

**Report by the Local Government and Social
Care Ombudsman**

**Investigation into a complaint against
Northumberland Council
(reference number: 15 020 820)**

21 September 2017

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Investigation into complaint number 15 020 820 against Northumberland Council

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Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr and Mrs X – The complainants

Y – The complainants' son

Report summary

Children's services

Mr and Mrs X's complaint relates to the way the Council dealt with their family and the time it took for the Council to investigate their complaints. Mr and Mrs X complain the Council failed to do enough to protect their younger children from inappropriate behaviour by their eldest son, Y. They say the family has been left with a great deal of uncertainty about the effect of Y's behaviour on the younger children.

Mr and Mrs X say the family was caused a great deal of distress as a result of Y being removed from their house by the police and this could have been prevented if the Council had acted sooner.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council should take the following action in order to remedy the injustice caused to the family as a result of the fault:

- pay Mr and Mrs X and their children £1,000 to cover their time and trouble pursuing the complaint as well as the uncertainty, distress and anxiety caused by the Council's failure to carry out an investigation into the children's welfare;
- ensure a copy of the Independent Investigator's stage 2 report, our report and information it obtained about Y in November 2014 are kept on the other children's files in the event that further information comes to light in future;
- provide us with details of measures it has put in place to ensure it meets statutory timescales for investigating children's services complaints;
- carry out a review to ensure relevant staff and contractors (e.g. independent investigators and independent people) have undertaken up to date training on dealing with children's services complaints to ensure the voice of the child is heard.

The Council must consider this report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full cabinet or committee and we will ask for evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Introduction

1. Mr and Mrs X complain the Council took too long to investigate their complaint about how it dealt with their family. Mr and Mrs X complain the Council failed to do enough to protect their younger children from inappropriate behaviour by their eldest son, Y. They say the family has been left with a great deal of uncertainty about the effect of Y's behaviour on the younger children.
2. Mr and Mrs X say the family was caused a great deal of distress as a result of Y being removed from their house by the police and this could have been prevented if the Council had acted sooner.

Legal and administrative background

Children's complaints process

3. The law sets out a three stage procedure for councils to follow when looking at complaints about children's social care services. At stage 2 of this procedure, the Council appoints an Independent Investigator and an Independent Person (who is responsible for overseeing the investigation). If a complainant is unhappy with the outcome of the stage 2 investigation, they can ask for a stage 3 review. (*The Children Act 1989 Representations Procedure (England) Regulations 2006*)
4. The statutory guidance says stage 2 investigations should take 25 days but this can be extended to 65 days where a complaint is complex. Councils must notify complainants if an investigation is likely to take more than 25 days and explain the reason for the delay.
5. Once the Independent Investigator has produced a report the Independent Person will usually provide their own report regarding the way the complaint was investigated and their comments on the findings. The Council will then consider the contents of the reports and write to the complainant explaining whether or not it agrees with the findings and any recommendations that have been made.

Children Act 1989

6. Section 47 of the 1989 Children Act says the Council must make enquiries when it has "*reasonable cause to suspect that a child... is suffering, or is likely to suffer significant harm*". The Council has to decide what action, if any, it should take to safeguard the child's welfare.
7. In April 2013 the government issued guidance about the approach that should be taken to safeguard children. The guidance said for "*services to be effective they should be based on a clear understanding of the needs and views of children*". It said "*failings in safeguarding systems are too often the result of losing sight of the needs and views of children within them*".

8. The guidance says that *“whenever there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm there should be a strategy discussion involving Social Care, Police and other agencies as appropriate”*.
9. This guidance has since been replaced but was in force at the time the events complained of took place.

How we considered this complaint

10. We produced this report after examining relevant files and documents and interviewing the complainant.
11. We gave the complainant and the Council a confidential draft of this report and invited them to comment. We took their comments into account before finalising the report.

