Scottish Parliament Region: Glasgow

Case 200802831: Greater Glasgow and Clyde NHS Board

Summary of Investigation

Category

Health: Psychology

Overview

The complainants (Mr and Mrs C) raised concerns regarding the processes followed, in assessing Mr C, by Clinical Psychology and the Specialist Sexual Abuse Service (the Service) within Greater Glasgow and Clyde NHS Board (the Board). They were unhappy with the content of the reports that were produced and with the fact Mr C was not asked to provide clarity on aspects of the reports which they felt were inaccurate and misleading.

Specific complaint and conclusion

The complaint which has been investigated is that the process of the assessment within Clinical Psychology was inappropriate in that Mr C was denied the opportunity of providing supporting information and, as a result, the reports produced were inaccurate and Mr C's reputation was damaged (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Board:	*Completion date*
(i) review their procedures to ensure that there are clear triggers in place for referring child safety concerns for prompt assessment by individuals with the relevant expertise;	17 September 2010
(ii) ensure that all mental health staff receive appropriate training relating to their child protection duties and obligations. This should be routinely covered in clinical supervision and staff should have access to the relevant guidance;	17 September 2010

(iii)	highlight to all mental health staff the importance of explicit record-keeping surrounding child protection. This should include not only the reasoning for decisions but the rationale underpinning them and all verbal referrals should be followed up using the appropriate inter-agency form;	17 September 2010
(iv)	ensure that, where appropriate, child protection concerns are communicated to the patients concerned prior to making a referral. When not informing patients, clear and specific reasons for not doing so should be recorded;	17 September 2010
(v)	ensure that patients are notified of the outcome of mental health assessments as soon as is practicable; and	17 September 2010
(vi)	remind mental health and complaint handling staff of the importance of taking steps to clarify any uncertainty at an early stage, particularly where a child safety concern may exist.	17 September 2010

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

Main Investigation Report

Introduction

1. The complainant, Mr C, was referred by his GP to Clinical Psychology in November 2006 for possible cognitive behavioural therapy (CBT) and was subsequently assessed on 4 April 2007 by a Counselling Psychologist (Psychologist 1). Following this assessment, Mr C was referred to the Specialist Sexual Abuse Service (the Service) as he had discussed a history of childhood sexual abuse and he felt that it was necessary for him to deal with this. He subsequently attended two assessment sessions, on 22 June and 17 July 2007, with a Counsellor (the Counsellor) and a Clinical Psychologist (Psychologist 2). These assessments concluded that Mr C's difficulties would not have been best served by attending the Service and they discharged him back to the care of his GP.

2. The complaint from Mr C and his wife (Mrs C) which I have investigated is that the process of the assessment within Clinical Psychology was inappropriate in that Mr C was denied the opportunity of providing supporting information and, as a result, the reports produced were inaccurate and Mr C's reputation was damaged.

3. At an early stage in the consideration of their complaint, Mr and Mrs C were advised by my office that their desired outcome of amending or removing information contained in medical records was outside the Ombudsman's remit and they were signposted to the Information Commissioner if they wished to pursue that outcome.

Investigation

4. In writing this report, my complaints reviewer had access to the complaints correspondence between Mr and Mrs C and Greater Glasgow and Clyde NHS Board (the Board) and he made written enquiries of the Board. In addition, he obtained advice from one of the Ombudsman's professional advisers, a consultant in psychiatry (the Adviser).

5. 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 Board were given an opportunity to comment on a draft of this report. An explanation of the abbreviations used in this report is contained in Annex 1 and a list of the guidance considered can be found in Annex 2.

Complaint: The process of the assessment within Clinical Psychology was inappropriate in that Mr C was denied the opportunity of providing supporting information and, as a result, the reports produced were inaccurate and Mr C's reputation was damaged

6. Mr C was referred to Clinical Psychology as he was feeling depressed and anxious, which his GP noted as having stemmed from stress at work (Mr C worked as a supply teacher and also ran an after school sports club). Mrs C indicated that Mr C's anxiety flowed from him being wrongly accused of being in the girls' changing room during a sporting event. An investigation into this incident concluded that the concern was based on a misinterpretation of events.

