

Scottish Parliament Region: South of Scotland

Case 200601182: Dumfries and Galloway Council

Summary of Investigation

Category

Local government: Social Work; complaints handling

Overview

The complainant (Mr C) raised concerns about the actions of Dumfries and Galloway Council (the Council) in preparing reports subsequent to an incident reported to the police by his then wife, and how they addressed his complaints about those actions.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) did not deal appropriately with their enquiries involving Mr C (*partially upheld to the extent that Mr C was not given an earlier opportunity to assess the factual accuracy of the Social Background Report*); and
- (b) did not deal appropriately with Mr C's complaint (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. The complainant (Mr C) is a parent and is also an employee of Dumfries and Galloway Council (the Council). Following an incident in his home to which the police were called by his then wife (Mrs C), a domestic violence report was completed by the police. They referred the matter to the Council's Social Work Department (the Department) and to a Reporter (Reporter 1) at the Scottish Children's Reporters Administration (SCRA) who also called for a report from the Department. The latter report was submitted to Reporter 1 on 1 July 2005. Mr C was subsequently given access to the report. The complaint submitted to the Ombudsman concerned Mr C's grievances about the preparation and content of the report and the handling of his complaint.

2. The complaints from Mr C which I have investigated are that the Council:
- (a) did not deal appropriately with their enquiries involving Mr C; and
 - (b) did not deal appropriately with Mr C's complaint.

Investigation

3. I examined the information provided by Mr C and information supplied by the Council as a result of my enquiries. I requested, and was given, access to the Council's files in order to fully understand the background to the Department's involvement. During the course of the investigation I advised Mr C that it was not my role to be a social work expert or to question the professional judgement and competence of social work staff, but to focus on procedural matters. I have not included in this report every detail investigated, particularly because of the sensitive and confidential nature of the issues, but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council did not deal appropriately with their enquiries involving Mr C; and (b) The Council did not deal appropriate with Mr C's complaint

4. Mr C and Mrs C have three children who were, in early 2005, all under ten years of age. Early in the morning of 9 January 2005 Mrs C reported an incident in the marital home to the local police after Mr C left. The police subsequently charged Mr C with Breach of the Peace and driving while under the influence of alcohol. Mr C appeared at the local Sheriff Court and was remanded on bail with a condition that he did not return to the marital home.

The police submitted a domestic violence report to the Department on 13 January 2005 and alerted Reporter 1.

5. On 20 January 2005 a Duty Social Worker (not named in the letter, simply referred to as 'Duty Social Worker') at the Council wrote to Mrs C and she was interviewed at the local Department office on 8 February 2005. On the same day, Reporter 1 wrote to the Area Team Manager (Assessment and Referral) (Officer 1) seeking an initial enquiry report (IER) in respect of the three children on grounds of: '52(2)(c) - Lack of Parental Care-Domestic Violence'.

6. On 23 February 2005 a Duty Social Worker (not named, see paragraph 5) wrote to Mrs C to arrange for an interview with her, in her home, with the children present. That interview took place on the afternoon of Wednesday 2 March 2005. Mrs C gave her consent to the children being interviewed at a later date without her present.

7. On 3 March 2005 a Duty Social Worker (not named, see paragraph 5) wrote to Mr C inviting him to an interview in respect of the domestic violence report received from the police. The interview was provisionally arranged for Tuesday 8 March 2005, but took place on 16 March 2005 at the Council's local office (see paragraph 11). The letter made no mention of child protection issues.

8. Mr and Mrs C's children were interviewed on Monday 7 March 2005. As a result of what was said, a Social Worker (Officer 2) contacted Reporter 1. On the same day Reporter 1 wrote to Officer 2 stating that at Officer 2's request, Reporter 1 had cancelled the IER request and was now requesting an Initial Assessment Report (IAR) 'because of the level of concern [Officer 2] had expressed about the children's welfare'. That request was accompanied by a report that Reporter 1 had received from the family's health visitor.

9. The Duty Social Work Manager (Officer 3) consulted with an officer in the Family Protection Unit (FPU) of the local police. They agreed that the Department should undertake a single agency child protection investigation (CPI). It was also agreed that if the children disclosed any additional concerns surrounding physical chastisement, then the FPU would be informed.