Investigation

12. On 17 June 2013 the Council received information alleging that Mr X had assaulted Y. The Council carried out a home visit and a social worker spoke to Y about what had happened. The Council’s case notes show the social worker started an initial assessment on Y and his younger siblings. Mr and Mrs X say they asked the Council to accommodate Y.
13. Y was 15 at the time and his younger siblings were between the ages of 1 and 7.
14. The Council referred the family to its Community Support Team which agreed to support the family for 12 weeks with a view to resolving tensions and Y remaining in the family home.
15. On 18 June Mr X visited the Council offices. Mr X had an eye injury and stated Y had hit him. Mr X handed in a letter from his wife outlining her concerns about Y’s behaviour. Mr X said Y was verbally abusive towards the younger children and was threatening Mrs X with having the children removed by social services.
16. On 19 June Y’s school contacted the Council and expressed concerns about Y.
17. On the same day the Community Support Team visited the family at home. Mr and Mrs X said Y was verbally abusive towards his younger siblings *“would not make eye contact with them and he refuses to touch them other than in a threatening manner”*. Mr and Mrs X said Y could *“become violent when challenged and this has led to incidents where he has been shouting abuse and threatening to make accusations so that the younger children will be removed from the home”*.
18. The Community Support Team advised Mr and Mrs X that they should *“contact the police if there were violent incidents as they needed to protect the younger children who were witnessing... the verbal and physical abuse and violence”*.

19. On 24 June 2013 Mr X visited the Council's offices and reported he had been assaulted by Y. The Council's notes say Mr X had an injury to his eye. Mr X said Y had claimed he was being approached by paedophiles via the internet. The Community Support Team visited the family on 24 June and a social worker visited the home two days later. The social worker's visit is not recorded on the Council's case notes.
20. The Community Support Team visited the family home again on 1 July 2013. Y said he wanted to move to supported accommodation. The Community Support Team stated that Mr and Mrs X said they did not wish Y to leave and the situation had improved. Mr and Mrs X deny this and say they wanted Y to move out of the family home into supported accommodation. Notes on the Council's records said that *"both parents confirmed they wished for [Y] to remain at home... Both stated they felt [the Community Support Team] withdrawing at this time was for the best"*. The Community Support Team closed the case.
21. On 17 July a social worker from the Council's family placement service contacted social workers to say she was *"pretty concerned re the risk to the other children"* posed by Y's behaviour. The Council says this was not based on first hand information.
22. Mr X called the Council's emergency out of hours service on 22 July and asked that Y be removed from the home due to the risk posed to the younger children. Mr X informed the Council that the Police had attended the property as Y had been *"making threats which culminated in him threatening to get a knife and stab one of his younger siblings"*.
23. Mr X called the Council again on 23 July and stated the family were continuing to have difficulties with Y. Mr X said Y was throwing a ball in his younger siblings faces and had held a lighter to Mrs X's face.
24. The social worker from the Council's family placement service contacted social workers again on 23 July and said Mr X had told her that Y posed a risk to the other children.
25. The Council received a report from the Police on 23 July about the incident on 22 July. The report said Y was in the back garden. Mrs X said this was to prevent him from being abusive until the police arrived. Mrs X informed the police she was *"concerned for her younger children being around [Y] and his aggressive behaviour"*. The police said all the other children were present during the incident but *"appeared to be ok, they were not upset [and the] house appeared to be in order"*.
26. The Council visited the family at home on 25 July. Mrs X said the family were *"in crisis"* and her main concern was *"for the children as [Y] is targeting them verbally and physically"*.
27. The Council visited the house again on 30 July. Mr X told the Council that Y had remained in his room and *"detached himself from the family"*. The Council spoke to Y who said he had tried to speak to Mr and Mrs X but had *"been rebuked"*.
28. On 5 August 2013 the Council held a planning meeting. Mr and Mrs X and Y attended the meeting. At the meeting an officer from the Community Support Team said the situation

was *“untenable and there is no option for [Y] to continue living at home. [Y] is isolating himself from the family and this can make him angry and aggressive”*. The Council said it would look for supported lodgings for Y.

