

## Scottish Parliament Region: Central Scotland

### Case 200600504: South Lanarkshire Council

#### Summary of Investigation

##### **Category**

Local government: care in the community/siting of social work facilities

##### **Overview**

The complainant, Mrs C, raised a number of concerns about the way in which South Lanarkshire Council (the Council) handled a complaint she made involving her elderly mother (Mrs A).

##### **Specific complains and conclusions**

The complaints against the Council which have been investigated are that:

- (a) the Review Sub-Committee was not fully aware of the terms of her complaint and hence could not make a proper decision (*not upheld*);
- (b) the outcome of the Hearing was censored (*not upheld*); and
- (c) the outcome of the Hearing was unclear (*upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that, in order to avoid dubiety, when the Council report their findings with regard to Review Sub-Committee hearings, care is taken to ensure that each identified head of complaint is specifically addressed and responded to.

The Council have accepted the recommendation and will act on it accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 17 April 2007, the Ombudsman accepted a formal complaint from Mrs C. Mrs C's mother (Mrs A) died on 25 November 2006 but, prior to her death, Mrs A had lived with Mrs C's brother and his family. Relations were not good between the two families and Mrs C raised a number of concerns with South Lanarkshire Council (the Council) about the way in which social workers dealt with her concerns about her mother's well being and living conditions. Her complaints progressed through the Council's complaints procedures and culminated in a Review Sub-Committee Hearing (the Hearing) on 16 November 2006. Mrs C was unhappy with the way in which the Hearing dealt with the matter. In particular, she said that the Review Sub-Committee was not made fully aware of the terms of her complaint in advance of their consideration and hence they were unable to make a proper decision; that the outcome of the Hearing was censored; and that their final report was unclear.

2. The complaints from Mrs C which I have investigated are that:

- (a) the Review Sub-Committee was not fully aware of the terms of her complaint and hence could not make a proper decision;
- (b) the outcome of the Hearing was censored; and
- (c) the outcome of the Hearing was unclear.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mrs C, her daughter and the Council. I have had sight of all the papers presented to the Review Sub-Committee in advance of the Hearing on 16 November 2006 (including all the documentation submitted by Mrs C); the minutes of the meeting; the Hearing's findings, signed by the Review Sub-Committee's Chair on 1 December 2006; and the associated Report presented to the Social Work Resources Committee for decision on 7 February 2007. On 17 May 2007, I made a detailed formal enquiry of the Council and the Council's Head of Administration replied on 28 June 2007.

4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mrs C and the Council were given an opportunity to comment on a draft of this report.

**(a) The Review Sub-Committee was not fully aware of the terms of her complaint and hence could not make a proper decision**

5. Mrs C said that, when the Review Sub-Committee came to consider her complaint at the Hearing on 16 November 2006, they were not fully aware of the terms of her complaint. She said that the information she sent to be presented to them had been re-ordered and re-numbered and did not flow as it should. She argued that the Review Sub-Committee was, therefore, prevented from making a proper decision.

6. From the information available to me (see paragraph 3), I am aware that on 11 October 2006 the Council responded by letter to Mrs C's request that her complaint be dealt with by a Social Work Complaints Review Committee and asked that she confirm the points of complaint that she wished them to consider. Mrs C replied the next day asking questions about the Review Sub-Committee and, at the same time, confirming that she would 'provide a timeline detailing the points of our complaint with the relevant written information'. In response to this, the Council wrote again, on 31 October 2006, providing the information Mrs C sought and confirming that any written submissions required to be with them by 8 November 2006 at the latest as the notice calling the meeting, together with papers from both sides, required to be issued on 9 November 2006. Mrs C sent the information she promised (see above) on 6 November 2006.

7. In accordance with the date they had given Mrs C, the Council issued all the papers to those involved in the Hearing on 9 November 2006. I have had sight of these papers (see paragraph 3) and they included: conduct guidelines; the complainant's submission letter of 6 November 2006, together with her timeline and questions for the Review Sub-Committee; copies of all correspondence between the complainant and the Council; notes of a meeting dated 23 June 2006; a report concerning an Adult with Incapacity Case Conference held on 12 May 2006; the Council's fact finding investigation report on allegations made by Mrs C; Mrs C's rebuttal; a copy of Mrs C's formal letter of complaint; a report prepared for the Hearing compiled by the Head of Older People's Service; a timeline prepared by the Council; and a listing of the times of contact made with Mrs C's mother (although Mrs C advised me that when she said this, it implied no expectation of a positive outcome).

8. In their comments to me dated 28 June 2007, the Council said that, despite their letter of 11 October 2006 (see paragraph 6) asking Mrs C to

confirm the points of her complaint that she wished the Review Sub-Committee to consider, other than providing her timeline and questions, she did not do so. They said that Mrs C also presented additional information to the members of the Review Sub-Committee on the day of the Hearing but the Chair indicated that it could not be considered as members had not had sight of it in advance of the Hearing.

*(a) Conclusion*

9. I have concluded from this that the Review Sub-Committee were fully apprised of the circumstances and terms of Mrs C's complaint, notwithstanding her disquiet that the documents she sent had been renumbered and reordered and while she may have been unhappy at the Chair's decision not to allow documents presented late to be considered. This was a discretionary decision the Chair was entitled to make and reasons for this decision were given. The Council have also confirmed that at the Hearing, Mrs C and her daughter (who attended with her) were asked to clarify the points of the complaint that she wished to be considered and these were detailed in the Hearing's ultimate findings. At the end of the Hearing they said that Mrs C was asked if she was happy that she had been afforded every opportunity to present her case in a fair manner and if she was happy that she had been given a fair hearing. The Council maintained that Mrs C responded that she was happy with the way her complaint had been handled in relation to the Review Sub-Committee.

