

Report

on an investigation into
complaint no 08 016 986 against
the London Borough of Waltham Forest

21 October 2009

Investigation into Complaint No 08 016 986 Against the London Borough of Waltham Forest

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Key to names used

Miss Smith Complainant

Report Summary

Subject

Children & Family Services

Miss Smith complains that over a period of several years she sought support from the Council as a child in need but was continually sent away by the Council without support being offered. She says the Council failed to assess her needs properly and as a result did not offer services to which she was entitled. Although the Council did eventually assess her as being a child in need and provide some services, she says this happened too late, those services should have been provided earlier, and she suffered harm as a result of the delay. In addition to the lack of social care support, she says she was out of school for long periods and the Council failed to take action to provide suitable education for her.

She also complains that, when she complained to the Council, it failed to deal with her complaint properly.

Finding

Maladministration and injustice.

Although the Council's response to the initial contact was appropriate, subsequent assessments of Miss Smith's needs were inadequate. In particular, the Council failed to take proper account of her wishes and feelings and took other information at face value. The Council also failed in its duty to work with other agencies involved with Miss Smith. Although the Council did in time assess Miss Smith as being a child in need, this conclusion should have been reached earlier.

As a result of the Council's failings, Miss Smith lost out on support that should have been provided to her, thus exacerbating the harm she was suffering as a result of her personal circumstances.

These failings were compounded by the poor handling of Miss Smith's complaint

Recommended remedy

The Ombudsman recommends that the Council:

- apologise to Miss Smith
- pay compensation of £7,000
- review the way it deals with assessments of children in need
- review the way it deals with complaints

Introduction

1. Miss Smith is now an adult. Her complaint relates to events going back over a number of years, starting in December 2004 when she first came to the attention of the Council's Children's Services Department following a referral by her GP. She complains that:
 - Despite numerous referrals since 2004 the Council failed to assess her needs properly or provide any support. Although the Council eventually assessed her as being a child in need this should have been done at a much earlier date, and in any event she should have been considered a child in need of protection.
 - The investigation of her complaint at Stage 2 of the statutory complaints procedure was inadequate, and the conclusions were not supported by sufficient evidence or analysis and were contradictory. Although the two main complaints were upheld at Stage 3, the Council has not accepted these findings, but has failed to give adequate reasons in support of this.
 - In addition, the complainant was out of school for long periods and the Council took no action to address her educational needs.
 - As a result of these failings the complainant suffered abuse, was not protected from harm and has not received support and services to which she was entitled. Although aspects of her complaint have been upheld she has not received an appropriate remedy.
2. The law generally requires me to report without naming or identifying individuals. The names used in this report are not, therefore, the real names of those concerned.
3. The law requires that I shall not normally consider a complaint unless it was made to me or to a Member of the authority concerned within 12 months of the day on which the person aggrieved first had notice of the matters alleged. In view of the serious nature of the complaint I have exercised discretion to investigate events in this complaint from December 2004.
4. A member of Commission staff has met Miss Smith and her advocate, inspected the Council's records and met senior officers from the Council to discuss the complaint.

Legal and Administrative Background

Children's Services

5. The underlying principle in the law relating to the welfare of children is that the child's welfare is paramount; where there is a conflict between the child's interests and

another's (including, for example, the child's parents), the child's interests come first. With this in mind, the first objective of the law is to keep families together where possible, with proper support as required.¹

6. The Government's aim is for every child, whatever their background or their circumstances, to have the support they need to:
 - Be healthy
 - Stay safe
 - Enjoy and achieve
 - Make a positive contribution
 - Achieve economic well-being²
7. Councils have a general duty to 'safeguard and promote the welfare of children within their area who are in need'. A child is in need if:
 - “(a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority...
 - (b) his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or he is disabled.”³
8. Where there are grounds to suspect a child is suffering, or is likely to suffer, significant harm, the Council must consider whether the child is in need of protection. An initial assessment should be done within seven days. It must make enquiries to decide whether action should be taken to safeguard or promote the child's welfare (often referred to as a s.47 investigation).⁴ As part of this investigation, an 'Achieving Best Evidence' interview ('ABE interview') may be carried out jointly with police officers to obtain evidence from the child. For those children for whom it is agreed there is a likelihood of significant harm, a Child Protection Plan may be put together, or the Council may consider applying to the court for an Emergency Protection Order, Child Assessment Order, Supervision Order or Care Order.⁵

¹ Children Act 1989

² Children Act 2004; 'Every Child Matters: Change for Children'

