

The investigation of a complaint  
by Mr Y  
against Carmarthenshire County Council

A report by the  
Public Services Ombudsman for Wales  
Case: 201304738

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## Introduction

This report is issued under section 16 of the Public Services Ombudsman (Wales) Act 2005.

In accordance with the provisions of the Act, the report has been anonymised so that, as far as possible, any details which might cause individuals to be identified have been amended or omitted. The report therefore refers to the complainant as Mr Y.

## Summary

Mr Y complained about delay by the Council in investigating his concerns about his four year old daughter's welfare, when in her mother's care. His concerns were the family's living conditions, the frequent changes of address and allegations of drug taking. He considered that some of the remarks made by a social worker regarding drug taking and parenting were "inappropriate."

The Ombudsman found that the Council failed to carry out a home visit and missed a number of opportunities to investigate Mr Y's concerns about the family's circumstances, which included a number of risk factors. Instead it relied on information from the school, where his daughter was a new pupil. It also failed to investigate properly a referral made from an English County Council's Children's Social Services Team where the concerns were similar to those raised by Mr Y and where an "urgent welfare check" was requested. It was several months before the home was visited and this was only after a referral from the police following a drugs raid. An assessment of the child's needs was not carried out before the child left the Council's area to return to Mr Y's care.

The Ombudsman found that a comment relating to drug taking and parenting made by a social worker was not appropriate given the lack of investigation and assessment of Mr Y's daughter's circumstances. He also highlighted very poor complaint handling and found that Council staff were defensive and lacked objectivity in dealing with Mr Y's representations. The Council failed to deal with the complaint under the Children's Complaints procedures which it should have done, and missed an opportunity to investigate the service failings in respect of Mr Y's daughter.

The Council accepted the Ombudsman's recommendations to:

- a) apologise to Mr Y and make a payment of £1,000 for the uncertainty caused by the lack of assessment together with his "time and trouble" in making the complaint,
- b) arrange an audit (to be carried out independently of the Council) of referrals to its Children's Services Teams to review the appropriateness and consistency of its responses.

- c) provide training on the Framework for the Assessment of Children in Need and their Families for all staff who deal with referrals and assessments.
- d) review its arrangements for dealing with social services complaints, to ensure its compliance with recent legislation and guidance
- e) provide training on complaint handling for those staff dealing with complaints regarding the provision of services for children.

8 January 2015

## The complaint

1. Mr Y complained about delay by Carmarthenshire County Council (“the Council”) in investigating his concerns about his four year old daughter’s welfare, when she was in her mother’s care. His concerns were the family’s living conditions, the frequent changes of address and allegations of drug taking. He considered that some of the remarks made by a social worker regarding drug taking and parenting were “inappropriate.” He was also unhappy with the Council’s response to his subsequent complaints and its failure to address the issues.

## Investigation

2. My investigator obtained comments and copies of relevant documents from the Council and considered those in conjunction with the evidence provided by Mr Y. She took advice from one of my Professional Advisers, Cheryl Beach, a registered social worker, previously employed as a senior officer in Children’s Services in a local authority and a Care and Social Services Inspectorate Wales Inspector. I have not included every detail investigated in this report but I am satisfied that nothing of significance has been over looked.

3. Both Mr Y and the Council were given the opportunity to see and comment on a draft of this report before the final version was issued.

## Relevant legislation

4. Councils have a general duty to safeguard and promote the welfare of children in their area who are in need. A child is in need if she/he is unlikely to achieve or maintain (or have the opportunity to achieve or maintain) a reasonable standard of health or development without the provision of services.<sup>1</sup> Where it appears to a Council that a child within their area is in need, it may assess his/her needs.<sup>2</sup> Timescales for assessment are laid down in the Framework for the Assessment of Children in Need and their Families (“the Framework”). The decision about what response should be made to a referral should be made within one working day and can be that no action is required. A decision to gather more information constitutes an “Initial

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<sup>1</sup> S.17 Children Act 1989

<sup>2</sup> Schedule 2 Children Act 1989

Assessment" ("IA") and that assessment is deemed to have commenced at the point of referral. An IA should be undertaken within a maximum of seven working days. A child-centred approach is advocated by the Framework and as part of any IA the child should be seen. If a child is determined to be in need, a plan should be put together to address identified needs, usually in collaboration with education and health services.

