in this part of Ms X's complaint.

Complaint C: did the Council withdraw adoption support without Ms X's knowledge or agreement?

The Adoption Support Services Regulations 2005

36. Under Regulation 4, councils must make counselling, advice and information available to adopted people and their parents.

What happened

37. In early January 2019, Ms X spoke to the Council's adoption support team. The Council's notes say Ms X asked it to close Y's adoption support case, and said she wanted nothing more from the team. Ms X denies this.
38. Shortly after, the Council closed its adoption support case. A manager tried to email Ms X about this. In her email she said, "*should you reconsider your decision to allow [us] to support you at any point, we are of course willing to provide adoption support services as needed*". But she sent this to the wrong email address.
39. Ms X then contacted the Council and complained that she had not heard from adoption support. She said a third party had told her the Council had closed the case.
40. The Council's manager realised her email had not reached Ms X, and re-sent it to the right email address. She apologised, said she had reported the potential data breach, and gave Ms X the details of the Council's complaints procedure.
41. Ms X told the Council that she no longer wanted any contact from adoption support. She asked that it removed her email address from its records.
42. A few weeks later, Ms X confirmed to the Council's education team (which was dealing with a separate matter) that she wanted no involvement with adoption support.
43. In May 2019, Ms X contacted the Council to make sure that adoption support was no longer involved with supporting Y. The Council confirmed this.

My findings

44. The Council had a duty to make counselling, advice and information available to Ms X and Y. It did so until January 2019.
45. Ms X is right to say the Council closed her adoption support case without her knowledge or agreement. This is because the Council's manager sent the closure email to the wrong email address.
46. This was fault by the Council. And it is likely that finding out about the case closure from a third party caused some distress to Ms X, who was going through a stressful time.
47. However, the following matters mitigated Ms X's injustice:
 - It appears, from the Council's records, that Ms X herself first asked the Council to close the case (although she denies this).
 - The Council made clear that support remained available. Although its email saying this did not reach Ms X at first, it re-sent the email only five days after closing the case.
 - Ms X made clear on several occasions afterwards that she wanted no adoption support involvement with her family. The number of times she said this suggests she felt strongly about it.
48. The Council's manager apologised for her mistake and sent all relevant information to Ms X. This was a satisfactory remedy for Ms X's injustice, and I will not recommend that the Council takes further action.

Complaint D: was the Council's assessment of June 2019 adequate?

'Working together to safeguard children' 2018

49. If a council accepts a referral about a child, but does not have reason to believe the child may be suffering significant harm, a social worker should complete an assessment. The social worker should then decide whether the council should provide services to the child or their family.

What happened

50. In April 2019 the Council received a referral from the child and adolescent mental health services (CAMHS) with concerns about Y's behaviour and its impact on Ms X. They said Ms X often had to restrain Y by hugging him. They said these incidents went on for hours. They also referred to the risk from Mr Z.
51. The Council agreed to conduct an assessment.
52. The Council's social worker asked CAMHS what support they were providing. They said, "*[the] work is mainly containment, as I don't think [Ms X] has the headspace with the current situation to engage in therapeutic work*".
53. The social worker then spoke to the Police, who said Mr Z was a high risk to Y. They said the Council should support Ms X to move out of the area.
54. The Council completed its assessment in June, and decided:
- If Mr Z left the secure unit he posed a high risk to Y. But until then, he posed no risk. Nonetheless, the Council would provide a letter to Ms X which supported a house move.
 - Ms X was able to make decisions in the best interest of Y's safety, so there was no safeguarding role for children's social care. The Police were the right agency to manage the risk posed by Mr Z in future – both in prevention and response.
 - Ms X struggled with Y's behaviour, but had received training on how to respond. She had good knowledge about behaviour management techniques. Ms X would receive support around Y's anxiety and behaviour from CAMHS, so there was no support role for children's social care.
 - Ms X had chosen to pause Y's 'short breaks' provision until she felt there was no risk to Y from Mr Z or extended family members.
55. The social worker's manager noted that, although one reason for the assessment was to decide if Ms X needed support, it turned out that her main concern was the risk from Mr Z.
56. The Council closed the case, saying other services could meet Y's needs. However, it did write a letter in support of a house move for Ms X, citing the risk from Mr Z should he leave the secure unit.