³ Children Act 1989, S.17

⁴ Children Act 1989, S.47

⁵ Children Act 1989, S.31,S.43 and S.44

9. Government guidance⁶ summarises social service departments' duties in respect of children, including the procedures required to deal with referrals, and sets out in detail how social workers are to carry out assessments to make decisions about what action, if any, should be taken. An initial assessment may be followed by a core assessment, by the provision of services or by case closure.
10. The guidance emphasises the need for a proper analysis of all the child's needs, including emotional and behavioural development and education and arrangements for working with other agencies. The child's wishes and feelings must be taken into account - current guidance requires councils to have a "culture of listening to and engaging in dialogue with children".
11. Assessments should be carried out in a structured way. The process involves an initial investigation to establish the causes of concern; a comprehensive 'core' assessment to explore these issues in detail and gain an understanding of the circumstances which caused the concern (with a detailed record of all the information gathered); and review of the information obtained and the drawing up of an action plan.
12. Councils are required to accommodate children in need where necessary. This may happen through a Care Order being made by the court (see paragraph 8) or simply by the authority agreeing to accommodate the child, who is then considered to be 'looked after'.⁷

Education

13. Councils have a legal duty to ensure that primary and secondary education are available to meet the needs of the population of their area and to arrange suitable education (usually 25 hours per week) for children who might not be receiving education due to illness, exclusion from school or otherwise.⁸

Complaints

14. There is a statutory social services complaints procedure for complaints concerning children⁹ which has three stages: informal resolution (Stage 1) followed by a formal investigation (Stage 2). At stage 2 an investigating officer is appointed, to carry out an investigation and prepare a report. An independent person is also appointed, whose role is to provide an independent view, read the investigating officer's report and produce his own report. The final stage is a Review Panel (Stage 3). The Council has 28 days to decide whether to accept the Panel's findings; if it decides not to do so it must give sustainable reasons for this. I normally expect this statutory process to be followed.

⁶ Framework for the Assessment of Children in Need and their Families (2000); 'Working Together to Safeguard Children' (Issued 1999; updated in 2006)

⁷ Children Act 1989, s.20

⁸ Education Act 1996, s.13 and s.19; DfEE Circular 11/99

⁹ Children Act 1989, s.26

Investigation

December 2004: first contact with Council

15. Miss Smith first came to the attention of the Council's Children's Services Department in December 2004 following a referral by her GP. Then aged 13, she lived with her parents in council housing. She had been sent on holiday to stay with relatives in Ghana (she believed she was going on holiday to Italy). Whilst there she was raped and became pregnant. She found her way back to England, with help from the British embassy, and went to see her GP because she wanted an abortion.
16. Miss Smith had not told her parents what had happened to her. The GP was concerned that she was too young to make such a decision and felt her parents should be involved. An initial assessment by her social worker found that Miss Smith had behavioural and emotional difficulties and was experiencing problems at school. A teacher who had been working with her described her as being "extremely troubled" but had been unable to get to the bottom of her problems. A strategy meeting was held, which reviewed two issues – the pregnancy and Miss Smith's extreme behaviour. Decisions were made including:
 - further liaison with police
 - decision to be made with her GP about her competency to consent to an abortion; parents to be involved if she was not competent
 - social worker to be allocated
 - core assessment of her needs to be carried out.
17. The assessment of her competency concluded that although Miss Smith was able to consent to the abortion she needed the support of her parents due to the emotional and psychological impact it would have. Her mother was informed, after which the procedure went ahead.
18. The social worker carried out the core assessment, which confirmed that Miss Smith did not feel she had a particularly close relationship with her mother but had benefited from support from her. She had a very poor relationship with her father. The assessment noted that when Miss Smith's mother was told of the pregnancy she did not react negatively nor appear angry or upset. There were concerns about Miss Smith's safety after what had happened in Ghana but it was felt her mother could protect her from further abuse. It was difficult to explain what was causing her behavioural difficulties other than perhaps resentment to her father and the way he treated her mother. The sections of the assessment form concerning views of the child, parents and other family members were not completed (though some of their views were recorded in other sections). The assessment concluded that Miss Smith

was neither at risk of significant harm nor a child in need as all her needs were being met, but she would benefit from counselling and from further work by the school to address her behaviour there. No further social services involvement was needed.

