Parliament Region: South of Scotland

Cases 200701747 & 200800670: Ayrshire and Arran NHS Board and North Ayrshire Council

Summary of Investigation

Category

Council: Social Work/Education
Health: Autism

Overview

The complainant (Mr C) complained about the level of care he and his family received from Ayrshire and Arran NHS Board (the Board). Mr C explained that his seven-year-old son (Child C) has Autism Spectrum Disorder (ASD) and that he also has three other children aged five, three and two. Mr C said that the Board had failed to provide a programme of intervention to meet Child C's needs and that this had caused considerable distress for Child C and his family because of the effects of Child C's disability. Mr C considered that, in addition to the Board's own obligations towards Mr C and his family, it was incumbent on the Board to provide appropriate care to address Mr C and his family's deteriorating health, resulting from what he described as North Ayrshire Council (the Council)'s failure to fulfil their duties towards him and his family.

Mr C subsequently complained to the Ombudsman's office about the level of service he and his family received from the Council. He said that the Council's social work services had failed to properly assess the needs of Mr C and his family and provide the appropriate support. Mr C advised that the Council had allocated a number of hours support for Child C and had agreed that, as Mr C had been unable to identify a suitable provider of this support, any unused hours could be 'banked', or carried over from one financial year to the next. Mr C said the Council then went back on this decision and that his son lost all his 'banked hours'. Mr C also raised a number of specific complaints about the Council's social work and education services.

Specific complaints and conclusions

The complaints against the Board which have been investigated are that during the period May 2006 to September 2007:

(a) the Board failed to provide appropriate care to address Mr C and his family's deteriorating health, resulting from the Council's alleged failure to fulfil their duties towards Mr C and his family (*not upheld*);
(b) the Board failed to put in place a programme of intervention to meet Child C's needs (*not upheld*); and
(c) the Board failed to provide proper care to alleviate the distress caused to Mr C and his family from the effects of his son's disability (*not upheld*).

The complaints against the Council which have been investigated are that:
(d) from March 2005 to May 2008, the Council failed to properly assess Mr C and his family's needs for support from social work services and subsequently provide this support, in accordance with procedure (*not upheld*);
(e) the Council failed to inform Mr C that from 6 April 2008 Child C would lose his right to all his 'banked hours' (*upheld*); and
(f) the Council failed to allocate Child C a new social worker, after the previous one left in December 2007 (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Council
(i) re-instate Child C's unused hours of support for the period 25 October 2005 to 25 April 2008; and
(ii) take note of both the Ombudsman's Mental Health Adviser (Adviser 1)'s and the Ombudsman's Psychiatric Adviser's comments on multi-agency working in this case, and seek to implement Adviser 1's suggestions at paragraph 128, in particular, the suggestion that stakeholders 'regroup' to re-establish and commit to effective future collaborative working arrangements, including a set of principles upon which future care should be based.

The Ombudsman recommends that the Board take note of both the Ombudsman's Mental Health Adviser (Adviser 1)'s and the Ombudsman's Psychiatric Adviser's comments on multi-agency working in this case, and seek to implement Adviser 1's suggestions at paragraph 128, in particular, the suggestion that stakeholders 'regroup' to re-establish and commit to effective future collaborative working arrangements, including a set of principles upon which future care should be based.

The Board and the Council have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 27 September 2007 the Ombudsman's office received a complaint from the complainant (Mr C), against Ayrshire and Arran NHS Board (the Board). Mr C explained that his seven-year-old son (Child C) has Autism Spectrum Disorder (ASD) and that he also has three other children aged five, three and two. Mr C said that the Board had failed to provide a programme of intervention to meet Child C's needs and that this had caused considerable distress for Child C and his family because of the effects of Child C's disability. Mr C considered that, in addition to the Board's own obligations towards Mr C and his family, it was incumbent on the Board to provide appropriate care to address Mr C and his family's deteriorating health, resulting from what he described as North Ayrshire Council (the Council)'s failure to fulfil their duties towards Mr C and his family.

2. Mr C explained that he had tried for some time to obtain support for himself and his family from the Board and through his GP. He said that the lead body for delivery of such services was the Council and that they had 'singularly failed to provide appropriate services to meet Child C's needs'. Mr C said that 'this lack of appropriate intervention' had had a detrimental effect on Child C's and his family's health. Mr C explained that when Child C did not receive the appropriate support he required, his wake sleep pattern worsened, his behaviour deteriorated and that this affected the health of his family. Mr C said he wished to know why it was perfectly acceptable for the Board to 'shrug off its responsibilities and not provide the proper care that would alleviate the distress caused to [Child C] and the effects of his abuse (although not his fault) on the rest of his family'. Mr C said that, currently, Child C had been left without 'any NHS programme to meet his needs'.

3. The complaints from Mr C which I have investigated are that during the period May 2006 to September 2007:

(a) the Board failed to provide appropriate care to address Mr C and his family's deteriorating health, resulting from the Council's alleged failure to fulfil their duties towards Mr C and his family;
(b) the Board failed to put in place a programme of intervention to meet Child C's needs; and
(c) the Board failed to provide proper care to alleviate the distress caused to Mr C and his family from the effects of his son's disability.

4. On 8 June 2008, Mr C also complained to the Ombudsman's office about what he described as the Council's failure to provide Mr C, his wife and other three children with respite for a number of years. Mr C said his existing allocation of two hours of support per week was insufficient. He said 'We have been forced to use this support when [Child C] is abandoned by the education department, so that he is not incarcerated in his house during these times. By definition, this support cannot be described as respite when it is used to 'survive' times of incarceration of [Child C] and allow me to continue to attend my place of work'.

5. Mr C said this was very stressful for the family and that the situation had brought them to crisis point on several occasions. Mr C said he wished to be able to access the 'type of respite other families in similar circumstances receive: six weeks' respite a year and one long weekend respite a month; with [Child C] attending a provider that meets his complex needs so that he comes back into his refreshed family, still in his routines and happy'.

6. Mr C explained that he had been in dispute with the Council's social work and education services for a number of years on various matters regarding support for himself and his family and that an earlier mediation process had proved unsuccessful.

7. On 13 June 2008, Mr C brought further complaints against the Council to the Ombudsman's office. His main complaint related to the Council's assessments of Child C carried out in 2005 and 2007, for the purpose of determining Child C's needs and how they should be met by the Council. Mr C also complained about his own assessment by the Council, which he had requested as his son's nominated carer, for the purpose of determining the level of support which Mr C should receive. Mr C raised numerous concerns about the Council's handling of all three assessments and clearly did not agree with the level of support which had been subsequently recommended and approved as necessary. For simplicity, I have not detailed all Mr C's concerns here, however, the key points are covered in my investigation of Mr C's complaint, under heading (a) below.

8. In addition to the assessment and support issues, Mr C also complained that the Council had failed to inform him that from 6 April 2008 Child C would lose his right to all his previously 'banked hours' for support. Mr C advised that

the Council had allocated a number of hours support for Child C and had agreed that, as Mr C had been unable to identify a suitable provider of this support, any unused hours could be 'banked', or carried over from one financial year to the next. Mr C said the Council then went back on this decision and that his son lost all his 'banked hours'. Mr C also said the Council had failed to allocate Child C a new social worker, after the previous one left in December 2007.

9. The complaints from Mr C which I have investigated are that:

(d) from March 2005 to May 2008, the Council failed to properly assess Mr C and his family's needs for support from social work services and subsequently provide this support, in accordance with procedure;

(e) the Council failed to inform Mr C that from 6 April 2008 Child C would lose his right to all his 'banked hours';

(f) the Council failed to allocate Child C a new social worker, after the previous one left in December 2007.

Investigation

10. My investigation of this complaint involved reviewing the documentation provided by Mr C, making enquiries of the Council and the Board and assessing their responses and extensive accompanying documentation. I examined more than 1000 pages of information on this case, including the Council's Child and Young Person's Community Resources Assessments (CYPCRA) of Child C, dated 2005 and 2007 and the Carer's Assessment for Mr C. As these documents are available to both parties, they have not been included in my draft report. I also discussed Mr C's complaints with him and spoke to the Council to clarify their position in relation to the dispute with Mr C. In addition, I sought advice from the Ombudsman's Mental Health Adviser (Adviser 1) and the Ombudsman's Psychiatric Adviser (Adviser 2) on this case.

11. After receiving the Board's response to my initial enquiry on Mr C's complaint, it became clear that the Board considered that it was not for them to provide the 'additional care' requested by Mr C as they considered that it was not 'health related care'. The Board explained that, although they acknowledged that health boards are required to work in partnership with local authorities, 'this did not mean that a matter which was not health related should be taken from the health service budget if it was for the local authority to provide it'. As it appeared that the Board were suggesting that it was the Council, and not the Board, who would be obliged to provide the additional care for Mr C and

his family, it was necessary to put my investigation of Mr C's complaint against the Board on hold, until I had investigated Mr C's complaint against the Council. All parties were notified accordingly.

12. During my early communications with the Council on Mr C's complaint, the Council requested that the Ombudsman's office formally investigate Mr C's case as they had been unable to resolve the dispute with Mr C, despite the input of an Independent Adjudicator (the Adjudicator) and a mediator. During my enquiries of Mr C, he advised me that he had ten folders of correspondence with the Council on his complaint and that due to his circumstances it was difficult for him to find time to deal with my requests for documentation in support of his complaint. In light of the Council's request and Mr C's circumstances, and the fact that it was clear that both parties were in agreement on the substance of Mr C's complaint, I have only provided a summary of each of Mr C's complaints under each of the headings (d) to (f) below.

13. As part of my investigation of Mr C's complaint, I considered the following legislation, guidance and procedures relevant to his case: The Children (Scotland) Act 1995 (the 1995 Act), the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act), the Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005 (the Regulations), the Scottish Government Supporting Children's Learning: Code of Practice (the Code) and the Council's own procedure in this area entitled 'Social Services - Children Affected by Disability' (the Procedure). I also considered relevant sections of the National Health Service Act 1978, the Community Health (Scotland) Act 2002 and the Scottish Intercollegiate Guidelines Network's guidelines on Assessment, diagnosis and clinical interventions for children and young people with ASDs (SIGN 98 [2007]).

