

Section J: Social services

J1: Adoption

Significant disadvantage for adoptive parent resulting from administrative delay

1. Mrs X had cared full time for two children since 1989. This had been under a custodianship arrangement and the council had approved the payment of a custodianship allowance for both children. Mrs X was not resident in the area of the council which placed the children with her, but in a neighbouring area.
2. In 1995 she applied to the county court for adoption orders to be made. She made a request in writing to the social services department for an adoption allowance to be paid after the adoption order had been made. Such an allowance could only, in law, be made where it had been approved in advance of the order.
3. Although Mrs X made her request well over a year before the adoption order was eventually made, there was a delay in the application being processed. The order was made before the council had completed the processing of the adoption allowance application. The adoption regulations ruled out payment of an adoption allowance in these circumstances and the custodianship allowance could not be continued after the adoption.
4. Mrs X found herself in severe financial difficulties. She would have received more than £100 a week in adoption allowances. The council considered that it could not use an alternative mechanism to make any payments to her because section 17 of the Children Act 1989 specifically referred to assistance for families within a council's area, and Mrs X was not within its area.
5. The council accepted that Mrs X's financial predicament had arisen directly as a result of administrative fault on its part. It therefore accepted the Ombudsman's proposal that it should make an *ex gratia* payment of £3,000 to deal with the debts that Mrs X had incurred, and to make weekly payments at a level which would have been appropriate if an adoption allowance had been granted for the two children.

(Local settlement 96/B/4321)

J2: Aids and adaptations

Delay in provision of assistance and advice – measures to improve the service

1. Ms Jordan complained that a council failed to deal properly with her request for an occupational therapy assessment in connection with the provision of aids and adaptations. As a result, she had difficulty in caring independently for her young son and baby and ensuring that she could look after them safely at home.
4. The assessment identified the need to provide a more suitable level access shower and to provide a more easily accessible toilet on the ground floor. Ms Jordan therefore had to wait longer than she should have done for these adaptations, and the Ombudsman had no doubt that she suffered additional pain and inconvenience as a result.

What happened

2. As a result of a serious accident Ms Jordan had permanent damage to the discs in her back. Her mobility was impaired and she found it difficult to climb stairs, and to bend and lift objects. Following an earlier assessment, Ms Jordan was provided with various items of equipment to manage personal care and domestic tasks, and handrails were fitted to the internal staircase of her house. The complaint was about her request some four years later for a new assessment. She requested the new assessment because some of the equipment had deteriorated, and her needs had changed because she now had a son who was 18 months old, and she was expecting another baby.
3. Ms Jordan had to wait 18 months for a full assessment, and two more months for a further assessment to consider issues that had not been properly considered in the first assessment. The council met some of her needs before the assessment took place, but Ms Jordan had to buy some equipment herself and pay for some modifications because she could not wait any longer. She did not receive the specialist advice and aids and equipment she needed before her second child was born.
5. The Ombudsman identified other shortcomings in the council's handling of Ms Jordan's request for an assessment:
 - her referral was not screened and prioritised, and her name was not added to the waiting list until some six months after the receipt of the referral;
 - the council did not send her information about the likely waiting times, the duty service, or supplies of equipment after it received her self-referral form; and
 - it appeared that the duty occupational therapy manager did not fulfil a promise to review her case within two weeks following Ms Jordan's telephone calls some four months after the request for assessment.

Conclusion

6. The Ombudsman commented:

“Occupational therapists provide an important but insufficiently recognised contribution to the quality of life of very many people who, without the advice and help of the occupational therapy service, would find living at home impossible or, at least, much more difficult. Delay in providing that help and advice must, therefore, be a matter for serious concern.”

7. The Ombudsman said he did not underestimate the real difficulties the council had experienced in recruiting occupational therapy staff and in clearing the backlog of referrals on the waiting list. Equally he did not doubt the council's commitment to reducing waiting times for service users and said that the council's decision to use some additional funding provided by the health authority to recruit independent providers of occupational therapy assessments in order to tackle the backlog was clear evidence of that. He also commended the council for introducing targets to help it achieve that objective. But the Ombudsman said it was not fair or reasonable for a service user who was regarded by the council as having 'high priority' to have to wait over 20 months for a full assessment of her needs as a carer for a child as well as her own needs.
9. Thirdly, the Ombudsman recommended a further review of arrangements. The investigation had shown that the council was reducing the backlog of cases on the waiting list but a report by the social services planning and research unit had identified the need to review caseload management and to consider the need for service eligibility criteria. The Ombudsman said that those were important issues and should be pursued. The social services committee should have a report dealing with the performance of the agency arrangements, progress on other initiatives (such as co-operation with the Red Cross to explore the possibility of training volunteers to do some of the follow-up work after assessment), achievement of the targets for dealing with referrals, and the action taken on the reviews recommended by the planning and research unit.