7. Mrs C wrote to the Service on 11 December 2007 requesting a meeting to resolve what she described as 'an unfortunate set of events'. She explained that Mr C had been sexually abused by his older brother as a child and that this had caused him ongoing tensions with his parents and siblings. She advised that he suffered from periods of depression and that he had asked his GP to refer him for CBT. She advised that Mr C found the subsequent assessment within the Service 'a very distressing experience' and 'he felt that he had been perceived as an abuser'.

8. Mrs C stated that she and Mr C subsequently requested Mr C's GP file and they felt there were misleading statements in Psychologist 1's referral letter (to the Service). She noted that the letter referred to Mr C being banned from teaching in a number of areas due to his poor relationships with other staff but she said that this was not the case. She also advised of a 'very minor incident' where there had been brief physical contact between Mr C and a pupil in his class as she walked past him attempting to leave the classroom. Mrs C stated that the pupil later accused Mr C of assault but that the management team had considered this such a minor incident that there was no investigation beyond the department head talking to other children and verifying Mr C's account of events. Mrs C said that this incident had been misrepresented in Psychologist 1's letter in that it stated Mr C was at the centre of an investigation, when in fact the incident was not considered to have required investigating and had not even been recorded on Mr C's file. Mrs C, therefore, speculated as to whether this letter had 'coloured the [Service's] assessment' and she went on to outline further perceived factual inaccuracies in the subsequent report compiled by the Counsellor and Psychologist 2. For example, she stated that it referred

to Mr C as having an 'erratic employment history' when in fact she disagreed with this and she outlined Mr C's achievements.

9. Mrs C also expressed concern regarding a delay in notifying Mr C that he had been discharged from the Service. She advised that he was assessed in June and July 2007 and the resulting report was sent to his GP on 13 August 2007. However, she said that Mr C was not told that he had been discharged (back to the care of his GP) until 12 September 2007, a month later, and he did not receive a copy of the assessment report. Mrs C said that they were keen to have a meeting as soon as possible 'to try and find a way of resolving the situation, including a removal of factual inaccuracies from [Mr C]'s file'.

10. Mr and Mrs C met with the Counsellor on 6 February 2008 and the meeting was facilitated by a Consultant Clinical Psychologist (the Facilitator). At this meeting, Mr C expressed concern about the process within the Service and disappointment with the report sent to his GP following his assessment. He and Mrs C advised which areas of the report they perceived to be inaccurate; irrelevant; or value judgements and the Counsellor advised them that they could lodge a complaint if they had an issue with the Service's process. Mr and Mrs C stated that they wished the report to be deleted from the file and the Counsellor explained that this could not be done, but that a note could be added to express their disagreement with the content. Mr and Mrs C said that they would like to add a photocopy of the original report highlighting the areas they disagreed with.

11. Mrs C also emailed the Medical and Dental Defence Union of Scotland on 6 February 2008, querying a patient's right to amend reports. They replied in a letter of 13 February 2008 and advised that patients can seek correction of any factual inaccuracy and can also challenge any expressed subjective opinion which is not relevant to the matter in question, or if the opinion is outwith the expertise of the doctor expressing it. They said that there was precedent for the Information Commissioner upholding complaints on these grounds and requesting the removal of the relevant sections from hospital correspondence. There is no evidence of Mr and Mrs C having raised their concerns with the Information Commissioner.

12. Mr C wrote to the Board on 10 September 2008 formally complaining about the treatment he received from the Service. Mr C's letter reiterated the

details contained in Mrs C's letter to the Service of 11 December 2007 and he stated that he had been 'struck by the number of factual inaccuracies and value judgements in the report' produced by the Service.

13. Mr C advised that he and Mrs C had been very impressed with the Facilitator's 'facilitation of what was a very tense meeting' on 6 February 2008 but they were 'struck by the cold and uncommunicative approach of' the Counsellor. He said that they did not receive a copy of the minutes from the meeting and did not receive any communication until 1 April 2008 when he received confirmation that the minutes from the meeting documenting his concerns had been placed on his file.