14. As well as the complaints listed above, many of Mr C's areas of complaint against the Council concerned support for Child C in the area of 'additional support for learning'. The Code explains that this refers to 'children and young people who, for whatever reason, require additional support, long or short term, in order to help them make the most of their school education' and that such supports, once identified, can be incorporated into a Co-ordinated Support Plan (CSP) for the child. The Code explains that disputes about most complaints relating to the assessment for, and content of, a CSP can be referred to the Additional Support Needs Tribunal (the Tribunal) or the Adjudicator nominated by the Scottish Ministers. The Code also explains that decisions by the Tribunal

and the Adjudicator can be appealed to the Scottish Ministers, the courts and the Scottish Public Services Ombudsman. Mr C had already referred part of his complaint about additional support for learning to the Adjudicator but had elected not to take other aspects of his complaint in this area to the Tribunal.

15. It was not clear from reading the Code which aspects of Child C's care could be appealed to the Scottish Ministers. I, therefore, sought advice on this firstly from the Secretary to the Tribunal and then from the Scottish Government, Education Department, Additional Support Needs Division. The conclusion was that any matters relating to the assessment of Child C and the provision of services under the 2004 Act were, in the main, for the Tribunal, the Adjudicator, the Scottish Ministers and the Courts.

16. In reporting on Mr C's complaint, I have, therefore, endeavoured to exclude references to assessments and services which relate to any additional support for learning for Child C and which correctly appear in Child C's CSP. In order to assist me with this, I asked the Council and the Board to clarify which sections of their assessments of Child C related to the support identified in Child C's CSP and would, therefore, fall outwith the jurisdiction of the Ombudsman's office. As well as providing this information, the Council and the Board explained that some parts of their assessment of Child C's care needs were not only integral to the general assessment but also a CSP, ie personal care/toileting issues and speech and language therapy.

17. In presenting this case, I have first described my investigation of Mr C's complaint against the Council and have then gone on to present my investigation of his complaint against the Board. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C, the Council and the Board were given an opportunity to comment on a draft of this report.

Background to the Council case

18. The 1995 Act states that, where requested to do so by the parent or guardian, the Council shall carry out an assessment of their disabled child or a child in that family who is adversely affected by the disability of any other person in the family, for example, the disabled child's siblings. The 1995 Act also allows the carer of the disabled child to request an assessment to determine their own ability to continue to provide care for their child. It also explains that both assessments are to facilitate the Council in the discharge of

their duties to promote the welfare of children in need and that this entails providing a range and level of services appropriate to the children in question's needs. It explains that a service may be provided for a particular child or any other member of their family.

My Role

19. My role in investigating Mr C's complaint has been to determine whether or not the Council assessed Mr C and his family's needs in line with normal processes and procedures and whether the Council then delivered the services they were responsible for providing. It has not been my role to assess Mr C and his family's needs; that is the role of the Council. It is accepted that councils are entitled to offer those services that they think are appropriate to meet those needs and which they have the funding to provide.

20. As with any investigation such as this, I have also considered both the Council and Mr C's role. It is my duty to assess what the Council would reasonably be expected to do under their processes and procedures and, also, what Mr C would reasonably be expected to do to co-operate with the Council's efforts, ie were the Council's actions reasonable and were Mr C's responses to those actions reasonable.

(d) From March 2005 to May 2008, the Council failed to properly assess Mr C and his family's needs for support from social work services and subsequently provide this support, in accordance with procedure

21. Mr C complained about the 'maladministration' within the Council that had resulted in Mr C and his family not receiving proper assessment of their needs and within appropriate timescales. Mr C said 'this has resulted and is resulting, knowingly and willingly by [the Council], in putting our family in crisis at many points'. Mr C listed 14 separate areas of concern relating to his complaint. I have not included each of these individually here, however, I have covered the key issues in my enquiries of the Council, below.

22. Mr C also explained that Child C had been assessed by the Council in 2005 but that the Council had refused to act to meet their responsibilities with regard to their own existing 'assessment' of Child C's needs. He said

> 'It should be noted that this first 'assessment' took years to get, in which time the social work department protected its budget. In this context [the Council] is negligent and incompetent by setting up a system to assess and deliver the support needs by the same social work department, where

> there is intrinsic, deep rooted, systemic, self-interest in delaying the allocation of social workers, delaying the assessments and delaying the actual delivery of assessed support. Indeed, the maladministration by [the Council] actually rewards the social work department for doing this. No doubt there will be efficiency awards for these managers and [this] goes some way to explain how [the Council] has managed to put £10 million into its savings account.'

Although Mr C advised that the 2005 assessment took 'years to get', due to the delay in his bringing his complaint to the Ombudsman's office and legislative constraints, I have only considered Mr C's concerns from March 2005 onwards.

23. In response to my enquiries about the assessment of Mr C and his family's needs and the provision of support, the Council explained they 'have an obligation to undertake an assessment of need for children affected by disability in terms of Section 23 of the [1995 Act]' as well as 'an obligation to undertake a carer's assessment if this is requested in terms of Section 24 of the [1995 Act]'.

24. The Council explained that assessments are allocated by the Operational Manager in accordance with priority and that when completed, the assessment report is then presented to the Respite Resource Group (RRG). They said 'this multi-agency Group makes decisions on allocating or referring the case for resources and services which are deemed necessary and appropriate in accordance with the assessed need'.

2005 Assessment

25. The Council explained that the CYPCRA for Child C, completed in 2005, was presented to the RRG. They said that the Carer's Assessment for Mr C was read and approved for an additional two hours by the Operational Manager (Children & Disabilities) (Officer 1). The Council said that the CYPCRA in 2008 was incorporated into the CSP and it was forwarded to the officer in Education designated as corporate contact for Mr C (Officer 2), so that the CYPCRA would be integrated in to the support plan for Child C and his family.

26. I examined a copy of the 2005 CYPCRA provided by the Council. It showed that the referral for the assessment of Child C, requested by Mr C and his wife (Mrs C), was made in June 2005. The reason for the assessment was noted as 'to address/identify possible support to assist [Child C]'s development and support [Mr and Mrs C]. The assessment of needs was carried out by a

Council social worker (Officer 3). Officer 3 recorded the identified needs as 'Social Support (weekend/evening) and holiday periods'. The 'agreed action', dated October 2005, was a referral to the RRG.'

27. Officer 3 detailed the assessed needs as 'six hours per week to assist with family outings and promoting social opportunities for [Child C]'; 'groupwork/activity programme via, possibly [a local voluntary support organisation]/School' during the holiday period and, for home supports, 'the possibility of short term assistance to support [Child C]'s siblings at dinner time allowing [Mr and Mrs C] the opportunity to implement a dinner time management programme for [Child C].'

28. The standard text in the CYPCRA stated 'a copy of the record of the identified care needs should be provided to the child/young person or family. Where the views of the child/young person or family and the social worker differ, this should be clearly indicated and their opinions recorded'.

29. In the 2005 CYPCRA, Officer 3 noted:

> '[Mr and Mrs C] agree with the support the writer has identified as required, however, they feel the level of intervention needs to be considerably increased to have any impact on [Child C] and the family. They feel further supports are even more necessary over the holiday periods in order to allow for the time away from nursery and to provide continued opportunities for [Child C] to learn and develop through constructive, structured educational play/activities.'

30. The 2005 CYPCRA also showed that Officer 3 discussed the possibility of a carer's assessment with Mr and Mrs C and they agreed that it would be beneficial.

31. The Council provided a copy of the minute of the meeting of the RRG dated 25 October 2005 where the 2005 CYPCRA was discussed. The meeting was attended by education, health and respite services representatives and a psychologist. The minute showed that Officer 3 was unable to attend the meeting and her line manager, Officer 1, presented the case on her behalf. The minute stated that the RRG were advised that Mr and Mrs C had asked for 16 hours respite for [Child C], but that Officer 1 said that she and Officer 3 both felt that six hours respite would be 'sufficient for [Child C]'. She explained that 'this is because of [Child C]'s age and the number of services he currently

receives'. Officer 1 said the six hours would comprise four hours at weekends and two hours during the week, 'with the potential of extra holiday provision'. Having considered this, the recommendation of the RRG was 'the family will be offered 6 hours per week respite service' and a 'referral will be made to [a voluntary support organisation (Organisation 1)] regarding school holiday respite provision'. It was noted that the recommendations should be actioned by Officer 3 as soon as possible.

32. When I asked the Council whether Mr and Mrs C should have been invited to attend the RRG, the Council said 'It is now normal practice to invite parents to attend the [RRG]. This is done verbally and is not through formal written invitation. However, it was not so in 2005'.

33. In response to my enquiries about timescales for completion of assessments, the Council explained 'There are no formal timescales for the completion of an assessment at this time. However the expectation of the current management team for the past 2 years has been that CYPCRA assessments are completed in 6 weeks and brought to the first available RRG for discussion'.

34. I subsequently requested a full copy of the procedure, to see whether it included any information on timescales. The procedure stated 'At any stage in a child with disability's life … the parent/s may seek a [CYPCRA]. It is the responsibility of the senior social worker to ensure the assessment is undertaken timeously (6 weeks) and for him/her to countersign the proposed care plan being submitted by the social worker'. The procedure was dated 'January 2004', and it would, therefore, have applied at the time of Child C's 2005 CYPCRA.

Carer's Assessment

35. The Council records show that the referral for Mr C's 'carer's assessment' was made in November 2005 and that the task was allocated to a social worker (Officer 4), in July 2006. The assessment form stated 'It was agreed a separate social worker [should] undertake this assessment (April 2006) – [Officer 4] allocated to undertake this task and co-work with family'. The form showed that Officer 3 was also involved in the assessment process. I have fully examined a copy of the assessment.

36. The assessment form showed that no target date for completion of the assessment was agreed with Mr C and there was a delay in completion 'due to information gathering and liaison with other professionals'. The form shows that the actual assessment was completed in December 2006.

