



The Commission for
Local Administration in England

Report

on an investigation into
complaint no 06/C/00693 against
Wirral Metropolitan Borough Council

3 December 2007

Investigation into complaint no 06/C/00693
 against Wirral Metropolitan Borough Council

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Key to names used

Mr Carlisle	The complainant
Donna	Mr Carlisle's daughter and half sister to the 3 children
Ms Warwick	The mother of 2 children with Mr Carlisle and 3 children with Mr Norfolk who were taken into care
Mr Norfolk	Ms Warwick's former partner and father of the 3 children who were taken into care

Report summary

Subject

Services for Children

Mr Carlisle complains that no checks were made before two young children were placed with him and his adult daughter for fostering, the children were not visited for several weeks after the placement began and he was given no financial or other support to care for the children. He also complains that there were excessive delays in putting his complaint through the Council's Statutory Social Services Complaints Procedure and in particular that a Review Panel which should have been convened as Stage 3 of the Complaints Procedure was not convened.

Finding

Maladministration and Injustice.

Recommended remedy

The Council has agreed to pay Mr Carlisle and his daughter £10,350.00 which is the fostering allowance for the time the children were in their care together with £250 for their time and trouble in making these complaints.

The Local Government Ombudsman proposes that the Council should also:

- review its practices and procedures to ensure that there will be no repetition of children being placed with carers without proper checks being made, and inform her and the Children's Services and Lifelong Learning Overview and Scrutiny Committee of the outcome of that review within six months;
- audit a sample of at least 10 emergency placements of children to establish what checks have been carried out compared to the requirements of the regulations and good practice, and report the outcome of the audit to the Local Government Ombudsman and to the Children's Services and Lifelong Learning Overview and Scrutiny Committee within six months;
- arrange for quarterly reports to be made for the next two years to the Children's Services and Lifelong Learning Overview and Scrutiny Committee showing the number of complaints received and the stage reached in the statutory process compared to the required timescales, together with a note of the action being taken to remedy any problems.

Introduction

1. Mr Carlisle¹ complains that:
 - no checks were made before two young children were placed with him and his adult daughter for fostering and the children were not visited for several weeks after the placement began;
 - he was given no financial or other support to care for the children;
 - there were excessive delays in putting his complaint through the Council's Statutory Social Services Complaints Procedure and in particular that a Review Panel, which should have been convened as Stage 3 of the Complaints Procedure, was not convened.

The events

2. Ms Warwick had two children with Mr Carlisle, they separated, she then had three children with Mr Norfolk and separated from him. At the time of the complaint Mr Carlisle's children were adult and living with him.
3. From mid 2000 the Council received reports that the Norfolk children (who were living with their mother) were neglected and Social Services were involved for a time. In the summer and autumn of 2004 Mr Norfolk, the police and another person reported that the children were neglected. An Initial Child Protection Case Conference was held in October 2004 and all three children were placed on the Child Protection Register under the category of neglect and physical injury. It was decided that the children could not remain with Ms Warwick and could not live with their father because of his work commitments.
4. Their elder half-sister Donna, Mr Carlisle's daughter, offered to care for the children and Mr Carlisle agreed to share some of the caring responsibilities. The two younger children (age 8 and 10) moved into Mr Carlisle's home three days after the Initial Child Protection Conference. The eldest child (age 11) lived mostly with Mr Norfolk. The Council's records show that they remained with Mr Carlisle and Donna until June 2005 then went to live with their father. Mr Carlisle says that the children lived with him and his daughter until 3 September 2005.
5. The Council's records show that Mr Norfolk applied for a Residence Order in June and the Order was made in October 2005. The children were removed from the Child Protection Register on 21 October 2005 and the case closed.

¹ Not his real name, real names are not used in this report as Section 30(3) of the 1974 Local Government Act says that (subject to certain exceptions) I shall not use the real names of people in my reports nor publish information likely to identify them

6. Mr Carlisle complained to the Council about the lack of practical and financial support for the children. His complaint was dealt with under the Children Act 1989 procedure. In line with that procedure an Independent Person was appointed to consider the complaint with the Council. The investigation of the complaint was led by an investigating officer on behalf of the Council. The Investigating Officer (IO) produced her report on 23 March 2005.

Complaint - that no checks were made before the children were placed with Mr Carlisle and the children were not visited for several weeks after the placement began

7. The Fostering Services Regulations 2002 say that except in an emergency a child should not be placed unless the foster parent is approved under the Regulations.²
8. If the Council is satisfied that an immediate placement of a child is necessary it may place a child with a relative or friend who is not an approved foster parent³ for six weeks or less if the Council has:
 - interviewed the relative or friend;
 - inspected the accommodation;
 - obtained information about other persons living in the household;
 - made a written agreement with the relative or friend to carry out the duties specified;
 - satisfied itself that the placement is the most suitable way of performing its duty under the Children Act 1989 and the placement is the most suitable placement having regard to all the circumstances.
9. The Council's policy requires that in the event of an emergency placement of a Looked After Child with a friend or relative, in deciding whether the placement is suitable and in the best interests of the child, the accommodation should be visited and inspected, including sleeping arrangements and that the proposed carer, and all other people over the age of 16, living at the accommodation and regular visitors who may have unsupervised contact with the child have been identified and that police and local agency checks should be undertaken. ("Looked after" is the term for all children accommodated by a council whether this is by voluntary arrangement or because of a Care Order.)
10. The IO who dealt with Mr Carlisle's complaint under the Children Act procedure found that the Council had not complied with the Fostering Services Regulations 2002 (paragraph 7 above) nor its own policy (see paragraph 9 above).