14. Mr C stated that he was first referred by his GP for therapeutic help on 15 November 2006 and by April 2008 he had 'received no therapeutic help but instead had had a report written about [him] which painted a grossly unrealistic picture of [his] current functioning and potential'. He expressed his strong objection to the existence of this 'inaccurate report' and his concern about the lack of communication from the Service. He said that his experience with the Service was 'one of the most adverse experiences of [his] adult life' and had done him 'nothing but harm' and he expressed his eagerness to ensure that other patients were 'not harmed in a similar way'.

15. On 10 November 2008, Mr C received a letter from Social Work Services (SWS) regarding another matter – a child protection referral which had been made by Clinical Psychology (the Referral). Mr C was invited to attend a meeting, on 13 November 2008, with a Social Work Operations Manager (Manager 1), and the Principal Child Protection Officer (the Officer) was asked to participate in the meeting.

16. On 16 November 2008, Mr and Mrs C wrote a further letter to the Board advising that they were shocked to receive the correspondence from SWS. They advised that they had attended the meeting, where Manager 1 and the Officer explained to them that they had received a telephone call from the Counsellor stating that Mr C had told her, during his assessment, that he had been accused of 'touching a girl's breast'. Mr and Mrs C said that they were absolutely shocked by this as Mr C had frequently described this incident in the presence of family and friends but had never used the word 'breast'. They stated that Mr C viewed the incident 'as a rather trivial, but upsetting thing in which a girl had bumped into him while trying to leave the classroom early and

then she accused him of 'assault''. Manager 1 and the Officer told Mr and Mrs C that this information, and other information given to them by the Counsellor, had required them to undertake an information gathering process.

17. Mr and Mrs C expressed their understanding that SWS had no choice but to proceed when the information was passed to them and they said they were very impressed with the professionalism of the social workers. They advised that the information gathering process concluded that no further investigation was necessary. However, they stated that, in their opinion, the Counsellor, and perhaps Psychologist 1, had taken the information that Mr C was a sexually abused man working with children, who had had 'false, trivial and non-sexual' allegations made against him, and had assumed that he must have been a risk to children. They questioned why the Referral had not been made when the assessments were carried out (in June and July 2007) and why it was made more than two months after their meeting (of February 2008) to attempt to clarify the accuracy of the information. They also asked why Mr C had not been asked to clarify what he had said during the assessments if there was doubt about the seriousness or accuracy of it, and they said that he would have been happy to have supplied the names and addresses of the individuals involved and 'the whole matter could have been resolved in a matter of hours'.

18. A meeting was subsequently arranged between Mr and Mrs C and the Area Consultant Clinical Psychologist (the Consultant) and the In Patient Services Manager (Manager 2) and this took place on 2 December 2008. Following this, the Consultant and Manager 2 wrote to Mr and Mrs C on 4 December 2008 acknowledging that Mr and Mrs C wished for some time to consider the discussion. They also provided a copy of the minutes from the meeting of 6 February 2008.

19. By 23 December 2008 Mr and Mrs C had not received a response to their formal complaint, sent on 10 September 2008, about the assessment process, and so they wrote to the Consultant and Manager 2 that day. They stated that they were very keen to resolve the matter locally and would let the matter lie if there was a willingness to shred the reports from the assessment and insert a letter explaining that an assessment was carried out that did not reflect the facts of the situation and that a full apology had been offered. Otherwise, they advised that they would have no option but to complain to the Ombudsman that patient confidentiality had been breached without due process or good cause.

20. The Director of the Mental Health Partnership (the Director) responded on 21 January 2009 and advised that, further to their letter of 4 December 2008, the Consultant and Manager 2 asked the relevant clinicians within the Service if, in light of the social work investigation not resulting in criminal prosecutions, they would wish to withdraw or amend their report dated 13 August 2007. The Director advised that the clinicians reviewed the report, reflected upon it, and clearly indicated that they considered it, as it stood, to have reflected their professional opinions. Further, the clinicians and social work investigators considered that the Referral was appropriate and followed the Board's Child Protection procedures. Finally, the Director again confirmed that it was possible for Mr C to have a note entered in his case file indicating his disagreement with the conclusions drawn from the assessment.