5. There is a duty to investigate<sup>3</sup> if it appears to the Council that a child may be at risk of significant harm. Relevant child protection guidance and procedures then apply.<sup>4</sup>

6. Local authorities have a duty<sup>5</sup> to maintain a separate statutory complaints procedure for complaints that relate to children in need of services it can provide.

7. It is a three stage procedure and if after each stage complainants remain dissatisfied, they can take their complaints to the next stage. Stage 1 is to provide information and to attempt resolution; stage 2<sup>6</sup> is a formal investigation monitored by an independent person and stage 3 provides a review of the complaint. Complainants can ask for their representations to be formally investigated (stage 2) at any time within 30 working days of the date on which their representations were made.

## The background events

### Background

8. On 2 February 2012 the Council received an e-mail referral marked "urgent" from Warwickshire County Council's Children's Services Team. The issues raised were mental health, drug taking and domestic abuse. The e-mail said that Mr Y's former partner had moved to the Council's area in Wales and his daughter was attending school there. A home visit had been carried out by Warwickshire Children's Services on 12 January, when the family lived in its area, but no IA had been completed. The visit followed a referral from Gloucestershire Children's Services advising that Worcestershire

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<sup>3</sup> S.47 Children Act 1989

<sup>4</sup> 'Safeguarding Children: working together under the Children Act 2004' and the All Wales Child Protection Procedures 2008

<sup>5</sup> Representations (Children) Wales Procedures 2005

<sup>6</sup> S.16 Representations (Children) Wales Procedures 2005

Children's Services had received a referral about Mr Y's daughter's welfare from a mental health worker. There were concerns that Mr Y's daughter was in the care of her mother and new partner, when under the influence of drugs. Warwickshire also reported that Mr Y had contacted its Children's Services Team and the police because of the family's disappearance. There were concerns about the number of times the family had moved between the border counties and Warwickshire's recommendation was for "an urgent welfare check."

9. The following day the Council made telephone enquiries to the local school where Mr Y's daughter had been a pupil for about a week. The school had no concerns about Mr Y's daughter's appearance or demeanour and agreed to contact the Council if any arose. The Council wrote a follow-up letter to the Head teacher asking him to inform Children's Services of any concerns. The Council also wrote to Mr Y's former partner giving details of Women's Aid and a nearby GP surgery. The information was recorded on a "Contact Information form" and was authorised by the Assistant Team Manager.

10. Mr Y rang the Council on 28 February 2012 regarding his daughter's living conditions and the number of times the family had moved. He wanted assurances that his daughter's home was suitable, because he said that she had previously lived in a caravan and a partly renovated house. He said that he had visited the school a day earlier when he saw both his daughter and the Head teacher, who had no concerns about her welfare. The Council rang the school, where staff confirmed that they had no concerns. A member of staff reported knowing the family's rented home and said that it was in an acceptable condition. The Council telephoned Mr Y with this information. Reference was made to the mother not having attended the school when asked to by the Head teacher. The information was again recorded on a Contact Form and action taken was described as "Information and advice."

11. On 2 March 2012 the social worker who had dealt with the case in Warwickshire telephoned the Council on her return from sick leave. She said she had not completed the IA because of sickness. She said that the focus of her work was domestic violence between the mother and her new partner. She had no concerns about the family's living conditions or parenting issues when in Warwickshire.



12. On 6 March 2012 the police e-mailed the Council about the mother's concerns about her address being released to Mr Y. A history of domestic violence was reported between Mr Y and his former partner going back to 2005.