Remedy

8. The Ombudsman recommended a remedy in three parts. First, that the council should ensure that urgent action was taken on the findings of the assessment of Ms Jordan's needs, and that the service manager should monitor progress and check with Ms Jordan that she was satisfied with the proposals for adaptations and provision of equipment before her case was closed. Secondly, the council should pay compensation of £750 to recognise the distress and inconvenience Ms Jordan had suffered as a result of the delay in carrying out the assessment.

(Report 96/A/3762)

J3: Care leaver

The need for a system to provide young care leavers with appropriate support

1. A voluntary organisation complained on behalf of a young man, D, about the lack of social work support he received when he first left care to live independently.
2. D was living in a children's home, having moved there from a special boarding school. He was excluded from the home and the placement was stopped overnight. There was no discussion before that about what would happen to him and there was no planned placement. He was aged 16 at the time.
3. D was placed in a hotel on his own for three months and during this time he had no visits from his social worker and no support. He then moved to a hostel for six months, and again received no help from his social worker.
4. D was then allocated a flat but again received no support from his social worker to prepare him for the move. There was no after care support package to cover the provision of necessary finances to make the flat comfortable. The flat was burgled almost immediately but D still received no support from the council.
5. D suffered stress and physical hardship. His complaint to the council under the social services complaints procedure was upheld in its entirety. The council accepted that the service for D had been inadequate and agreed a number of actions including a social worker visit to assess the condition of his flat, a financial support package for him, an assessment of his practical needs, and drawing up a system to prevent young care leavers being left without appropriate support.
6. The council offered some compensation which D thought was insufficient and he complained to the Ombudsman.
7. The council accepted the Ombudsman's suggestion that a payment should be made which would reflect D's stress and physical hardship and would help him with the purchase of music equipment to assist him to train for a career in music. This amounted to £1,000 in total.

(Local settlement 96/A/3552)

J4: Child abuse

The need for reasonable speed and clear objectives in setting up an enquiry about allegations of child abuse

1. Two parents complained that a council delayed unreasonably in establishing an independent review into allegations of serious sexual abuse of children in the council's care and sought to impose unreasonably restrictive conditions on the conduct of the investigation. In particular, the council sought to limit the choice of legal representation for the parents of the children. They said that, as a consequence, they suffered prolonged and unnecessary anxiety in their attempts to have the situation investigated and lost confidence in the independence of the review.

deciding how to deal with a large number of emotionally charged complaints about what happened at the nursery. But she said that it was also undeniable that there was an unreasonable delay in deciding on the process for investigating these complaints. Investigative work into the complaints did not start until nearly two years after the first complaints were received. The Ombudsman said:

"That was far, far too late and such a delay is bound to have impaired the quality of some of the evidence given by witnesses."

Background

2. In 1993 the council became aware of systematic and multiple sexual abuse of small children in one of its nursery schools. Following a police investigation, two members of the nursery school staff were charged with abusing the children and went on trial in 1994.
3. The judge halted the trial on the grounds that, although there was no doubt from medical evidence that children had been abused, the children who were the main witnesses were too young to testify properly against the defendants. Nevertheless, the council dismissed the two defendants as it believed that it was clear that the two were responsible for the abuse. It was estimated that dozens of children might have been abused over a period of years.

5. The Ombudsman then considered whether any or all of the delay was the result of maladministration by the council.
6. The council said that it could not have proceeded with a review until the criminal proceedings had been concluded. The Ombudsman accepted that that was a reasonable view.
7. In view of the number of complaints of a similar nature, the council decided that the usual statutory social services procedure for complaints was not appropriate in the unusual circumstances. The Ombudsman said that decision was not unreasonable. But she added:

"In substituting its own process for the statutory one, I think the council was obliged to adhere as closely as possible to the principles which lie behind the statutory procedure. One of those principles is promptness, as expressed by the time limits in the statutory procedure."