37. At various points in the form, Officer 4 noted Mr C's concerns about his situation. These included Mr C indicating that he was struggling to meet Child C's care needs day and night; Mr C stating that he had had to take three months off work due to the stress caused by his role as carer; Mr C advising that he had to take holidays from work or rely on his wife to meet the needs of all their children; and Mr C explaining that he believed the existing support for Child C did not go far enough in meeting the family's needs in terms of hours and frequency, that support should be available at all times and that 16 hours support per week would be more 'appropriate/acceptable'.

38. On the assessment form, Officer 4 noted a number of existing supports which had been offered to Mr C. These included holiday support, provided by an organisation employed by the Council, to supply outreach workers (Organisation 2), at Child C's school's summer playscheme and by Organisation 1. Officer 4 noted that Child C could receive respite care within another family setting or unit, such as with Organisation 2 or a local residential respite centre (Organisation 3) and that this had been mentioned to Mr C and information provided. Officer 4 noted 'to date, [Mr C] has been reluctant to pursue this'. Officer 4 also noted that a tea time management programme to assist Child C at mealtimes had been developed. In addition, Occupational Therapy were exploring possible adaptations or equipment which could make caring for Child C and meeting his needs within the home less stressful physically and emotionally for Mr C. Officer 4 also suggested that a referral to a sleep assistance organisation for Mr C could help with his poor sleep pattern.

39. Officer 4 noted that, following the 2005 CYPCRA, a summer playscheme, Organisation 1's playscheme; monthly Saturday club; and six hours a week 'social supports/respite via direct payments' had been offered to the family. The officer noted that direct payments would allow Mr C to nominate a provider of services for Child C and once approved by the Council, pay the service provider direct.

40. Officer 4 concluded 'In light of [the] carer's assessment, the workers believe that supports already identified continue to be appropriate. However,

some additional respite hours may be required to assist [Mr C]'s coping capacity as the primary carer'. Two hours respite was suggested.

41. The Council explained that Mr C's assessment was completed in December 2006 and was then referred to the Principal Officer (Officer 5) and Officer 1. They said 'A number of changes were requested [by Officer 1 and Officer 5] and the workers undertook these, with the assessment finally agreed by [Officer 1 and Officer 5] in February 2007'.

42. I noted that a 'Consultation' with Officer 1 and Officer 5 was listed in the 'action required' column of the form, along with presentation at the RRG. The 'timescale' entry for both these actions was blank. The form showed that the carer's assessment was approved by Officer 1 in July 2007.

43. When I questioned the Council on the apparent eight month delay in allocation of the assessment to a social worker, the Council said:

> 'The request for a carer's assessment was made in November 2005 and it would be normal practice for the child's worker to undertake this assessment also. In most other circumstances, the carer's assessment would be completed within a 6-week period. However, due to ongoing and significant difficulties in relation to the family's communication with the service it was felt necessary that another worker should be allocated to undertake this specific task. The family were advised on the decision to allocate a further worker to the case in a letter dated 26th April 2006 and the reasons for this.'

44. The Council said:

> '[Officer 4] was allocated to undertake this task in April 2006 and the worker sought permission from the parents on 28 July 2006 to contact relevant agencies in completion of the carer's assessment. It is noted that permission was given by [Mr C] within the telephone conversation and the worker lettered relevant agencies on 31 July 2006 requesting information in relation to completion of the carer's assessment. The worker visited [Child C's nursery] on 11 August 2006 as part of the observations for the carer's assessment.'

45. The Council explained:

> 'There followed a number of communications from relevant agencies expressing concern about the releasing of information given their ongoing

difficulties in communication/information sharing in respect of the family. This was compounded by the workers' difficulties in engaging with the family and due to these factors there was a significant delay in the completion of the assessment.'

46. When I asked the Council why Mr C's signature did not appear in either of the specified places on the back of the carer's assessment form, they said 'It would appear that file copy is in fact not the original but a copy. The carer's assessment was sent to [Mr C] on 28 February 2007. [Mr C] later advised that he did not receive this communication so the carer's assessment was re-sent this time by recorded delivery'. The Council provided a file note which indicated that Officer 4 sent a letter and a copy of the carer's assessment to Mr and Mrs C. The Council added '[Mr C] has not returned or submitted this document as signed possibly on the basis of his disagreement with the decisions'. The Council also provided a copy of a letter from Officer 5 to Mr C dated 24 May 2007, responding to a 'request for information' by Mr C, which indicated that Officer 5 sent Mr C copies of the 2005 CYPCRA and the carer's assessment, with her letter.

47. When I asked the Council why the assessment did not go before the RRG, as stated under 'required action', the Council said:

'The decision not to take the carer's assessment to the RRG was made by the previous management group. It could be reasonably considered that this decision was made on the basis that the carer's assessment did not significantly alter the CYPRA and that the additional two hours service could be authorised through the Management Team.'

48. When I asked the Council when the services identified by the Council in the 2005 CYPCRA and the carer's assessment as being necessary and approved, were communicated to Mr C as being available, they said that a home visit was undertaken by Officer 3 on 22 November 2005, at which Mr and Mrs C were advised of the services in the 2005 CYPCRA. In her notes of the visit, supplied by the Council, Officer 3 stated that Mr C did not agree with some aspects of the assessment. She also noted that Mr C had indicated that he was not happy with the six hours respite offered and said he wanted to complain. Regarding the holiday period, the worker noted that Mr C said the playscheme offered did not have some kind of 'educational/structured play or activities' which he felt Child C needed. The notes showed that Officer 3 explained

'Social Services supports are not an alternative to educational support' and said that she would pass Mr C's request to education.

49. When I questioned the Council about the delays in the completion of the carer's assessment, the Council said that at the time of completion of this assessment, the workers involved in the case at that time were reporting that they were 'experiencing a lack of ability to engage with [Mr C]'. In the documentation provided by the Council, notes on the file made during February 2007 indicated that Mr C had said he felt that Officer 3 and Officer 4 attended meetings but did not do anything and that Officer 3 and Officer 4 had reported to Officer 5 that they were 'getting more concerned about [the] overall situation'. It was also recorded that Officer 4 was 'concerned [that he was] unable to do [his] job effectively or continue assessment of need due to Mr C advising he does not want telephone contact'. The notes stated that Mr C 'advised he will view this as harassment' and that there was to be 'no sharing of information [with other agencies] without prior consent'. Officer 3 and Officer 4 expressed concern that they felt 'unable to address [Child C]'s holistic needs'.

General Care Provision during 2006 and 2007

50. The Council explained:

> 'North Ayrshire, in particular [Mr C's local area], has a lack of specialist provision from Care Agencies, in addition the services available through the Council ie After School Care and Summer Play scheme are viewed by [Mr C] as inappropriate to [Child C]'s needs. These services would have provided additional support after school, during term-time and [alternating cover of three days one week and two days the following week] during the holidays.'

51. They added

> '[Mr C]'s decision to engage support through the direct payments scheme was viewed as a positive method to secure services which he felt met [Child C]'s specific needs. From May 2006 to date the Council has supported [Mr C] in relation to advice, guidance, disclosures, and start up costs in relation to the direct payment scheme. Unfortunately [Mr C] has not been successful in securing staff throughout this period and this is perhaps a reflection of the lack of providers/potential staff in this specific area. [Mr C] has expressed his dissatisfaction with the employee costs linked to direct payments. To this date [Mr C] retains the start up costs and has not formally declined to utilise this scheme. In the context of the

very specific requirements, absence of providers in the area and [Mr C]'s continued involvement in the direct payment scheme the Council took an advisory role in relation to [Mr C] securing the assessed services of 6, then 8 hours of support.'

52. The documentation provided by the Council included copies of their correspondence with Mr C on the direct payments scheme. This showed that, in June 2006, the service manager for direct payments at the Council (Officer 6), wrote to Mr C to confirm that he would receive direct payments for Child C's 'assessed need' of six hours per week, once he had chosen a suitable employee and the relevant documentation had been submitted to the Council and approved. The letter also confirmed that the agreed start up cost would be paid into Mr C's bank account in due course.

53. On 17 August 2006, Officer 6 wrote to Mr C, enclosing a copy of a specimen contract between him and the Council. The letter explained that the funding could not be released until the contract had been signed.

54. On 2 October 2006, Officer 6 wrote to Mr C again, in response to his request for information on engaging agencies through direct payments. The Council explained that Mr C could engage someone from the Council's accredited provider list or he could use an agency of his choice, so long as they met specified legal requirements, the details of which were provided.

55. In an internal memo dated 22 December 2006 to Officer 5, Officer 6 stated that she had received no communication from Mr C in response to any of her letters. On the matter of direct payments, she pointed out that this was despite asking Mr C to contact her should he require any further information or confirmation.

56. The Council's records also stated that on 2 February 2007, Mr C indicated that he was 'ruling out the direct payments route' as it was a 'waste of time and not practical'. The records note that Mr C explained 'to employ a teacher costs £25 an hour, but direct payments only enables [him] to employ someone for £7 per hour, which is far too low a rate'.

57. The Council went on to explain that the situation with Mr C deciding not to utilise the services offered by the Council and the lack of specialist support in the area for Mr C to engage through direct payments 'continued from June 2006

to December 2007 and understandably there were periods of difficulty for the family'. They said that during this period they attempted to respond to these situations and provide support, which was available and acceptable to the family. The Council explained that these supports included assistance from Organisation 2 and Organisation 3 and two other support organisations (Organisation 4 and Organisation 5).

58. The Council were able to provide copies of a record of their communications regarding the provision of support by Organisation 2, Organisation 4 and Organisation 5.

59. The Council explained:

> 'This situation was unsatisfactory at all levels ie a service to provide regular and consistent support to [Child C] and his family appeared unachievable. Services which were available through the Council and limited providers were not acceptable to the family. In this situation, crisis cover was emerging as a regular feature of the care planning and communication in the case. Against this backdrop [Mr C] was progressing through all complaint processes and procedures in respect of the Council and other services. Within the Council, staff working directly with the family required additional support and supervision as they attempted to work constructively with the ongoing situation.'

2007 Assessment

60. The Council's records show that a further assessment of Child C's needs was carried out by a Council Social Worker (Officer 7) in December 2007 and this was recorded in a CYPCRA form. I have examined that assessment.