10. A Child Protection Investigation Form was started on 15 March 2005, the day prior to Mr C being interviewed by Officer 2 and another Social Worker

(Officer 4), at the local office. The Council's file recorded that they were aware at this date that Mr C had been found not guilty of Breach of the Peace. Mr C has advised that the Council's file was incorrect on this point. He told me that a Breach of the Peace charge was dropped, but he was charged with Driving with Excess Alcohol.

11. The Council's record of the meeting with Mr C on 16 March 2005 noted that the contents of the police domestic violence report were shared with Mr C and that he denied its contents. He confirmed that he had been fined £350 and banned for driving for 12 months. Mr C was made aware that Reporter 1 had requested that an IAR be submitted to her in respect of the domestic violence report. Mr C was also informed that the Department were undertaking a CPI and the police had been informed. Mr C was asked about his mode of disciplining the children, agreed to cease smacking the children, and consented to Department officers observing Mr C and the children during contact, and viewing his flat. Mr C has advised me that the Council's record on this point was not accurate and gave the wrong impression. He told me that after some discussion with social work staff he agreed to differ as to whether a light smack on the back of the hand occasionally employed as a disciplinary measure was (as was social work's view) abusive. Mr C also told me that, given the accusations of abuse that he was facing, he stated without prompting that he would happily no longer do this.

12. The Child Protection Form was completed and signed by Officer 4 on 17 March 2005 and countersigned by Officer 3 as Duty Manager on 21 March 2005. A decision was taken not to hold a Child Protection Case Conference on grounds that Mr C was outwith the family home, he had committed to stop smacking the children, and Mrs C was able to protect the children. The report was further countersigned by the Planning and Assessment Officer (Officer 5).

13. Following his interview by Officers 2 and 4, Mr C spoke with his solicitors and wrote to Officer 4 on 18 March 2005 expressing his concern that a CPI had been launched. He considered the procedure inappropriate and asked a number of questions relating to the process. He requested a reply within ten days. This letter was received by the Department on 22 March 2005.

14. On 23 March 2005, Officer 2 wrote to the NHS Children and Adolescent Mental Health Services (CAMHS) stating that he had concerns about risk and

felt it would be appropriate for CAMHS to work with all three children and possibly Mrs C to get an overall assessment of their issues. A Primary Mental Health Worker replied to Officer 2 on 18 April 2005 stating that they had met with Mrs C on 4 April 2005 for a joint assessment. She stated that, given the sensitivity and newness of the difficulties, it was agreed that CAMHS would not become involved with the children until arrangements regarding contact had been clarified. The children had, therefore, been discharged from CAHMS. Mrs C was given literature relating to CAMHS and Family Mediation.

15. On 31 March 2005, solicitors acting for Mrs C wrote to Mr C stating that their client had instigated divorce proceedings and that Mrs C was denying Mr C access to the children. Interim proceedings in the Sheriff Court in early May 2005 formally restored Mr C's access and contact rights. Mrs C moved from the former marital home on 8 June 2005. Mr C then returned and remained there until it was sold in November 2006.

16. Officer 4 replied on 6 April 2005 to Mr C's letter of 18 March 2005. She summarised previous events, confirmed what had been said to Mr C on 16 March 2005, and informed him that a reference had been made to CAMHS. Officer 4 informed Mr C of the conclusion of the CPI (see paragraph 12) and that future correspondence should be sent to Officer 3. Mr C has stated that he did not receive the 6 April 2005 letter and only saw it for the first time in December 2005.

17. Following the ingathering of information, Officer 2 worked on a Social Background Report (SBR) under Section 56(7)(b) of the Children (Scotland) Act 1995 to submit to Reporter 1. He exchanged emails with Officer 3 and both agreed that the situation did not support a case for the Department to seek powers of compulsory support from the children's hearing. Officer 2 completed the SBR, which he and Officer 3 signed on 1 July 2005, and sent to Reporter 1. Reporter 1 received this report on 4 July 2005.

18. On 13 July 2005, Reporter 1 wrote to Officer 2 informing him that a decision had been taken not to arrange a children's hearing but to refer matters to the Department. Reporter 1 also wrote to Mr C on the same day informing him that a children's hearing was not required but that she considered it would be helpful for the three children to have advice, guidance and assistance provided by the Department on a voluntary basis and for this to last for as long as everyone involved considered necessary. Mr C contacted Officer 3

thereafter to request that a copy of the SBR that had been sent to Reporter 1, and she agreed.