Delay

4. The Ombudsman said it was undeniable that the council was faced with an extremely difficult problem in

8. The principle was addressed in a sub-committee report with the initial proposal for the procedure to be

adopted and in the sub-committee's resolution. Subsequently all sight was apparently lost of the principle of investigating the complaints promptly. That was maladministration.

9. The council should at the very least have set a time limit for investigating the complaints following the end of criminal proceedings. The Ombudsman considered that the nine months between receipt of the first complaints and the collapse of the criminal proceedings was ample time to take all necessary steps to prepare for the launch of the investigation soon after the criminal trial ended.
10. The Ombudsman accepted that not all the delay was caused by the council. There were delays caused in particular by the demands of some of the parents and their legal representatives for a public enquiry. There was further delay in responding to the council's request for a parents' representative on the appointments panel for the review team.
11. The Ombudsman said that essentially the council did not plan and keep control of the process as it should have done and that, for example, if it had done so, the delay in confirming the parents' representative on the appointments panel could have been largely eliminated. At the outset the sub-committee failed to specify the purposes of the review. The council also failed to anticipate a predictable dispute about legal representation, address it much earlier, and resolve it more quickly. This lack of planning and control was also maladministration.
12. The Ombudsman considered that the review could have been established at least a year earlier than it was. This caused the complainants injustice by prolonging their suffering.

Other aspects

13. The Ombudsman did not criticise the provision which the council made for legal representation. The statutory procedure laid no obligation on councils to fund legal representation and set no requirement for it. The council offered the parents a certain amount of support for legal representation and the Ombudsman considered that this was generous. She saw no evidence that in this respect, or any other, the complainants suffered injustice as a result of any maladministration by the council in connection with setting conditions for the conduct of the investigation.

Remedy

14. The Ombudsman recommended that the council should pay each complainant £500.

(Report 94/C/4094 etc)

J5: Child minding

Delay in registration – legitimate to investigate complaints about standards before deciding registration – the nature of the investigation – muddle in producing a report – complaints procedure not properly followed

1. Mr and Mrs Wilson's complaint was that there was maladministration in the way a council dealt with their application to be registered as a group child minding facility, and in particular that it:
 - delayed in registering them;
 - failed to deal properly with complaints received about their standard of care; and
 - failed to deal properly with the complaint they made under the council's complaints procedure.
2. Near the beginning of 1993 Mr and Mrs Wilson began operating an unregistered day care facility from their home. They were aware of the requirement to register but said they began on an informal basis. The council got to know about what they were doing and initially said that the facility had to close pending a registration assessment. Following representations from a number of parents, the council decided to allow the facility to continue while the registration process was carried out.

upstairs room. Bearing in mind the numbers of children and child minders involved, the Ombudsman did not consider that there was an unreasonable delay by the council up to this point.
4. There was, however, delay of some two-and-a-half months by the council in arranging for the property then to be re-inspected by an environmental health officer. The delay was unreasonable.
5. When the council was again ready to register the Wilsons to care for ten children, it received complaints from two parents about the standard of care the Wilsons provided. The Ombudsman said:

"The council had to come to a decision whether to proceed with the registration or to wait until its investigation of the complaints had been completed. A key question for the registration authority is whether the applicant is fit to look after children. In the circumstances I do not consider that it was unreasonable for the officers, having sought legal advice, to decide not to complete the registration until the investigation had been completed."

Delay in registration

3. The council received the application to register in December 1993. The Secretary of State's guidance was that decisions should be reached within three months of the application. By the end of May 1994 the council was ready to register the group to care for ten children under eight. This registration would have gone ahead at that point but the Wilsons asked for it to be delayed pending further consideration of the inclusion of an
6. In the meantime it was agreed to proceed with police checks on two new staff. The council received the results of the police checks but did not tell the Wilsons for four months. This delay was unreasonable.

Complaints about the standard of care

7. The Ombudsman said:

"The council was obliged to investigate the complaints it received about the

standard of care provided by the Wilsons. My task is to consider the way the council carried out that investigation, not to consider the substance of the allegations themselves about which, therefore, I make no comment."

