

Scottish Parliament Region: Highlands and Islands

Case 200503543: The Moray Council

Summary of Investigation

Category

Local government: Social Work

Overview

The complainants (Mr and Mrs C) raised a number of concerns regarding the way they were treated by The Moray Council (the Council) as foster carers when a child who had been in their long term care was removed from their care and returned to her biological parents.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) failed when handling the complaint (*not upheld*); and
- (b) mishandled what Mr and Mrs C described as their de-registering as foster carers (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Council reflect on their handling of this complaint with a view to giving further consideration in future to signposting individuals to the Complaints Procedure to express their dissatisfaction with a Council service.

The Council have agreed to the recommendation and have already revised their procedure for handling social work complaints, have produced a dedicated statutory guide and a leaflet for the public and are rolling out training for staff.

Main Investigation Report

Introduction

1. The complainants (Mr and Mrs C) brought a complaint to the Ombudsman on 5 April 2006 regarding the way they had been treated by The Moray Council (the Council) as foster carers. Mr and Mrs C were registered as foster carers with the Council as both respite and long-term carers. Mr and Mrs C had fostered a child (Child X), a child with severe disabilities, since 1994. While Child X's natural parents had maintained contact over this period, Mr and Mrs C did the bulk of the caring and did it to a very high standard, as recognised by the Council.

2. The Council, following representations from Child X's biological parents (Mr and Mrs H), informed Mr and Mrs C that Child X was likely to be removed from foster care and returned to Mr and Mrs H following Mr and Mrs H's request that their daughter be returned to them.

3. Understandably, the request from Mr and Mrs H that they resume the care of their child caused considerable distress to Mr and Mrs C. However, the Council were obliged to respond to Mr and Mrs H's request. Attempts to work out a shared care arrangement (giving Mr and Mrs H increased periods of care for Child X) led to conflict between the parties and eventually a virtual breakdown in relationships. Mr and Mrs C believed that social work staff had effectively 'sided' with Mr and Mrs H, although the Council took a different view. Eventually Child X's case was referred to the Children's Panel but prior to that, Mr and Mrs C gained an interim residence order (IRO) via the Sheriff Court. Child X was eventually returned to the care of Mr and Mrs H. The granting of an IRO in favour of Mr and Mrs C effectively terminated Mr and Mrs C's approval as foster carers for Child X, given that Child X would no longer be looked after and placed with Mr and Mrs C by the Council. In addition, given the referral to the Children's Hearing to consider grounds in respect of Child X's care, the Council decided not to seek to make any further respite placements with Mr and Mrs C and advised them that if, at some point in the future, Mr and Mrs C wished to resume their role as foster carers they would require to go through the Council's foster carers' review procedures.

4. The complaints from Mr and Mrs C which I have investigated are that the Council:

(a) failed when handling the complaint; and

- (b) mishandled what Mr and Mrs C described as their de-registering as foster carers.

Investigation

5. In conducting my investigation I obtained and considered the following evidence:

- complaints correspondence from Mr and Mrs C;
- correspondence relating to the complaint from the Council;
- background evidence relating to the care provided by Mr and Mrs C;
- correspondence from the Council to the Fostering Network (who were acting as a mediator between the complainants and the Council); and
- the Council's Complaints Procedure.

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

(a) The Council failed when handling the complaint

7. Mr and Mrs C provided fostering services for Child X for a period of approximately 12 years and also provided respite care for a number of other children during this time. The evidence on file shows that the quality of care provided by Mr and Mrs C to these children was, as a minimum, of a high standard. Problems appear to have developed in respect of care provision once Child X's biological parents had made representations in March 2005 to the Council that they wanted to take over the care of Child X. Following Mr and Mrs H's request to resume care provision for their daughter, the Council sought to devise and implement a joint care delivery plan allowing Mr and Mrs C and Mr and Mrs H to play significant and active roles in the provision of care.

8. The joint care delivery plan had regular hand-overs between Mr and Mrs C and Mr and Mrs H when Child X was transferred between the two couples. These transfers appear to have become more contentious over the subsequent 18 months with each couple submitting various complaints to the Council regarding the behaviour and/or the care provided by the other couple. The Council's primary role throughout was to ensure that Child X was being cared for adequately at all times.

9. The deterioration of the relationship between Mr and Mrs C and Mr and Mrs H raised concerns for the Council.

10. The evidence shows that although Mr and Mrs C raised concerns with the Council about Mr and Mrs H in relation to their (Mr and Mrs H's) care of Child X, and about their (Mr and Mrs C's) treatment by the Council, there is no clear evidence on file that these concerns or complaints were taken through the Council's formal Complaints Procedure. Instead, the evidence suggests that Mr and Mrs C, as well as the Council, dealt with matters of dissatisfaction as and when they arose as part of the process of providing care for Child X, and not as separate individual complaints.

11. Mr and Mrs C submitted various complaints to this office regarding the way they had been treated by the Council. They also claimed that the Council had stopped responding to their correspondence and as such they could not pursue their complaint further with the Council. For this reason, as well as the fact that their dissatisfaction appeared to span a number of years, their complaint was investigated by this office.