19. On 25 July 2005, Mr C responded to Officer 3 in a one page handwritten letter. He acknowledged receipt of the SBR, stated that it cited as facts many things that were untrue and deeply offensive to him and that he was seeking legal advice. Mr C stated that he wished to make a formal complaint about the SBR and about the way the investigation had been conducted since March 2005. He asked for advice on how he should proceed. Officer 3 has confirmed receiving this letter and passing it to Officer 2, although its receipt was not acknowledged to Mr C.

20. Mr C wrote again to Officer 3 on 10 August 2005. Officer 3 responded on 19 August 2005. She apologised that Mr C's letter of 25 July 2005 had been mislaid. She indicated that she was about to go on leave and, in those circumstances, asked Mr C to send a copy to Officer 1.

21. On 23 August 2005, Mr C wrote to Officer 1 with a copy of his letter of 25 July 2005. He expressed concern that the original had been lost and asked that the information he previously requested be supplied. As a postscript, he asked Officer 1 to ensure that he was kept fully informed of any current or future intervention in respect of his children.

22. Officer 1 acknowledged receipt of this letter on 25 August 2005. He sent a copy of the Council's Comments and Complaints Form and supplied contact details for its return. He stated that Officer 3 was on leave until 5 September 2005 and that Officer 2 would be leaving the Department the following week. Officer 1 stated that he would have the children's care examined to see what current and future involvement might be and would respond by 9 September 2005.

23. On Officer 2's departure the case was reallocated to another Social Worker (Officer 6). Officer 6 wrote to Mr C on 13 September 2005 indicating that he proposed to meet with the children the following week. Mr C responded on 14 September 2005 expressing the view that the children had apparently settled and that a meeting might not, therefore, be productive.

24. On 20 September 2005, Mr C wrote again to Officer 1 stating that he had discussed the SBR with his solicitor. He referred to what he believed to be

Officer 2's transparently prejudiced position, considered that the SBR constituted a clear instance of defamation of character, and that it quoted as facts allegations that he had consistently and strenuously denied. He was, therefore, concerned that the SBR had been seen by others. He indicated that he wanted the record put straight and wanted access to the Department's case record.

25. Officer 1 responded on 22 September 2005 by sending Mr C a further copy of the SBR. He stated that he would find it useful for Mr C to comment, section by section, where he felt the SBR was factually incorrect. He informed Mr C that he was seeking advice regarding Mr C's request to access records and would respond further after doing so. Officer 1 also said that it seemed that Mr C's original letter to him, of 25 July 2005, had been either mislaid or lost and he apologised for this (see paragraphs 19 and 20).

26. Mr C responded to Officer 1 in a handwritten letter of 25 September 2005 and repeated his concerns about what he felt was bias, misrepresentation, and defamation and highlighted the sections of the SBR with which he was unhappy. He considered that Reporter 1 should be informed that the SBR was not an accurate or professionally acceptable document, his children's school should be advised, and he should receive an apology.

27. Officer 1 received this letter on 3 October 2005 and responded on 5 October 2005 enclosing a typed transcript of Mr C's handwritten letter for Mr C to read and correct. Officer 1 dealt with the letter of 25 July 2005 and confirmed for the record that he was the personal partner of Reporter 1. He intimated that he intended to scrutinise the SBR but, since this was not being dealt with in terms of the complaints procedure, there was no set timescale. Officer 1 stated that he assumed by the case record that Mr C was referring to the children's case files. Officer 1 asked Mr C to confirm that his assumption was correct and what information he was seeking.

28. In returning the typed version of his letter of 22 September 2005 with corrections on 15 October 2005, Mr C raised again the mislaid letter of 25 July 2005. He expressed his dissatisfaction with how the Council had handled the matter to date, and questioned the competence of social work staff. Mr C also restated his intentions of clearing his good name, setting straight what he felt was a distorted record, and restoring his tarnished reputation.

29. Officer 1, meanwhile, also sent Mrs C a copy of the SBR and invited her to comment on its factual accuracy. Mrs C responded on 25 October 2005 correcting some points and giving her general comments.