13. In March there was an exchange of e-mails between Mr Y and the Council about the Council's failure to act. In an e-mail to the social worker dated 12 March 2012 he repeated his concerns about drug taking and the family's frequent moves. He said that a home visit had not been carried out and an assessment had been made "remotely." He sent a copy of this e-mail to the Team Manager two days later. In an e-mail response on 16 March 2012 the Team Manager said that she appreciated Mr Y's position as an "absent parent" and referred him to his legal adviser and the Children and Family Court Advisory and Support Service (CAFCASS). She said that the Council would make enquiries about his daughter's welfare with other agencies and report back but his was the extent of the team's involvement. Mr Y was insistent that the Council was refusing to act in his child's best interest. In a later e-mail he took issue with being labelled an "absent parent" and said this was inappropriate. The Team Manager responded saying that Mr Y had raised potentially criminal matters which should be reported to the police because social services departments had no powers to investigate such allegations. Mr Y repeated his concerns about drug taking and the family's frequent moves.

14. On 10 August 2012 the police made a referral to the Council following a drugs raid on the family's home when a number of cannabis plants were seized. Both the mother and her new partner were reported as saying they had mental health problems. On 14 August 2012 the case was allocated to a social worker. (Mr Y's daughter left Carmarthenshire the next day). Social workers visited the home on 23 August 2012, when the mother advised that her daughter was now in Mr Y's care because of the mother's inability to care for her. The case was closed by the Council on 28 August.

## **Complaint handling**

15. Mr Y complained to the Council on 4 September 2012. He was unhappy with the comments made by the Team Manager which he said were unprofessional and condoned drug use. He reported her saying that "just because parents are drug addicts doesn't make them bad parents." In Mr Y's view she had not acted in the best interests of his daughter. She had also

failed to advise Mr Y to set up an Emergency Residential Order for his daughter. He said that his daughter's case had not been investigated and the department had "done the bare minimum and acted like nothing more than a call centre." He said that his complaint was "formal" and he did not want it kept "in-house."

16. The Council's Children's Services Complaints Link Manager responded on 13 September 2012, refusing to investigate Mr Y's complaint at stage 1 on the basis that there were no grounds for complaint. The Complaints Link Manager said that the Team Manager acknowledged making the statement about drug addiction and parenting, which was a correct and non judgemental statement. Also an IA had been started in response to concerns raised and was to be completed by CAFCASS because Mr Y's daughter had returned to his care. He also referred to "vague statements and opinions" which unless clarified would not be eligible for consideration under the Social Care Complaints Procedure. The Council has told me that because Mr Y's complaint was about the conduct of a Council officer, it was dealt with under the Council's Complaints Procedures and handled by the Complaints Link Manager for the service within which the officer was based.

17. After a delay on Mr Y's part because of major surgery, Mr Y wrote again on 5 June 2013. He asked for the complaint to be dealt with at "stage 2." He was advised on 18 July 2013 that his complaint would be investigated under stage 1 of the Council's Complaints Procedure. A more detailed response with the outcome of the investigation was sent to Mr Y on 15 August 2013. There was no evidence of any investigation carried out. The reply explained the background and said that the school had been contacted but no child protection concerns had been identified and a visit to the home was not considered justified. However it identified some delay in completing the IA started on 10 August 2012, which had taken longer than seven days. It also identified a delay in responding to Mr Y's initial complaint of 5 June 2013 but said there was no evidence to warrant taking action in relation to the Team Manager. Mr Y responded on 18 August and asked again to proceed to stage 2. Mr Y said that the Council had failed to act for several months on information which he had provided and that his daughter because of neglect, had had nine teeth removed. The Council refused to progress the complaint to the next stage on the basis that Mr Y's complaint had been dealt with objectively and further investigation would not alter the outcome.