2 Regulation 38

3 Regulation 34

11. The IO found that no visits were made until the children had been living with Mr Carlisle for nearly five weeks when the Council's procedure was that the key worker should, at minimum, see the child weekly up to the first review conference at three months.
12. The Initial Child Protection Case Conference decided that visits should be made once every two weeks. The key worker was absent from work and did not do this. It was a month before the children were seen by a social worker after they had been put on the Child Protection Register.

Complaint : that Mr Carlisle was given no financial or other support to care for two young children who were fostered with him

13. Local authorities have specific legal duties under the Children Act 1989⁴ including: to safeguard and promote the welfare of children in their area who are in need; and to promote the upbringing of children by their families, by providing services appropriate to the child's needs so long as this is consistent with the child's safety and welfare. Section 17 says that providing services can include giving assistance in kind or, in exceptional circumstances, in cash⁵.
14. The Council says that it does not have a policy for paying set up costs for foster carers who are either newly approved or have a child placed with them. If there is a particular need for clothing or equipment the Council makes provision for this.
15. Mr Carlisle says that when the children arrived at his home he had to buy bunk beds and mattresses, bedding, clothes and furniture. The clothing they had brought with them had to be replaced as it was infested. He spent a total of £575 on these items; an estimated £966 in petrol, school trips, snacks and school uniforms; and £2080 on food and other living costs for the children.
16. The Council's records show that in November 2004 Mr Carlisle expressed his anger that the Council had let the children and his daughter down and his daughter said that she was struggling financially. That month the Council paid £100 to assist with the upkeep of the children. An internal Council memorandum asks if the Department would consider further financial assistance and reimburse the £400 Mr Carlisle had spent initially on essentials for the children. Mr Carlisle made a formal complaint on 13 December 2004 about the lack of financial assistance and the Council paid him some £400 at the end of 2004. This amount is equivalent to the setting up costs paid to kinship foster carers for two children.

⁴ Section 17(1)

⁵ Section 17(6)

17. The IO found that there were no proper financial arrangements in place and that this mirrored a general lack of clarity about the placement of the children. However, she said that as Ms Warwick was receiving Child Benefit it was not appropriate that the Council should also pay for the upkeep of the children and that Mr Carlisle and Donna should ensure that Ms Warwick paid over the Child Benefit each week.

Complaint - that there were excessive delays in putting his complaint through the Council's Statutory Social Services Complaints Procedure and in particular that a Review Panel, which should have been convened as Stage 3 of the Complaints Procedure, was not convened

18. Social Services have a statutory duty to provide two complaints procedures, one under the Children Act 1989, the other under the NHS & Community Care Act 1990. They operate in parallel.
19. Guidance as to the form of the procedure in place at the time had been issued by the Department of Health (Complaints Procedure Directions 1990 - The Right to Complain - DoH 1991) and reinforced by the Social Services Inspectorate (Notes on Good Practice 1995). The Department's guidance was issued under Section 7(1) of the Local Authority Social Services Act 1970 and the authority had to have regard to it.
20. A chronology provided by the Council says that Mr Carlisle's complaint was accepted for investigation at the end of December 2004. He was visited in early January 2005 by the IO who submitted her report on 23 March. Of Mr Carlisle's nine complaints, the majority were either upheld in full or partially upheld. A formal response was sent to Mr Carlisle on 16 May and the Council apologised for the poor service he and the children had received.
21. Mr Carlisle was not happy with the Council's response as he felt he and his daughter should have received compensation. He asked, on 23 May 2005, to have his complaints presented to a Review Panel.
22. On 20 June 2005, when he had heard nothing from the Council, he wrote to my office and we asked the Council to hold a Review Panel meeting. By April 2006 this still had not been done. In responding to enquiries made by my investigating officer, the Council said that it had offered Mr Carlisle a Review Panel on 11 April 2006 but Mr Carlisle had not confirmed that he wished to attend. The Council later admitted this information was incorrect and that it had cancelled the Review Panel because the Chair could not attend. I decided that it was not reasonable to expect Mr Carlisle to wait any longer for a resolution to his complaint and began to investigate.
23. The Council says that sickness absence of key people who had to be interviewed contributed to delays at Stage 2. In addition staff shortages meant the Complaint Investigating Officer had to cover a number of posts in the complaints unit and the investigation of Mr Carlisle's complaint was given lower priority in the face of an influx of cases from children and young people.