61. The assessment form included notes on Mr C's concerns about his and his family's needs, the inadequacy of the existing support provided by the Council and the types and level of support which he felt would be more appropriate and beneficial. Officer 7 also noted that Mr C had previously had a carer's assessment but that Mr C wished 'assessments to be undertaken in respect of [Child C]'s siblings'. Officer C clarified that Mrs C did not want an assessment for herself.

62. In her summary of the case, Officer 7 explained that she considered the family 'may be dismissing supports that could meet [Child C]'s needs

adequately because of their personal choice or anecdotal information'. She went on to explain:

> 'With respect to [Mr and Mrs C]'s wishes regarding minimum intervention within the home setting, it is likely that supports required from social services would be by way of respite type support, eg individual work with [Child C] or family support. This again might be limited to the family as they have specifics that the provider should have, eg workers trained in Applied Behavioural Analysis (ABA) [an intervention to enable learning and development which can be used by people with ASD]. If the family agree to take the resources offered this would be supported and monitored by the case social worker to implement the services offered. The writer is of the view that this family are at high risk of crisis, given [Child C]'s high level of need and consequently impact upon the family dynamic and lifestyle in which his parents are striving to attain the highest possible standard, for each family member. The risk mainly arises from the lack of informal/formal supports in relation to [Child C]'s assessed needs and the stresses around this, therefore, it is critical that the family consider supports offered to prevent the above.'

63. Officer 7 noted under 'Carer's Views' that Mr and Mrs C:

> 'are clear that any intrusion into the family home is to be of a minimum nature and only when it is absolutely necessary. They wish their family life, dignity and privacy to be respected as much as possible. With this in view, any assistance with regard to support to the family they wish to be undertaken outwith the home and with workers trained in ABA techniques. Also that the service is flexible and responsive to the family needs and crisis points.'

64. Officer 7 concluded that the 'identified needs' of Child C and his family were:

> '(a) Rolling respite or respite-during crisis, eg if an emergency arose and parents are not able to care or if they require a break, eg if sleep deprivation gets too much that it affects family functioning.
>
> (b) Individual support with worker experienced in Autism, to meet [Child C]'s social/leisure/skill needs. This would allow both [Child C] and his family respite. The level of support may require to be increased over the school holidays, depending on parents' work commitments. [For] school holiday periods, [Child C] will require to be out of the house for the

same period as on normal school days. [Child C's school] can offer provision, alternating cover 2 days one week then 3 days the following over the holiday period. This would also allow [Child C] to maintain his already established school links. The above provision could be supplemented by input from [a carer from Organisation 2] to support [Child C] for a period of time during the day.

(c) As an alternative to the above, out of school/day care support or play scheme could be considered for [Child C]'s siblings to allow [Mrs C] to manage [Child C] on her own.

(d) Social/Recreational support at the Saturday club run by [Organisation 1]. This is on a monthly basis to meet [Child C]'s social/recreational needs. Would also offer respite from and to the family.'

65. When I questioned the Council on how the 2007 assessment was initiated, they explained:

'the Acting Operational Manager allocated a fresh assessment of the family to [Officer 7], via supervision on 1 November 2007, in consideration of [Mr and Mrs C]'s dissatisfaction with all agencies and provision prior to that time and in order to promote a better working relationship with the family to enable an agreed Care Plan for [Child C].'

66. When I asked the Council if the 2007 CYPCRA went before the RRG for approval, they said '[It] did not come before the RRG in 2008, due to the ongoing and complex nature of the family's dissatisfaction with all agencies at this time. The decision of the Council was that [Officer 2] would be the link and liaison with the family in respect of all care planning decisions for [Child C]. Therefore, the co-ordinated support process overseen by [Officer 2] superseded the RRG requirement to consider the care plan.

67. I also asked the Council to comment on a number of specific concerns Mr C had about the 2007 CYPCRA, namely:

- he did not have sight of the 2007 CYPCRA and have an opportunity to have his views recorded;
- the Council did not observe Child C in the community and mainstream activities and facilities where Mr C said his son needed most support. Mr C stated that the Council only viewed his son at a specialist school and at home after school;

- the timescale of the observation which was done was not sufficient; and
- no cognisance in the 2007 assessment was taken of Child C's sleep problems, Mr C's needs and the 2:1 staff ratio Child C had been assessed as needing.

68. In response to these points, the Council said:
'[Mr C]'s views are well documented throughout the assessment indicating that he did have his views recorded. However it is correct that he did not initially receive a copy of the completed assessment. Apparently one was sent to him by post and he did not receive it. This became apparent when [Mr C] contacted the department and another was sent out to him recorded delivery'.'

69. The Council explained 'The assessment was undertaken using normal practice, observing in the home and school and contacting all the professionals involved for input. The observations and liaison with other agencies and consultation with family were considered sufficient to complete the assessment at that time'. The Council said that Child C's sleep problems were discussed at three separate points on the assessment form and that Mr C's needs and those of his family were considered at two separate points. The Council referred me to the relevant text. The Council went on to explain 'The 2:1 ratio was negotiated with [Mr C] post assessment by his current worker, [(Officer 8)], in response to the identified change in [Child C]'s needs. In addition it is noted that [occupational therapy] staff have been involved in supplying a safe space sleep system in direct response to [Child C]'s sleep difficulties'.

70. On the copy of the 2007 assessment, Officer 7 noted that the safe space sleep system was ordered and was due to be installed on 28 February 2008. Mr C's needs are clearly discussed in the document and supports to assist with this listed in 'Identified needs' at the end of the document. This included an option for 'support counselling' for Mr and Mrs C.

71. When I asked the Council to detail the specific criteria for assessment applied in all three assessments in this case they referred me to the relevant pages of the Procedure. These have been included at Annex 4.

72. The Council explained 'There is evidence throughout the reports that the assessment principles [contained in the Procedure] of acquiring and sharing information with relevant agencies and individuals with a key role ie the family,

have been carried out. For example, [Child C]'s Clinical Child Psychologist is consulted in the 2005 document as were [Child C's nursery] and, [the] Head Teacher, [Child C's school], whilst in the 2008 report the writer has clearly made various references to consultation with the family'.

73. I asked the Council about the 1995 Act which states 'where requested to do so by the parent or guardian, the Council shall carry out an assessment of … a child in that family who is adversely affected by the disability …' and asked whether the Council considered the impact of Child C's disability on his siblings in the 2005 and 2007 assessments. I also noted that Mr C requested an assessment of Child C's siblings at the time of the 2007 assessment.

74. The Council provided copies of the 2005 and 2007 CYPCRAs in which they highlighted the text which they said indicated that they had included or considered the impact of Child C's disability on his siblings. I examined both of these documents.

75. The Council said 'There is evidence throughout the CYPCRA assessments of 2005 and 2007 which suggests that the impact of [Child C]'s Autism on the rest of the family has been considered by the social workers involved'. They referred to Section E of the 2007 report, under the heading '[Child C]'s siblings', where reference was made to Officer 7's assessment that Child C's siblings were 'stimulated, active and sociable' children. The Council said '[Officer 7] also acknowledged that the family were considering postponing school entry in liaison with educational psychologist in relation to [their second eldest child]'s 'sensitive and nervous' disposition. They said 'This would be indicative of a multi agency response to siblings' needs'.

76. The Council added 'Similarly, holiday provision funded and supported by social services makes provision for the parents to spend increased time with [Child C]'s siblings. The 2007 report also reflects and respects [Mr & Mrs C]'s wishes that minimal intervention within the family home takes place. In assessing, identifying and providing supports to [Child C] outwith the family home it is acknowledged that subsequently the family has additional time to support, stimulate and care for [Child C]'s sibling group'.

General Care Provision from December 2007 to May 2008

77. The Council explained 'From December 2007 a service provider [of respite (Organisation 6)] has been available within [Mr C's local area] and has

undertaken individual work with [Child C]. This service has been flexible and works with [Mr C] on a personalised programme, which meets [Child C]'s, and his family needs. The Council is delighted that a service is now available and under the CYPCRA will finance and review this service as appropriate'.

78. The Council provided a copy of their records which stated that 34 hours' respite cover was offered by Organisation 6 over the period 27 December 2007 to 4 January 2008. The records also verified that, in February 2008 the Council wrote to Mr C verifying that he could continue to access eight hours' support per week from Organisation 6 during the assessment process.

79. The Council also provided copies of responses to letters of complaint from Mr C, including a response sent in January 2008, in which they asked Mr C to reconsider his decision to ask for a postponement of a multi-agency meeting scheduled for 31 January 2008 to discuss Child C's needs. The reason given for Mr C's request was that all social work assessments had not been completed. In the letter, the Council said they felt that the meeting seemed 'the most effective way of addressing Mr C's various concerns regarding the assessment and would allow some progress to be made developing the CSP and ultimately ensuring that [Child C]'s needs are met effectively'. In the event, the meeting went ahead without Mr C.

80. The Council added 'In recognition of the family's need for support at holiday periods and their positive use of [Organisation 5] a further 140 hours support (35 hours x Summer; Easter; October; Christmas) has been included in the CYPCRA/[CSP]'.

81. The Council explained that the 'identified needs' listed in the 2007 CYPCRA were to be included in the CSP for Child C. The Council said that the 2007 CYPCRA was given to Officer 2 so that he could do this.

82. The Council said that the content of the CSP was negotiated over a period of time with Mr C and that during that period they were also dealing with formal complaints from Mr C about the level of support provided by the Council. The Council explained that they got to the stage where they told Mr C that they were going to implement the CSP, even though the content had not been fully agreed, as they would be failing in their duties if they did not. The Council said that they provided Mr C with their finalised CSP in June 2008.

83. The Council clarified that there had been no further assessments of Child C. They said that Officer 8 had tried to meet with Mr C and his family in their home, but that this had been refused by Mr C. They explained that the most recent meeting between Officer 8 and Mr C had taken place at Mr C's place of work, as requested by Mr C.

