

Scottish Parliament Region: North East Scotland

Case 200501404: Dundee City Council

Category

Local Government: Social Work; Policy

Overview

This report relates to allegations made against Dundee City Council Social Work Department in respect of their dealings with the complainant who had recently moved to the Dundee area. He has three children, one is now in the custody of his mother and two are in the complainant's custody. The complaint relates to the assistance and advice provided by the Council in respect of the custody hearings in relation to the child who now resides with his mother, the Council's inclusion of the complainant on their internal 'Potentially Violent Persons' database and also their handling of periods of care provided to his other children.

Specific complaints and conclusions

The complaints which have been investigated are:

- (a) that the Director of Social Work incorrectly alleged that Mr C made abusive and threatening telephone calls to his staff and to the Director himself (*not upheld*);
- (b) that Mr C was placed on the Council's 'Potentially Violent Persons' database on the basis of unproven allegations made by the Director of Social Work (*not upheld*);
- (c) that Mr C was threatened that if he continued to complain about the Director of Social Work's staff, his children would be taken away (*not upheld*);
- (d) that a member of the Social Work staff (Officer 1), failed to follow the correct departmental procedures in completing his assessment of Mr C: he did not interview him. Mr C also requested a copy of the correct procedures which were not forthcoming (*not upheld*);
- (e) that as these allegations have been heard in court and Mr C has been found innocent, he should no longer be on the Council's 'Potentially Violent Persons' database (*not upheld*);

- (f) it was incorrect to require a risk assessment before Mr C could use Social Work Services buildings as he had already been offered the use of a building to meet his son by a One Parent Family Group (*not upheld*);
- (g) Mr C does not consider that the Chief Executive can comment on what went on at his court case when he was not present, and that Officer 1's version of events was not accurate (*not upheld*);
- (h) Council Officers failed to provide the Sheriff with accurate information on which he granted the Emergency Protection Order (*no finding*); and
- (i) Council Officers provided inaccurate information to the Court in respect of Child 1's custody case (*no finding*).

Redress and recommendation

The Ombudsman has no recommendation to make.

Main Investigation Report

Introduction

1. On 29 August 2005 the Scottish Public Services Ombudsman received a complaint from the complainant (Mr C) against Dundee City Council Social Work Department (the Council). Mr C believed that he has been the subject of victimisation by the Council which led to him losing the right to visit his child (Child 1), who now lives with his mother. Additionally, Mr C believed that the Council had been threatening in the way they dealt with him over the care of his other two children (Child 2 and 3) including serving him with an Emergency Care Order to take the children into Council custody.

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

- (a) the Director of Social Work incorrectly alleged that Mr C made abusive and threatening telephone calls to his staff and to the Director himself;
- (b) Mr C was placed on the Council's 'Potentially Violent Persons' database on the basis of unproven allegations made by the Director of Social Work;
- (c) Mr C was threatened that if he continued to complain about the Director of Social Work's staff, his children would be taken away;
- (d) a member of the Social Work staff (Officer 1), failed to follow the correct departmental procedures in completing his assessment of Mr C: he did not interview him. Mr C also requested a copy of the correct procedures which were not forthcoming; and
- (e) as these allegations have been heard in court and Mr C has been found innocent, he should no longer be on the Council's 'Potentially Violent Persons' database.

3. As the investigation progressed Mr C raised further points which he asked me to examine. I, therefore, informed the Council and Mr C that the investigation would additionally consider:

- (f) Mr C believes it was incorrect to require a risk assessment before he could use Social Work Services buildings as he had already been offered the use of a building to meet his son by a One Parent Family Group;
- (g) Mr C does not consider that the Chief Executive can comment on what went on at his court case when he was not present, and that he feels Officer 1's version of events was not accurate;

- (h) Council Officers failed to provide the Sheriff with accurate information on which he granted the Emergency Protection Order; and
- (i) Council Officers provided inaccurate information to the Court in respect of Child 1's custody case.

Investigation

4. I examined the correspondence forwarded by the complainant, reviewed relevant policies and made enquiries of the Council both in writing and by telephone. I have also reviewed evidence provided by the Council. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. I have not considered the custody case of Child 1 as this matter has been reviewed in court.

5. As part of my investigation I have obtained evidence from the complainant, the Council's Social Work Department and the Social Work Department from the area where Mr C used to live. From this information, it is clear that Mr C has acted in a way, towards social work staff, where they were concerned for their safety. As a result of this the Council placed Mr C on their 'Potentially Violent Persons' database. This was to ensure staff safety and is a reasonable precaution under the circumstances.

6. During the course of their dealings with Mr C the Council have had to, at short notice, provide care for Child 2 and 3 on a number of occasions. There is no evidence to suggest that Mr C took any action to ensure that they would be adequately cared for when he was in custody. The Council considered that the effect this had on the children was such that they applied for an Emergency Custody Order which was granted by the Sheriff.

(a) That the Director of Social Work incorrectly alleged that Mr C made abusive and threatening telephone calls to his staff and to the Director himself

7. I have reviewed the Council's record in respect of some of Mr C's telephone conversations with Council officers. It is clear from the notes of these conversations that staff who received these calls considered their tone and content

to be unacceptable and abusive. There are records of such calls being received by a number of different officers from different areas of the Council.

(a) Conclusion

8. As a result of this evidence, I consider that the Director of Social Work was justified in considering that some calls made to his staff were abusive and unacceptable. I do not uphold this aspect of the complaint.