8. The Wilsons had many criticisms of the council's investigation, including what they saw as the council's reluctance to take into account the motives and actions of those complaining, and its refusal to interview parents and others who could have given evidence in support of them. The Ombudsman said that the key issue for the council to consider was whether there was or was not any evidence to support the allegations. It interviewed the people it considered essential, including two people who had worked for the Wilsons, a current member of staff, a parent who gave evidence in support of the Wilsons and the Wilsons themselves. The Ombudsman thought it was reasonable for the council to suggest that parents who wanted to support the Wilsons should write in; it was clear that the council took account of the views of the parents who wrote in support of the Wilsons and he did not consider that it was unreasonable for the council to decide that it need not interview all of them. Nor did he consider that there was unreasonable delay by the council in completing the investigation itself, or in issuing the Wilsons' registration after it had done so.
9. But the Ombudsman said there was muddle and delay in producing the report of the investigation. The Wilsons and their solicitor were shown a draft report. They were not allowed to keep a copy. The council wrote to the Wilsons to say that the draft was being revised in the light of their comments, that a further draft would be prepared and that they would be invited to send "any amendments you may wish to make until a mutually agreed report is produced". It was misleading of the

council to say that "a mutually agreed" report would be produced. The council did not accept all the amendments the Wilsons would have liked; nor was it obliged to do so. Its responsibility was to produce a report based on the findings of its investigation and, after taking account of the Wilsons' views, to state its own conclusions. It was not until well over a year since they were shown the first draft that the Wilsons were sent the final report.

The council's complaints procedure

10. The Wilsons' complaints were not dealt with properly under the council's own complaints procedure:
 - there was no evidence that consideration was given to whether the council's corporate complaints procedure or the statutory social services procedure was the more appropriate;
 - the Wilsons were not advised properly of the procedure to follow, and how to pursue their complaint to the final stages of the council's procedure;
 - attempts to resolve the complaints informally became confused with the council's complaints procedure;
 - the action agreed at a meeting was not completed, and was overlooked after the officer attending it left some three months later, with the result that the Wilsons' complaint remained outstanding; and
 - notes of important meetings were not kept.

Injustice

11. The Ombudsman accepted that the delays in the registration process must have added to the complainants' feelings of uncertainty and caused

anxiety. But he considered that the council did not need to pay them compensation for this because the council did not – as it would have been entitled to do – require them to cease child minding until they had been registered. The Wilsons enjoyed the financial benefits of operating unregistered for more than two years; and they knew that the council was willing to register them a year before the actual registration.

12. The Ombudsman did not consider that the council should pay their solicitor's costs; it was reasonable for the council to investigate the concerns it received about the complainants' child care and the Wilsons' understandable decision to employ a solicitor arose from no fault on the council's part.
13. It was clearly the case that the muddle and delay in some parts of the council's investigation, and in its handling of the Wilsons' complaint, caused them an injustice. They were put to much avoidable time and trouble. It could be argued that the financial benefit the complainants were allowed to enjoy by operating unregistered more than compensated them for this further injustice. The Ombudsman considered it right to take account of that but because the muddle went on for so long, he recommended that the council should pay the Wilsons £250.

(Report 95/A/4058)

J6: Community care

The importance of making appropriate redress when a complaint is upheld under the statutory complaints procedure – need to inform complainant about resulting procedural changes

1. Mrs Hall made a complaint to a council under its social services complaints procedure.
2. She explained that her mother had been diagnosed as suffering from senile dementia. She said that her mother's condition deteriorated suddenly some three months earlier and that she telephoned social services nearly every day but no one came out to see them. She complained that her home help had not been allowed to have an input into a case conference. She had been told in the previous week that her father had senile dementia and the situation was a nightmare for her. She had very little time left for her teenage daughters. She had arranged at her own expense a temporary residential placement for her parents and they had now been home for two-and-a-half weeks but no one had been to see them. She asked for a copy of her parents' care plan. She attached a statement of the costs she had incurred which totalled over £2,000.