(d) Conclusion

84. It would appear, from the documentation on this case, that there has been a breakdown in the relationship between Mr C and the Council and that this situation has existed for some time. The evidence shows that the Council undertook assessments of Mr C and Child C, as well as considering the needs of Mr C's three other children and that Mr and Mrs C's views were recorded throughout. Mr C does not agree with much of the content of the assessments and is very unhappy with the support offered. However, it is not for me question the professional judgement of the social workers who carried out these assessments and made their recommendations, or to question the judgement of the officers who approved the recommendations. It has been my role to consider whether the Council followed their processes and procedures in their handling of Mr C's case.

85. It is clear that the assessments did take some time to be completed, and in the case of Mr C's carer's assessment, this ran to one year eight months in total from referral to approval. This does appear to be an excessive length of time and clearly falls outwith the timescale specified in the Procedure. However, as well as considering the Council's actions here, I have to consider Mr C's own actions and the way I consider they have contributed to the difficulties in this case.

86. There are several examples of these within the extensive paperwork on this case. These included Mr C's consistent disagreement with the Council's views on this case and his refusal to accept much of the support offered by the Council, as it did not accord with his own views on appropriate care for his family. This included workers having to be trained in ABA and services to be provided outwith the home only, as intervention in the home was seen as intrusive. Mr C insisting that his consent be obtained prior to sharing information with other organisations and his requirement that visits by the Council's social workers should be taped. Mr C's insistence that he and Mrs C be contacted, not by letter or telephone, but by email, which, because of data protection and confidentiality issues, has clearly been difficult for the Council

and has contributed to delays. Mr C refusing to attend the multi-disciplinary meeting planned for 31 January 2008 to discuss his son's care and the needs of the family. This would have been a most valuable and appropriate mechanism for Mr C to try and resolve some of his various ongoing complaints. In my view, all these actions by Mr C have contributed to the breakdown in communications and relationships in this case and impacted on the Council's attempts to deliver services to Mr C and his family.

87. In reporting on any case, I must be balanced in determining how any body has fulfilled, or not, their responsibilities and duties. I must also look at whether the complainant has co-operated fully with that body in their own efforts. There is detailed evidence on file of all the different people who have been involved in Mr C's case and, in my view, who have tried their very best to deliver services in accordance with procedure and within the resources available. However, I believe that the evidence shows that Mr C has not co-operated fully in this case and that this has contributed significantly to the situation in which he and his family now find themselves.

88. In conclusion, I am of the view that the Council have assessed Mr C and his family's needs for social work services supports and endeavoured to provide these supports in accordance with procedure. Therefore, I do not uphold this complaint.

89. I have, however, noted that the Council's assessments of Child C's siblings did not appear on separate assessment forms. Although there is no requirement for this to be done, I consider it would be good practice to do so as it would allow for the focus of the record of assessment to be on each child and their individual needs and place in the family. I would, therefore, suggest that in future the Council consider recording such sibling assessments on separate forms.

(e) The Council failed to inform Mr C that from 6 April 2008 Child C would lose his right to all his 'banked hours'

90. Mr C claimed that at previous multi-agency meetings the Council told him that the hours of allocated support which could not be delivered locally, due to difficulties in identifying a service provider, could be 'banked', or carried over from one financial year to the next, and accessed when a suitable service provider was found. Mr C said he was advised that he would not, therefore, lose his entitlement to these hours.

91. Mr C explained:

'When we actually found a provider in [our area], within two weeks of getting set up with this charity … , we asked for these hours to be given to [Organisation 6] to allow [Child C] to get out of his house each day and into the community. Immediately the social work department refused, stating, as an excuse, that the banking of hours could not be carried over financial years.'

Mr C said 'This decision does not reconcile with the facts that the 'banked' hours had already been carried over financial years'. He said 'It has also been confirmed that there is no policy governing the need to take away these 'banked' hours'.

92. Mr C added:

'At no point in the lengthy and many recorded delivery letters sent to us by the social work department over the years, and in particular last year, did the social work department inform us that [Child C] would lose his right to all of his 'banked' hours on 6th April 2008. The non-communication of the removal of the 'banked' hours on the 6th April 2008 was maladministration, incompetence and neglectful resulting in a significant impact on our severely disabled son.'

93. In response to my enquiries on this matter, the Council explained:

'the [CYPCRA] undertaken by [Officer 3] in October 2005 identified a need for 6 hours a week support to [Child C]. The Carer's Assessment completed by [Officer 4] in February 2007 identified a further need in respect of [Child C]'s carers as an additional 2 hours per week. In normal circumstances under the direct payments scheme, if a child does not receive the hours of care they are assessed as requiring it is not possible to 'bank' these hours for a lengthy period, as the child needs this care. Hours would normally only be banked if the child was ill, for example, and could not benefit from them.'

94. The Council explained:

'[Mr C]'s was an exceptional case in that [Mr C] was not willing to accept any of the three providers used by the Council to provide support to his son and he also did not appoint a provider himself through the direct payments scheme. This meant that [Child C] did not receive the support

he needed. [Mr C] has been provided with advice and support to use the direct payment scheme and the start up costs remain in his account. He has not completed the documentation needed to participate in the scheme.'

95. The Council went on to explain:
'As he is not participating in the direct payment scheme, it is not possible for [Mr C] to 'bank' hours. The discussions and correspondence with him implies this is the case, but this was done on the assumption that he was about to participate in the scheme. It was confirmed by letter in May 2007 that the cost of a family holiday to provide residential respite at an [outdoor centre in the north of Scotland] would be met from the 'outstanding hours'. This was done by the manager using her discretion in view of the unusual circumstances of this case.'

The Council provided a copy of the letter, which verified that the cost of the holiday was being met by the Council 'as part of the outstanding hours' service provision hours for [Child C]'.

96. The Council said 'In July 2007, at [Mr C]'s request, a calculation was made in respect of the hours assessed need. The total assessed was 425. [Mr C] stated that he had been advised these hours would be banked'.

97. The Council records show that in their letter of 25 July 2007, the Council indicated that they were aware that there had been a historical agreement with Mr C that Child C's assessed hours of support could be 'banked and utilised by Mr C'. In their letter, the Council went on to explain that before they could fund the services of the service provider nominated by Mr C, the provider would have to go through a legitimate vetting process such as direct payments. The Council told Mr C 'I have looked at the historic agreements in relation to your son's assessed support needs. As I understand it you have been advised that these agreed hours could be banked and not lost. In total, taken from 25 October 2005 to 31 July 2007, this has been calculated as standing at 425 hours remaining of unused support'. The letter went on to explain to Mr C that the direct payments process could be started as soon as the necessary checks on the proposed service provider had been completed.

98. The Council said '[Mr C] was advised by letter in April 2008 that there is no policy surrounding banked hours and that they can not be carried forward into

another financial year'. The Council explained 'For individuals participating in the direct payments scheme, within the Council's budgetary and resource allocation processes it is not viable to set aside accruing unused funds whilst other urgent service needs are possibly delayed or denied. This is particularly relevant in this situation given the protracted difficulties in matching need and resources, which are acceptable to the family'.

99. In the copy of the letter to Mr C the Council acknowledged that 'the previous manager may have agreed that hours be banked' but explained 'there is no policy for this and this agreement would not have been able to be carried forward into another financial year'. The Council apologised that 'this situation was not made clear' to Mr C.

100. The Council also provided me with copies of summaries of discussions between Council staff and Mr C in October and November 2006 in which the issue of carrying forward unused hours was raised. In the November 2006 summary, the Council noted that Mr C had indicated that he wished to carry forward his unused hours to the summer.

(e) Conclusion

101. The documentation available on the issue of 'banked hours' shows that the Council acknowledged that there had been an agreement whereby Mr C was to be allowed to carry forward unused hours of support for Child C from one financial year to the next. Indeed, the letter of 25 July 2007 stated that the Council had calculated the total unused support for Child C at that time over the period 25 October 2005 to 31 July 2007, thus covering three different financial years. The Council have been unable to provide any documentation, in which they gave Mr C any advance notice of their decision that he could no longer carry forward the unused hours.

102. I acknowledge that the Council did not anticipate that there would be such difficulties in Mr C finding a service provider that he considered acceptable and that this would have led to the delays in this case. However, the Council should have advised Mr C at an earlier stage that they intended to terminate the arrangement. This, in itself, might have provided further necessary impetus to Mr C to accept the Council's various offers or to secure the necessary support himself.

103. Therefore, on the basis that Mr C was led to believe the hours could be banked and was then told, with no notice, that they could not, I uphold this complaint.

(e) Recommendation

104. The Ombudsman recommends that the Council re-instate Child C's unused hours of support for the period 25 October 2005 to 25 April 2008.

(f) The Council failed to allocate Child C a new social worker, after the previous one left in December 2007

105. According to Mr C, Officer 7 'disappeared' in December 2007 and her replacement, Officer 8, did not appear until June 2008, approximately six months later. He said that he could not find any letter stating when Officer 8 started but said that he remembered 'various phone calls from [Officer 8 made at the beginning of 2008] when [Officer 8] stated that he was not [Child C]'s social worker but expected to be in the future'. Mr C said Officer 8 requested a meeting at Mr C's place of work on 29 May 2008 and claimed that Officer 8 said at the meeting that he 'was still not [Child C]'s social worker'.

106. Mr C later advised that he had made a data protection request of the Council and said that he could not find any letter notifying him of the change of social worker in the documentation supplied by the Council. Mr C said he felt it 'strange' that the Council did not notify him in writing of such an 'important change'. Mr C said he felt that this was another example of maladministration by the Council.

107. In response to my enquiries on this matter, the Council explained that the social worker in November/December 2007 was Officer 7 and that she undertook a CYPCRA in respect of Child C. They said that Officer 7 remained caseworker for Child C until the transfer of the case to Officer 8. The Council explained that a joint visit to introduce Officer 8 was arranged with Mr and Mrs C for 7 February 2008, however, Officer 7 was involved in a car accident and so Officer 8 telephoned to cancel the visit.