30. Officer 1 replied to Mr C on 26 October 2005. He stated that he considered that Mr C's letter was an antecedent to a complaint and that, although a complaints form had been sent to him, departmental records failed to reveal that a complaint form had been received. Officer 1 suggested that, if Mr C had a complaint to make, he should make it. He stated that in terms of data protection legislation, Mr C did not have an automatic right of access to the Department's files relating to his children. He also said that Mr C's request for access to the records could not be granted as, from the terms of his 15 October 2005 letter, it was clear to Officer 1 that he was seeking access for his own purposes, specifically to clear his good name. Officer 1 stated that he believed he understood the reasons behind Mr C's wish to have the SBR amended. He conceded that it would have been good practice to have shared the contents with Mr C and Mrs C before submission to Reporter 1 so that any factual inaccuracies could have been amended at that juncture. Officer 1 stated that he would give his response as the Team Manager of Officer 2 and Officer 3 and hoped to be in a position to respond by 11 November 2005.

31. On 6 November 2005, Mr C wrote to Officer 1 stating that he had no realistic expectation that Officer 1 had any intention of dealing with the matter in a fair and objective way or that the outcome would be in any way acceptable. He had, therefore, decided to forward the paperwork to his Member of Parliament (the MP).

32. Officer 1 acknowledged receipt on 22 November 2005 and commented on the SBR. Once again he stated that the report should have been shared with Mr C and Mrs C prior to submission to Reporter 1. He said that:

'It was not, although not a legal requirement it would have been good practice to do so and some of the factual inaccuracies could have been changed, equally opinions could have been noted.'

Officer 1 believed, however, that there were sufficient grounds to have said to Reporter 1 that a children's hearing was necessary although this had not been fully evidenced within the SBR. Officer 1 stated that he was going to submit a number of amendments to the SBR based on his comments and also based on Mr C and Mrs C's own view of what was submitted. Officer 1 undertook to send

the amendments when they were completed and submitted. In his comments, Officer 1 referred to Officer 4 having responded to Mr C's letter of 18 March 2005 on 6 April 2005 (paragraph 16). Mr C responded by requesting a copy and this was sent to him by Officer 1 on 8 December 2005.

33. On 14 February 2006, Officer 6 wrote to Mr C saying that he had closed the case and would not, at the moment, intend having any further contact with his children.

34. The MP, who was contacted by Mr C in an undated letter after he had received Officer 1's letter of 22 November 2005, submitted Mr C's letter and associated correspondence to the Chief Executive of the Council in a letter of 15 February 2006. In his letter the MP requested that the Chief Executive regard his referral as a formal complaint and carry out an investigation before responding.

35. On 9 March 2006, Officer 1 wrote to another Reporter at the SCRA (Reporter 2) with an amended version of the SBR. This was acknowledged by Reporter 2 on 5 April 2006. Officer 1 was informed that a copy of the amended SBR had been placed on each child's file. On 7 April 2006, Reporter 1 wrote to Officer 1 stating that a decision had been taken not to arrange a children's hearing. Officer 1 wrote separately to Mr C and to Mrs C informing them of the outcome on 10 April 2006.

36. Meanwhile, the Chief Executive passed the MP's letter of 15 February 2006 to the Council's Chief Social Work Officer (CSWO) and she responded to the MP by letter on 11 April 2006. Her letter highlighted three issues. She stated first that, although a complaint form had been sent to Mr C on 25 August 2005, no formal complaint had been submitted; secondly she maintained in respect of the domestic violence and child protection issues staff had acted professionally and that there was no evidence to suggest that they deviated from their responsibilities or best practice; and thirdly, she dismissed Mr C's assertion that access to Mr C's children's case records had been arbitrarily refused for spurious reasons. The CSWO refuted the assumption by Mr C that her Department had received Mr C's complaint and had not followed due process.

37. On 11 April 2006, after receiving Officer 1's letter but in advance of receiving the outcome of the MP's referral, Mr C wrote to the CSWO stating that

he felt that the flawed SBR should be expunged. He was looking to her to assess the situation objectively.

38. The CSWO responded on 12 May 2006 to Mr C. She suggested that if, as a service user, Mr C was dissatisfied with Officer 1's response he should contact the Operations Manager (Children and Families) or the Service's Comments and Complaints Manager (Officer 7).