21. Mr C wrote to the Director on 6 February 2009 stating his appreciation for the opportunity to put this letter in his file and conclude his involvement with them. He summarised that he had gone to the Service as he had been feeling depressed and anxious, mainly as a result of being wrongly accused of entering a girls' changing room. He reiterated that he would have been happy to have provided supporting information or contact details to confirm his story but that he was never asked to do so. He said that on each occasion he attended the Service, he felt as though he was being interrogated as if he was a 'sexual predator' and that his suspicions were confirmed when he saw the reports to his GP. He stated that these reports 'contained false statements damaging to [his] reputation'.

22. Mr C also expressed dissatisfaction that a 'further false statement, again injurious to [his] reputation' (regarding the allegation that he acted inappropriately towards a pupil in his class) was passed to SWS after he made his complaint and several months after the original assessment. He advised that this 'false statement was nowhere in the contemporaneous notes of [his] assessment'. He confirmed that this resulted in a social work information gathering exercise in which his own version of events was confirmed. He said that there was not felt to have been any need for a formal investigation and he advised the Director that her response letter had erroneously stated that he had been involved in a social work investigation. He concluded that her record of events was wrong and that he struggled to see any therapeutic benefit.

23. The Director responded to Mr C on 23 March 2009 and said that she was sorry that he remained unhappy with the way in which his case had been dealt

with. She confirmed that she had made arrangements for Mr C's letter of 6 February 2009, expressing his disagreement with the reports, to be placed on his file.

24. Mr and Mrs C also wrote to the Ombudsman on 6 February 2009 and relayed the details contained in their letter to the Director of the same date. They also stated that they had found communication from the clinicians and complaints officers to have been slow, inaccurate and poor, with minutes of meetings and reports not being circulated to them despite prior agreement to do so. They stated that, in making their complaint, they had hoped to protect Mr C's reputation and that this had not been achieved.

25. Mr and Mrs C stated they wanted the Ombudsman to consider their request to have what they considered to be inaccurate reports about Mr C removed from his file and to receive a formal apology for the distress caused.

26. My complaints reviewer wrote to Mr and Mrs C on 12 May 2009 and explained that matters relating to the amendment or removal of reports or letters perceived to be inaccurate from medical records were matters for the Information Commissioner. It was, therefore, clear that I could not achieve at least one of Mr and Mrs C's stated desired outcomes, however, my complaints reviewer confirmed he would examine Mr and Mrs C's complaint about the application of the assessment process and the Board's handling of their complaint. To that end, he asked Mr C to confirm whether he volunteered supporting information during his assessment and, if so, what the Counsellor and/or Psychologist 2's response was. He also wrote to the Board and asked them to provide a copy of their Child Protection procedures, along with an explanation of how the action taken by Clinical Psychology related to these.

27. In his response, Mr C said he would have been more than willing to have provided supporting information or contact details to confirm the sequence of events. However, he said that it had not occurred to him to defend himself to someone from whom he had hoped to have received 'non-judgemental support'. He stressed that supporting information was never requested from him directly and he pointed out that the Referral was only made after he had complained about his treatment.

28. My complaints reviewer received a copy of the Board's Child Protection guidance and they confirmed that Mr C was seen for two assessment

appointments and that concerns had been raised because of his behaviour, and reports given, during these meetings. They advised that the two clinicians involved in the Service meetings (the Counsellor and Psychologist 2) discussed their concerns with a senior colleague within the team and they felt that, at that time, the appropriate action was to write back to Mr C's GP with a report documenting their concerns. They stated that these initial concerns were highlighted in subsequent contact with Mr C, from which further discussion with a senior member of the Service and the Head of Mental Health took place, and a decision was taken to discuss these concerns with the Board's Child Protection Unit. They confirmed that the unit advised them to make the Referral and that SWS accepted the Referral and began an investigation process. Child protection and SWS advised that, in their view, the Referral was appropriate.