(b) That Mr C was placed on the Council's 'Potentially Violent Persons' database on the basis of unproven allegations made by the Director of Social Work

9. As stated in the previous section, I have reviewed the information held by the Council regarding Mr C's contact with officers of the Council. The Council have stated that they reserve the right to include anyone on this database when staff report verbal abuse. In this case there were several reports of such abuse. The database is an internal recording system which informs members of staff of potential risks to their safety when meeting with members of the public. It also allows them to make appropriate arrangements to ensure their safety. Information held on the database is not released to other members of the public and does not affect the provision of services to potential users of Council services.

(b) Conclusion

10. As a result of this and of background information provided by the Social Work Department in the area in which Mr C previously lived, I consider that the Council were entitled to consider the safety of their staff and place Mr C on their 'Potentially Violent Persons' database. I do not uphold this aspect of the complaint.

(c) That he was threatened that if he continued to complain about the Director of Social Work's staff, his children would be taken away

11. The Chief Executive advised me that these threats could not be attributed to his staff or the Director of Social Work. I have been unable to obtain any evidence to suggest otherwise.

(c) Conclusion

12. I have found no evidence the alleged threats were made by any member of the Council, as such I do not uphold this aspect of the complaint.

(d) That Officer 1, a member of the Social Work staff, failed to follow the correct departmental procedures in completing his assessment of Mr C, he did not interview him. Mr C also requested a copy of the correct procedures which were not forthcoming

13. A risk assessment was carried out by Officer 1 on Mr C. This followed a request by the Sheriff Court for the Council to identify a resource to allow supervised contact between Mr C and his son, Child 1.

14. The Council deemed a risk assessment necessary due to allegations of aggressive and threatening behaviour made by the Social Work Department in the area where Mr C formerly resided and the repetition of this behaviour in Dundee.

15. The risk assessment was carried out solely to ensure the safety of Council employees. The information on which the assessment was based included historical information from the Social Work Department in the area in which Mr C previously lived and also his contact with Social Workers in Dundee.

(d) Conclusion

16. The Council does not have written procedures on the preparation of risk assessments in these unusual circumstances. I have reviewed this assessment and find the methodology reasonable. I do not uphold this aspect of the complaint.

(e) Mr C believes that as these allegations have been heard in court and he has been found innocent, he should no longer be on the 'Potentially Violent Persons' database

17. Mr C has not been violent towards Social Work staff in Dundee. He was included on the database because of his aggressive and threatening telephone calls and communications with Council staff. This is an internal database used solely by the Council for the protection of staff and does not prohibit contact between the Council and Mr C. It does, however, set out guidelines on how contact should take place and what behaviour is acceptable.

(e) Conclusion

18. The question of Mr C's inclusion on the database is not related to any past court action but to his inappropriate behaviour towards Council staff. I do not uphold this aspect of the complaint.

(f) Mr C believes it was incorrect to require a risk assessment before he could use Social Work Services buildings as he had already been offered the use of a building to meet his son by a One Parent Family Group

19. As mentioned above, the Council deemed such an assessment necessary for the safety of their staff.

(f) Conclusion

20. I consider that the Council acted appropriately in requesting a risk assessment, indeed they would fail in their responsibilities as employers if they did not consider the welfare of their staff. I do not uphold this aspect of the complaint.

(g) Mr C does not consider that the Chief Executive can comment on what went on at his court case when he was not present, he feels Officer 1's version of events was not accurate

21. Officer 1 was giving evidence in the private Court action by Mr C to gain contact with his son, Child 1. Officer 1 was called as a witness by Child 1's mother who opposed Mr C having contact. The Chief Executive has no reason to suppose that the evidence given by Officer 1 was inaccurate. He answered questions under oath and was in the witness box for around six hours. During this time Mr C's counsel had the opportunity to cross examine Officer 1.

(g) Conclusion

22. It is not for this office to question the accuracy of evidence used in Court. I can see no reason why the Chief Executive should doubt the reliability of the evidence provided by Officer 1 in Court, as he too would be aware that the Courts had the opportunity to cross examine any evidence provided. As such, I do not uphold this aspect of the complaint.

(h) Council Officers failed to provide the Sheriff with accurate information on which he granted the Emergency Protection Order

23. The Sheriff has the power to grant or not to grant such Child Protection Orders. He accepted that the children may experience harm due to their repeated relocation at short notice when Mr C was in custody.

(h) Conclusion

24. I have obtained a copy of the Emergency Protection Order and see no evidence to suggest that any information provided by the Social Work Department was untrue. I am, however, unable to make a finding on this point. That is because under Schedule 4, Section 2 of the Scottish Public Services Ombudsman Act 2002, the Ombudsman is not empowered to investigate matters concerning the commencement or conduct of civil or criminal proceedings before any court of law.

(i) Council Officers provided inaccurate information to the Court in respect of Mr C's child's custody case

25. As mentioned above, Officers were called to give evidence at this Court Hearing. It was for the Courts and Counsel to cross examine witnesses.

(i) Conclusion

26. The proceedings in Court are not ones which are within the jurisdiction of this office. For the reasons explained above, I am unable to give a finding on this point.

29 August 2006

Explanation of abbreviations used

Mr C	The complainant
Officer 1	Social Worker
Child 1	Mr C's child in his mother's custody
Child 2 and 3	Mr C's children in his custody

List of legislation considered

Scottish Public Services Ombudsman Act 2002, Schedule 4, Section 2