39. Mr C thereafter contacted Officer 7 on 28 June 2006. He sought clarification regarding available appeals/reviews following the first stage of the complaints process routed via a letter to the Chief Executive. Officer 7 responded by email of 30 June 2006 summarising the Council's corporate complaints process and the social work complaints process which culminated with a Complaints Review Committee. Mr C replied on 18 July 2006 to Officer 7 stating that he wished his complaint to be progressed forthwith to an independent review panel.

40. On 20 July 2006, Mr C contacted the SPSO by telephone, expressing concern that his complaint had not been treated appropriately by the Council. He then supplied the SPSO with a copy of his letter of 18 July 2006 to Officer 7. He was advised by SPSO staff on 27 July 2006 that we would draw the Chief Executive's attention to his concerns.

41. After Mr C wrote again to Officer 7 on 5 August 2006, Officer 7 responded to Mr C's recent letters on 11 August 2006. He suggested that Mr C seek a meeting with the relevant Operations Manager with the aim of clarifying exactly what Mr C wished to make a complaint about and how the issues could be properly addressed 'without prejudice' to Mr C's decision to submit a formal complaint. Officer 7 enclosed a copy of the Council's Comments and Complaints leaflet with attached form for Mr C to complete and return to Officer 7 in the first instance. Officer 7 stated that, procedurally, he was not able to offer Mr C access to an independent review panel until he was satisfied that a complaint from Mr C, as a service user, had been appropriately considered under the requirements of the statutory social work complaints procedure. Officer 7 assured Mr C that, if it could be agreed that Mr C had a complaint which satisfied those requirements, it would be considered through due process.

42. On 27 August 2006, Mr C wrote to the SPSO stating that he was unhappy that his complaint had not been put to an independent review panel 'as was his right'. In a further letter of 21 September 2006 he raised the issue of denial of access to his children's case files but he accepted that was not a matter for the SPSO. I telephoned Mr C on 28 September 2006 and informed him that I considered it appropriate that he write a detailed letter of complaint to Officer 7, it being important that substantive issues were dealt with under the social work complaints procedures. On 4 October 2006 I telephoned Officer 7 and suggested that the letter sent via the MP and the CSWO's response be taken as the second step in the complaints process. I confirmed the SPSO's position as discussed in these telephone conversations in letters of 4 October 2006 to Mr C and Officer 7 and closed our file as being premature for the SPSO. Mr C wrote to me on 10 October 2006 disagreeing with my closure decision and asked that it be reviewed. The decision was reviewed and an SPSO Manager wrote to Mr C on 10 November 2006 confirming that the file would remain closed until Mr C had pursued the Council's complaints process.

43. On 16 October 2006, Officer 7 wrote to Mr C confirming arrangements for the progression of Mr C's complaint and stated that another Council officer (Officer 8) had been appointed as investigating officer. On his return from leave on 23 October 2006, Officer 8 would contact Mr C with a view to agreeing the specific points of complaint to be investigated. Mr C was informed that in terms of the statutory procedure, the investigating officer would complete his investigation to allow Mr C to receive a formal letter of response from the Operation Manager (Children and Families) within 28 days from the date on which the points of complaint for investigation were agreed. Mr C would have the opportunity to seek further discussion on that response and would, thereafter, have the ability to request access to the third stage independent review panel. Officer 7 stated that the panel had to make representations to the Education and Community Services Committee within 56 days of the hearing and the latter Committee had a further 42 days to convey a decision to Mr C.

44. Mr C moved house at this time and emailed Officer 7 on 23 October 2006. He stated that he did not know Officer 8 and had no objection to him as an individual. Since, a few months previously, he had applied for a move to Officer 8's area of work, he considered it would be more appropriate to use an officer from another local authority. This letter was passed to Officer 8 on 23 October 2006. Officer 8 was contacted by email, by Mr C, on 27 October 2006 but no meeting was held to agree the points of complaint.

Officer 7 replied to Mr C on 13 November 2006 stating that he could find no precedent for appointing an investigating officer from another authority.

45. Mr C was, thereafter, on leave until 5 December 2006. He replied to Officer 7 on 11 December 2006 and contacted his professional body. An Advice and Representation Officer from the professional body wrote to Officer 7 on 18 December 2006 re-presenting Mr C's case for the need for an independent investigator given Mr C's dual status as a parent and an employee of the Council. This letter also mentioned the relatively small scale of the Council's staff network, and that Mr C had been interviewed for a post in Officer 8's area of work a few months previously but had been unsuccessful.