29. My complaints reviewer wrote to the Board again on 25 August 2009 and asked for further information as to why Psychologist 1 had felt it necessary to refer to the allegation that Mr C had acted inappropriately towards a pupil, in light of the fact that he had been cleared of the allegation. He also enquired as to the basis for the Service's report to Mr C's GP (of 13 August 2007) quoting that 'staff members' alleged that Mr C had entered the girls' changing room, as the related report seemed to indicate that only one member of staff had raised concerns over the matter. As the report of 13 August 2007 also referred to Mr C not being allowed to continue after school activities in a certain area, my complaints reviewer asked the Board where this information was sourced as it was not apparent from the case file. In addition, he asked the Board to clarify what the clinicians meant by the report's conclusion ('we remain concerned about [Mr C]'s ability to disturb children, adults and the systems around him') and on what grounds they believed this to have been true. Finally, my complaints reviewer asked whether the Referral, which was made by telephone, was followed up in writing and he requested details of the 'subsequent contact' with Mr C which led to the Referral being made.

30. The Board responded on 16 November 2009. They advised that Mr C had spent a considerable amount of time discussing the allegation that he had acted inappropriately towards a pupil. Psychologist 1 said that the event appeared to have been a source of stress for him and she, therefore, thought it was pertinent to include this in her referral (to the Service). With regards to the references contained in the report of 13 August 2007, the Board advised that these were based on what Mr C said during the assessment. They indicated that he had referred to the 'development officer' having complained and also a

named individual and they were, therefore, given the impression that this was not one and the same person and they felt justified in using the plural. Similarly, they said that Mr C had spoken of 'not being allowed to take tennis anymore or be with the girl's groups'.

31. With regards to their conclusion that they remained concerned about Mr C's ability to disturb those around him, the clinicians stated that they had been mindful that the needs and safety of children were paramount. They advised that 'the decision [they] spent the most time on was whether to involve police and [SWS], with or without [Mr C]'s consent, given what he had spoken of on two separate occasions'. They indicated that they used their diverse backgrounds, training and work experience in coming to a conclusion and they said that it had been 'an uneasy decision to take this no further'. However, having taken the decision, they considered that it was appropriate for them to communicate and record their overall concerns in the letter to Mr C's GP. They stated that:

> '[Mr C]'s presentation at the sessions, the information he gave (about the complaints and his approach to teaching) and the difficulty he reported having with colleagues, systems and in relationships led us to the view that even if the various allegations were ill-founded he did seem to disturb those around him. In view of his profession and chosen voluntary work this would include children.'

32. The Board informed my complaints reviewer that the Referral was made by telephone and that this was the usual route. However, they noted that this was not followed up by the completion of a written referral form and they acknowledged that this was an anomaly.

33. With regards to the timing of the Referral, the clinicians reiterated that the decision not to refer after the assessment was a close call. They stated that:

> 'The way in which [Mr and Mrs C] pursued their concerns thereafter was confusing for some time in that it was unclear what their concern was or what they wanted to happen. When it was agreed to consider this as a complaint they were offered a meeting with [the Counsellor] and [the Facilitator]. At the meeting [Mr and Mrs C]'s behaviour towards [the Counsellor] was very aggressive. They were asking for the assessment letter to be destroyed and for an apology which was neither possible nor appropriate. This was the subject of repeated discussion between clinicians over a period of time and as the confusion remained we decided

> we should take further advice. This led to [the Counsellor]'s approach to [the Head of Mental Health] and they met on 1 April 2008. It was following that meeting and after discussion between clinicians that [the Counsellor] telephoned Child Protection at Yorkhill Hospital for advice. It was from there that other relevant professionals proceeded'.

In commenting on a draft of this report, Mr and Mrs C expressed their upset and dismay with the clinicians' view that they had behaved aggressively towards the Counsellor.