February 2005: second contact with the Council

19. The next contact with Children's Services came in February 2005 following an incident where the police were called as she and a friend were missing at 3.15 am. The friend was found but not Miss Smith. The police sent notification of the incident. This report stated that Miss Smith's mother was not concerned at all when police spoke to her, did not require police involvement and was sure her daughter would return some time in the morning. The police carried out a search but could not find Miss Smith. The report of this incident from the police was logged by Children's Services "for info only". No action was taken by them.
20. Notes on the file from that period record that there was some correspondence with the counselling service, and further contact with police and with Miss Smith. The notes also record that the core assessment referred to in paragraph 18 was shared with her but she asked that it not be shown to her mother. The case was then closed on 30 March 2005.

October 2005: third contact with the Council

21. A referral was received from the school concerning Miss Smith's behaviour, advising that support was needed to help her with managing her anger. Another core assessment was carried out. The assessment recorded her mother's view that there was nothing wrong and the school was picking on her daughter. Neither Miss Smith nor her mother was willing to talk about what had happened in Ghana, but her mother appeared consumed with guilt about it. Her father was now in prison on remand facing serious criminal charges. Miss Smith presented as an "extremely troubled child" who spoke very negatively about her parents, was getting into trouble at school and found it extremely difficult to listen to boundaries and rules both at home and at school.
22. Much of this assessment is very similar to the previous one; some sections are repeated word for word, with only minor changes. The same conclusion was reached, that Miss Smith was not at risk of significant harm nor a child in need, as all her needs had been met. No further action was to be taken other than that her school would continue to work with her on her behaviour, while Miss Smith would refer herself to counselling.
23. In November 2005 Miss Smith referred herself to the counselling service.

February 2006: fourth contact with the Council

24. Children's Services were involved again following allegations of sexual abuse of Miss Smith and her best friend, by her friend's father, who lived next door. Her mother had become concerned after seeing messages on her mobile phone and insisted they go to the police. An 'ABE' interview was carried out and a strategy meeting held. The meeting recorded that there was evidence of various sexual activities against Miss Smith and her younger sister (though the latter was much less serious). Notes on file indicated an assessment of her emotional needs had been started three years ago but put on hold. Her mother seemed caring and wanted to do the right thing but Miss Smith's behaviour was deteriorating and now included threats of self harm as well as threats to kill her father, which she had also made in counselling sessions. Decisions made at the meeting included:
- a section 47 investigation and core assessment to be done
 - liaison with police and school to continue
 - referral to Adolescent Support Team regarding issues with her mother
 - all agencies to keep Children's Services updated of developments.
25. A second strategy meeting a few days later recorded that Miss Smith was very confused and stressed, her mother had been struggling with her behaviour for a long time, she spent much of her time at her neighbour's home and had said her mental health was at risk and she wanted to live with one of her teachers. There was also reference to her having taken an overdose in 2004. The conclusion of the meeting was that professionals would continue their involvement.
26. Miss Smith says that a social worker rang her and said she would visit her. She heard nothing more for a while until the social worker turned up unannounced one day. She says the social worker spoke to her briefly but did not enquire how she was coping emotionally.
27. In May 2006 the counselling service sought an urgent psychiatric assessment of Miss Smith following concerns about her mental health. She was experiencing flashbacks of the rape, was hearing voices, having suicidal thoughts, was drinking and taking drugs and was very vulnerable. Although the counselling was continuing it was felt she needed more in depth co-ordination of services. At about this time Miss Smith stopped attending school altogether.
28. In response to this, Children's Services noted that Miss Smith had never shared any information with her social worker about taking an overdose or about how distressed she was feeling; their involvement had been solely related to her non attendance at school; the strategy meeting had not outlined any additional social services role other than offering ongoing support and Miss Smith needing to be referred to an appropriate agency for help with drug and alcohol problems.

33. In September 2006 Miss Smith wrote to the headteacher of her old primary school asking for help in getting back into school. She says no-one from the Council contacted her or gave her any support in relation to getting back into education.
34. In October 2006 there was a referral by the Mental Health Trust to the Child & Family Consultation Service for a psychological assessment. It was felt she needed a review due to her poor relationship with her mother, lack of schooling, the affects of the sexual abuse she had suffered, which included two overdoses, and difficulty controlling her temper. She was unhappy at home and wanted to move away from her family. She had, however, stopped drinking and wanted to get back into education.
35. When the neighbour's case went to trial Miss Smith attended court to give evidence against him. She spent two days in the witness box. She travelled to and from court alone and had no support from social services. She says that due to the depression this caused her she contacted social services again. After speaking to a number of people she was told that her previous social worker had left the Council six weeks earlier.