46. Officer 7 made enquiries of the Chair of the Association of Directors of Social Work Complaints Group and established that no practice existed locally nor was there a statutory requirement for appointing an external investigator in circumstances where a social worker was complaining as a service user. Officer 7 wrote to Mr C's professional body on 10 January 2007 and urged them to co-operate with the investigation which allowed for independent review by the panel and reference, thereafter, to the SPSO. Mr C's professional body replied on 2 February 2007 expressing disappointment since, in their view, an internal investigation would involve Mr C being interviewed by a colleague on a personal matter.

47. Mr C wrote to Officer 7 to express his disappointment. In response, Officer 7 asked Mr C to confirm that he did not wish his complaint to be investigated unless an external investigator was appointed to do so. Mr C took exception to this and in a letter of 7 March 2007 complained to me of Officer 7's 'obstructiveness and negativity'. In a further letter of 30 May 2007 Mr C informed me that he needed to have an unconnected external investigator to have any chance of a fair hearing. He asked the Ombudsman to intervene and, if unable to change the situation, express a clear and unequivocal view. After internal discussion within the SPSO, a decision to investigate was taken.

48. On 15 November 2007, Officer 7 wrote to me challenging the SPSO's decision to investigate. He considered Mr C's complaint to the Ombudsman was premature and that position had not changed since 4 October 2006. In Officer 7's view, Mr C had not exhausted the Council's procedures and in the Council's view it was not in the spirit of equality and fairness that differential treatment should be applied in the instance of Mr C.

49. Paragraph 1.2.4 of the Council's Child Protection Procedures from May 2007 stated that:

'The comments and complaints procedure should be made clear to children and families. Social work staff should remind children and parents that they can make a complaint or comment about any part of the child protection process at any time.'

50. The Council's leaflet *Your comments and complaints about any Social Work Service (Adults, Children and Families, Criminal Justice)* (the complaints guidance) in circulation at the time of Mr C's complaint stated that a complaint could be made by talking to staff in the Department, by filling in a tear-off form included with the leaflet, by phoning or faxing the Department, or by writing to the Department at the address shown on the tear-off form. In a section headed 'Other ways of making your complaint', the leaflet stated that a complaint could be made to a local councillor, MP or Member of the Scottish Parliament, or to the Council's Chief Executive. The leaflet also stated that if a complainant was not satisfied with the Council's response:

'You can ask for a complaints review panel, which is made up of three people who we do not employ. They will review our decision and investigation of your complaint. Please fill in the tear-off part of this leaflet to ask for a complaints review panel.'

51. The statutory social work complaints procedure is guided by Circular No SWSG5/1996 issued in March 1996 to local authorities in Scotland by the then Scottish Office's Social Work Services Group (SWSG).

(a) *Conclusion*

52. Mr C did not have access to the CPI report of 21 March 2005 which concluded that it was not necessary to convene a Child Protection Case Conference for stated reasons. The process was initiated because of Mrs C's complaint to the police. The child protection issues amount to the investigation of an alleged crime. It is not appropriate for me to comment other than to note the police and court action following the initial incident and that no further action was taken as a result of the CPI (see paragraphs 4 and 10).

53. As a result of the police informing Reporter 1, she called on 8 February 2005 for an IER which was changed, following discussion with Officer 2, to an IAR. It is this IAR, the SBR of 1 July 2005, that Mr C was given

access to and it is the SBR's contents and the manner in which it was produced which he has challenged. I do not believe that it is competent for this office to comment on the balance of, or information contained in, this report. It was a report called for by the SCRA, in much the same way as a Sheriff would call for an SBR. While Mr C has asked for it to be expunged and for his good name cleared, that is a data protection issue.

54. Reporter 1 decided on 4 July 2005 that a children's hearing was not necessary. I believe that Officer 1, as team manager of Officers 2 and 3, had concerns and sought to ensure that an amended record was put to Reporter 1, however, I note that this was not done until the MP's involvement. Mr C's comments on the SBR verge on a complaint of lack of professionalism and competence. There are other remedies such as making a personnel complaint, approaching the relevant professional body, or the courts if Mr C believes the SBR defamed him.