29. On 9 August Mr X called the Council to say that Y was being aggressive and shouting. A social worker visited the house on the same day and found Y had packed his bags. The social worker took Y out of the house and discussed how he could manage his behaviour. Y said he would prefer to move out of the house in a more planned way. When the social worker returned to the home she gave Y contact details for the Community Support Team and the Council’s emergency out of hours service. Mr and Mrs X said the Council was still not doing enough to support them.
30. The Council called Mr and Mrs X separately on 10 August. Mrs X said everything had *“remained and [was] calm at present”*. Mr X expressed frustration about how *“younger children are asked to leave and go upstairs or go into the garden when people visit the family home”*. The Council told Mr X this was *“sometimes necessary as... young children should not be party to adult conversations and some of the details were inappropriate for young children”*.
31. On 14 August the Community Support Team recorded that the situation was *“about to break down as both [Y and Mr and Mrs X] are not making any attempts to resolve the situation”*. The Community Support Team were concerned the Council may end up in a situation where it had to arrange emergency accommodation for Y. The Council’s notes indicate it was making referrals to three supported accommodation providers.
32. The Council visited the family home on the same day. Mrs X handed the Council a letter written by Mr X which listed incidents from recent days including threatening behaviour and verbal insults directed at Mr and Mrs X and the younger children. The Council’s notes say it was *“clear the relationship between [Mrs X] and [Y] was becoming untenable”*.
33. The Council visited the family home on 3 September 2013. Mr and Mrs X reported that Y’s behaviour had improved but they were unsure why this had happened. The Council spoke to Y who said he still wanted to move to supported accommodation.
34. The Council visited the family home on 13 September. Mrs X reported that the situation continued to improve and Y was making an effort to socialise with the family. Y said he wished to stay at home and no longer wished to move to supported accommodation. A further home visit took place on 18 September. Mrs X said she was happy for Y to continue living at home but Mr X believed supported accommodation would be a better option for the family.
35. Mr X contacted the Council on 23 September and said Y’s behaviour had deteriorated. Mr X said Mrs X had been *“glossing over”* recent incidents. Mr X contacted the Council on the following day and said Y was throwing things and was having difficulties controlling his temper.

36. The Council visited the family on 27 September. Y was not present but Mrs X said his behaviour had regressed over recent days. The Council encouraged Mrs X to talk to Y about his emotions.
37. Mr and Mrs X contacted the Community Support Team on 29 September and said Y had assaulted Mrs X. The Council visited the family home and Y made counter allegations that he had been assaulted by Mrs X and wanted to call the police.
38. Mr X contacted the Council on 2 October 2013 and said he did not want any further visits from the Community Support Team and he would be making a complaint about the way the Council had handled the matter. Mr X said the situation was *"not being helped with advice to contact the police when [Y] assaults family members"*.
39. The Council wrote to Mr and Mrs X on 3 October 2013 confirming the case for the younger children had been closed. The Council met with Mr X on the same day and explained it would keep Y's case open.
40. On 7 October the Council visited the family home to discuss supported accommodation options. The Council's notes of the meeting say Y expressed some concerns about coping away from home. Mrs X asked the Council what would happen if the family reached crisis and could no longer cope.
41. On 12 October Y was removed from the family home by the Police following an incident where he allegedly assaulted Mrs X and the younger children. Mr X contacted the Council's out of hours service and said Y had been *"threatening the family and threatening to use a knife if anyone goes near him"*. Mr X had called the Police. Mr X confirmed that the Police had removed Y from the home. He said there had been no arguments beforehand and Y had *"held a knife to his mother's neck"*. Mr X said he had also found a knife in Y's room. The Council also spoke to Mrs X who said Y had been *"abusive every day"* and would *"pick up the baby and then drop him on the floor"*. Mrs X said Y would also do the same with the other children and she felt unable to protect them.
42. Y was placed in emergency accommodation by the Council's housing service.
43. On 14 October the Council received a Police report about the incident of 12 October. The Police said they were called after a series of incomplete emergency calls from the address. The Police said Y was standing outside when they attended the property. The report said Mr and Mrs X said Y *"has become angry and started shouting and swearing at his younger siblings... he also made veiled threats to harm his mother, which she does not take seriously. No assault, damage etc. [Y] was taken from the address by police"*.
44. The Council's records show that Mr X contacted the Council on 16 October and said they did not want Y to be placed in a hostel and would have him back home. Mr and Mrs X deny saying they would allow Y back home.
45. Mr and Mrs X continued to have some contact with Y after he left home. Mrs X says he returned home to visit on at least three occasions.