34. My complaints reviewer wrote to Mr and Mrs C on 15 January 2010 to advise them that he was referring their complaint for independent clinical advice from a consultant psychiatrist. Mr and Mrs C replied on 17 January 2010 to stress that they were not concerned with the appropriateness of the Referral but with the process of the Referral and the breach of confidentiality. They stated that:

> 'When we met with [the Counsellor], there was no hint nor suspicion of a child protection concern. Had there been, we would have wished to help clarify the situation and would have provided any contact details or information necessary to do so. We both work in the caring professions and fully support the involvement of social work colleagues where professionals believe this to be necessary but would, ourselves, always inform the patient/client of the referral.'

Adviser's comments

35. With regards to the content of the assessment reports, the Adviser stated that they provided clinical opinions which may, or may not, have been justified by the evidence that was elicited during the relevant assessment interviews with Mr C. He noted that Mr C was given the opportunity to discuss the report with the clinician who had prepared it and he considered this good practice. He concluded that it was not possible from the reports and complaint letters alone, in this instance, to reach an opinion about the clinical judgements/opinions in them. In commenting on a draft of this report, Mr and Mrs C noted that they had to request the opportunity to discuss the report with the clinicians who had prepared it.

36. In respect of the Referral, the Adviser noted that Mr C had told Psychologist 1 that he was a supply teacher and that he had been cleared of an allegation of touching a pupil. He noted that Psychologist 1 made a judgement

not to make a child protection referral, although she did make a referral to [the Service] for further assessment of Mr C. In the Adviser's view, even on the basis of the limited information available to Psychologist 1, there would have been justification, according to the Glasgow Child Protection policy in place in January 2007, for having made a child protection referral there and then. In commenting on a draft of this report, Mr and Mrs C highlighted their unhappiness with Psychologist 1's use of the term 'touching'. They advised that Mr C had never used this word and they believed it to have sexual connotations which they felt heightened concerns.

37. In relation to the Service's assessments, the Adviser stated that, even allowing for possible clinical misjudgement (although I would stress there was no suggestion of that) and the absence of corroborative information, the report produced following these assessments provided sufficient information to have triggered a child protection referral, according to the policy in place. He advised that the aim of the policy was to ensure that professionals with explicit experience of child protection should take over the investigation of situations in which a child or children could potentially be at risk. He noted that Mr C was a teacher, working with children, and that the Service were not equipped to assess possible risks, as their clinical expertise did not extend to the situation described here. In the Adviser's opinion, there was a significant failure by the Service to comply in June/July 2007 with the requirements of the Glasgow Child Protection policy in not referring the case to Child Protection.

38. The Adviser noted that there was no evidence in the file as to the precise timing of the Referral. He stated that there seemed to have been no good reason, if concern about the possible risks to children were increased at the meeting held with Mr C in February 2008, not to have made the Referral at that time. He observed that the Referral appeared to have been made following discussion with the Head of Mental Health around April 2008, two months after the February meeting. He indicated that this may have suggested that staff within the Service were perhaps unsure about the application of the Child Protection referral policy, which could be a training issue.

39. The Adviser concluded that it was difficult, without evidence to the contrary, not to be concerned that the Referral was made largely because of exasperation with Mr C's complaint rather than any evidence of changed risk to children arising from his employment in schools. If the Referral was made after receipt of Mr C's complaint letter, in the Adviser's view, this could potentially

represent a serious abuse of the fairness of the complaint process by the Board.

40. My complaints reviewer subsequently contacted the Board on 24 February 2010 to clarify the exact date on which the Referral was made. The Board advised that the referral was made on 1 April 2008. They said that the Counsellor spoke to a Child Protection Adviser who suggested that she make contact with the Duty Social Worker for further advice on how to proceed. They stated that there was further discussion over the following few days, ending with Child Protection taking the decision, on 7 April 2008, to arrange a case discussion.