April 2007: fifth contact with the Council

36. Children's Services next had involvement with Miss Smith in April 2007 when she was referred by the Youth Offending Team. File notes of an interview with Miss Smith record, amongst other things,
 - Miss Smith disclosed that she had been beaten by her father when she was younger
 - She had had little or no support during the trial of the neighbour who had abused her
 - She appeared to be struggling with education
 - She had feelings of hate towards her mother.

The notes also state:

"[Miss Smith] speaks very matter of factly about these traumatic experiences so I am concerned there has been significant harm to her emotional development ... [she] has been exposed to two different situations where she has been abused. One may consider that her parents have failed to protect her by ensuring her safety."

37. A further initial assessment was carried out. This assessment noted that Miss Smith's emotional health was deteriorating; she had experienced emotional turmoil as a result of the abuse she had suffered and the feeling of isolation and intimidation from her neighbours. The assessment stated that her mother had been supportive of her in relation to her education, but their relationship had broken down

29. Clinical notes made by the Child & Family Consultation Service in June 2006 recorded that Miss Smith had a diagnosis of depression, lacked sufficient adult support but was resourceful despite not being protected. In July her psychiatrist confirmed that, due to lack of adult support, Miss Smith had developed a depressive illness. She was hearing voices, but this was likely due to taking cannabis. She had recently been arrested after punching a policeman. The psychiatrist's plan for her included medication, the counselling to continue, a referral to Drug and Alcohol Services and contact to be made with her social worker.
30. In July 2006 there was an exchange of emails between the police and Children's Services. The police were concerned about the family continuing to live next door to the family of the alleged perpetrator of serious crimes against them. The neighbour's wife was also about to be charged in connection with the incidents. The neighbour's family had accused her of telling lies about him, there were escalating problems with neighbour disputes and the community's feelings were running high. It was a situation where all parties, including the police, social services and the Council's housing department needed to act together urgently. The Council was looking into the possibility of moving the family.
31. The social worker met Miss Smith and her mother in August 2006 and identified with them some support in finding re-housing and moving to another school. The counselling service wrote to Children's Services about the case. The counsellor said she had shared her concerns with the social worker in December 2005 and again after the disclosure of sexual abuse in February. She had had no feedback after the strategy meeting and did not know whether a section 47 investigation had taken place or what social services intervention there had been. She was extremely concerned about the lack of action since then:

"I am extremely concerned about the lack of social service involvement with this client. [The social worker] has not returned any of my calls over the last few months, so I would like to know how the risk that Miss Smith poses to herself and others is going to be managed, what is the multi-agency plan?"

She continued:

"Miss Smith is a young person whose life is dangerous and unsupported and is hugely at risk. Despite the disorganisation in her life she still manages to engage in sessions with me, however, she has many needs that extend beyond our counselling relationship and need partnership working to address."

32. In August the social worker wrote to the housing department supporting a request for the family to be moved and asked Miss Smith to come and see her, to discuss the comments made by the counsellor.

due to lack of support in other areas. Her mother had said she loved her daughter but felt unable to support her in their present home environment. She had declined an offer from the Council to move the family to alternative accommodation. Miss Smith could not stay at the family home and as a result was experiencing homelessness and needed to be accommodated.

38. In June Miss Smith was given temporary accommodation by the Council's homeless persons unit, initially in a hostel and then in bed and breakfast accommodation in another borough, and some financial support pending an application for Income Support.
39. Miss Smith says her Connexions worker and a probation officer both referred her to Children's Services but were told nothing could be done for her as she was not a child in need. (There is no record of the referral by Connexions in the Council's files.)

December 2007: sixth contact with the Council

40. A further referral was made to Children's Services by an advocate on behalf of Miss Smith, who by this time was almost 17. She said Miss Smith wanted to be accepted as a child in need, to receive ongoing support and to be moved to accommodation closer to her college. She was finding it difficult to cope on her own. In reply to this referral Children's Services advised that there was no role for social services as Miss Smith did not meet their eligibility criteria and she should approach the housing department for assistance.

January 2008: complaint to the Council

41. In January 2008 Miss Smith's advocate accompanied Miss Smith on a visit to the Council. She describes the interview as being insensitive and says Miss Smith was again told she was not a child in need. The advocate submitted a complaint to the Council on her behalf about the lack of support given to her. Miss Smith also consulted solicitors who wrote to the Council in February 2008. They said Miss Smith had experienced further difficulties, including
 - an assault by her boyfriend, as a result of which she had obtained an injunction against him
 - increased isolation and depression as a result of being moved out of the area, as well as difficulties getting to college and financial difficulties due to high travel costs, and discharge from the Council's Child and Adolescent Service.
42. Miss Smith says that she found it very difficult to manage on her own. Her financial difficulties arose because she was trying to live on £45 per week, out of which she had to pay £23 for her bed and breakfast accommodation, leaving only £22 for her fares to college, food and all other expenses. She was also afraid because many of the residents of the bed and breakfast were older men and she worried she could be abused by one of them.

