

## REPORT COMMENCES AT PAGES.

### **Your complaint**

You complained that the Council failed to address the behavioural problems of <sup>CHILD A</sup> [REDACTED], a child whom you had been fostering since June 2007, and to provide him with the appropriate support services, which you said contributed to the subsequent breakdown of the placement and his removal from your foster care on 10 September 2010. You complained about the Council's complaints process, in particular, that the Independent Investigating Officer's (IIO) Stage 2 report was inadequate and lacked independence and that your complaint was not investigated under Stage 3 of the Council's complaints process. You said that the Council delayed in notifying you of its decision not to investigate your complaint under Stage 3.

Although certain aspects of your complaint related to the support services that were provided to <sup>CHILDA</sup> [REDACTED], as neither <sup>CHILDA</sup> [REDACTED] nor his mother has provided their consent to your complaint, I am unable to consider these as substantive issues. I will therefore consider these matters only in so far as they may have contributed to the breakdown of the placement.

### **The Ombudsman's role and his jurisdiction**

The Ombudsman is required to consider complaints impartially on the basis of the evidence gathered; he is not an advocate for the complainant. The remit of his investigation is to consider whether the service provided or treatment received was reasonable in the circumstances known at the time, not with the benefit of hindsight. To fully uphold a complaint he must also be satisfied that there has been injustice to the complainant resulting from any failing which might have been identified by the investigation.

### **My investigation**

In addition to the documents supplied in support of your complaint, I have received formal comments and documentation from the Council, including information concerning <sup>CHILD A</sup> [REDACTED] and your foster care file. I have obtained further information from the National Fostering Agency (NFA).

I have also sought advice from one of the Ombudsman's professional advisers, a registered social worker ("the Adviser") who, for a large part of her career, was involved in the recruitment and support of foster and adoptive families. The Adviser was also a foster carer for a number of years. The Adviser had all the documentation made available to her. Her name is Mrs Sheila Booth and I have taken her advice into account in reaching my conclusions. A copy of Mrs Booth's final advice was attached to the draft report. Whilst I will not refer to every document examined in this letter, I am

satisfied that nothing of significance has been overlooked in my investigation of your complaint.

**Decision**

I have considered your concerns very carefully and taken account of all the documentation and the professional advice obtained. I fully accept our Adviser's opinion in that respect. Therefore I have decided to **partly uphold** your complaint to the extent that the Council failed to ensure that [redacted] CHILD A'S transition to his new foster carers was carried out in a planned and proper way. I have also identified some inadequacies with the Stage 2 report.

**Reasons for my decision**

As you are aware, in March 2007, as part of the care proceedings, Dr Bentovim, consultant psychiatrist, carried out a full assessment of [redacted] CHILD A. In view of his background, Dr Bentovim established [redacted] CHILD A'S needs and confirmed what future assessments and interventions he required to ensure that he reached his potential. Having considered a copy of the report, I am satisfied that Dr Bentovim did not use the term "complex attachment disorder" or "personality disorder" in his assessment of [redacted] CHILD A.

The Adviser has confirmed that the Council recognised [redacted] CHILD A'S psychological needs and took all appropriate action to address these needs by providing a range of services from November 2007 onwards. The Adviser said that [redacted] CHILD A was referred to a Paediatrician so that your concerns that he may have ADHD or Asperger's Syndrome could be assessed. However, the Paediatrician did not diagnose either condition. The Adviser also said that she considered that [redacted] CHILD A'S educational difficulties received appropriate attention and that you received considerable support from the Council and the NFA throughout the placement.

Although I appreciate your views that more should have been done by the Council to address [redacted] CHILD A'S "deteriorating mental health over three years" and his "challenging behaviours" during the placement, the Adviser has said that there were no further assessments or specialist interventions that ought to have been carried out at the time. Despite receiving all appropriate services and referrals, it appears that [redacted] CHILD A continued to experience difficulties and display challenging behaviours. Whilst I accept that this was distressing and difficult for you, the fact that this behaviour continued did not mean that [redacted] CHILD A had deeper psychological and emotional needs that required specialist care. The Adviser noted that this is not unusual for a looked after child. Ultimately, the Adviser confirmed that [redacted] CHILD A required a stable caring family and that the Council supported you to do this.