Conclusion

41. The complaint, as it was originally brought to us by Mr and Mrs C, related to the perceived inaccuracy of the reports produced following Mr C's assessments. It is important to note that, at a relatively early stage, the Board agreed to place Mr and Mrs C's points of dispute on Mr C's file, which, in effect, resolved the original complaint. In addition, Mr and Mrs C were signposted to the Information Commissioner with any remaining concerns, although there is no evidence that they took this up. They were advised from the outset that the amending of records was not within the Ombudsman's remit.

42. In any case, the Board indicated that they felt the reports reflected their staff's clinical opinions and judgements. I would be unable to reach supportable conclusions as to whether or not the statements in the reports reflected clinical opinion as it would not be possible to establish exactly what was discussed during Mr C's assessments. Therefore, in the circumstances, I do not uphold this complaint.

43. However, the Adviser has raised some serious concerns regarding the timing of the Referral. Staff working within mental health services have a legal and professional obligation to take action whenever they have concerns about child safety. Any concerns should be promptly referred to Child Protection to allow staff with the relevant expertise to appropriately assess the situation and ascertain whether concerns are justified. There is clear evidence that staff had concerns following Mr C's having been assessed by the Service, if not earlier, and I conclude that these concerns should have been referred to Child Protection no later than July 2007.

44. The delay in staff referring their concerns in this case meant that the Referral was made after Mr and Mrs C had expressed their dissatisfaction and this created the impression that their complaint contributed to the Referral being made. All service users have a right to complain about a service if they are not satisfied and they should not be disadvantaged in any way by their decision to express their dissatisfaction. Mr and Mrs C first expressed their dissatisfaction on 10 December 2007, around four months prior to the Referral being made (although they did not formalise their complaint until 10 September 2008, some five months after the Referral was made). Whilst there is no evidence that the Referral was prompted by Mr and Mrs C's complaints, the Service's failure to properly record the rationale for the Referral did not help to allay Mr and Mrs C's suspicions. The Referral was made by telephone and the Service did not follow this up by completing the relevant inter-agency referral form. I consider that detailed recording of action taken, and the reasons for that action, could have cleared up any doubt regarding the fairness of the Board's complaint handling process. I am pleased to note that the Board have already acknowledged their omission in this regard.

45. I also consider that the Board could have helped to allay some of Mr and Mrs C's concerns by seeking to clarify any uncertainty at an early stage. The Service's report implied that more than one member of staff had alleged that Mr C had entered a girls' changing room when this does not appear to have been the case. The Board advised me that staff felt justified in stating this, based on the impression they were given from their discussion with Mr C. However, given the potential significance of the report and any child safety implications, I consider that attempts should have been made to clarify, as far as possible, any doubts or points of uncertainty. In addition, the Board also stated that staff had been confused for some time and unclear as to what Mr and Mrs C's concern was and what they wanted to happen. I also consider that early steps should have been taken to clarify any ambiguity or uncertainty regarding the nature of the complaint.

46. Although Mr C has expressed an understanding of staff's obligation to refer child safety concerns, he stated that he was unhappy with the process they followed in doing so and also with the fact that they did not notify him of their actions. There did appear to have been a delay in notifying Mr C of the outcome of his assessment within the Service, with his GP receiving notification a month prior to Mr C. I also note that Mr C did not become aware of the Referral until he received an invitation to meet with SWS and Child Protection

staff, some seven months after the Referral was made. Staff working in mental health services have a duty to communicate clearly with patients in respect of child protection concerns, conveying details of their concerns, the reasons for these and the action they propose to take as a result. Only where they feel that discussing concerns with patients would increase the child safety risk would it be appropriate for details of their actions not to be disclosed to patients. The evidence available provides no indication that this was the case and I, therefore, consider that it would have been appropriate for staff to have discussed their intentions with Mr C prior to making the Referral, if practicable.

47. In summary, I have concerns surrounding the timing of the Referral; the delay in notifying Mr C of his discharge from the Service; and the staff's failure to discuss their child safety concerns with Mr C. I consider these shortcomings to amount to maladministration. In addition, I am also concerned that staff within the Service, who were not equipped to assess potential risk, initially took the decision, which they referred to as 'uneasy', not to refer the case to colleagues with the relevant expertise in assessing such risk. There appears to me to be a gap in the current procedure in that there is no clear path for obtaining advice and assistance in triggering a referral to Child Protection. I also consider it wholly unacceptable that staff then pursued their concerns without properly documenting their rationale for doing so.