12. The evidence shows that the Council responded to Mr and Mrs C's various issues through meetings and telephone discussions in the context of the care of Child X, and written communication, particularly with Mr and Mrs C's solicitor and the Fostering Network.

(a) Conclusion

13. In considering this aspect of complaint, I have taken account of the fact that Mr and Mrs C do not appear to have fully engaged the relevant Complaints Procedure as it appears that the majority of issues they raised were dealt with at the time. They do not appear to have cited any specific example of where the Council failed in providing a service, however, I note that they remain unhappy about the manner in which they were 'de-registered' as foster carers. The evidence on file indicates that Mr and Mrs C are deeply unhappy with the involvement of Mr and Mrs H in the care being provided to Child X. Whilst I can appreciate that Mr and Mrs C are unhappy, this does not equate to a failing on the Council's part.

14. The Council were effectively tasked with trying to ensure Child X was being provided with the appropriate care from Mr and Mrs C and Mr and Mrs H. I believe that the Council acted appropriately in ensuring the provision of care was maintained. The evidence on file indicates that the Council tried, to a reasonable extent, to ensure that the working relationship with Mr and Mrs C

was maintained, however, this ultimately proved to be extremely problematic. I am satisfied with the Council's actions in this respect and I do not find that they mishandled Mr and Mrs C's complaints. I do believe that the Council could have provided more advice on whether or not to guide Mr and Mrs C into making a formal complaint and this may have simplified the care provision by removing the surrounding issues relating to the Council's role in the provision of care. As a result, I do not uphold this aspect of complaint, however, I make the following recommendation.

(a) Recommendation

15. The Ombudsman recommends that the Council reflect on their handling of this complaint with a view to giving further consideration in future to signposting individuals to the Complaints Procedure to express their dissatisfaction with a Council service.

(b) The Council mishandled what Mr and Mrs C described as their de-registering as foster carers

16. Mr and Mrs C complained to this office that they had been 'de-registered' as foster carers by the Council. They also complained that they had not been formally notified of this and had not been advised why they had been 'de-registered'.

17. The Council, in providing evidence on this point, highlighted a number of key points. Firstly, they had not de-registered Mr and Mrs C as foster carers (either as respite carers or long-term carers for Child X). The granting of the IRO had effectively ended their legal status as foster carers in respect of providing care to Child X. This position appears to have been explained to Mr and Mrs C's representatives at the time of the IRO being granted. It was also reiterated in written communication from the Council to the Fostering Network.

18. In a letter dated 19 January 2006 to the Fostering Network, the Council stated:

'In correspondence from our Legal Representative of 6 September 2005 to [Mr and Mrs C's representative] ... it was confirmed that their clients foster carer approval had been for two children, one as a full time placement and one as a respite placement. It was stated that as previously intimated as regards the child in full time placement, this approval was terminated with the granting of the IRO in favour of Mr and Mrs C on 22 July. As regards

Mr and Mrs C's wider fostering approval for the respite placement, it was stated that given the referral to the Children's Hearing to consider grounds in respect of the child's care, the Council would not seek to make any further respite placements with Mr and Mrs C. It was further stated that if, at some point in the future, Mr and Mrs C wished to resume their role as foster carers then they would require to go through the Council's foster carers review procedures ... It is worth noting that on the 7th and subsequently 18th of April 2005 Mr and Mrs C had agreed to end an existing respite placement, and that there should be no further respite placements until the complexities over the main placement were resolved.'

19. The letter goes on to state:

'From the above, it can be seen that Mr and Mrs C, through their own actions in obtaining an IRO, ended their status as foster carers for Child X ... They were not therefore 'de-registered' but rather it has merely been confirmed to them that no further placements will be made until a foster carer review is undertaken.'

20. I have also reviewed telephone notes which the Council suggest are records of discussions with Mr and Mrs C during which agreement was reached that no future respite placements would be made. Therefore, I do not uphold this complaint.

(b) Conclusion

21. I fully recognise that Mr and Mrs C have endured what must without doubt have been a difficult and emotional process in relation to the transition of Child X from their care to her natural parents. Mr and Mrs C had cared for Child X for over 12 years and had formed a close and loving bond with her. However, what I have had to consider is the Council's administrative handling of the case.

22. Having reviewed the evidence, I am satisfied that Mr and Mrs C have not been actively 'de-registered' as foster carers and as such the Council have not mishandled the 'de-registration' process. I am of the view that the Council have taken reasonable action in explaining the situation to Mr and Mrs C's representatives and explained how Mr and Mrs C should proceed if they wish to resume respite foster care provision ie undergo a foster carer review. Therefore, I do not uphold this complaint.

23. The Council have agreed to the recommendation at paragraph 15 and have already revised their procedure for handling social work complaints, have produced a dedicated statutory guide and a leaflet for the public and are rolling out training for staff.

Explanation of abbreviations used

Mr C and Mrs C	The complainant
The Council	The Moray Council
Child X	The child who was in Mr and Mrs C's care. Mr and Mrs H's biological child
Mr and Mrs H	Child X's biological parents
IRO	Interim residence order

List of legislation and policies considered

The Moray Council Social Work Complaints Procedure