46. On 21 October 2013 Mr and Mrs X wrote to the Council to complain about what had happened. The Council wrote to Mr and Mrs X in April 2014 and said it could not investigate their complaint without Y's consent to do so.
47. Mr and Mrs X complained to us about the Council's refusal to accept their complaint. In September 2014 we found the Council was at fault for not accepting a complaint as it should have been possible to investigate complaints on behalf of the other children without Y's consent. The Council agreed to carry out an investigation at stage 2 of the statutory complaints process.
48. An Independent Investigator and Independent Person were appointed in September 2014. They met Mr and Mrs X in their home on 7 November 2014 to discuss the nature of the complaint.
49. The Council had agreed to send correspondence to Mr and Mrs X by special delivery to ensure it was signed for. However the Council failed to send the statement of complaint to Mr and Mrs X by this method and they did not receive it. As a result there was a delay in the investigation starting as no signed statement of complaint was returned to the Council.
50. The Council contacted Mr and Mrs X on 13 November 2014 to say that Y should not be left alone with the younger children and should not stay at the family home overnight. This was due to further information the Council had received about Y.
51. Mr and Mrs X have not had any direct contact with Y since November 2014. They understand that Y decided not to have further contact with them after discussions with his support worker.
52. Mr and Mrs X returned their signed complaint statement to the Council in February 2015. They complained the Council:
 - failed to inform them of the outcome of the assessment carried out in June 2013;
 - failed to provide accommodation for Y when it was requested;
 - had investigated them as potential perpetrators of physical abuse;
 - had acted unprofessionally. This included complaints that a social worker failed to respond to reports of Y physically abusing his younger siblings;
 - delayed providing minutes of a meeting.
 - failed to provide updates following Y leaving their home;
 - failed to investigate their complaint; and
 - failed to conduct a proper investigation into the complaint.
53. The Council carried out an assessment of Mr and Mrs X's four children in October 2015. The purpose of the assessment was to look at whether there were any ongoing concerns

regarding the children due to historic allegations and events which occurred whilst Y was at home. The outcome of the assessment was there was no *“on-going role for Children’s Services... it is clear that parents are aware of [Y’s] behaviour in the past and have a realistic plan in place to manage this currently as well as giving consideration to a manageable plan should contact be progressed in the future”*.