What the council did

3. The council's investigating officer, the review panel and the independent investigating officer all upheld some of Mrs Hall's complaints. In summary, the following complaints were upheld:
 - that the council failed to visit her mother during the three month period which she first complained about;
 - there was delay in arranging day care;
 - Mrs Hall and her parents were given inadequate information about the services provided;
 - her father was not assessed for services;
 - there was a lack of care plans;
 - there was a lack of appropriate support and professional expertise;
 - the council did not do everything possible to ensure that her mother was admitted to hospital in an appropriate way;
 - a support system for complainants and more information about the review panel was needed;
 - there was generally poor record keeping; and
 - supervision and post complaint work were insufficiently responsive and informative.
4. The council acted to take account of a number of the findings of its own internal reviews. The council told Mrs Hall that systems would be put in place to improve the information provided to service users and she was offered a cheque for £50. The council agreed to redesign its complaints leaflet and to produce a leaflet for people attending review panels. An audit of the assessment and care management process was carried out

and spot checks were made on the quality of recorded information. A number of changes were made to systems in the relevant area office. Changes were proposed to contracts with independent providers. However, although details of some changes made were given to Mrs Hall, she was not given detailed information on other changes made or proposed. And she did not feel that her claim for financial compensation had been properly addressed.

The Ombudsman's view

5. The Ombudsman said that maladministration was clearly identified by the council's own investigation and by the review panel, and Mrs Hall submitted evidence to support her claim that this had caused her financial loss. But the council did not properly evaluate her claim or consider what steps should be taken to meet it. The Ombudsman's view was that a review panel was ideally placed to make such recommendations to the council. He considered that the council's failure to consider properly the injustice claimed as a result of its faults was maladministration.
6. Mrs Hall suffered considerable anxiety about her parents as a result of the acknowledged breakdown in social services systems over a period of some 18 months. Her claim for compensation was outstanding. She remained unconvinced that significant changes had been implemented as a result of her complaint and consequently she went to considerable trouble in pursuing her complaint further with the council and with the Ombudsman.

Remedy

7. The Ombudsman decided not to recommend to the council that Mrs Hall should be compensated for

the costs she incurred when she made the temporary placement in a residential home because she was clearly told by the council at the time that this placement would not be funded. However, he felt that she was due compensation for her considerable anxiety, the effort she had to make to fill the gap in social services provision, her expenses while doing so, and for the time and trouble taken in pursuing her many complaints with the council and with the Ombudsman.

8. The Ombudsman recommended that the council should:

- review its procedures to ensure that review panels properly evaluated injustice and recommended steps to remedy it;
- clearly inform Mrs Hall of all significant changes which had occurred as a result of her complaint and give a programme for implementing any future changes which the council agreed it needed to make; and
- make Mrs Hall an *ex gratia* payment of £1,500.

(Report 96/B/2562)

J7: Fostering

Delay in deciding the future of a child – faults in the operation of the statutory complaints procedure

1. Ms Bolton was a foster carer for a council. She complained that the council failed to deal properly:
 - with the needs of a child, David, placed in her care; and
 - with her complaints about this matter.
2. David was placed in Ms Bolton's foster care when he was six days old. The council's adoption procedure said that as a rule of thumb, no child should remain in care for more than six months without a clear plan for rehabilitation or permanent substitute care being well under way. But, over three years after David's birth, his long term placement remained unsettled. The Ombudsman said that the council failed both David and Ms Bolton.

The council's faults

3. There was repeated muddle, inaction and delay. For example:
 - it was some three months before the social worker met David's parents or David himself;
 - a case conference focused on a funding dispute and discussion of the service offered to Ms X rather than the needs of David;
 - after four months the social worker told Ms Bolton the council had initiated care proceedings for David but, in fact, the council did not apply to the court until two months later;

- the council knew even before David's birth that it was probable a formal assessment of his parents would be needed to see whether they were capable of looking after him but the assessment was not completed until David was about ten months old;
- after that, the social worker was absent on long term sick leave but no one else was given responsibility for progressing David's case for more than six months;
- a report was not put to the adoption panel until nine months after the date originally intended: the panel was critical of the quality of the information in the report;
- the council began assessing a couple as prospective adopters but a year later no decision had been reached; and
- the council failed to hold regular planning and review meetings as required by the relevant regulations.