43. The solicitors sought a transfer to accommodation in the local area to address these problems, asking for copies of any assessments carried out and details of what support the Council would give to Miss Smith, who they described as being very vulnerable.

The Council's stage 1 response

44. In its stage 1 response to the complaint the Council agreed to undertake an initial assessment to determine whether services should be provided to Miss Smith, provide support regarding her housing needs and review what support she had been given in relation to the criminal trial. The response also advised her to seek legal advice about obtaining an injunction against her boyfriend and contact Connexions for help with education issues (Miss Smith had told the Council that she had already done both of these things).
45. The case was allocated to a social worker to explore the situation, and Miss Smith was referred to a housing association for accommodation in the local area. The initial assessment concluded that Miss Smith was a child in need. Her present needs were identified as:
- support relating to the court proceedings against her former boyfriend
 - requests to charities for funding
 - an increase in the amount of counselling
 - her medication to be sorted out.
46. These needs were to be met by the Council providing support with the court case, ensuring her housing issues were fully resolved and ensuring her counselling continued.
47. In April 2008 Miss Smith was offered accommodation locally by a housing association. She says when she moved in she had nothing except a mattress to sleep on and a cooker and fridge, which were provided with the property. The Council provided a bed, but she had to take a loan of £350 from the Job Centre and was given £250 by a charity in order to furnish the flat. She found it difficult to manage on benefits of £47 per week, out of which she had to repay the loan and some rent arrears as well as her living expenses.
48. In August Miss Smith's psychiatrist advised the Council of an assessment of her mental state; she was moderately depressed and had had suicidal thoughts, but was seeking help to sort herself out. She had been prescribed medication.

The Council's stage 2 investigation

49. Miss Smith was unhappy with the stage 1 response and the Council instructed an investigator to carry out a stage 2 investigation and, as required by the statutory procedure, and an independent person to work alongside the investigator. The stage 2 report was issued in August 2008. It dealt with four complaints:
- 1) The Council had been involved with Miss Smith since 2004 and during this time had failed to assess her properly. She should have been classed as being in need of protection and taken into care but instead was told she was not a child in need. The Council accepted evidence from her mother rather than conflicting evidence, without corroboration.
 - 2) The Council had been negligent and placed her at a disadvantage as she was not entitled to leaving care services.
 - 3) Lack of financial support had caused her difficulties, including accruing rent arrears (though these had now been cleared by the Council).
 - 4) There were many other things she needed and she sought help to appeal against a decision that she was not entitled to a Community Care Grant.
50. The findings of the stage 2 report were brief, amounting to fewer than two pages. The investigator stated that she had not been able to find evidence that Miss Smith's needs were not assessed properly or that action was not taken to protect or support her; she was not in any harm in the home nor was there any abuse there. Agencies had been identified but Miss Smith had failed to keep appointments. The Council had not been negligent and Miss Smith had not been disadvantaged by not receiving leaving care services. She did, however, meet the criteria as a child in need. The report did uphold the complaints 3 and 4 about lack of financial support. The independent person's report is almost identical to the investigation report and makes the same findings.
51. The Council advised Miss Smith that it accepted the report's findings on the first two complaints. It did not agree to uphold the third or fourth complaints, saying there was an assumption that the Council should have provided more support but most young people are supported to leave home by their families, adding
- "Your family should help you towards independence, and I have seen nothing to suggest your family are unable or unwilling to help you."
52. The Council did accept that as a result of her experiences Miss Smith could be considered a child in need but said that did not guarantee financial support and it was satisfied it had acted reasonably in the level of support it had provided.