## Mr Y's evidence

18. Mr Y said that the Council refused to respond to his concerns about his daughter's care for several months. The Team Manager's comments about drug taking and its effect on parenting skills were inappropriate. The Council refused his request to visit to investigate the family's living conditions and instead relied on information from the school. Furthermore the Council did not address its failure to act when dealing with his complaint. Overall, the Council had not acted in his daughter's interests and she had suffered poor dental care, resulting in the loss of a number of her teeth.

## Carmarthenshire County Council's evidence

19. In its response to me the Council said that appropriate enquiries were made in reply to Mr Y's concerns about his daughter's living arrangements and welfare. It said that attempts were made to obtain the completed IA from Warwickshire and the mother and school had been contacted, when no child protection concerns were identified. When responding to Mr Y the Council said that in the circumstances a home visit was not considered justified.

## Professional advice

20. My Adviser has said that the information provided by Warwickshire Social Services to the Council in early February 2012 included not just one but several indicators that Mr Y's daughter might be a child in need, whose welfare needed promoting or safeguarding. There were mental health factors, concerns about drug use when Mr Y's daughter was present and possible domestic violence. Warwickshire Social Services "heavily" recommended a "welfare check." The family had moved several times between the English border counties. They left Warwickshire suddenly, without leaving a forwarding address. Police had concerns that they were trying to get lost in the system. The Council did, in effect, begin an IA, although it did not recognise this and did not follow enquiries through by completing the IA and gathering information in accordance with the Framework. No information about the family's history, previous relationships, other significant family members or friends was obtained. No evaluation was made of Mr Y's daughter's needs and of the new family's capacity to meet them. No-one from the Council's Children's Services Team ever saw or spoke to Mr Y's daughter.

21. It was inappropriate, my Adviser has said, to rely solely on information provided by the school. Whilst the school might properly contribute to an IA, its knowledge at the time of referral was very limited because Mr Y's daughter had only been a pupil there for just over a week. The school was unaware of the background of concerns, had no information about the family and had not visited the home. In any case a school's only formal assessment role is in respect of educational needs. Neither the letter to the Head teacher nor the letter to the mother mentioned the previous concern about drug misuse. This suggests that the Council did not properly consider its relevance.

22. My Adviser has said that when Mr Y called the Council on 28 February 2012, the team had closed the case. His concerns were about lack of contact and his daughter's living conditions. He was not recorded as having raised any other concerns. She has said that the Council's involvement would be restricted to unmet need and safeguarding issues. In isolation, therefore, the Council's response to this referral (making a check with the school) might seem reasonable. However, in her view, this new referral should have been considered together with the information in the previous referral from Warwickshire, only a few weeks previously. The Council had an opportunity to gather further background information from Mr Y and to review the decision not to undertake/complete an IA. She has also emphasised that if a timely IA had been completed in early February, the Council would have been able to reassure Mr Y (without breaching confidentiality) either that his daughter's needs were being adequately met or that it was taking action to address any concerns.

23. My Adviser has said there was no record of an immediate response to Mr Y's request for a "site" visit when he contacted the Council again on 12 March 2012. In responding to his e-mails of 16 March 2012 (including further requests for a visit and saying that the new partner was a drug dealer) the Team Manager confined her comments to the issue of parental contact which is not a matter which falls within the remit of the Council. The Team Manager did not address the other issues which Mr Y raised or consider whether these suggested that Mr Y's daughter's welfare required promoting or safeguarding by the intervention of the Council. Again my Adviser has said that Mr Y's allegations should have been considered in the context of the previous information from Warwickshire and should have triggered an IA.

The information from the police about earlier domestic violence should also have supported this at that time because of the recognised harmful effect on children who have witnessed domestic violence.

24. My Adviser has also said that the referral from the police was received on 10 August 2012 and the letter of appointment was not sent to the mother until 15 August for a visit on 23 August, which was well outside the statutory maximum time limit of seven working days to complete an IA. In her view, a prompt letter could have resulted in a home visit being concluded before Mr Y's daughter left the Council's area. She has highlighted that the mother's acknowledgement of her inability to cope with caring for her child, in itself, confirmed that Mr Y's daughter was a "child in need."