Statutory complaint

4. Ms Bolton complained to the council in the interests of David and of other children. The Ombudsman found that:
 - there was unacceptable delay in responding to the complaint – no substantive reply was sent to her until five months had passed;
 - in her reply the team manager declined to comment on events before she took over but did not say who else would respond on these matters. She also did not explain how Ms Bolton could pursue her complaint further through the statutory procedure; and
 - the council failed to ensure that statistics about complaints were reported to members on a regular basis as required by the legislation.

Injustice

5. The Ombudsman considered whether the council's maladministration caused injustice to David and to Ms Bolton and her family.
6. David was fortunate to have been fostered by Ms Bolton who had given him love and the benefits of living for over three years in a secure family environment. So far, therefore, he had not sustained an injustice. But it was unsatisfactory that his permanent placement had still not been decided. The Ombudsman's first recommendation, therefore, was that the council should secure the necessary decisions that would settle a permanent placement.
7. If it were to be judged to be in David's best interests to be adopted by Ms Bolton, he would be spared the trauma of being separated from the people he considered his mother and siblings. But if it were to be decided that he should be adopted by someone else, that trauma could not be avoided. It seemed likely that the transition would be more difficult for him than it would have been if there had been no delays on the council's part. To that extent, the maladministration would cause David an injustice. Accordingly, the Ombudsman's second recommendation was that, if David was adopted by someone else, the council should closely observe his welfare and quickly offer such counselling and other help as he might need to cope with the effects of the transition.
8. Ms Bolton had been put to much avoidable time, trouble, frustration and worry because of the council's faults. To recognise this, the council was recommended to pay her £500.
9. The Ombudsman commented that Ms Bolton was an experienced foster carer. When she took David, she might

have expected that he would be part of her family for up to a year. She and her children would have had to cope with his departure at that stage as all foster families had to. But David had now been with them for over three years and the emotional wrench would be much greater if he was now placed elsewhere than it would have been years before. Accordingly, the Ombudsman recommended that the council should pay Ms Bolton a further £500 if David was adopted by someone else.

Procedures

10. The Ombudsman's final recommendation was that the council should ensure that:

- it acted in accordance with the statutory complaints procedure;
- the statutory procedure was not confused with the council's own complaints procedure and that it was clearly understood and followed by staff;
- those making complaints were clearly told what the procedure involved including the right to take the matter to a review panel; and
- it fulfilled its obligation to monitor and report on the statutory complaints procedure.

(Report 95/A/833)

J8: Learning difficulties

Complaint about officer on strike – relationship between disciplinary procedures and complaints procedures – the need for proper explanation of outcomes to the complainant

1. Solicitors acting for Mr Fisher complained that a council failed to protect their client, a man with learning difficulties, from undue harassment and pressure from council workers who were on strike. In particular they complained that pressure was placed on Mr Fisher by the strikers not to allow agency workers into the house where he lived and to make statements to the media in support of the strike. They also complained that the council failed to deal with Mr Fisher's complaint promptly and properly through its statutory complaints procedure.

The situation

2. Mr Fisher received domiciliary support services provided for him by the council at the accommodation he occupied. The accommodation consisted of individual flats occupied by people with learning difficulties who received social services support from a key worker.
3. Some of the council's officers took industrial action against the council and withdrew their labour. The council recruited staff employed by private care agencies to cover for the officers

who were on strike. The council was concerned to ensure the welfare of people living in residential accommodation or who were supported in their own homes during the strike.

Complaint about picketing

4. Mr Fisher's solicitors said that pressure was put on their client by striking council employees, who on occasions were parked in their cars outside the premises, not to allow agency workers into his home.
5. A senior officer said that the council was aware of the need to protect vulnerable clients from the distress caused by the strike action. She said that if reports of illegal or unruly picketing at residential establishments were received, the council informed the police and a senior manager would go out to the scene to support any residents or agency staff as necessary. She did not recall any complaints of picketing activity at the premises where Mr Fisher lived, including any from Mr Fisher.
6. The Ombudsman accepted that the council was placed in a very difficult position when a number of its social services staff went on strike for several months. She saw no evidence that the council failed to take action to ensure continuing support and care for its clients and to protect the most vulnerable amongst them from the effects of the strike action. She saw no evidence that the house where Mr Fisher lived was a focus for picketing activity or harassment.

Media interviews

7. Mr Fisher's solicitors complained that an employee of the council on strike, Officer X, placed undue pressure on Mr Fisher to make a statement to the

media and to broadcast on local radio in support of the strike. They said that their client was intimidated by Officer X into making a statement he did not wish to make.