54. The Independent Person issued his report in November 2015. In his report he said the investigation of the complaint had taken over 14 months. The Independent Person said this had been caused by delays by the Council in arranging for officers to be interviewed. In the report the Independent Person says *“I have subsequently been informed that [the Independent Investigator’s draft report dated 8 October 2015] can now be considered to be the final report”*.
55. The Independent Investigator’s report was not issued until 27 April 2016. The Council says it wanted to take legal advice regarding one of the Investigator’s recommendations before adjudicating on the complaint.
56. The Independent Investigator found:
 - No one in the family was informed of the outcome of the assessment which commenced in June 2013. The Investigator upheld this complaint.
 - Social workers *“correctly attempted to maintain [Y] at home in line with the relevant legislation”*. The Investigator accepted Mr and Mrs X disputed the Council’s records which said they wanted Y to remain at home but found *“on balance of probability the family did express inconsistent views regarding the need for [Y] to leave home”*. However the Investigator found the Council did not pursue appropriate options for Y and so the complaint was partially upheld.
 - There was no fault in the Council investigating allegations against Mr and Mrs X. The Council is required to carry out these investigations where allegations are made.
 - There were significant gaps in case records kept by the social worker. The Investigator also found that a section 47 investigation should have been carried out in relation to the younger children witnessing acts of physical violence as well as similar historic allegations on the Council’s files. The supervising social worker said she was not aware of any correspondence indicating risk to the younger children and that if she had been aware of this a strategy meeting would have been held leading to a section 47 investigation. However the Investigator did not uphold the complaint. He said *“unprofessional behaviour implies deliberate acts of impropriety and I have found no evidence to support such an allegation”*. This complaint was not upheld.
 - There was a delay in getting minutes of a meeting to Mr and Mrs X. This complaint was upheld.

- Y did not give the Council consent to inform Mr and Mrs X of his whereabouts when he left home. Therefore the Investigator did not uphold the complaint that the Council failed to keep Mr and Mrs X updated.
- There was a delay in dealing with Mr and Mrs X's complaint and this was upheld by us. Therefore the Investigator upheld this complaint.
- There were delays in dealing with the complaint investigation but there were limited resources and capacity within the department. The Investigator also noted that verbal apologies were given for some delays. The complaint was partially upheld.

57. The Council issued its adjudication letter on 11 May 2016. The Council provided Mr and Mrs X with a copy of the Investigation report and apologised for the delay in providing this.

58. The Council also said:

- It was sorry for *“areas of service which were not of the expected standard”*.
- It would discuss the recommendations with Y and look at what ongoing support he required.
- It would allocate additional resources to ensure social workers' caseloads were at manageable levels.
- It would review case recording procedures.
- It would pay Mr and Mrs X £250 *“in acknowledgement of the delay you have experienced in respect of this investigation... in recognition of the time you have waited for your response”*.

59. The Council said it would not provide a financial payment to the younger children as the Independent Investigator had not recommended one.

Conclusions

60. We have not investigated any parts of the complaint relating to the way the Council dealt with Y as we do not have his consent for Mr and Mrs X to act on his behalf. The Council has confirmed it intends to comply with recommendations the Independent Investigator made in relation to Y.

61. There is nothing we can add to the parts of the complaint which the Independent Investigator has already upheld. However, although the Independent Investigator did not uphold the complaint about the social worker, he did find fault with the way the family was dealt with by children's services. Neither the Council nor the Independent Investigator has fully addressed this fault except in making recommendations to improve Council record keeping.