48. There are aspects of this complaint that it has not been appropriate for me to consider as they relate to Freedom of Information or Data Protection legislation. I will, therefore, leave it up to Mr and Mrs C to decide how they wish to take forward their concerns surrounding these matters, if they have not already done so.

49. Although the original complaint is not upheld, a number of learning points for future improvement have come out of this investigation and I, therefore, make the following recommendations.

Recommendations

50. I recommend that the Board:	*Completion date*
(i) review their procedures to ensure that there are clear triggers in place for referring child safety concerns for prompt assessment by individuals with the relevant expertise;	17 September 2010

(ii)	ensure that all mental health staff receive appropriate training relating to their child protection duties and obligations. This should be routinely covered in clinical supervision and staff should have access to the relevant guidance;	17 September 2010
(iii)	highlight to all mental health staff the importance of explicit record-keeping surrounding child protection. This should include not only the reasoning for decisions but the rationale underpinning them and all verbal referrals should be followed up using the appropriate inter-agency form;	17 September 2010
(iv)	ensure that, where appropriate, child protection concerns are communicated to the patients concerned prior to making a referral. When not informing patients, clear and specific reasons for not doing so should be recorded;	17 September 2010
(v)	ensure that patients are notified of the outcome of mental health assessments as soon as is practicable; and	17 September 2010
(vi)	remind mental health and complaint handling staff of the importance of taking steps to clarify any uncertainty at an early stage, particularly where a child safety concern may exist.	17 September 2010

51. The Board have accepted the recommendations and will act on them accordingly. They have provided evidence of relevant actions which have already been taken since the time of this complaint. The Ombudsman asks that the Board notify him when all the recommendations have been implemented.

Ombudsman's comment

52. This case has raised serious concerns for me surrounding the handling of a potential risk to child safety by mental health staff, specifically the delay in assessing and referring this potential risk. Whilst staff's concerns in this instance were subsequently found to be unjustified, I am worried that similar future delays could pose a real threat to the safety of children. I would be reassured if the Board were to consider independently looking at this case to satisfy themselves that there are no gaps in their process which could lead to child safety being compromised for such long periods in future.

Annex 1

Explanation of abbreviations used

Mr C	The complainant
CBT	Cognitive behavioural therapy
Psychologist 1	The Counselling Psychologist who assessed Mr C on 4 April 2007
The Service	The Specialist Sexual Abuse Service
The Counsellor	The Counsellor who assessed Mr C within the Service
Psychologist 2	The Clinical Psychologist who jointly assessed Mr C with the Counsellor
Mrs C	The complainant / the wife of the aggrieved
The Board	Greater Glasgow and Clyde NHS Board
The Adviser	One of the Ombudsman's professional advisers, a consultant psychiatrist
The Facilitator	The Consultant Clinical Psychologist who facilitated the meeting between MR C, Mrs C and the Service
SWS	Social Work Services
The Referral	The child protection referral made by the Service in April 2008
Manager 1	The Operations Manager, SWS, who met with Mr C on13 November 2008

The Officer	The Principle Child Protection Officer who met with Mr C on 13 November 2008
The Consultant	The Area Consultant Clinical Psychologist who met with Mr C on 2 December 2008
Manager 2	The Inpatients Services Manager who met with Mr C on 2 December 2008
The Director	The Director of the Mental Health Partnership

Annex 2

List of legislation and policies considered

Greater Glasgow and Clyde's 'Notification Of Concerns About A Child To Social Work Services – Referral Form Guidance Notes'

The Children (Scotland) Act 1995

Protecting Children - A Shared Responsibility: Guidance on Inter-Agency Co-operation

'It's everyone's job to make sure I'm alright' - Report of the Child Protection Audit and Review