8. Mr Fisher said that on the day the strike started he was asked by an officer who worked at his home to go to the local office of the trade union involved in the strike. Mr Fisher said that when he arrived he was asked by Officer X if he would make a statement to the press and the other media refuting allegations that striking workers were intimidating social services clients. Mr Fisher said that he was reluctant to provide such a statement but Officer X pressed him to do so in an intimidating manner.
9. Mr Fisher said that, at Officer X's direction, he spoke on the telephone to reporters from two local radio stations. Mr Fisher said that during the interviews Officer X sat close to him and pressed him to answer the reporters' questions without allowing him sufficient time to think.

Complaint about officer on strike

10. Mr Fisher made a complaint about the actions of Officer X to a senior officer of the council. Mr Fisher's complaint was one of several serious complaints received about the actions of Officer X. In view of the seriousness of the various allegations against him, Officer X was suspended from duty immediately upon his return to work at the conclusion of the strike. Despite several requests to attend for interview, Officer X failed to attend. Before he could be interviewed, Officer X resigned from the council's service.
11. There was no evidence that the council took prompt action to respond to Mr Fisher's complaint about Officer X when he first made it. However, given the day-to-day pressures placed on

managers trying to operate the service in difficult circumstances and the fact that Officer X was on strike and therefore not available to be interviewed, the Ombudsman did not consider that the council could have undertaken an effective investigation in the short term. She was satisfied that, in the meantime, Mr Fisher had support from a social worker who was not on strike if he felt he required it. He also had an advocate appointed to assist him in pursuing his complaint. The Ombudsman did not consider that there was significant injustice to Mr Fisher from any delay in commencing the investigation of his complaint.

12. The Ombudsman said:

"I do not hold the council responsible for the alleged actions of Officer X. At the time of the incident complained of, he was on strike and therefore in breach of his contract. His alleged actions were in no sense the administrative actions of the council."

13. The Ombudsman accepted that, in line with Government guidance, it was reasonable for the council to suspend its consideration of Mr Fisher's complaint pending the disciplinary proceedings against Officer X. Given that Officer X subsequently resigned from the council's employment and left the country, these proceedings could not be concluded nor Officer X's account of the matter recorded.

Handling of complaint

14. However, the Ombudsman was not satisfied that the council took adequate steps to keep Mr Fisher fully informed about what was happening or to tell him that, following Officer X's

resignation, the investigation of his complaint would not be pursued further. Mr Fisher's solicitors were told at one point that the matter was still in hand when two weeks earlier the disciplinary proceedings had been abandoned. As a result Mr Fisher and his advisers were left uncertain as to the outcome of the complaint. This was very unsatisfactory.

15. The Ombudsman was not convinced that the council properly considered whether it was able to pursue Mr Fisher's complaint in its own right after it became impossible to conclude the disciplinary proceedings against Officer X. The council might have been able to investigate Mr Fisher's complaint further and reach a conclusion even without Officer X's account of events. There was no evidence that the council explored this possibility. It abandoned its consideration of Mr Fisher's complaint at the same time it abandoned the disciplinary proceedings, but Mr Fisher and his solicitors were not told of this decision.

16. Mr Fisher was entitled to a formal decision and an explanation of the outcome of the council's investigation. He did not receive these. The council's failure formally to conclude its investigation of Mr Fisher's complaint and to let him know the outcome (even if that was to tell him that no conclusion was possible) amounted to maladministration which caused him injustice.

17. The council was recommended to pay Mr Fisher £150.

(Report 96/C/3276)

J9: Residential homes

Decision taken without proper assessment of need – failure to inform family members

1. Mr Miller complained on behalf of himself and his sister, Mrs Hall, about a council's decision to move their mother, Mrs Miller, from one residential home to another. They said that this decision was not properly considered and resulted in needless stress and anxiety.

What happened

2. Mrs Miller suffered from dementia. She began to live in a residential home in the council's area. Mr Miller and Mrs Hall were unhappy with the care she was receiving and arranged for her to move to a different residential home ('Cherry House') in another part of the country near to Mrs Hall's home. They said they discussed the move with their sister, Mrs Watson, and the move had been agreed between them.