108. When I asked the Council to clarify if the postponed joint visit took place, they explained 'the postponed meeting did not take place due to Officer 7 being involved in a car accident'. The Council went on to explain that Officer 7 remained in post until 24 April 2008, when she left to take up a post with another local authority. They explained that Officer 8's involvement as Child C's

social worker was evidenced in case observations from 13 February 2008. The Council said that Officer 7 and Officer 8 and their respective managers progressed the case management and transfer during the period 4 February to 24 April 2008. The Council advised that Officer 8 had recorded significant communication with Mr C over this period in relation to activity and other supports.

109. The Council, added 'Although social services involvement is on a voluntary basis due to the nature of the difficulties, the Council and service ensured there was no break in case management. In reality there was a period of 7 weeks' staff crossover'.

110. The Council provided copies of various communications between Officer 7 and Mr C over the period 8 November to 15 February 2008 as well as records of telephone calls and actions by Officer 8 relating to Child C's case. The documentation showed that in the last communication between Officer 7 and Mr C on 15 February 2008, Officer 7 provided Mr C with information on how to have an individual considered for the Approved Provider List. When I asked the Council if there was any evidence of further contact between Officer 7 and Mr C, the Council claimed that 'anecdotal evidence suggests there was continued contact by phone by [Officer 7]'. However, they explained that there was no documentary evidence to support this.

111. The Council's records show that when Officer 8 telephoned Mr C on 7 February 2008 regarding the cancellation of the joint meeting between Officer 7 and Officer 8 and Mr and Mrs C, he left a message for Mr C with Mrs C. The records show that when Mr C returned Officer 8's call later that day, Officer 8 explained to Mr C that he would be 'assuming responsibility for [Child C] after a transfer meeting had taken place on 5 March 2008'. Officer 8 also noted '[Mr C] stated that he accepted that there would be a period of time before I was [Child C]'s social worker, however, he asked that I got Officer 7 to call him later on in the day as he needed to get some reassurances from her about supports'. When I asked the Council if Officer 7 contacted Mr C, they said that 'anecdotal evidence' from Officer 7's colleagues 'suggests' that she did respond to Mr C's request to call him back, however, the Council acknowledged that there was no record of the telephone call.

112. The records supplied by the Council show that Officer 8 made some enquiries of other agencies regarding support for Child C between 13 and

18 February 2008. There was no evidence of any direct contact between Officer 8 and Mr C after 7 February 2008. When I questioned the Council further on this, they said that the next direct contact between Officer 8 and Mr C had been on 26 March 2008. They provided a copy of a telephone record which showed that Officer 8 telephoned Mr C on 26 March 2008 to 'update him on his request for information [about] his 'grade 3' complaint, [a disability snow sports centre] and [a climbing centre]'. The record stated that Officer 8 left a message for Mr C on his mobile phone.

113. The Council records show that the transfer of Child C's case from Officer 7 to Officer 8 officially took place on 5 March 2008. The Council said the 'meeting to transfer the case to [Officer 8] did not take place as [Officer 1] was ill and off for a substantial period. They explained 'the transfer meeting of 5th March would have been a formal professional handover of the case by [Officer 1] to the appropriate worker'.

114. When I briefed Mr C on the response from the Council and the evidence in the records of telephone calls and letters they had provided, Mr C said he had no memory of a telephone call by Officer 8 on 7 February 2008. He also confirmed the Council's account that the introductory meeting with Officer 7 and Officer 8 did not take place.

(f) Conclusion

115. The Council have produced a record which stated that on 7 February 2008, Mr C was advised that Officer 8 would be 'assuming responsibility for [Child C] after a transfer meeting had taken place on 5 March 2008'. Although Mr C has no recollection of the telephone conversation, I have no reason to doubt the Council's records made at the time. I, therefore, accept these as sufficient evidence that the Council advised Mr C of the identity of Child C's new social worker and the date on which Officer 8 was due to take over that role. It clearly would have been preferable for there to have been a handover meeting between Officer 7 and Officer 8 and Mr and Mrs C, however, the Council had valid reasons for cancelling this joint visit and for being unable to re-schedule this for another time. This was unfortunate, but understandable, under the circumstances.

116. There is no documentary evidence that Officer 7 telephoned Mr C in response to his request on 7 February 2008 to provide him with assurances about the support for his son until Officer 8 took over as social worker on

5 March 2008. However, it is clear that Officer 7 was in contact with Mr C after 7 February 2008 as she wrote to him on 15 February regarding the list of approved providers of support. Although there is no record of any direct contact between Officer 7 and Officer 8 and Mr C over the period 15 February to 26 March 2008, there is no evidence that Mr C contacted the Council by telephone, email or letter to express any concerns about this. The evidence also shows that during the period 13 to 18 February 2008, Officer 8 was taking steps to try to secure supports for Child C.

117. In conclusion, I can find no evidence to support Mr C's view that the Council failed to allocate Child C a new social worker after the previous one left in December 2007. I, therefore, do not uphold this complaint.

Complaints against the Board

(a) During the period May 2006 to September 2007 the Board failed to provide appropriate care to address Mr C and his family's deteriorating health, resulting from the Council's alleged failure to fulfil their duties towards Mr C and his family; (b) During the period May 2006 to September 2007 the Board failed to put in place a programme of intervention to meet Child C's needs; and (c) During the period May 2006 to September 2007 the Board failed to provide proper care to alleviate the distress caused to Mr C and his family from the effects of his son's disability

118. In his complaint to the Ombudsman's office, Mr C raised numerous specific concerns about the service provided by the Board, as well as the Board's response to his formal complaint. I have not included all of these here, as both parties to the complaint are fully aware of them.

119. Mr C suggested that the Board had no evidence that Child C's health needs were being met, as they had suggested, and that all the evidence showed that Child C and his family were displaying signs and symptoms that gave credence to the view that their needs were not being met. Mr C said that evidence provided in a report produced by an autism charity (Organisation 7), on Child C supported his view.

120. Mr C claimed that the one hour speech and language therapy was inadequate and that research suggested a 20 to 40 hour a week program would be required in order for Child C to make progress. Mr C claimed that the Board had failed to provide a 'Defeat Autism Now' registered doctor, as recommended by an organisation which assesses and treats children with autism,

(Organisation 8). Mr C said that he had 'countless meetings with and visits by Occupational Therapy', who, he said, consulted but did nothing. Mr C complained about the lack of adaptations in the home for Child C, the Board's failure to carry out a risk assessment of Child C's home environment and the lack of input from the Community Paediatric Nurse.

121. Mr C complained that, in their final response to his complaint, the Board totally avoided the issue of putting in place an appropriate programme of intervention to meet Child C and his family's health needs. Mr C complained that the Board had refused to offer any further help to him and his family and had, instead, suggested that he contact his GP or the Council's social work services, for further support. Mr C complained '[the Board] have no grasp of the facts, or the position that [Child C] and his family is in'. Mr C said 'It is the dysfunctional nature of the Social Work department and [the Council] as a whole that has put us in the predicament we are in. We have been in constant contact with them to no avail. This has now impacted on us so badly that it is affecting our health'. Mr C said he felt that nobody seemed to want to take responsibility for 'putting in place an appropriate intervention to alleviate the negative affect on [Child C] and his family's health'.

122. As part of my enquiries of the Board, I asked them to outline their obligations to support Mr C and his family in terms of general NHS service provision. The Board responded as follows:

> 'The advice of Scottish Health Service Centre Legal Office (CLO) has been sought in order to clarify the Board's obligations in this case. CLO have advised that in terms of Section 2C of the National Health Service Act 1978, a Health Board is required 'to meet all reasonable requirements, provide or secure the provision of primary medical services as respects their area'. There is a degree of subjectivity conferred by the 1978 Act in that the Board must meet all 'reasonable requirements.'

123. The Board said that the only other specific legal requirement which had been highlighted by CLO related to Section 9(2) of the Community Health (Scotland) Act 2002, which adds the following provision to the Social Work (Scotland) Act 1968 'the local authority shall notify the carer that he may be entitled to request an assessment of his ability to provide, or continue to provide, care for the persons cared for'. The Board said 'Whilst this is not a responsibility of [the Board], we have been advised by local authority social

work colleagues that a 'carer's assessment' has been undertaken'. The Board added:

> 'CLO have concluded on the basis of the information presented to them, that it would appear that the 'additional care' requested by Mr C is not in fact health related care as such, and that this does not fall within the remit of the Board, but is more likely to fall to be dealt with by the local authority. It is then for the local authority to justify why they have not provided the additional care requested. It is acknowledged that Health Boards are required to work in partnership with local authorities, but it is CLO's view that does not mean that a matter which is not health related should be taken from the health service budget if it is for the local authority to provide it.'

124. When I asked the Board to verify if they had fulfilled their general obligations to Mr C and his family, they said that they had provided general medical services. They explained that, based on a detailed health assessment, interventions were carried out and continued to be undertaken. The Board made reference to input in terms of Occupational Therapy and Speech and Language Therapy. The Board also mentioned that they had co-operated fully with the Council to support them in the preparation of a CSP. The Board considered that they had fully met their obligations in respect of the family and that all health related needs which had been identified had been addressed. The Board acknowledged that Mr C had highlighted some areas where he felt the NHS should provide additional support, but from the statements made by their clinicians, it was their contention that there was no evidence base to support the implementation of these proposals from a health perspective.

125. I obtained more detailed information from the Board on the care and treatment they provided to Mr C and his family, including copies of Child C's medical records. I later made a another enquiry of the Board on Mr C's complaint and obtained copies of multi-agency meetings for the period in question and further details on the Board's 'detailed health assessment' of Child C.

126. In their response, the Board explained 'the family has had a long involvement with the health services, and the process of assessment is very much an on-going process and is often, particularly in complex cases such as this, the combination of multi-disciplinary involvement and engagement rather than solely as a result of a formal assessment process'. The Board provided

copies of assessment documentation from the clinicians most involved in Child C's case. I then supplied all this information, along with key documents on Mr C's complaint against the Council, to Adviser 1 and Adviser 2 for consideration. I asked Adviser 1 to comment on the general care management for Child C and his family. I asked Adviser 2 to provide information on the care and support offered by the Board. I have set out both the Advisers' views below.