Stage 3 – the Review Panel

53. Miss Smith was not satisfied with the report and in September 2008 asked to proceed to stage 3 of the complaints procedure. Her advocate said the Council had failed to assess her parents properly; no-one had ever interviewed her father (who was now in prison) and did not question her mother's failure to take appropriate action to protect her. She said Miss Smith had visited the Council on at least five occasions and each time been turned away. On the last such visit the advocate had gone with her and witnessed her having to recount again the abuse she had suffered – which she found very distressing – after which she was sent away in tears after being told she was not entitled to any help. She had taken up all services offered to her recently and in the past had been prevented from doing so by her mother.
54. In October the complaint was considered by a review panel. The Council argued that Miss Smith had not been in need of protection, despite what had happened to her, since she had a warm relationship with her mother. It also said that although her mother had not allowed her to access some services, her parents were her primary carers and could not be forced to follow certain procedures; if her mother did not want Miss Smith to access services she was within her rights to prevent this. The investigating officer said that Miss Smith's mother had been seen, all procedures had been followed and there was no evidence to suggest the contrary.
55. The panel upheld the first two complaints; it found that referrals by Miss Smith and the school were not acted on and the Council had failed to listen to her or assess her needs properly. It was the Council's responsibility to support her as a child in need. It partially upheld complaint 3, saying the Council was not liable for paying her rent, but should have supported her in dealing with this.
56. The panel recommended that the Council clarify with Miss Smith what services she was entitled to as a child in need and provide details of mediation services if she wanted to use mediation to assist in relations with her family. It did not consider that Miss Smith was entitled to any compensation, though did not give any reasons for this view.

The Council's response to the Review Panel's findings

57. In response to the panel's findings the Director of Children's Services stated:
 - the Council had assessed her properly, but was lacking by not listening to her and providing the right information on how it could help and support her
 - the Council did everything in accordance with its statutory duties after she was identified as a child in need and provided appropriate services
 - the issue of rent arrears had been resolved

- he would expect the social worker to provide necessary support for her transition from children's services but did not uphold her fourth complaint.
58. The Director accepted the panel's recommendations and in addition offered her £250 compensation for her time and trouble in making the complaint.
59. In November the core assessment concluded that Miss Smith was taking responsibility for her education but there continued to be concerns for her mental and emotional health. There were unresolved issues regarding her mother and ongoing trauma as a result of the rape and sexual abuse she had suffered. Her needs were identified as
- need for support with emotional trauma and rebuilding relationships with her family
 - assistance with financial issues and benefit claims and her housing
 - further advice regarding the injunction against her former boyfriend.
60. The assessment concluded that there should be provision of section 17 services. The Council wrote to Miss Smith's solicitors acknowledging that the assessment had not been concluded within the statutory timescale, but said there had been ongoing visits and support while it was being carried out.
61. Between December 2004 and December 2008 Miss Smith dealt with six different social workers.

The Council's comments

62. The Council says there is no doubt that Miss Smith had some very distressing experiences, and suffered significant harm, but this was a result of the actions of others – not the Council, or her mother. Its role was to assess her mother's capacity to look after Miss Smith. There has, it says, been a shift in the definition of a 'child in need', with the presumption that all such children would then have a social worker. The approach now is to look at a range of options, services may be provided by other agencies and other professionals may take the lead.
63. It considers that reasonable assessments were made and a reasonable judgment made that her mother was doing her best (though she had some struggles with Miss Smith) and was a capable parent. As an example of this, the Council refers to the fact that her mother contacted Children's Services due to concerns about inappropriate text messages on Miss Smith's mobile phone. Her mother's decision to send Miss Smith to Africa is not an uncommon one in African communities. The Council now knows that during the period described in paragraphs 16 to 22 above, Miss Smith was being sexually abused, which helps to explain her behaviour.

64. The Council understands Miss Smith's perception; that she was going to the Council seeking help and being turned away. But it does not consider there were services the Council needed to provide. Miss Smith was receiving services; the particular service she needed was being provided by counselling and there was nothing further for the Children's Services Department to provide. Responsibility for co-ordination of services may lie with others, not just social workers; the counsellor was, for much of the time, the lead professional. At other times, it was the Connexions worker or the Probation Officer.
65. The Council further states that, at the time in question, it was obliged to use standard assessment forms which were unhelpful and could work against effective assessment. As a consequence they are being remodelled, to ensure the assessment is driven by professional judgment rather than the design of the form.
66. Although a comment was made in one assessment that Miss Smith lacked adult support, the Council considers this was based on her own accounts and not supported by other evidence.
67. The Council accepts that, during 2006, it would have been helpful if the social worker involved had convened multi-agency meetings to share information, manage professionals' concerns and ensure a jointly owned care plan was in place. Where other professionals' anxieties were not managed, they would tend to overstate their case in order to elicit a reaction and better liaison might have avoided this. It also accepts that better information could have been provided to Miss Smith – Miss Smith wanted the Council to tell her she was a child in need and rather than simply telling her she was not in need of services, the Council accepts it could have explained more clearly the reasons for this. In particular, by confirming this in writing to her. It does not, however, consider there was fault in not providing more support.
68. The Council considers it took appropriate action to ensure Miss Smith received an education. Once it became aware of problems, in December 2005, it took steps to find another school place. As her attendance was poor, her case was reviewed by the 'hard to place' panel and the social exclusion team was also involved. The Council does, however, acknowledge that if this situation arose now there might be a more prompt response and better exchange of information between education and social care staff.
69. To reflect the failings which the Council has accepted, it has offered compensation to Miss Smith of £500.
70. Finally, the Council states that, due to limited resources, it does not invest much time in responding to complaints at stage 2 or at review panels. It does not defend the complaint unless it proceeds to my office. What the panel considered at stage 3 was not really what had been investigated at stage 2, and the Department had not been resourced to defend it, so the panel's findings are unreliable. The Council considers there is a difference between failing to listen to someone and failing to agree with them, but the panel did not see this distinction.