55. However, as acknowledged on two occasions by Officer 1, both Mr C and Mrs C should have had an opportunity to at least comment on the factual accuracy of the SBR before it was submitted to Reporter 1 (see paragraphs 30 and 32). Officer 1 noted that even though it was not a legal requirement, it would have been good practice to do so, and I agree with his assessment. If Mr C and Mrs C had such an opportunity, it is likely that the Council's consideration of the matter would have been shorter and, therefore, less stressful for all concerned.

56. Considering all the circumstances and balancing the positives of the Council's handling of the CPI process with the fact that Mr C was not given an earlier opportunity to assess the factual accuracy of the Social Background Report, I partially uphold this complaint.

(a) Recommendations

57. The Ombudsman has no recommendations to make.

(b) Conclusion

58. In addition to the process of the preparation of, and the content of, the SBR, Mr C has a grievance about the way his complaint was dealt with by the Council. He felt his complaint was been frustrated and obstructed. He was looking for an expunging of the record and an apology.

59. Had Mr C engaged with the social work complaints procedure then there would have been distinct time scales. He was given the opportunity to engage on 25 August 2005 and again on 11 October 2006. On the former occasion, he decided to enlist the assistance of his MP, a possibility mentioned in the old Guidance leaflet. In going down the MP route, Mr C did not demand an independent investigator but did write directly to the CSWO on 11 April 2006 asking her to be objective and impartial. He was not happy with her response which was sent on behalf of the Chief Executive.

60. Mr C then wanted an independent review panel. That was only available to him if he pursued the social work complaints procedure. This office encouraged him to engage but he, thereafter, raised the issue of an external investigator before the independent panel. The relevant guidance in SWSG 5/1996 on social work complaints does not cater for this situation. Many service users who are not Council employees would no doubt welcome the appointment of an external investigator. The question then arises as to whether Mr C, as a service user who is also an employee, should have been treated as an exception. In this case, had Officer 8 investigated he would have been the ninth officer of the Council including the CSWO who knew Mr C's business. Given this, the involvement of an external investigator might have shortened the process and the need for the involvement of so many internal staff. It would also likely have laid to rest the potential for allegations of bias or perceptions of conflict of interest. However, it is my view that after Mr C's professional body had tried and failed to get an external investigator, Mr C should really have engaged with the complaints process. I believe that, since he did not, that opportunity has now been lost. Admittedly the Council's complaints guidance at the time was misleading (see paragraph 50) but the Council have now produced a revised leaflet that is much clearer. Also, in rejecting the suggestion of an external investigator the Council did take advice and exercised its discretion not to do so, and there is no evidence of maladministration in the taking of that decision. On balance I do not find that the Council obstructed Mr C in pursuing his complaint and do not, therefore, uphold this complaint.

(b) Recommendations

61. The Ombudsman has no recommendations to make.

Explanation of abbreviations used

Mr C	The complainant
The Council	Dumfries and Galloway Council
Mrs C	Mr C's estranged wife
The Department	The Council's Education and Community Services
Reporter 1	A Reporter at the SCRA
SCRA	Scottish Children's Reporters Administration
Officer 1	The Department's Area Team Leader (Assessment and Referral)
IER	Initial Enquiry Report
Officer 2	A Council Social Worker
IAR	Initial Assessment Report
Officer 3	The Duty Social Work Manager
FPU	Family Protection Unit, Dumfries and Galloway Constabulary
Officer 4	A Council Social Worker
CPI	Child Protection Investigation
Officer 5	The Department's Planning and Assessment Officer

CAMHS	The local National Health Service Children and Adolescent Mental Health Services
SBR	The Social Background Report
Officer 6	A Council Social Worker
The MP	Member of Parliament
Reporter 2	Another Reporter at the SCRA
CSWO	The Council's Chief Social Work Officer
Officer 7	The Department's Comments and Complaints Manager
Officer 8	Another Council Officer
SWSG	Former Scottish Office Social Work Services Group

List of legislation and policies considered

Relevant Guidance is contained in Scottish Office Social Work Services Group Circular 5/1996 of March 1996 and Good Practice Guide *Community Care in Scotland*

Dumfries and Galloway Council's Social Work Services Child Protection Procedures

Scottish Public Services Ombudsman Act 2002