Adviser 1's views

127. Adviser 1 said:

'The records relating to this case are extensive and complex. It seems that the first assertion in Mr C's complaint is inextricably related to the second and third. It appears that Mr C believes that the distress being experienced by the family is directly related to the effects of Child C's disability and the health and social care needs and challenging behaviours arising thereof. He further believes that the aforementioned needs are being ineffectively addressed and that the ongoing difficulties are adversely affecting the health of other family members.

The provision of care to Mr C and his family

There is little doubt that the challenges inherent in supporting someone at home with complex needs and challenging behaviours such as Child C's, can potentially be detrimental to the emotional health of other family members. In order to minimise the effect of these pressures it is necessary to effectively engage the principal carers within the family at every stage of the care process in an ongoing and consistent manner. This includes not only involvement in the assessment and care-planning phases but also in the delivery of interventions and the evaluation of these interventions. By establishing effective, collaborative working relationships with families, care-teams can enable them to recover greater control over their lives – this is critical in minimising stress and feelings of powerlessness. The communication and carer involvement in this case may not have been as effective to date as it might and (although not always) for some time now it appears to have been more reactive to Mr C's complaints rather than a proactive process of positive engagement involving all stakeholders.

Recognising when family members have health and social care needs of their own is also of vital importance and whilst it may not necessarily be

the responsibility of the care-team to meet those needs, they do have a responsibility to 'signpost' the family to appropriate services. From my review of the documentation I have no sense that this has not been carried out in this case.

The programme of intervention to meet Child C's needs

The use of a professional and systematic approach to assessment and care-planning is evident from the records. This approach focuses on 'strengths' as well as 'needs' and is consistent with recognised good practice in this regard.

Child C appears to have been thoroughly assessed and investigated and no remedial cause found for his difficulties. In light of this it seems appropriate that the focus should be on supporting him and his family to cope with his condition as far as their capabilities allow.

I note that some 'medical' interventions have been suggested by [Organisation 8] related to diet and dietary supplements however in the absence of reliable clinical evidence I do not believe it would be good practice for the care-team to advocate their use. They may have a role, however, in providing advice to the family should any potential harmful effects or contra-indications be associated with any such interventions and it appears that they are willing to provide such guidance.

The [SIGN 98 [2007] guidelines] appear to have been a point of reference for the health care team in the planning of care and treatment – this is consistent with recognised good practice.

Although there is no active treatment in process at the moment, I note that Child C's case is still 'open', as far as Psychology is concerned, thereby enabling ready access to Clinical Psychology Services should the need arise in the future. This is not usual procedure and is in response to the degree of stress being experienced by the family. I also note that a Clinical Child Psychologist [(Doctor 1)], has been involved in the provision of consultation to other professionals involved in the case.

The allegation that the Board failed to provide proper care to alleviate the distress caused to Mr C and his family from the effects of his son's disability

Mr C seems to believe that the Board should pick up responsibility for the delivery of care and support strategies which the Council are unable to provide (for whatever reason). From my understanding of his correspondence he seems to feel that this responsibility arises because, in his view, ongoing failure to provide said services would (is) having a detrimental effect on the health of other family members. However, there are many social problems and problems of living which can have a negative impact upon a person's emotional health and functioning – relationship breakdown and financial difficulties being two examples – it does not necessarily follow that because such problems have a health impact, that it is the responsibility of the health service to provide solutions. This does not mean that healthcare providers have no responsibility, and once again the effective solution is likely to be found in meaningful collaborative working across agencies and in an approach which advocates carer participation.'

Adviser 1's Conclusion

128. Adviser 1 concluded that:

'The provision of effective care to vulnerable individuals with complex conditions and multi-faceted health and social care needs (and their families) can only be implemented and maintained through effective collaborative working across agencies and with the full and meaningful involvement of all stakeholders.

Good practice suggests that this would typically include regularly scheduled meetings to which all stakeholders are routinely invited. Such meetings should, as far as is practicable, be arranged at times and in venues which enable carers to attend. Agendas should be circulated in advance and carers should have the opportunity to put matters they consider to be important on the agenda for discussion. The most recent assessments and assessment updates from the various agencies involved should be available for discussion and review. Action points agreed at meetings and the person/agency responsible for carrying them out should be recorded and circulated to all participants as soon as is practicable after the meeting. The date, time and venue of the next review meeting should be agreed before the end of each meeting and this information also circulated.

It is usually helpful to appoint a 'care co-ordinator' or 'key-worker' from the personnel involved and it becomes this person's role to liaise across agencies and be the primary point of contact for the carers.

In this particular case, from the available records, it seems that attempts to co-ordinate care in the above manner have been made but not in a consistent and ongoing way. This may be the root cause of the prevailing situation and ineffective relationships between the family and statutory care providers.

Such an approach (as described above) is not in itself an intervention or treatment but a process to support joined up care and support - a quality issue in fact. It formalises inter-agency communication and does not leave the transmission of information to chance. The process can complement other service activities – such as the development and review of CSPs. It requires all to be explicit about their roles and gives clarity to the carers as to what they can expect. Effective use of the process can maximise the best use of available resources. It avoids duplication and minimises risks. The benefits of properly co-ordinating care by a number of staff and agencies, joint communication and informed involvement of carers should not be underestimated.

It may be helpful for the stakeholders to 'regroup' to agree, re-establish and commit to effective future collaborative working arrangements, including a set of principles upon which future care should be based.'

Adviser 2's views

129. Adviser 2 said:

'The CYPCRA assessment report from 2005 is the assessment of need by [the Council] from that period, and guides the resource allocation for the needs of the family. [The Council] at their meeting of 25 October 2005 decided that '6 hours respite should be sufficient for [Child C]' because 'of his age and the number of services he receives'.

A report written by [Doctor 1], and [a] Consultant Paediatrician [(Doctor 2)], dated 30 May 2006 notes that [Child C] has a diagnosis of severe autism. He has significant difficulties in the areas of communication, language and social behaviours, is not toilet trained and requires help in all aspects of personal care and hygiene. He was assessed as having a chronological

age of 13 months when he was 5 years old. The Team point out the importance of structure, and that 'early and planned intervention of sufficient degree would be much less likely to result in the need for emergency care later on'. His sleep pattern has deteriorated markedly and this makes the situation at home more stressful than in previous years, as [Child C] now had 3 younger siblings, one of whom was a 6-week-old baby. They suggested that [Child C] needed as much structure as possible over the summer months.

[Mr C] then wrote to the Chief Executive of [the Board] to ask for funds to be identified to put in place the type of intervention needed to maintain [Child C], and the family's state of health. I note the report by [Organisation 7] is both detailed and extremely comprehensive, and covers the full range of [Child C]'s strengths and deficits in functioning. He was tested as achieving a chronological age of only 13 months, with no verbal skills, no awareness of danger, extremely restless and mobile, and unable to reciprocate or respond to most initiatives from the examiner except sensory contact, eg tickling.

A multi-disciplinary Report dated 18 June 2007 was provided by the team from the Community Paediatric Service [(CPS)]. Details of input by various members of the multi-disciplinary team are spelt out in the Report, which I find to be quite comprehensive, and in line with good practice. Treatment is seen as 'mainly educational and behavioural'. I note that 'it has proved difficult for the family to initiate and maintain a consistent programme in relation to assisting [Child C] to use the toilet appropriately', given the level of need of his other siblings. Similarly other behavioural strategies were suggested, which come across as totally appropriate, but it would appear that the parents were unable to implement them given the multiplicity of other siblings' demands. It was also identified that [Child C] does not have an awareness of common household dangers, or of safety when out in the community, as he has a tendency to run off suddenly. It was clear that he needed one to one support, and constant supervision.

I note that there was a reference to the 'biomedical screening' and medical interventions such as dietary adjustments and specific supplementations suggested by [Organisation 8]. I agree that these are not common practice in the Child and Adult Mental Health Services (CAMHS) [or CPS],

in the NHS, nor are they mainstream medical practice, evidence based in terms of benefit or found within the SIGN guidelines.

The Report also stated that a request was made from [Doctor 2], for the Child Health Commissioner at [the Board] to look at coordinated inputs, including from leads from Education and Social Work, to meet the needs of [Child C] and the family. [Doctor 2] also recommended a structured environment, and a regular routine and pattern of activities. There was a risk to the health and wellbeing of the family overall if this is not provided, and there were 'broader service delivery issues which cannot be addressed by individual clinicians'.

In terms of the care and treatment provided for [Mr C] and his family by [the Board] during the period of May 2006 to September 2007, I would accept the view set out by [the Board] in their response to the Ombudsman's office as generally covering the obligations of a health service. I would agree that it would not be reasonable to accede to [Mr C]'s request for treatments which are not part of mainstream NHS practice, eg dietary adjustments and specific supplementations, biometric interventions, and further assessments. Further, rebound therapy, aquatics and overnight care in the home for [Child C] would not be part of the services normally provided by a health board. Rebound therapy is not a mainstream [CPS or] CAMHS intervention. Aquatics is an activity provided in specialist schools. Overnight care in the home is normally expected as part of a local authority package of home care and support, and respite.

[As Doctor 2] said, there is no cure for autism. I believe that in terms of assessments of various aspects of [Child C]'s needs, the multi-disciplinary team have carried out comprehensive assessments within the resources available to them. In addition [Doctor 2] has referred [Child C] to gastroenterology in order to ensure his loose stools were looked into by the appropriate specialty. [Doctor 2] has also written letters to [the Council] spelling out the need for structure and additional social supports. I assume he was aware of the existing provision of 6 hours of respite a week, so he was clearly supporting the need for more hours.

In terms of [Mr C]'s own needs, the Carer assessment makes it clear that [Mr C] has significant health issues that make it difficult for him to deal with

his son, eg a longstanding neck injury. The family have identified that meal times are a particular time of stress for the family due to [Child C]'s poor socialisation skills and level of hyper arousal. However [Mr C] 'believes he should not be undertaking tasks identified as social self help skills such as toilet training, brushing teeth, tea time management program; as these tasks are linked to education'. I would disagree; these are tasks that are part of the parental role, and [Mr C] should allow himself to work on acquiring these competencies, with support.