Miss Smith's comments

71. Miss Smith says the main cause of her distress is that the Council has refused to accept its responsibility for the mistakes it has made. Rather than providing support to her, it contributed to ruining a large part of her teenage years.
72. She does not consider the Council has ever appreciated the harm she suffered. She cites as an example, an occasion in early 2008 when she went to the Council seeking help and was told by a social worker there was nothing on the system about her being sexually abused; she took this as an indication of how little importance the Council attached to what had happened to her. She also refers to the letter sent after the stage 2 report (see paragraph 51 above) where the Council maintained that she should seek support from her family. Since the relationship with her mother had broken down and she had moved away from her family she found this very insensitive.
73. When she gave evidence in the criminal proceedings, she had no social worker supporting her and had to travel to court alone, face three days of intrusive cross examination and then go home again on her own. She did not know who was supposed to help her. She knew the police had referred her to Children's Services, and a social worker took her for the ABE interview, but after that there was no further support from a social worker, other than some limited help in relation to her re-housing needs.

Conclusion

74. The Council says Miss Smith has sought to blame it, and her mother, for harm she suffered when neither was to blame; the abuse was caused by the actions of others. It is, of course, true that neither the Council nor her mother actually abused Miss Smith; the first abuse was carried out by someone in Nigeria and the later abuse by her neighbour. However, this does not absolve the Council from all responsibility for the suffering Miss Smith has endured.
75. The Council also says that it carried out reasonable assessments of Miss Smith's needs, she received appropriate services and, even though there were some areas where it should have done better, any failings did not lead to substantial harm.
76. Whilst I have considered the Council's comments very carefully, I have to say I am not persuaded by them. I accept that, following the initial contact in December 2004, it was reasonable for the Council to consider that Miss Smith's needs might be met by her family, but as time went on and she continually sought help from the Council I consider the Council was at fault in failing to respond adequately.
77. Miss Smith had suffered very serious abuse and was variously described as being extremely troubled; having behavioural and emotional difficulties; very vulnerable; having suicidal thoughts; problems due to lack of adult support; diagnosed as being depressed; her life was "dangerous and unsupported and is hugely at risk." Her

relationship with her mother broke down to such an extent that she could no longer live there and became homeless.

78. Despite all of this, Children's Services continually turned her away, refusing to provide support and saying she was neither a child in need nor at risk of harm. Eventually, after considering her complaint, the Council carried out a further assessment and concluded that she was a child in need. There was nothing new in her situation then and, if she were a child in need at that point, then she must have been one earlier. She should, accordingly, have received services from a much earlier date.
79. I consider the Council was at fault in particular in relation to the following:
- The assessment in October 2005 was inadequate; much of it merely repeated, word for word, the previous assessment. The conclusion that no further action was required, other than for the school to continue to work on her behaviour, was flawed – since it was the school that had asked for this assessment on the basis that it could not manage her behaviour and need help, it was not reasonable to simply pass this back to the school.
 - Following the sexual abuse in 2006, Miss Smith's situation had clearly become more acute and she needed support. The strategy meeting concluded that professionals would continue their involvement with her. But the only support she received from her social worker was a visit, some time later, where the social worker did not enquire as to her emotional wellbeing.
 - The Council stated that its involvement at this time was solely limited to her school attendance, when that was clearly not the case. And whilst accepting that it was supposed to be providing support, no actual support was being given.
 - The situation in 2006 required all agencies to work together, but the Children's Services department had little contact with other agencies; the counsellor had no feedback after the strategy meeting and did not even know whether a section 47 investigation had taken place. None of her calls, over a period of months, were returned. Decisions reached at strategy meetings were not followed through.
 - Even if it were the responsibility of the police or prosecution service to assist Miss Smith when giving evidence, if her social worker had been in touch with her and providing support, it would have been possible for this to be taken up with those authorities. This opportunity was lost due to the failure to keep in touch with either Miss Smith or those other agencies
 - The assessment in April 2007 recorded that Miss Smith had suffered significant harm to her emotional development and her parents had failed