25. In respect of comments made in the e-mail exchange with the Team Manager, my Adviser has said that Mr Y's circumstances could have been more appropriately expressed as e.g. a "non-resident" parent but in her view the use of the term "absent father" was not discriminatory or derogatory.

26. My Adviser was of the view however that the comment about drug use and parenting, apparently acknowledged by the Team Manager, was ill judged and inappropriate in the context in which it was made. My Adviser has said that some drug-using parents do look after their children adequately but many do not. She said that "There is a considerable body of research that shows children who grow up in families where there is domestic violence and parental drug or alcohol misuse are at increased risk of significant harm."<sup>7</sup> In the absence of a home visit, the comment was, therefore, simplistic, unhelpful and not related to any assessment of whether Mr Y's daughter was being cared for adequately by her mother and her new partner. The Council continued to maintain, in the exchange of e-mails on 19 March, that it had no role in investigating Mr Y's concerns, which again was not an appropriate response.

27. In my Adviser's view it was difficult to assess the impact of the Council's limited actions on Mr Y's daughter. An earlier assessment or "child in need" plan could have taken into account any effect on her health or welfare and may have resulted in a multi-agency plan and the provision of services. This might have prevented the break-down of the placement with

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<sup>7</sup> Child Protection, Domestic Violence and Parental Substance Misuse – H Cleaver, D Nicholson, S Tarr and D Cleaver 2007

the mother or resulted in a more orderly and planned transfer of care to Mr Y.

28. With regard to Mr Y's comment that he was not advised appropriately about court orders, my Adviser has said that social workers, although familiar with the workings of the family court through experience, are not qualified and registered legal practitioners. In her view any advice about Mr Y's next step should have been sought from his legal adviser following his daughter's return to live with him.

### **Analysis and conclusions**

29. The Council has a duty to safeguard and to provide services to "children in need" in its area. However there was an abject failure to appreciate the significance of, or investigate properly, the referral from Warwickshire Children's Services, requesting "an urgent welfare check." This referral also pulled together concerns from another two Councils in England where the family had lived for short periods and then moved. I agree with my Adviser that there were a number of indicators that Mr Y's daughter might have been "at risk." The issues raised, possible drug abuse, domestic violence and mental health issues, should have alerted the Council to the need for a home visit immediately. The family's frequent moves, another risk factor, was apparently not recognised as such by the Council. I agree with my Adviser that an IA should have been completed, in accordance with the Framework, immediately following the referral in February 2012. I note my Adviser's comment that in response an IA was started in practice, but there was an over reliance on second hand information from the school where the child had only recently attended and the enquiries were not followed through by visiting the home and seeing/speaking to Mr Y's daughter. Instead the file was closed and the Council missed a second opportunity to put this right following Mr Y expressing his concerns a few weeks later. It continued to ignore Mr Y's representations throughout March and told him wrongly that the matters being raised were not the Council's concern.

30. I agree with my Adviser that the comment relating to drug taking and parenting, apparently acknowledged by the Team Manager, was not appropriate given the lack of investigation and assessment of Mr Y's daughter's circumstances. Instead because of the Council's delay, it was several months before the home was visited and this was only after a referral

from the police following a drugs raid at the family's home. Even then the Council exceeded the timescale of seven working days to complete the Initial Assessment following the police referral. By this time Mr Y's daughter had left the Council's area without any assessment of her needs having been carried out.

31. It is of concern that in its response to this office the Council considered its enquiries to be appropriate and when dealing with Mr Y's complaint said that a home visit was not considered justified. It is of further concern that it has maintained the view that there were no child protection concerns without seeing Mr Y's daughter and her home surroundings.

32. However, I accept my Adviser's view on the other aspect of Mr Y's complaint that any advice about the most suitable court action/procedure would have been best sought from Mr Y's legal adviser and I am not critical of the Council about this.

