



Northern Ireland

Public Services

Ombudsman

Investigation of a complaint against the South Eastern Health and Social Care Trust

Report Reference: 201916219

The Northern Ireland Public Services Ombudsman

33 Wellington Place

BELFAST

BT1 6HN

Tel: 028 9023 3821

Email: nipso@nipso.org.uk

Web: www.nipso.org.uk



@NIPSO_Comms

The Role of the Ombudsman

The Northern Ireland Public Services Ombudsman (NIPSO) provides a free, independent and impartial service for investigating complaints about public service providers in Northern Ireland.

The role of the Ombudsman is set out in the Public Services Ombudsman Act (Northern Ireland) 2016 (the 2016 Act). The Ombudsman can normally only accept a complaint after the complaints process of the public service provider has been exhausted.

The Ombudsman may investigate complaints about maladministration on the part of listed authorities, and on the merits of a decision taken by health and social care bodies, general health care providers and independent providers of health and social care. The purpose of an investigation is to ascertain if the matters alleged in the complaint properly warrant investigation and are in substance true.

Maladministration is not defined in the legislation, but is generally taken to include decisions made following improper consideration, action or inaction; delay; failure to follow procedures or the law; misleading or inaccurate statements; bias; or inadequate record keeping.

The Ombudsman must also consider whether maladministration has resulted in an injustice. Injustice is also not defined in legislation but can include upset, inconvenience, or frustration. A remedy may be recommended where injustice is found as a consequence of the failings identified in a report.

Reporting in the Public Interest

This report is published pursuant to section 44 of the 2016 Act which allows the Ombudsman to publish an investigation report when it is in the public interest to do so.

The Ombudsman has taken into account the interests of the person aggrieved and other persons prior to publishing this report.

TABLE OF CONTENTS

	Page
SUMMARY	4
THE COMPLAINT	6
INVESTIGATION METHODOLOGY	7
THE INVESTIGATION	9
CONCLUSION	27
APPENDICES	29
Appendix 1 – The Principles of Good Administration	
Appendix 2 – The Principles of Good Complaints Handling	

Case Reference: 22464

Listed Authority: South Eastern Health and Social Care Trust

SUMMARY

I received a complaint regarding the actions of the South Eastern Health and Social Care Trust (the Trust). The complaint concerns the role of the Children's Disability Social Work Team within the Trust in relation to a request for a family support assessment for direct payments¹ following an UNOCINI assessment in July 2019. The complainant said the Trust did not allocate a Social Worker to carry out a family support assessment for direct payments for six months. The complainant said the delay in a family support assessment being carried out meant she was unable to access additional support for her child, who has special needs, in the form of direct payments. The complainant believed the Trust's delay in allocating her a Social Worker had an adverse impact on her and her children.

The investigation examined the detail of the complaint, the Trust's response and both national and regional guidelines. In order to assist with the consideration of the issues raised by the complainant, advice was obtained from an Independent Social Worker. The investigation identified a number of delays in the process. In particular, a failure to escalate a concern regarding a perceived conflict of interest, allocation of a Social Worker, completion of the assessment and the subsequent hearing for direct payments. The investigation also identified shortcomings in the Trust's record keeping, and communication with the complainant in relation to the perceived conflict of interest.

The investigation established that the decision to transfer the referral to another team was reasonable in the circumstances. The investigation also did not identify any evidence of bias or "parent bullying" by the Trust.

I recommended that the Trust apologises to the complainant and highlights learning

¹ A **direct payment** is the amount of money that the trust has to **pay** to meet your needs or those of the person you are looking after. It is provided to enable you or them to purchase necessary services to help with your support needs and/or their **care** needs (as assessed by the trust).

to the relevant Trust staff. I also recommended that the Trust should develop a process for the internal transfer of cases, and for the setting of internal target timeframes for the completion of family support assessments.

THE COMPLAINT

1. I received a complaint about the actions of the South Eastern Health and Social Care Trust (the Trust). The complainant said the Trust did not allocate a Social Worker to carry out a social work assessment for direct payments for six months. The complainant said the delay had a negative impact on her and her children as she was unable to access specialist support for her son who has special needs. The complainant said that this impacted on her financially and impacted on her and her son's mental health.

Background

2. On 30 July 2019 an Understanding the Needs of Children in Northern Ireland (UNOCINI)² initial assessment was conducted of the complainant's son. The assessment stated that the complainant 'is welcoming of engaging in an assessment in order to explore further potential supports'. The Trust transferred the case to the Children's Disability Team (CDT) Downpatrick (the Downpatrick Team) on 1 August 2019, and the family were placed on a waiting list for a family support assessment. The complainant worked as an advocate for a number of families who were engaging with the Downpatrick team. The Downpatrick team believed there could be a potential conflict of interest in accepting the case and therefore decided to transfer the family to a CDT in a different sector to carry out the assessment. The case was transferred to Ards CDT on 28 November 2019.

Issue of complaint

3. The issue of complaint accepted for investigation was:

Issue 1: Was the reason for the delay in the complainant's son being allocated a Social Worker to enable an application for direct payments reasonable, and did the delay lead to any potential for harm to her children?

² Understanding the Needs of Children in Northern Ireland (UNOCINI) is an assessment framework developed by health and personal social services in conjunction with colleagues from other agencies and organisations, such as education and the police.