Elsewhere I have noted that [Mr C] expected [Doctor 1] to go in and do those tasks with [Child C]. Very rightly, [Doctor 1] refused. However it is not unusual for some of the self-help skills training to be offered within a school programme at a school with skills in working with severely disabled children such as [Child C]. The usual expectation would then be for the school to involve the parents in these techniques so that they can use the same approaches that are found to work within the school.

What is striking is that despite the high level of need, [Mr C] refuses to consider any form of help that does not involve people trained in the ABA programme. I believe this is an unreasonable position to take. He also seems to have declined offers of respite care in which [Child C] is cared for at times outside the family home. This again is unreasonable.

I believe [Mr C] should accept a package of help in which staff trained with working with autistic children, though not necessarily ABA, go into the home, and help support, and instruct the parents with the most appropriate techniques. Sometimes they may have to do this with [Child C], in order to demonstrate how to achieve the desired behavioural results. For the family, and [Mr C], to refuse such help would not be reasonable. He should also accept respite care for [Child C] outside the home.

Similarly I find that there have been offers of help, eg from [Child C]'s school, offering a summer playscheme, and from [Organisation 1]. To refuse these offers would be unreasonable.

My perusal of the documents on this case assures me that there has been a thorough assessment of the family's, and [Child C]'s needs. It is unlikely that [Mr C] will find support for his proposals, which centre around only

working with staff with ABA training, as this is not recognised as a mainstream NHS intervention.

Multi-agency meetings were convened on 20 August 2007, and 31 January 2008, but I understand that [Mr C] 'declined to be present' at the latter. [Doctor 2]'s report clearly states that the family felt 'they were not in a position to undertake any concentrated behavioural work as the respite they had been promised through social work was not yet in place, and in terms of family life as a whole, and supporting the needs of the other children, this work would put excessive pressure on the family'.

So I feel unless the respite care and social support could be put in place, it was difficult for [the Board] to alleviate the distress caused to [Mr C] and his family from the effects of his son's disability, as they are extreme. A programme of intervention to meet [Child C]'s needs could not be implemented without addressing the difficult social circumstances of the family. A co-ordinated multi-agency plan can be used in such circumstances to make it clear to the client what the available options are. In this case, it is not clear if [Mr C] knew what the health view was of his refusal to accept the services offered for respite care by the local authority, and the consequences of that refusal.

It is clear from my reading of the papers that [Mr C] was not an easy client, and some of his demands came across as rather extreme, with a focus on unnecessary detail. [Mr C] may, however, be unaware of the difficulties his style of relating and communication are causing within the professional network.

For their part, [the Council] should have specialist workers who understand the difficulties ASD families have, and be able to engage with them effectively. However, the workers involved were reporting they were experiencing a lack of ability to engage with [Mr C]. [Adviser 1] suggests that it is important to recognise when family members have health and social care needs themselves, and to signpost them to appropriate services and I agree with his view.'

(a), (b) and (c) Conclusions

130. I have discussed the advisers' opinions with them at length. The advisers both suggest that the Board have assessed Child C appropriately and are

satisfied that they are willing to put in place appropriate interventions to assist Child C and his family. However, they have indicated that Mr C's reluctance to accept the supports offered by the Council has meant that the Board have been unable to put in place the interventions which they have offered.

131. Adviser 2 is very clear in her view that Mr C should accept a package of help in which staff trained with working with autistic children, though not necessarily ABA, go into the home, and help support, and instruct the parents with the most appropriate techniques. She also cites other examples of supports on offer which she feels Mr C should, but has not, accepted.

132. I agree with the Advisers' views and note that supports and interventions have been offered by both the Board and the Council but that Mr C has chosen not to accept these.

133. The Board cannot be held responsible for being unable to implement interventions, if Mr C will not accept them, or accept the supports offered by the Council which would assist the Board in implementing the interventions on offer.

134. I, therefore, do not uphold any of Mr C's three complaints against the Board.

General recommendation for the Council and the Board

135. The advisers have noted that the multi-agency working in this case may not have been as good as it could. In moving forward, I recommend that all parties take note of both advisers' comments on multi-agency working in this case, and seek to implement Adviser 1's suggestions at paragraph 128, in particular, the suggestion that stakeholders 'regroup' to re-establish and commit to effective future collaborative working arrangements, including a set of principles upon which future care should be based.

136. The Board and the Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Board and the Council notify him when the recommendations have been implemented.

Annex 1

Explanation of abbreviations used

Mr C	The complainant
The Board	Ayrshire and Arran NHS Board
Child C	Mr C's son
ASD	Autism Spectrum Disorder
The Council	North Ayrshire Council
CYPCRA	Children and Young Person's Community Resource Assessment
Adviser 1	The Ombudsman's Mental Health Adviser
Adviser 2	The Ombudsman's Psychiatric Adviser
The Adjudicator	The Independent Adjudicator
The 1995 Act	The Children (Scotland) Act 1995
The 2004 Act	The Education (Additional Support for Learning) (Scotland) Act 2004
The Regulations	The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005
The Code	The Scottish Government Supporting Children's Learning: Code of Practice
The Procedure	North Ayrshire Council Social Services - Children Affected by Disability

	Procedure
SIGN 98 [2007]	The Scottish Intercollegiate Guidelines Network's guidelines on assessment, diagnosis and clinical interventions for children and young people with ASDs (SIGN 98 [2007])
CSP	Co-ordinated Support Plan
The Tribunal	The Additional Support Needs Tribunal
RRG	Respite Resource Group
Officer 1	Operational Manager (Children and Disabilities)
Officer 2	Officer in the Education Department, designated as corporate contact for Mr C
Mrs C	The complainant's wife
Officer 3	First social worker
Organisation 1	a voluntary support organisation
Officer 4	Second social worker
Organisation 2	An organisation employed by the Council to supply outreach workers
Organisation 3	or a local residential respite centre
Officer 5	Principal Officer
Officer 6	Service Manager – direct payments

Organisation 4	Support organisation
Organisation 5	Support organisation
Organisation 6	Respite service provider
Officer 7	Third social worker
ABA	Applied Behavioural Analysis
Officer 8	Current social worker
Organisation 7	An autism charity
Organisation 8	An organisation which assesses and treats children with autism
CLO	Scottish Health Service Centre Legal Office
Doctor 1	A clinical child psychologist
Doctor 2	A consultant paediatrician
CAMHS	Child and Adult Mental Health Services
CPS	Community Paediatric Service

Annex 2

Glossary of terms

Applied Behavioural Analysis	An intervention to enable learning and development which can be used by people with ASD

Annex 3

List of legislation and policies considered

The Children (Scotland) Act 1995

The Education (Additional Support for Learning) (Scotland) Act 2004

The Additional Support for Learning Dispute Resolution (Scotland) Regulations 2005

The Scottish Government Supporting Children's Learning: Code of Practice

North Ayrshire Council's procedure 'Social Services - Children Affected by Disability'

The National Health Service Act 1978

The Community Health (Scotland) Act 2002

The Scottish Intercollegiate Guidelines Network's guidelines on Assessment, diagnosis and clinical interventions for children and young people with ASDs (SIGN 98 [2007])

Annex 4

Extracts from the Procedure

The Procedure states 'The whole ethos of the [1995 Act] emphasises the need for local authorities to work in partnership with other agencies and more importantly with parent/s and child/ren in order to provide integrated services'. It explains that there is an onus on those involved to 'incorporate the views of parent/s and child/ren in the development of a care plan and to ensure equal weight is given to their views in such matters'. The Procedure explains that parents and children should be 'actively involved in assessments, decision making, case reviews and conferences' and that workers should listen to and record parents and children's views.

The Procedure highlights the need for local authority, particularly social services, educational services and other agencies such as health boards, to adopt a collaborative approach to assessments. It explains that development of inter-agency practice and procedures between key service providers is essential. The Procedure clarifies that, as the lead agency, social services should ensure the necessary links are established between themselves and other agencies to promote and encourage the best possible practice in terms of assessment of need, intervention and service provision.

The Procedure explains 'Each local authority has a duty to provide day care services for pre-school 'children in need' (S27). Day care as defined in the Act means 'any form of care provided for children during the day' whether or not it is provided regularly (S27.4).

The Procedure explains that such care provision may include:

- Appropriate specialised support in mainstream nurseries and nursery classes.
- Pre-school placements in special schools where necessary.
- Home visiting - pre-5 teaching services for children affected by disability, learning and/or sensory difficulties.

The Procedure goes on to explain 'Local authorities also have to provide after school care outside school hours and during school holidays to 'children in need' who are of school age. This resource may have significant bearing on the child affected by disability and, where possible, sibling/s and carers should be

involved to enhance their experiences and opportunities in age appropriate activities (S27)'.

The Procedure states 'Respite services and placements should be used in a planned and structured manner and form part of a care plan, which should be aimed at giving fulltime carers 'time out'. It should enhance the quality of the child's life experiences and provide him/her with the opportunity to develop greater levels of autonomy and independence outwith their immediate family unit. Both the carers and the child may be resistant and apprehensive regarding the uptake of such services. Workers using principals [sic] of working in partnership with families should explore and encourage any anxieties to be aired. The positives of including respite services in a care plan should be highlighted …'.

The Procedure goes on to explain 'The respite provision within [the Council] is currently two fold, with placements available via localised home based carers … or within the residential setting …

When using respite provision the workers should seek to achieve:

- An accessible service, where the placement can maintain good links with home and school.
- A standard of provision which ensures that the child's developmental needs are met in addition to those deriving from disability.
- A mix of flexibility and planned availability - a service in which parents/carers and children can exercise choice about when to use respite.
- Partnership between the local authority, service providers and the family.
- Respite care for children with complex needs or challenging behaviour.
- Respite care which provides younger children and adolescents with relevant care and activities.
- Care which takes account of the child's family background, racial and cultural origins, religious and linguistic or other communication needs.
- Care which is part of a framework of professional support which addresses the wider needs of the child and family.

The way in which the respite provision is used can be varied and adapted in accordance with the needs of the child and their individual family circumstances, eg child's home, day time care, occasional overnight stays,

regular planned periods of care with an approved 'shared care' family, or in a residential establishment'.