to protect her by ensuring her safety. A further assessment recorded that her relationship with her mother had broken down. Her mother had declined the offer of a move, leaving Miss Smith vulnerable. Yet in spite of these findings the Council still concluded that nothing needed to be done. In December 2007 the Council maintained that there was no role for social services as she did not meet the eligibility criteria, and referred her to the housing department. It is difficult to understand how the Council reached the conclusion that Miss Smith did not meet the eligibility criteria.

- Although it was reasonable at the outset to take the view that Miss Smith's needs might be met by her family, as time went on and it became clear that this was no longer the case, the Council ought to have intervened. From late 2005 it was clear that the school needed support, but this was not forthcoming. Certainly by 2006 the Council was failing to play its part in working with other agencies. Following the complaint it did eventually decide that she was entitled to support as a child in need but this was not until 2008; that conclusion should have been reached earlier and it should not have been necessary for her to have to engage the services of an advocate and solicitor to pursue a formal complaint before the Council finally recognised this.

80. These failings were compounded by the subsequent way in which her complaint was dealt with. The stage 2 report was inadequate; there was very little analysis and the findings are inconsistent and contradictory. The complaints were upheld by the panel. This was not accepted by the Council. Whilst the Council may reject the findings it must give sustainable reason for this. In view of the findings I have made above I do not consider there was proper justification for this. The response from the Director of Children's Services did not set out sustainable reasons and was inconsistent and contradictory, for example;

- He stated the Council had assessed her properly, but was lacking in not listening to her or providing the right information – since they are integral parts of any assessment such a failing would mean the assessment could not have been done properly
- He concluded that the Council had done everything required after identifying her as a child in need – but this overlooked the delay in accepting that she was a child in need and the failure to provide support up to that point.

81. The advice to Miss Smith to look to her family for support was, in the light of what the Council knew about her relationship with her mother, unreasonable.

82. I am concerned by the Council's comments about its approach to complaints. I appreciate that its resources are limited and it must decide where its priorities lie. However, complaints should be seen as an integral part of the Council's services; a way of reviewing its actions and learning from what has happened. In addition, the complaints procedure for Children's Services is a statutory procedure which the Council has a duty to implement and it should ensure this process is dealt with properly.
83. With regard to Miss Smith being out of school, I consider that staff dealing with her education did take reasonable steps to find suitable schools for her. However, the Council accepts that liaison between education staff and social care staff could have been better. Furthermore, much of the problem was due to her behavioural issues, which were related to the abuse she had suffered. Had the right support been put in place earlier these issues might have been resolved more quickly which may, in turn, have assisted with her school attendance.
84. I accept that there were other agencies involved with Miss Smith, and some services could more appropriately be provided by them rather than the Council. Nevertheless, the Council owed a duty to Miss Smith. Its assessments were flawed, failed to take proper account of what she was saying, accepted her mother's word at face value, in the face of other evidence, and it failed to work jointly with other agencies to follow through decisions reached with them. I have no remit to consider the actions of any other bodies involved and can only look at the Council's actions.

Remedy

85. I am satisfied that, as a result of the failings set out in paragraphs 79 and 80 above the complainant suffered harm. As stated at the outset, the Council was not directly responsible for the abuse she suffered at the hands of others. However, I have no doubt that her suffering was exacerbated by the Council's failure to assess her properly and provide support to her.
86. In considering an appropriate remedy I have taken into account that Miss Smith was a vulnerable young person who suffered a great deal of additional distress and inconvenience over a long period, and was put to unnecessary time and trouble in pursuing the matter.
87. Whilst I welcome the Council's acknowledgement that there were some failings, and its offer of compensation, these do not go far enough to reflect the full extent of what went wrong in this case. In order to remedy this, I recommend that the Council:
- Apologise to Miss Smith
 - Pay her compensation of £7,000

88. The Council should also review the way it deals with assessments of children in need and the way it communicates its decisions and provides advice. In particular, current guidance states that councils should have a "culture of listening to and engaging in dialogue with children." The Council should ensure that this culture is followed by all staff.
89. Finally, the Council should review its approach to dealing with complaints under the statutory procedure, ensure that these are given priority; that stage 2 reports contain sufficient analysis of the evidence obtained in the investigation, and that responses to stage 2 and stage 3 findings and recommendations are clear and consistent.

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