INVESTIGATION METHODOLOGY

4. In order to investigate this complaint, the Investigating Officer obtained from the Trust all relevant documentation together with its comments on the issues raised by the complainant. This documentation included information relating to the Trust's handling of the complaint.

Independent Professional Advice Sought

5. After further consideration of the issues, I obtained independent professional advice from the following independent social work advisor (ISWA):

- [REDACTED] B.SocSc (Hons) Social Administration and Certificate Qualification in Social Work with over 33 years' experience in social work with children and families.

6. The information and advice which informed the findings and conclusions are included within the body of this report. The ISWA provided 'advice'; however how I weighed this advice, within the context of this complaint is a matter for my discretion.

Relevant Standards and Guidance

7. In order to investigate complaints, I must establish a clear understanding of the standards, both of general application and those which are specific to the circumstances of the case. I also make reference to relevant regulatory, professional and statutory guidance.

The general standards are the Ombudsman's Principles³:

- The Principles of Good Administration
- The Principles of Good Complaints Handling

8. The specific standards and guidance referred to are those which applied at the time the events occurred. These governed the exercise of the administrative functions and professional judgement of those individuals whose actions are the subject of this

³ These principles were established through the collective experience of the public services ombudsmen affiliated to the Ombudsman Association.

complaint.

The specific standards and guidance relevant to this complaint are:

- Health and Social Services and Public Safety (HSSPS) Gateway Service Processes Guidance for Northern Ireland (NI) Health and Social Care Trusts (2008) (Guidance for NI Health and Social Care Trusts);
- Northern Ireland Social Care Council (NISCC) Standards of Conduct and Practice for Social Workers (2015) (Standards for Social Workers); and
- South Eastern Health and Social Care Trust (SEHSCT) Supporting Carer's Policy (2017) (Supporting Carers Policy)
- Health & Social Care Board Direct Payments User Guide (the HSCB User Guide)
- Health & Social Care Board Self Directed Support Practitioner Guide (2015)
- Department of Health Guidance for Receiving Direct Payments (2008)

9. I did not include all of the information obtained in the course of the investigation in this report, but I am satisfied that everything that I consider to be relevant and important was taken into account in reaching my findings.

A draft copy of this report was shared with the complainant and the Trust for comment on factual accuracy and the reasonableness of the findings and recommendations.

Following receipt of the draft report, the complainant provided a comprehensive and detailed response. I have carefully considered the comments received from the complainant and have made limited amendments to the content of this report. Overall though I continue to accept the advice which I have received from the ISWA and my findings and conclusions remain as those detailed in the draft report. As detailed in the Role of the Ombudsman section at the beginning of this report Section 30 (6) of the 2016 Act states that 'the procedure for conducting an investigation is to be such as the Ombudsman considers appropriate in the

circumstances of the case'. Therefore, the Ombudsman has discretion to determine the issues to be investigated and the procedures for investigating a complaint received.

10. The Trust responded to the draft report to reiterate that:
 - (i) direct payments are not for childcare; and
 - (ii) 'there would have been no guarantee that this assessment would have been completed any earlier had a conflict of interest not been identified, as waiting lists for assessments were very high at that time.

THE INVESTIGATION

Issue 1: Was the reason for the delay in the complainant's son being allocated a Social Worker to enable an application for direct payments reasonable, and did the delay lead to any potential for harm to her children?

Detail of Complaint

11. The complainant said she was referred by her community psychiatric nurse (CPN)⁴ on 17 July 2019 for a mental health assessment. The complainant had a UNOCINI assessment carried out on 30 July 2019 which identified the complainant's need for a family support assessment. The complainant's case was transferred to the Downpatrick team for completion of the assessment on 1 August 2019. The complainant was placed on a waiting list for a family support assessment on 1 August 2019. However, the complainant said it was six months before the Downpatrick Team allocated her a Social Worker to complete a family support assessment for direct payments.
12. The complainant believed the Trust failed to follow procedures in allocating a Social Worker to complete the family support assessment and to safeguard the welfare of her son who has special needs. The complainant said the delay in being allocated a

⁴ **Community Psychiatric Nurse (CPN)** CPNs **work** outside hospitals and visit clients in their own homes, out-patient departments or GP surgeries. They can help you to talk through problems and give practical advice and support. They can also give medicines and keep an eye on their effects.

Social Worker had a significant negative impact on both her and her son's mental health, her ability to maintain employment and her finances. The complainant believes that she has been victimised by the Downpatrick Team as it denied her social work support due to her role as an advocate for other parents.

Evidence Considered

Policies and Guidance

13. I referred to the following policies and guidance which were considered as part of investigation enquiries:

- I. The Guidance for NI Health and Social Care Trusts
- II. The Standards for Social Workers
- III. Supporting Carer's Policy
- IV. Health & Social Care Board Direct Payment User Guide (the HSCB User Guide)
- V. Health & Social Care Board Self Directed Support Practitioner Guide (the HSCB Practitioner Guide).
- VI. Department of Health Guidance for Receiving Direct Payments

The Trust's response to investigation enquiries

14. In response to investigation enquiries regarding the Trust procedure for the complainant's referral for an assessment, the Trust stated *'the family was referred to the Downpatrick gateway team by the CPN 17 July 2019. The referral was allocated to a social worker from the Downpatrick gateway team on 22 July 2019. An office based interview was firstly arranged with the complainant and a home visit was completed on 25 July 2019 for the social worker to meet with the children. The UNOCINI assessment was completed within nine working days, identifying the need for... assessment to help support the complainant in her caring role. It was assessed by the gateway team that... assessment was required to support the complainant in her caring role and the case transferred to the Down team to undertake same, given*

the complainant's son has a diagnosis of autistic spectrum disorder⁵.