Furthermore, there is no evidence to suggest that your concerns about CHILDA ██████████ were ignored or not acted upon by the Council.

Whilst I am unable to share the precise details of the support services with you, due to the sensitive nature of this information, I am satisfied that the evidence confirms that both you and CHILDA ██████████ received substantial support from the Council. Accordingly, I do not uphold this aspect of your complaint. Furthermore, there is no evidence to suggest that the placement broke down due to the Council's failure to meet CHILDA's ██████████ needs or lack of support. The Adviser has confirmed that the situation was more complex than this as there were questions about your suitability to parent CHILDA ██████████ on a long-term basis.

Turning to the Council's decision to remove CHILDA ██████████ from your care on 10 September, the Adviser has confirmed that as "corporate parent" the Council had a duty to safeguard and promote the life chances of CHILDA ██████████ as a looked after child. The evidence confirms that concerns about the placement were recorded from April/May 2010 onwards and that you were expressing concerns about CHILDA's ██████████ escalating behaviour and that he needed "treatment". At the same time, it appears that the professionals were expressing their concerns about your ability to meet CHILDA's ██████████ needs. Ultimately, the request for a new placement was made to the placement panel on 17 July, when it was felt that the situation had deteriorated "beyond repair". The Adviser said that neither the Council nor the NFA gave formal notice under the contract. However, the evidence confirms that on 23 August, you were clearly informed of the intention to move CHILDA ██████████ and that you agreed to support it. Although in most cases you would have been expected to share information with the new carers, the Adviser said that in this case it was understandable that the Council had concerns that contact would jeopardise the placement.

In conclusion, it appears that the Council had the authority and the responsibility to ensure that CHILDA's ██████████ placement met his needs and promoted his life chances. It was clear to the Council that his placement with you was not doing so and therefore it made an appropriate decision to seek another placement. The evidence confirms that you were aware that arrangements were being made to find CHILDA ██████████ an alternative placement and although it would have been helpful if you had been able to meet with the new carers, the choice of carer was ultimately the Council's responsibility. In light of its concerns, I am satisfied that it was appropriate that you did not meet the new foster carers.

The case records confirm that as of 7 September, it was Mr B's (the social worker) intention to slowly introduce CHILD A to his potential new carers and to inform him that it was a respite placement until he was satisfied that it was suitable for CHILD A. He also intended to arrange a meeting between all parties on his return from a two-week period of annual leave. However, on 9 September, funding for CHILD A's new placement was agreed. The Council then contacted the NFA to inform it of this and stated that as it could not pay for two placements at the same time, CHILD A would be moving to his new carers on Tuesday 14 September. The NFA worker questioned this and informed the team manager that the formal 28 days notice had not been served.

The following day, on Friday 10 September, the NFA were informed by the team manager that CHILD A would be picked up from school and taken to the new carers until Sunday 12 September. The NFA was requested to ask you to have a weekend bag ready which would be collected that afternoon. However, when the support workers arrived at your house to collect CHILD A's bag, the situation rapidly escalated out of control and both you and CHILD A became extremely upset. The support workers telephoned the team manager to discuss the situation. It was decided that if the weekend with the new carers went well, then CHILD A would remain at the placement. However, later that evening, the team manager contacted the NFA to inform it that CHILD A would not be returning to your care.