10. Given the evidence before me, as I am satisfied that the Review Sub-Committee were fully aware of the terms of Mrs C's complaint, I cannot uphold her complaint. While she may have been unhappy with the outcome, the sense of injustice she feels cannot be directly related to the procedure undertaken at the Hearing. I am satisfied that the Hearing was properly conducted and no faulty procedures were applied and that Mrs C was afforded the opportunity to fully state her case. Indeed, she appears to have agreed with this when asked.

**(b) The outcome of the Hearing was censored**

11. Mrs C complained that the outcome of the Hearing was censored, in that the minute taken at the Review Sub-Committee meeting had no information recorded despite, she said, three people taking minutes. I have had sight of the relevant minute which briefly outlined the names of those attending the hearing; the fact that the press and public had been excluded; it also referred to the submission made by Mrs C on 6 November 2006 and the Report by the Executive Director. The recommendation that the complaint be upheld in part

and that the Social Work Resources Committee endorse the recommendations endorsed in the Hearing's report were also included in the minute. (This minute accompanied the detailed report of the Hearing.)

12. In addition, the Council clarified that once the Hearing's report was drafted it was sent to members of the Review Sub-Committee for comment and on 1 December 2006 it was sent to Mrs C and Social Work Resources for their observations, prior to being submitted to the Social Work Resources Committee for approval. On 7 February 2007, the report from the Hearing and the comments received on it (including those from Mrs C) were passed to the Social Work Resources Committee for consideration. The Social Work Resources Committee approved the minutes of the Review Sub-Committee and agreed the report's conclusions and recommendations. I have been advised that the notes taken at the Hearing, in accordance with usual practice, were destroyed once the report from the Hearing had been finalised and approved by the Social Work Resources Committee.

*(b) Conclusion*

13. Mrs C believed that the brevity of the minute limited the Hearing's findings in some way. I do not agree. Minutes are not intended as a verbatim report and, in this case, the minute was accompanying a detailed report of a Hearing; both of which were subsequently approved by the Social Work Resources Committee, after Mrs C had had an opportunity to comment. In all the circumstances, I do not uphold the complaint.

**(c) The outcome of the Hearing was unclear**

14. Mrs C said that it was not made clear in the final report what was upheld and what was not. I have seen the Hearing's findings and in the report six complaints are outlined which the Council said were derived from the information Mrs C provided to the Hearing and the statement she made. The headings of complaint were as follows:

'(1) Social Work Resources carried out an assessment of [Mrs A] in relation to her capacity. The assessment should not have been about her capacity but about her wellbeing and quality of life.

(2) They had concerns in relation to Social Work Resources practice which had at times left [Mrs A] distressed.

(3) [Mrs C]'s brother continues to sabotage her and [Mrs C's daughter]'s contact with [Mrs A] and Social Work Resources don't do anything about this.

(4) [Mrs A] should be able to have safe contact with who she likes at anytime without conflict.

(5) [Mrs C] and [her daughter] have felt inadequate as a result of Social Work Resources not responding to them which led to a breakdown in communication.

(6) [Mrs C] and [her daughter] have never received a response to their complaint made in February 2006 and feel that they cannot trust Social Work Resources.'

15. In association with these the Hearing established that:

'(1) [Mrs C] and [her daughter] had concerns regarding the quality and promptness of communication with Social Work Resources early in 2006. The deteriorating situation could have been much improved if Social Work Resources had taken steps at an early stage to ensure that communication with [Mrs C] and [her daughter] had been prompt.

(2) As a result of communications not being responded to promptly [Mrs C] and [her daughter] were left feeling helpless and a sense of mistrust and lack of confidence developed.

(3) The whole situation regarding [Mrs A] was difficult for Social Work Resources to manage due to conflict between [Mrs C's brother] and [Mrs C]. This posed a particular ongoing challenge for Social Work Resources to ensure that they were even handed in their dealings with [Mrs C's brother] and his family and [Mrs C] and her family.

(4) [Mrs A] is now a permanent resident at [X House] and [Mrs C] and [her daughter] are very satisfied with this arrangement. Future visits by [Mrs C] and [her daughter] should be properly managed by Social Work Resources to ensure that those visits were satisfying and free of any interference particularly as they would be travelling from [the south of England].

The Sub-Committee concluded that delays in communicating with [Mrs C] and [her daughter] had led to frustrations. However, we accept that the family dynamics made a difficult situation worse for the Social Work Resources staff involved with [Mrs A].'

(c) *Conclusion*

16. It was clear from the above (see paragraphs 14 and 15) that the Hearing concluded that there had been communication problems which exacerbated what was a difficult situation. However, the complaints from Mrs C which the

Council had identified (paragraph 14) were not individually addressed in the Hearing's report, nor was it recorded whether individual complaints had been upheld or not. Accordingly, I have to agree with Mrs C and conclude that the findings with regard to the complaint were unclear. I uphold the complaint.

*(c) Recommendation*

17. The Ombudsman recommends that, in order to avoid dubiety, when the Council report their findings with regard to Review Sub-Committee hearings, care is taken to ensure that each identified head of complaint is specifically addressed and responded to.

18. The Council have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Council notify her when the recommendation has been implemented.

24 October 2007

**Explanation of abbreviations used**

Mrs C	The complainant
Mrs A	The complainant's mother
The Council	South Lanarkshire Council
The Hearing	The Social Work (Complaints) Sub-Committee Hearing