15. The Trust further stated *'the complainant presented as a very resourceful mother and she had actively sought and engaged with appropriate support services to assist her address problematic areas in her life. The family was subsequently transferred to the Down team on 1 August 2019. The family was placed on the waiting list for... assessment. The senior social worker (SSW) from the Down team discussed the referral with her line manager given the potential conflict of interest for the complainant, as she acted as an advocate for a number of families involved with the team, and was seeking support as a service user. It was agreed internally to request another sector to accept responsibility for the complainant, as staff were sensitive to the fact that, given the dichotomy of roles, it was best that professional lines did not become blurred and that the local team were not aware of her personal circumstances'*.

16. The Trust stated *'the SSW from the Down team tried to source a team within another sector to accept case responsibility for the family, however, this initially proved difficult to achieve given significant workload pressures across the teams. The SSW contacted the complainant on 21 November 2019 and left a voicemail advising she would phone again on 25 November 2019. She spoke with the complainant on 25 November 2019 and arranged to meet with her on 26 November 2019. The meeting took place as arranged and SSW acknowledged the delay in making contact with the complainant and apologised for this, explaining attempts to identify an alternative team to engage with her due to a potential conflict of interest.'*

17. In response to enquiries regarding the impact of the delay in allocating a social worker had on the complainant's son, the Trust stated *'The complainant also provided assurance of no known impact on the children...'*.

18. The Trust further stated that it *'works hard to prevent waiting lists, however, due to staff vacancies and caseload pressures, cases have to be prioritised.'*

19. In response to enquiries regarding the complainant alleging victimisation, the Trust

⁵ **Autism Spectrum Disorder (ASD)** is a neurodevelopment disorder that causes social, communication and behavioural challenges.

stated *'the Down team advised the complainant of the reason they felt that it was in the best interests for her family for case responsibility to sit with another team where she would not be involved professionally as a parent advocate. While the complainant did not entirely agree with this, she accepted the case transferring if it incurred no further delay. The SSW, Down team apologised for any distress the delay may have caused the complainant or her children, when they met on 26 November 2019. Social work personnel are unclear as to the identity of the senior staff the complainant alleges she has been victimised by, as this issue has not been previously raised.*

20. The Trust further stated *'It is [therefore] impossible to determine the average amount of days it took the [CDT] to allocate cases from the waiting list in August 2019.'*

21. The Trust confirmed there were *'75 clients on the children's disability service waiting list in July 2019 and 49 in August 2019'*.

22. In response to when the complainant's application for direct payments could have been heard, the Trust stated that *'it would be impossible to estimate a specific date. It is usual for panels to be convened monthly. Therefore it would suffice to say it would have likely been presented to the next available panel following allocation to a named social worker. The earliest the client would have been awarded direct payments following allocation, would have been the next available panel, and as noted above, they are convened monthly'*.

Social Work records

23. I considered relevant extracts of the social work records.

Independent Professional Advice

24. In relation to the complainant's case being transferred to the Down team, the ISWA advised *'according to the records the case transferred to the Down team on the 1 August 2019. This is evidenced in email correspondence from the SSW from the Gateway team to SSW Down team and team leader which evidences the initial assessment was enclosed and the case was transferred on social services client and*

administration and retrieval environment (SOSCARE)⁶, the electronic records system. This was appropriate and reasonable.

25. In relation to the conflict of interest, the ISWA advised *'The conflict of interest is first mentioned in the records on the 11th October 2019, when SSW CDT raises it in email correspondence, as the reason she is trying to negotiate a case transfer. She states the complainant is "an advocate for one of our cases in court."*
26. The ISWA further advised *'The Northern Ireland Social Care Council (NISCC) Standards of Practice and Conduct for Social Workers (August 2019) requires social workers to build positive relationships with service users and carers and Standard 2 is solely focussed on the need to "strive to establish and maintain the trust and confidence of service users and carers". In particular, 2.8 states that social workers must "declare issues that might create conflicts of interest". The team therefore had an obligation to consider that it may be Difficult to build a trusting relationship with the complainant in light of the history and her advocacy role, which may have caused her to have a contentious or challenging relationship with some members of that particular team. In my opinion, the Down team were keen to ensure that they could not be accused of any bias or conflict of interest in assessing her case or determining her child's eligibility for direct payments, because of the potentially strained relationship with that team.'*
27. In response to the rationale provided by the Trust in relation to the conflict of interest, the ISWA advised *'Potential conflicts can arise reasonably frequently, particularly in relation to the need to make assessments in cases relating to Trust employees their children or families, other professionals known to the team or service, or particular local issues. Often the individual themselves will raise the potential conflict of interest and suggest it may be difficult or compromising to work with a particular team or individual because of their role or engagement with that team. This was not the position in this case and the complainant did not raise this as an issue despite her awareness she was involved as an independent advocate with families in the Down team and there was some history of dissatisfaction with this team. Usually, a*

⁶ The main system used by social workers in Northern Ireland is the SOSCARE system.

potential conflict of interest would be discussed with the individual at the earliest stage possible and a means to resolve or mitigate this agreed, for example, by transfer to another team in a different area or service, or in very complex situations to another Trust’.