It appears that the social worker attempted to keep you informed about CHILD A's move to his new placement. It is understandable that he wanted to see how CHILD A related to the new carers before discussing any future plans with him. However, the Adviser has confirmed that there was insufficient time to properly plan the move or to provide you with an opportunity to say goodbye to CHILD A. Furthermore, it appears that the decision to take CHILD A to your house to collect his belongings was inappropriate, as this led to an incident which could have been avoided had CHILD A been taken straight to the placement and other arrangements been made for the collection of his weekend bag. Because of this, all parties were placed in a difficult and unnecessary situation. What is even more concerning is that financial considerations influenced the change from the original plan of a slow move to one which was to take place in a very short space of time. Therefore, I uphold this aspect of the complaint on the basis that the Council failed to have a proper transitional plan in place for the move and could have done more to prevent the situation on 10 September from occurring. This has caused you some distress and confusion due to the fast pace of the events on that day and because you were not provided with an opportunity to properly

say goodbye to <sup>CHILDA</sup> [REDACTED] after three years of foster care. I agree with the Adviser's comments that a meeting could have been arranged, once the situation had calmed down, in order to provide you with an opportunity to say goodbye to <sup>CHILDA</sup> [REDACTED]. Furthermore, the Council has confirmed that you were not provided with an adequate explanation for the move at the time and has acknowledged that it also failed to hold a disruption meeting following the removal. I can see that the Council has since apologised for this and that disruption meetings now form part of the Council's policy on unplanned placement endings. However, I intend to provide the Care and Social Services Inspectorate for Wales (CSSIW) with a copy of the report in light of the Ombudsman's concern that there is evidence to suggest that the timing of the move was influenced by financial considerations, rather than by what was in <sup>CHILDA'S</sup> [REDACTED] best interests. In coming to this conclusion, I have separated the plans that were in place to move <sup>CHILDA</sup> [REDACTED] to his new foster home on 14 September from the events on 10 September which led to him moving that day.

Having considered the Council's complaints handling, the Adviser said that your complaint was dealt with appropriately and that she did not have any substantial concerns about the IIO or Stage 2 report. Although I appreciate that the report may appear superficial, it seems that this was due to confidentiality requirements. However, the Adviser has highlighted concerns with some of the report findings. There is clear evidence to suggest that finances influenced the planned timing of the new placement and this was not referred to within the report. Furthermore, with regard to the failure to implement a transitional care plan, it is clear that the social worker had planned to introduce <sup>CHILDA</sup> [REDACTED] gradually to the new carers but that this decision changed during his period of annual leave. As a result, there was no proper transitional plan in place for <sup>CHILDA'S</sup> [REDACTED] move. Whilst I appreciate that the events that occurred on 10 September altered the situation, it had been the Council's intention to move <sup>CHILDA</sup> [REDACTED] to his new placement on Tuesday 14 September. This would not have provided him with adequate time to get to know his new carers, to properly leave your care nor to explain to him that this was his new placement and not respite. On this basis, I **partly uphold** this complaint as the report failed to adequately recognise some of your concerns about the removal of <sup>CHILDA</sup> [REDACTED] from your care.

However, I have concluded that it was appropriate for the Council to have carried out a Stage 2 investigation of your complaints and to have commissioned an independent person to complete the investigation as this is in line with the approach recommended by the Ombudsman in previous cases. I also agree that it was appropriate for the Council to allow the IIO

access to <sup>CHILD A'S</sup> ~~CHILD A'S~~ personal information to ensure a comprehensive investigation.

With regard to the Independent Panel's decision not to hear your complaint, the Adviser said that this decision was one that the Panel was entitled to take. I have therefore concluded that it was the Panel's responsibility to inform you of its decision and that the time taken to reach this decision was not something that could have been anticipated or controlled by the Council. Accordingly, I do not uphold this aspect of the complaint against the Council.

### Recommendations

I recommend that, within **20 working days** of the date of this report, the Council provides an apology for the failings that have been identified in the report including the failure to provide you with the opportunity to properly say goodbye to <sup>CHILD A</sup> ~~CHILD A~~ and the failure to provide you with an adequate and accurate explanation for his removal from your care, at the time or during the complaint process. I recommend that, within **3 months** of the date of this report, the Council reflects on the finding that finances should not take precedence over proper transitional planning, and confirms the steps that it has taken to ensure that similar failings do not occur in future cases.

### FOOTNOTE

This letter constitutes a report under s.21 of the Public Services Ombudsman (Wales) Act 2005 and is issued under the delegated authority of the Ombudsman.