62. The Independent Investigator found that the Council should have carried out a section 47 investigation in light of allegations of physical assaults taking place within the home. This included criticism of the Council for failing to identify that similar allegations had been made in the household in the past. However neither the Independent Investigator nor the Council has considered whether this caused the family an injustice, especially in light of later disclosures made about Y.
63. The supervising social worker said that she was not aware of any correspondence indicating risk to the younger children but that a strategy meeting and section 47 investigation would have taken place if this had been the case.
64. The Council's records show that Mr and Mrs X consistently raised concerns about the risk Y posed to the younger children including a report on 22 July 2013 that he had threatened to stab one of them. It is clear from the Council's records that social workers were concerned about the impact his behaviour in the family home was having on the younger children. This was raised with Mr and Mrs X on several occasions and as early as 19 June 2013.
65. Although an initial assessment was carried out for Y and the younger children this was focussed on Y and did not involve other agencies such as Y's school, health professionals or the Police. There is also no evidence that the needs of the younger children were acknowledged or addressed and none of the younger children were spoken to by social workers. This is fault. Had social workers spoken to the children they would have gained a better insight into what was happening in the family home and been better placed to address the allegations and counter allegations being made as well as the impact on the children.
66. Both the Council and the Independent Investigator have said that the section 47 investigation would have been necessary because of allegations made against Mr and Mrs X including historical allegations of physical abuse. However it is concerning that neither social workers, nor the Independent Investigator felt that Y's behaviour which included an allegation he had threatened to stab the younger children was sufficient to warrant a safeguarding investigation.
67. It is concerning that the Council has continually attempted to minimise the seriousness of such allegations during our investigation. The Council has questioned whether Y's behaviour amounted to "assault" and believes it involved "lashing out" and pushing. The Council does not believe that this constitutes assault. The Council also says the family presented a different version of events to the Police than they presented to the Council. However the seriousness of the allegations being made should have resulted in a section 47 investigation into the welfare of the children. Any investigation would then have considered evidence from the Police and other agencies before reaching any conclusions. This would have also given the Council the opportunity to explore the family's reasons for giving differing accounts of incidents when Police were called.
68. In his response to our draft decision the Independent Person said *"had a child protection conference been convened I think that an early planned move for [Y] would have been drawn up as part of a 'Safeguarding Plan' rather than matters coming to crisis point and*

[Y] *having to be removed by the police.*” Having considered the Council’s records and the minutes of the planning meeting held on 5 August 2013 I believe it is likely this would have happened if an investigation had been carried out earlier. As a result the family, including the younger children, were caused significant distress as a result of matters reaching crisis point and Y being removed from the family home by Police.

69. It is now nearly four years since an investigation should have happened and two and a half years since the family were made aware of further information about Y. This will have compounded and prolonged the family’s anxiety and distress.
70. We cannot say what the outcome of an investigation would have been aside from Y moving from the home in a planned way. The Council interviewed the younger children in 2015 and no specific disclosures of abuse were made.
71. Throughout this complaint the Council has failed to acknowledge the voices of the younger children. The children were not spoken to as part of any ongoing work within the family home whilst Y was still living there. The Council also declined to accept Mr and Mrs X’s complaint made on behalf of the children until we intervened. This is fault.
72. The Council has accepted there were delays in dealing with the family’s complaints and has apologised for this. The Independent Investigator and the Council has sought to use the Council’s lack of resources as an explanation for this. However this is conflicted by the Independent Person’s report which highlights failures by the Council to send information to the family and make officers available for interview. Furthermore the statutory regulations and guidance relating to children’s services complaints do not make allowances for a lack of resources when setting out statutory timescales for an investigation to take place.
73. The stage 2 investigation was complex and as such it should have taken 65 days to be completed. It took over a year for the investigation to be completed. The family also encountered delays and had to complain to us when the Council would not accept their initial complaint. The Council has accepted this is fault and offered to pay the family £250 in recognition of their time and trouble pursuing the complaint. However given the significant delays and faults in the way the complaint was dealt with, and distress caused to the family, this falls short of what we would usually recommend in similar circumstances.

Decision

74. There was fault causing injustice to Mr and Mrs X and their children.

Recommendations

75. The Council should take the following action in order to remedy the injustice caused to the family as a result of the fault:
- pay Mr and Mrs X and their children £1,000 to cover their time and trouble pursuing the complaint as well as the uncertainty, distress and anxiety caused by the Council's failure to carry out an investigation into the children's welfare;
 - ensure a copy of the Independent Investigator's stage 2 report, our report and information it obtained about Y in November 2014 are kept on the other children's files in the event that further information comes to light in future;
 - provide us with details of measures it has put in place to ensure it meets statutory timescales for investigating children's services complaints;
 - carry out a review to ensure relevant staff and contractors (e.g. independent investigators and independent people) have undertaken up to date training on dealing with children's services complaints to ensure the voice of the child is heard.
76. The Council must consider this report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full cabinet or committee and we will ask for evidence of this. (*Local Government Act 1974, section 31(2), as amended*)