28. The ISWA further advised *‘They would be very aware of not wanting to be accused of any bias towards the complainant in relation to her child’s case, given the history and nature of the relationship that had developed in relation to other cases, where she had been challenging in her advocacy role. Part of the complainant’s role may have been perceived as challenging but that properly formed part of her advocacy on behalf of parents of children with special needs. They would have been aware of the wider family context, as outlined in the Initial Assessment and the nature of the allegations made by the mother. They would have been aware of confidentiality and the potential embarrassment for the complainant, of potentially challenging the same social worker in an advocacy situation who held so much knowledge about her own personal circumstances’.*
29. The ISWA advised *‘Social workers are very specifically trained to consider power imbalances and their potential impact and to try to redress these in their work. So, this would also have influenced the proposal for the case to be allocated to someone outside of the team, who could not be accused or perceived as having any agenda or bias. It is also important to note that the Trust’s perceived conflict of interest was in fact evidenced in comments made in an email. the concerns of the CDT, that boundaries could become blurred between the professional and personal were appropriately held’.*
30. The ISWA further advised *‘However, I am unclear why negotiations about this did not appear to commence according to the records until just around the 15 October 2019, which is over 10 weeks following the completion and transfer of the initial assessment. Also, the negotiations only formally commenced on the 15 October 2019 when SSW Down team emailed acting senior social worker (ASSW) Lisburn team enclosing the initial assessment. I note that this appears to coincide with the complainant’s formal complaint to the Trust about the delay on the 14 October 2019. The conflict of interest was finely balanced in this case and this is acknowledged in*

senior manager (SM) Down team email of the 22 November 2019 to SM Disability Lead, Down team. She stated “if a conflict of interest creates difficulties in managing the case” then she would have to come back for further discussion, as she acknowledged the team should now proceed with the assessment, “in the interests of not accruing further delay”. Therefore, whilst I understand the team were appropriately concerned about a potential conflict of interest, in light of the delay I do not believe this [the delay] was reasonable, given the apparent lack of early negotiation about transfer and the lack of early discussion or communication with the complainant in respect of this’.

31. In response to investigation enquiries in relation to the delay in allocating a social worker being appropriate and reasonable, the ISWA advised ‘*There was a total of 151 unallocated cases in the SEHSCT in March 2019.*
32. The ISWA further advised ‘*Having said this, in my opinion there was an unnecessary delay in this case because of the potential conflict of interest raised and how it was dealt with. There is no evidence this conflict of interest was highlighted, communicated, or formally discussed prior to the 15 October 2019, a delay of over 10 weeks. There was also no communication about waiting times, delays, or potential conflict of interest with the complainant. This perceived conflict of interest and the delays caused by trying to secure allocation outside the Down team, were not communicated to the complainant until the 26 November 2019. This is despite her attempting to obtain clarity about the position in relation to her case via at least two recorded phone calls on the 4 October 2019 and the 9 October 2019. In my opinion, the meeting of the 26 November addressed these issues in exactly the same way an earlier discussion with the complainant would have, and an earlier meeting or conversation may have provided reassurance that efforts were being made to identify a social worker to undertake the assessment’.*
33. The ISWA advised ‘*the NISCC Standards of Practice and Conduct for Social Workers state that social workers “must strive to focus on ensuring good standards of communication with service users and carers and must strive to establish and maintain the trust and confidence of service users and carers. In my opinion, in this case the communication fell below the standard expected, and the timeliness and*

explanation for those delays do not appear to have been appropriate. Although it is important to note that the case was dealt with promptly following allocation.

Therefore, I do not believe the delay in allocating a social worker was appropriate and reasonable and well-articulated to the service user in the way expected by the relevant standards and good practice’.

34. In relation to measures the Down team could have taken upon receipt of the case, the ISWA advised *‘As stated, there is no evidence that the potential conflict of interest was highlighted upon receipt of the case by the Down team. In my opinion, the request could have gone out formally at the earliest stage to all relevant teams, with a clear timescale for response. If no response or clarity was received this should have been escalated to the appropriate senior managers for resolution and follow up. If the various sector managers could not come to a decision, then this could have been escalated to the Assistant Director for resolution. Overall, the Trust should have had a clear process for dealing with transfers where a potential conflict of interest is identified. As outlined, there should have been early communication with the complainant and specifically when she contacted the Trust to ascertain the status of her child’s case. The failure to respond led directly to the complaint of the 14 November 2019.’*

35. In response to the impact the delay on allocating a social worker had on the complainant and her children, the ISWA advised *‘The UNOCINI assessment found no evidence of impact at the point of assessment and in fact the complainant outlined in detail how she protects her children from any impact of this behaviour...’.*

36. The ISWA further advised *‘The mother and the assessing social worker are clear there is no impact on the children at this section of the UNOCINI initial assessment and no safeguarding issues are raised. During SSW CDT’s contact with the mother on the 26 November 2019 she specifically discussed this area with the complainant, who stated that “she was well able to manage the situation herself”..’*

37. The ISWA further advised *‘Secondly, it is suggested that the delay had a “negative impact to his (her son) and my mental health”. In her meeting with SSW CDT on the 26 November 2019 to discuss the delays, the complainant did discuss the stress in*

her life... It is likely that trying to chase up what support may be available for her child and having to make phone calls, complaints etc will have added to the other issues and complexities in her life. However, the suggestions, that the delay was “traumatic” and “caused harm”, (including) the “deterioration” in her son’s mental health, in my professional opinion cannot be attributed to the delay in the... assessment’.