24. The Council says that the complaints unit has been fully staffed for some time and a process is in place that significantly assists in the preparation of formal complaint response letters.
25. The reason for the failure to convene a Review Panel within the specified time limits (28 days from the date of receipt of the request) arose because of the availability and number of independent Chairs for the Review Panels. Some were no longer available and the Council had not tried to replace them because of a proposal that the Commission for Social Care Inspection would take over the Stage 3 Procedure in April 2005 (later postponed to October 2005 and subsequently abandoned). It became difficult to co-ordinate the diaries of the remaining Chairs with other members of the Review Panels.

Conclusion

Complaint - that no checks were made before the children were placed with Mr Carlisle and the children were not visited for several weeks after the placement began

26. Vulnerable children, on the Child Protection Register, were placed without the most basic checks being carried out either on Mr Carlisle, his son, his daughter or his home. Finding an emergency placement for the children was necessary as they could not return to their mother or live with their father. The Regulations and the Council's own policy states that even with an emergency placement the person looking after the children must be approved.
27. The Regulations allow a placement not exceeding six weeks in the circumstances set out in paragraph 8 above. In the event, the placement lasted much longer than six weeks, and neither Mr Carlisle nor Donna were approved.
28. It is entirely due to the kindness of Mr Carlisle and his daughter that the children were safe and secure in the initial stages of the placement before they were first visited by a social worker and before any checks were made. I have not been shown any evidence that the necessary checks were made during the time the children lived with Mr Carlisle.

Complaint - that Mr Carlisle was given no financial or other support to care for two young children who were fostered with him

29. The Council's view was that it should not pay Mr Carlisle and his daughter for the upkeep of the children as their mother was receiving Child Benefit that she should pay over to them. That view is not sustainable - the Council has a specific legal duty in respect of children and may give assistance either in kind or in cash.
30. There is nothing to indicate that a proper decision was made about ongoing financial and other support to Mr Carlisle and his daughter over the months that they cared for the children.

Complaint - that there were excessive delays in putting his complaint through the Council's Statutory Social Services Complaints Procedure and in particular that a Review Panel, which should have been convened as Stage 3 of the Complaints Procedure, was not convened

31. The Council gave me incorrect information about why it had cancelled the Review Panel that it had arranged long after it should have done and some eight months after being asked to do so by my office.
32. The Council says the delay was due to difficulty in finding people to Chair the Panels. I do not consider that this is an acceptable reason for such an extensive and unwarranted delay.

Findings

33. The Council placed two vulnerable young children in the care of Mr Carlisle and his daughter without even the most basic checks on them, their home and their ability to look after young children. Fortunately Mr Carlisle and his daughter have proved to be appropriate carers who have apparently done an excellent job in looking after the children who have come to no harm. This is no thanks to the Council.
34. Mr Carlisle and his daughter were given no practical or financial assistance to care for the children at the outset. No contact was made with the children for some weeks and Mr Carlisle was left to purchase clothes, beds and bedding out of his own income. Mr Carlisle should have been given financial assistance from the first day he took the children into his home.
35. There is clear maladministration by the Council in the way in which the children were placed with Mr Carlisle and this resulted in injustice to him. Mr Carlisle was deprived of the financial assistance he was entitled to expect. He was also deprived of the social work assistance he should have had, and which he would have welcomed, in the early stages of the placement.
36. In failing to convene a Review Panel, even after I asked them to do so, the Council prevented any scrutiny of its actions from the independent persons and elected Councillors who would at that time have formed the Panel. Complaints provide valuable insights into how well services are working and whether important policies and procedure are being put into practice. Review Panels have an important function in bringing external scrutiny of such matters. It is completely unacceptable for a council to subvert a statutory process and this was maladministration.
37. It is possible that if the Council had convened a Review Panel in June 2005 the Review Panel might have recommended a payment of compensation and Mr Carlisle would not have had to make his complaint to me.

38. Mr Carlisle, who had no blood connection with the Norfolk children, was put under unreasonable financial pressure as a direct consequence of maladministration by the Council. At my request, the Council has now paid Mr Carlisle and his daughter the fostering allowance for the time that the children were in their care amounting to £10,350 including £250 for their time and trouble in making the complaints.
39. The Council should also:
- review its practices and procedures to ensure that there will be no repetition of children being placed with carers without proper checks being made, and inform me and the Children's Services and Lifelong Learning Overview and Scrutiny Committee of the outcome of that review within six months;
 - audit a sample of at least 10 emergency placements of children to establish what checks have been carried out compared to the requirements of the regulations and good practice, and report the outcome of the audit to me and to the Children's Services and Lifelong Learning Overview and Scrutiny Committee within six months;
 - arrange for quarterly reports to be made for the next two years to the Children's Services and Lifelong Learning Overview and Scrutiny Committee showing the number of complaints received and the stage reached in the statutory process compared to the required timescales, together with a note of the action being taken to remedy any problems.



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