3. Mrs Watson, however, said she was unhappy about the decision. The council agreed to fund the new placement, knowing that Mrs Watson objected. Following a review visit, a social worker said it was unlikely that Mrs Miller could withstand a further move and recommended that her placement should be regarded as permanent.

4. Some six months later the social worker was contacted by Mrs Watson. She wanted to bring her mother back to the council's area. The council agreed and arranged for a place in a local home. This was done without any reassessment of Mrs Miller's needs or her mental and physical condition; and without any contact with Cherry House or with Mr Miller or Mrs Hall. They complained to the council. They expressed concern that their mother was inappropriately placed in an

ordinary unit, whereas they thought she needed to be in a specialist unit for the elderly mentally infirm.

5. The placement soon became a problem. Following a reassessment, Mrs Miller was diagnosed as requiring specialist residential care. The social worker arranged to move her to a different home.

6. The council said that it had no legal authority to stipulate where people lived and this was one occasion where family differences were so intense that the council was placed in a very difficult position with no easy answers.

The Ombudsman's views

7. The Ombudsman said that whilst the council had certain responsibilities towards Mrs Miller and indirectly towards her family, it was important to stress that at no time was the council actually able to dictate events. Any fair conclusion needed to recognise that fact.

8. Nonetheless, the Ombudsman considered that the council did not at times adequately fulfil its responsibilities. The council's own investigation of the complaint concluded that the social workers were wrong not to inform Mr Miller or Mrs Hall about the move back to the council's area. The social workers knew the acrimony within the family and should not have relied on other family members to convey that information. The Ombudsman agreed that in the circumstances the council should have informed all the family.

9. The Ombudsman was also critical that this move was agreed without any

reassessment of Mrs Miller's needs. The reassessment was clearly desirable and also it was required by the council's own policy. She also criticised the council for accepting claims by Mrs Watson that Mrs Miller was not happy in Cherry House and that Mrs Hall was not visiting frequently, without at least some attempt at verification.

10. The Ombudsman also criticised the agreement to move Mrs Miller to the particular home she joined first on her return to the area. It was not only with hindsight, the Ombudsman said, that this placement could be seen as unsuitable. The council's own investigation criticised that move.

Outcome

11. The Ombudsman was pleased to note that the council had made administrative changes to meet the criticisms; and recommended that it should pay £100 to each of the complainants for the stress and anxiety caused to them and their time and trouble in pursuing the complaint.

(Report 95/C/4390)

J10: Respite care

The importance of care plans

1. Mr X was an elderly man with severe physical disabilities, who was cared for at home by his wife. He complained about the way a council dealt with his request for respite care.

What happened

2. The couple was told at short notice that a two week placement had been arranged in a convalescent home in a neighbouring county. On arrival at the home, Mr X found that it was a nursing home for people suffering from mental health disorders and dementia. It was a secure home and he was not free to come and go as he pleased, and was locked in his room at night. He considered the environment was completely inappropriate for him and was considerably distressed. He stayed only one night and returned home the following day. He and his wife did not get the break they needed.
3. His complaint was considered by the social services complaints review panel, who upheld it. The panel found that the correct procedures for assessing Mr X's needs and drawing up a care plan were not followed. The home had not been briefed about Mr X. Mrs X was not given the address of where he was going. The panel recommended compensation, noted the disciplinary action which had been taken against a member of staff, and proposed a review of procedures.
4. The council offered compensation of £250. Mr X considered this was inadequate and complained to the Ombudsman.

Outcome

5. Mr X explained that, after his distressing experience, he did not wish the council to arrange any further respite care placements. He said that he wanted sufficient money for him and his wife to take a two week holiday in a guest house in a particular seaside resort. The Ombudsman's investigator contacted the tourist information department of the council for that area. From the information that department provided, it seemed that £750 would be sufficient to cover what was required. This was suggested to the council who agreed a local settlement on that basis. It was in fact less than the cost that the council would have incurred if it had arranged a second spell of respite care.
6. The council revised its procedures. Instructions were given that no service was to be provided without a care plan being formulated, and that copies of the care plan were to be made available to the service user. A review team was set up to ensure that assessment of current needs was undertaken when required, and a programme of training was put in place for care management staff.

(Local settlement 97/A/1427)