38. In response to investigation enquiries regarding a complaint of parent bullying between the Trust and the complainant, the ISWA advised *‘Whilst the Trust did not deal well with trying to address a perceived conflict of interest, in terms of timeliness and communication, there is no evidence this was borne out of “victimisation” or parent bullying. . Although, there was an apparent delay in the conflict of interest first being raised and proactively addressed, I found evidence that managers and in particular SSW CDT did try to repeatedly⁷ pursue the issue of allocation of a social worker with colleagues and attempted to escalate a lack of progress and co-operation in achieving this with senior managers’.*

39. The ISWA identified learning which he considered the Trust could take from this complaint. In particular, *‘the Trust should ensure there is an agreed and timely process for dealing with internal transfers of cases where there is a perceived conflict of interest, perceived conflicts of interest should be clearly recorded and discussed with service users and carers, including the proposed action to be taken to mitigate these, at the earliest opportunity possible and the Trust needs to ensure responses and communication to service user and carers, in relation to their queries is timely and informative’.*

Analysis and Findings

40. The investigation focused on the delay in the complainant being allocated a Social Worker, and if the delay led to any potential for harm to the complainant’s children. Upon reviewing the evidence, I have separated the analysis and findings into three areas; conflict of interest, transfer and allocation of a Social Worker, and communications and bias.

⁷ The Social Worker records indicate the SSW and PSW in Down Sector made attempts to transfer the case to other sectors between 14 October 2019 and 28 November 2019.

Conflict of Interest

41. The investigation established the complainant had a UNOCINI assessment carried out on 30 July 2019. The assessment identified the complainant's need for a family support assessment. The social work records indicate the complainant's case was transferred to the Downpatrick team and the complainant was placed on a waiting list on 2 August 2019. The social work records also indicate the complainant was informed the case was transferred to the Downpatrick team on 1 August 2019.
42. I note the Trust stated the SSW from the Downpatrick team acknowledged the delay in allocating a Social Worker with the complainant at their meeting on 26 November 2019. The Trust stated *'the SSW acknowledged the delay in making contact with the complainant and apologised for this, explaining attempts to identify an alternative team to engage with her due to a potential conflict of interest'*. The Trust further confirmed *'the SSW Down team discussed the referral with her line manager given the potential conflict of interest for the complainant, as she acted as an advocate for a number of families involved with the team, and was seeking support as a service user'*.
43. Upon examination of the social work records, the investigation established the SSW, Downpatrick team initially highlighted a perceived conflict of interest on 15 October 2019, over ten weeks after the case was transferred to the Downpatrick team. In email correspondence between the SSW, Downpatrick team and Acting Senior Social Worker (ASSW), Lisburn team, the SSW recorded *'this is the case I was talking to you about, complainant is an advocate for one of our cases and I feel there is a conflict of interest'*. I consider this email evidences that the SSW, Downpatrick team had discussed a perceived conflict of interest with the ASSW, Lisburn team with a view to transferring the case.
44. I note the complainant's UNOCINI assessment carried out on 17 July 2019 records *'requests to be considered for self-directed support.... states she had been turned down for help in the past'*. The investigation also established the PSW, Downpatrick team, contacted the PSW, Lisburn team on 14 November 2019 stating *'we have a*

case on the waiting list [complainant's son] which we wanted to request a transfer to yourselves and in turn we will take one of yours...the reason being the mother of this child is an advocate but she is also an advocate for another complex case which we have in court...I think it would be much better for this family and ourselves if this case was managed by another team...'. I refer to the Standards for Social Workers which states they should 'declare issues that might create conflicts of interest and making sure that they do not influence your judgement or practice'. I therefore accept the ISWA's advice 'The team therefore had an obligation to consider that it may be difficult to build a trusting relationship with the complainant in light of the history and her advocacy role'. The identification of a potential conflict of interest is not a detrimental conclusion reflecting in any way on the complainant's proper role as an advocate.

45. I note the ISWA raised in relation to the conflict of interest '*Social workers are very specifically trained to consider power imbalances and their potential impact and to try to redress these in their work.... this would also have influenced the proposal for the case to be allocated to someone outside of the team, who could not be accused or perceived as having any agenda or bias*'. I accept the ISWA's advice that '*the Trust's perceived conflict of interest was in fact evidenced in comments the complainant articulated in an email, stating that she could not attend a meeting in her advocacy role, as her child's case had not been allocated, despite the fact she had clearly been acting as an advocate for some time*'. Therefore, on balance I consider it was reasonable for the Downpatrick team to consider there was a potential conflict of interest in them carrying out the complainant's assessment. I consider the Trust's decision to transfer the complainant's case to another sector was reasonable and in accordance with good professional standards.