33. The failings identified about the lack of assessment amount to maladministration/service failure and I **uphold** that part of Mr Y's complaint. However, because an assessment was never carried out it is difficult to identify with any certainty how Mr Y's daughter has been affected. There is remaining uncertainty about whether or not she would have received a service from the Council or the consequences of any assessment for her care. I note Mr Y's comments about her poor dental health and the need to extract nine teeth but in the absence of any assessment, taking into account any effects on her health, I am unable to say with any certainty that this was because of the Council's failure to act.

34. I am also concerned that the Council has failed to acknowledge what should have been obvious shortcomings. Complaint handling is a process through which its service users can express their concerns and feel they have been listened to and taken seriously. It is an integral part of the Council's services and a way of reviewing its action and learning lessons. It is also a statutory procedure which the Council is required to implement and it should ensure that the process is dealt with properly. However, in this case the Council's poor service performance was compounded by inadequate and ineffective complaint handling and the Council missed an opportunity to put things right. Instead the evidence points to Council staff being defensive and lacking in objectivity in dealing with Mr Y's representations. The first

response from the Council dated 3 September 2012, apparently under the Council's Complaints Procedure, said there were no grounds for complaint and refused to carry out an investigation at step 1. Although this reply referred to the IA started in August it did not account for the earlier delay from February 2012. It also made no attempt to clarify with Mr Y further areas of complaint, which it said were vague. The Council ignored Mr Y's request to deal with his complaint formally at stage 2 and his complaint was considered under stage 1 of the Council's Complaints Procedure. Its reasons given to me for not dealing with Mr Y's complaint under the Children's Complaint Procedures do not hold water. The information in the body of this report clearly shows that his complaint was about the service failings in respect of his daughter and not just the comments/conduct of an officer. This was acknowledged as an aspect of the complaint when the Council replied on 15 August 2013 under stage 1 but there was no evidence of any real investigation having been carried out and it was just accepted that a home visit had not been justified. The overall impression is that staff were either blocking Mr Y's complaint or did not understand the objectives and requirements of the process.

35. It is clear in my view that Mr Y's complaint should have been dealt with as a formal complaint under the Children's Complaint Procedures. This would have meant overview by an independent person, working independently of the department, with powers to scrutinise any investigation. I do not accept the Council's reasoning for doing otherwise. Instead the Council therefore denied Mr Y an investigation which was more likely to have been full and fair. The shortcomings in handling his complaint were inexcusable and fundamental and must have added to his frustration. Mr Y has not had the satisfaction of knowing that his complaints have been dealt with properly. I therefore also **uphold** the complaint in respect of complaint handling.

## Recommendations

36. To remedy the injustice identified and to avoid a recurrence the Council should:

- a) apologise to Mr Y for the shortcomings identified and make a payment of £1,000 for the uncertainty caused by the lack of assessment together with his "time and trouble" in making the complaint,




- b) arrange an audit of referrals to its Children's Services Teams to review the appropriateness and consistency of its responses. The audit should be conducted by an experienced children's social worker who is independent of the Council. The Council should report to the Care and Social Services Inspectorate Wales the results of the audit and any action it is taking in response,
- c) provide training on the Framework for the Assessment of Children in Need and their Families for all staff who deal with referrals and assessments. The training should stress the importance of considering historical information about a child and family, not just making incident-based judgements and also the importance of the timescales specified in the Framework,
- d) review its arrangements for dealing with social services complaints, to ensure its compliance with The Social Services Complaints Procedure (Wales) Regulations 2014, The Representations Procedures (Wales) Regulations 2014 and the accompanying guidance,
- e) provide training on complaint handling for those staff dealing with complaints regarding the provision of services for children, so that they are fully aware of their obligations under the regulations and guidance.

37. The Council has responded positively to my report and has accepted my findings. It says that it has already made changes to its systems since the relevant timeline in this report, following an independent review, which it had commissioned. I am pleased to note that the Council has nevertheless agreed to implement the above recommendations.

Nick Bennett  
Ombudsman

8 January 2015



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