My findings

57. Social workers and their managers are responsible for deciding (following an assessment) whether a child needs protection or support. And I cannot usually question professional opinion. Only in exceptional circumstances – when a council's decision is so obviously unreasonable that it defies logic – can I do so.
58. The Council's summary of the risk from Mr Z in its assessment was consistent with the information in its other records, including that provided by the Police. I am aware that Ms X wanted a lot more detail; however, the Council provided her with

the information it had. And its conclusion – that the Police would manage future risk from Mr Z – was not unreasonable.

59. The Council noted Ms X's concerns about potential risk from Y's extended family, but I have seen nothing elsewhere in its records to suggest there was such a risk. I do not consider the Council at fault for omitting a detailed analysis of this issue from its assessment.
60. The reasons for CAMHS' referral were Y's behaviour (including its impact on Ms X) and the risk from Mr Z. And over the course of the assessment the social worker decided risk was Ms X's main priority. I do not consider the Council at fault for omitting detailed analyses of other matters such as finances or 'daily living'. I have seen no evidence that anyone identified them as concerns.
61. The social worker and her manager clearly considered Y's needs in the assessment (specifically his behavioural needs, which were the subject of the referral). The social worker felt Ms X's behaviour management techniques were suitable, and the manager felt risk was Ms X's primary concern. These conclusions were consistent with the information in the Council's other records. And they were not unreasonable.
62. As there was no obvious fault in how the Council analysed information and reached conclusions in its assessment, I cannot question whether those conclusions were right or wrong. As a result, I have found no fault in this part of Ms X's complaint.

Complaint E: did the Council fail to help Ms X to manage risk in 2021?

What happened

63. In December 2020 the Council sent a social worker to visit Ms X for an assessment. Following the visit, the social worker recorded:
- There are serious concerns about [Mr Z's] criminal violent history. There are also serious concerns if he was to find out where [Y] lives, what the consequences could possibly be. [Y's birth mother] knows [where Y lives], she cannot be trusted to keep information confidential from [Mr Z].*
64. The social worker spoke to the Police and asked if they still had a 'marker' on Ms X's address (which highlights a location where someone may be at significant risk). The Police said they had removed the marker. The social worker asked them to reinstate it.
65. A Police officer then called the social worker and said Mr Z remained in the secure unit and therefore posed no risk. The officer said there were no plans for his release, so there was no need to put a marker on Ms X's address.
66. In February 2021, the Council completed its assessment, and said:
- ... serious concerns [have] been identified around the risks posed by [Mr Z] ... These risks are being minimised by [his] currently being detained ... whenever, any plans are made to discharge [Mr Z] safeguards need to be put in place to ensure [Ms X] and especially [Y] are safeguarded ... the risks ... will be managed by police/public protection.*
67. The Council decided there was no safeguarding role for children's social care, and it closed the case.

My findings

68. It is true that, when the Council began its assessment, it recognised the potential risk from Mr Z.
69. However, during the assessment the Council sought information from the Police and decided there was no current risk, because Mr Z remained in a secure unit.
70. The Council decided there was no safeguarding role for social care and the Police would manage future protection arrangements. As with its 2019 decision, this was not unreasonable.
71. This, again, means I cannot question the Council's decision, and I have found no fault in this part of Ms X's complaint.

Agreed actions

72. Within six weeks, the Council has agreed to:
 - Apologise to Ms X for how it initially told her about the risk from Mr Z, making sure it addresses each of the failings identified by the investigator at stage 2 of the Children Act complaints procedure (and summarised above).
 - Make a payment of £400 to Ms X to recognise the distress she likely experienced from the way the Council told her about the risk from Mr Z.
 - Provide us with evidence it has completed these actions.

Final decision

73. The Council was at fault for the way it disclosed information to Ms X about the risk from Mr Z. But it was not at fault in the other ways it dealt with Ms X.

Investigator's final decision on behalf of the Ombudsman