46. However, the social work records do not refer to any consideration about a potential conflict of interest at an earlier stage or why the conflict of interest was not highlighted and escalated to the SSW's line management earlier than 15 October 2019. It appears on the basis of the records available that action at this point was only as a result of contact by the complainant rather than any proactive action by the Trust. It is also notable that there had been no contact with the complainant at this point despite the case having been received by the Downpatrick team over ten

weeks previously. The communication with the complainant is considered further below.

47. I note that an internal Trust email records that the Downpatrick Sector Manager said the potential conflict of interest issue was identified '*at the outset*' following its receipt on 1 August 2019. However, I consider that there was an absence of records regarding the Downpatrick team's consideration of the potential conflict of interest, and the action taken to address this, between 1 August and 15 October 2019. Recording of discussions and considerations is a key tenet of good administration, and a 'shield' for a public body to defend its actions when challenged. I consider the Trust's failure to keep written records in relation to its consideration of the perceived conflict of interest during the aforementioned timeframe is contrary to the Third Principle of Good Administration. This Principle requires a public body to be 'Open and accountable' by keeping proper and appropriate records and giving reasons for decisions. I consider this failure to constitute maladministration. I am satisfied that this failure caused the complainant the injustice of uncertainty and frustration.

Transfer and Allocation of a Social Worker

48. On 1 August 2019 the complainant was placed on the waiting list for a family support assessment by the Downpatrick Team. Records obtained from the Trust show that the first date the Downpatrick team contacted other sectors to try and arrange a transfer was 14 October 2019, more than ten weeks later. The Downpatrick team made numerous attempts between 14 October 2019 and 24 November 2019 with colleagues in the Ards and Lisburn sectors, in order to have the complainant's case transferred. I note the complainant's case was successfully transferred and allocated to a social worker from the Ards team, on 28 November 2019. The Social Worker carried out a family support assessment on 19 December 2019. A direct payments support package of five hours per week was approved in February 2020.

49. I note and accept the ISWAs advice that '*There appears to be an initial delay of over 10 weeks in commencing the necessary negotiations and no evidence of an adequate process in place at that time for dealing with transfers due to conflicts of interest, to ensure they happened in a timely way, which was poor practice*'. I note

the ISWA advised that in the absence of an adequate process the SSW, Downpatrick team had to *'chase this up with a number of individuals and apparently slow or no response to her requests at various points'*. I further considered and accept the ISWA advice *'the Trust should have had a clear process for dealing with transfers where a potential conflict of interest is identified'*. The Standards for Social Workers states they should *'strive to establish and maintain the Trust and confidence of service users and carers and honouring work commitments, agreements and arrangements and, when it is not possible to do so, explaining why to service users and carers'*.

50. I note that this case was referred to the Downpatrick CDT on 1 August 2019, yet the assessment did not take place until 19 December 2019, and the complainant's application for Direct Payments was not approved until 4 February 2020.

51. I consider the Trust's delay in allocating a social worker to complete an assessment to represent a failure which constitutes maladministration. I find that this failure is contrary to the First Principle of Good Administration which states that public bodies should act in accordance with its policies and guidance, and is contrary to the Second Principle of Good Administration which states that public bodies should deal with people promptly.

52. It is my view that the Trust should have had a clear policy and process in place for dealing with conflicts of interest. However, in the absence of this, having identified a conflict of interest, the Downpatrick team should at the earliest possible opportunity have sought support from colleagues in other teams with a clear timescale identified for responses. The delay in allocating the complainant a social worker ultimately delayed the assessment and delayed the decision by the panel to allocate direct payments. Given the delay already experienced by the complainant as a result of the Trust's failure to allocate a social worker, I consider the additional time taken to complete the assessment and make a decision on support also constitutes maladministration. I expect public bodies to be citizen focused and recognise that when they have caused delay they need to take corrective action to minimise the impact of that delay. I see no evidence this happened in this case. I consider that these failures caused the complainant the injustice of uncertainty, frustration and loss of opportunity to have been appointed a social worker earlier, had an earlier

family support assessment, and an earlier hearing to consider her application for direct payments. I therefore uphold this element of the complaint.

53. I note the ISWA's comment that '*No specific guidelines exist about the time it should take for a family support assessment for direct payments*'.

54. I accept that there is a requirement for prioritisation of cases taking into account the level of risk or need, and on that basis I accept that some assessments will take longer to complete than others. However, I consider that there is still a requirement to complete all assessments in a timely manner and ensure that the timeframes are as short as possible, as even in cases of less risk or less need, the allocation of Direct Payments can make a real difference to people's lives in terms of the provision of support.

55. I note that Trust's comment that it is '*impossible to determine the average amount of days it took the [CDT] to allocate cases from the waiting list in August 2019*.' I am concerned that the Trust is unable to provide this information given that I would expect that the information needed to make this calculation would have been readily available; namely the date the referral was received in the CDT, and the date it was allocated to a Social Worker.

56. I consider this is information that would be necessary to ensure appropriate management of the service. Therefore, I consider that there is a requirement for a defined internal target timeframe for the completion of family support assessments to ensure that they are completed in a reasonable timeframe. The Trust references a '*reasonable timeframe*' in its response, but due to the absence of a quantifiable target in this respect, this cannot be measured and is open to varying interpretations. A set target timeframe will ensure that staff have clear targets to meet in this regard and will define what a '*reasonable timeframe*' is. This ensures that staff have clear target timeframes for completion of the assessments and will assist the Trust in measuring and collating data in terms of identifying delays in completion of said assessments. It is accepted that the target can take account of the prioritising process but it should still ensure that all referrals are completed in a reasonable timeframe.

Communications and Bias

57. The investigation established the complainant contacted the Downpatrick team on 4 October 2019 and 9 October 2019. In particular, the social work records indicate on 4 October 2019 '*ring [complainant] regarding an application for direct payment*' and on 9 October 2019 '*[complainant] rang re son re application for direct payments and allocation of a social worker, said she left a message but hasn't heard anything*'. I was presented with no evidence the Downpatrick team responded to these calls. It is also of concern to me that it appears the Trust only actioned the complainant's request for a social worker when she complained to the Downpatrick team.

58. I considered and accept the ISWA advice '*There was also no communication about delays, or potential conflict of interest with the complainant... I do not believe the delay in allocating a social worker was well-articulated to the service user in the way expected by the relevant standards and good practice*'.

59. In considering the actions of the Trust, I had regard to the Principles of Good Administration. The second Principle of Good Administration requires public bodies to be 'customer focused' by informing customers what they can expect and what the public body expects of them, and by dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances. I accept the advice of the ISWA that '*Usually, a potential conflict of interest would be discussed with the individual at the earliest stage possible and a means to resolve or mitigate this agreed*'. I consider that the Trust should have discussed the issue of the potential conflict of interest with the complainant at the start of August 2019. I consider there was a clear absence of communication by the Trust with the complainant regarding the conflict of interest and the delay in allocating a social worker to complete her... assessment.

60. In addition I am concerned that phone calls from the complainant were not returned. This is not what I would expect from a public body such as the Trust. I therefore conclude the Trust's actions do not meet the requirements of the second Principle. I also refer to the Standards for Social Workers which states they should '*Strive to*

establish and maintain the trust and confidence of service users and carers'. I consider the Trust's failure to communicate the conflict of interest and the reasons for the delay in completing the assessment to constitute maladministration. I consider this failure caused the complainant the injustice of uncertainty and frustration.

61. The complainant stated the Trust '*withheld*' and had '*withdrawn*' services and alleged bias and parent bullying in the Trust's handling of her case. The records indicate the SSW and PSW Downpatrick team made several attempts between 14 October 2019 and 24 November 2019 to actively transfer the complainant's case to another sector. I note this was a view supported by the ISWA who advised '*I found evidence that managers and in particular SSW CDT did try to repeatedly pursue the issue of allocation of a social worker with colleagues and attempted to escalate a lack of progress and co-operation in achieving this with senior managers*'.

62. I considered the ISWA advice '*the lack of timeliness and poor communication in my opinion led directly to the very outcome that the Downpatrick team were attempting to avoid, a complaint that included accusations of differential treatment and potential bias*'. I therefore accept the ISWA advice '*whilst the Trust did not deal well with trying to address a perceived conflict of interest, in terms of timeliness and communication, there is no evidence this was borne out of "victimisation" or parent bullying... there is no evidence of parent bullying*'.

63. The Oxford Dictionary definition of bias describes it as an '*Inclination or prejudice against one person or group, especially in a way considered to be unfair.*' I have not identified evidence that the actions of Trust staff were as a result of bias towards the complainant. While I understand the complainant's perception given the lack of communication and the delay that she experienced, I found no evidence that casts doubt on the intention of staff to ensure that the complainant was dealt with fairly.

64. I am in no doubt that the delay in allocating a social worker and the lack of timely communication with the complainant led to the complainant's belief that she was being treated unfairly by the Trust. I consider this was a situation the Trust, and in particular the Downpatrick team, had wanted to avoid. However, I was not presented

with any evidence the Trust withheld or withdrew services from the complainant. It is my view the evidence does not support the complainant's assertion of bias and parent bullying. Therefore, I do not uphold this element of the complaint.

Injustice

65. As a consequence of the failures I have identified, I considered the impact this had on the complainant and her children. The complainant said that the delay impacted on her and her son's mental health, and it meant the Trust did not *'[protect] my children and my child with disabilities, and myself'* Furthermore, the complainant believed the delay impacted on her ability to *"find employment which impacted her mental health and financial situation"*.

66. I examined in detail the complainant's UNOCINI assessment form, social work records and the complaint submitted to my office on 5 March 2020. I note the complainant's UNOCINI assessment found no evidence of impact upon her children. In particular the UNOCINI assessment concluded that *'It is evident the children are having their needs met by their parents who appear to also be ensuring the safety of their children'* and also recorded that *'Through speaking with the complainants two other children, alongside the complainant, it would appear the children are subject to appropriate guidance, boundaries and stimulation within the family home.'* I note and accept the ISWA advice that *'while there are significant complexities to this issue, there is in my opinion no evidence of impact [to her children] as outlined by the complainant'*. While I note the view of the ISWA I consider that this was as a result of the resourcefulness of the complainant and was not as a result of the actions of the Trust, who due to the delay involved in transferring the case meant that the complainant had to manage this scenario for longer than was necessary.

67. I considered the views of the complainant, alongside social work records and the relevant ISWA advice in respect of the impact of the delay on the complainant. I fully understand the complainant's perspective of the impact of the delay in; allocating a social worker; completion of the family support assessment and; the allocation of direct payments to herself and her children. While I consider these failures had an impact on the complainant, particularly the distress caused by the uncertainty of not

knowing what was happening with regards to her request for an assessment (until she contacted Trust staff in October 2019), I did not identify from the records available an impact on the complainant's children, however as indicated above this was due to the complainant's resourcefulness in dealing with this difficult situation. I also accept that the complainant is best placed to judge the impact of the situation and her ability to identify effects that would not be apparent to others. The Trust should consider this when considering the impact of its actions.

68. I consider that the delay in approval of the direct payments caused the complainant the injustice of a loss of opportunity to source an appropriate person earlier than was the case. I note at the point when the final report of this investigation was issued that the complainant had not yet sourced an appropriate person; she said this was due to difficulties doing so as a result of the Covid pandemic and the availability of suitable services. I note and welcome that the Trust have assisted the complainant in her efforts to obtain an appropriate person. I also note that the complainant has been unable to source suitable services to utilise the direct payments to date. It is unfortunate that the additional support available through direct payments has not assisted with the difficulties the complainant's son faces.

69. I note that the HSCB User Guide informs those persons who have been approved direct payments that the Centre for Independent Living NI (CILNI) can assist them in finding appropriate staff. I also note that the HSCB User Guide states that a Key Worker can assist those persons who have had direct payments approved in identifying the training needs which the staff member may require. I would urge the complainant to continue to avail of these services as it may help her source an appropriate person, which in turn would lead to her receipt of direct payments. I note and welcome that the provision of direct payments has continued throughout the pandemic, and the Department of Health guidance has stressed that as far as possible direct payments should continue to be used as agreed within the care and support plan.

Learning

70. I would highlight to the Trust the learning identified by the ISWA. In particular, *'the Trust should ensure there is an agreed and timely process for dealing with internal*

transfers of cases, where there is a perceived conflict of interest; Perceived conflicts of interest should be clearly recorded and discussed with service users and carers, including the proposed action to be taken to mitigate these, at the earliest opportunity possible and the Trust needs to ensure responses and communication to service user and carers, in relation to their queries is timely and informative’.

CONCLUSION

71. I received a complaint about the actions of the Trust. The complainant said there was a delay by the Trust in allocating her a Social Worker to carry out a family support assessment. The complainant said the delay had a negative impact on her and her children. The complainant also alleged bias and parent bullying in the Trust’s handling of her case.

72. The investigation found maladministration in the following areas:

- The delay in allocating the complainant a social worker. This meant the complainant’s family support assessment was not carried out in a timely manner which led to a delay in a hearing for an application for direct payments.
- The failure by the Trust to keep proper and appropriate records in respect of its consideration of the conflict of interest.
- The Trust’s lack of communication with the complainant in relation to the conflict of interest.

I am satisfied that the maladministration identified caused the complainant to experience the injustice of uncertainty, frustration and loss of opportunity for her son to benefit from direct payments.

73. The investigation established the Trust’s decision to transfer the case was reasonable. The investigation also found no evidence of bias or parent bullying.

Recommendations

74. I recommend that the Trust provides the complainant with a written apology in accordance with NIPSO 'Guidance on issuing an apology' (June 2016), for the injustice caused as a result of the maladministration identified (within one month of the date of this report).
75. I recommend that the Trust share the outcome of this investigation with relevant social workers from the Downpatrick team highlighting the learning outcomes identified.
76. I recommend that the Trust should develop a policy and process for the internal transfer of cases, including where there is a perceived conflict of interest.
77. I recommend that the Trust should develop a policy setting out internal target timeframes for the completion of assessments. This should include setting out criteria for the prioritisation of referrals, and the requirement to periodically monitor the time taken to complete assessments.
78. I recommend that the Trust implements an action plan to incorporate these recommendations and should provide me with an update within **three** months of the date of my final report.
79. I am aware that the complainant has not been able to avail of the awarded direct payments because of the lack of available services in her locality. I believe it would be appropriate for the Trust to continue to engage with and assist the complainant in availing of the direct payments in retaining additional support to benefit her son.

MARGARET KELLY
Ombudsman

26 July 2023

PRINCIPLES OF GOOD ADMINISTRATION

Good administration by public service providers means:

1. Getting it right

- Acting in accordance with the law and with regard for the rights of those concerned.
- Acting in accordance with the public body's policy and guidance (published or internal).
- Taking proper account of established good practice.
- Providing effective services, using appropriately trained and competent staff.
- Taking reasonable decisions, based on all relevant considerations.

2. Being customer focused

- Ensuring people can access services easily.
- Informing customers what they can expect and what the public body expects of them.
- Keeping to its commitments, including any published service standards.
- Dealing with people helpfully, promptly and sensitively, bearing in mind their individual circumstances
- Responding to customers' needs flexibly, including, where appropriate, co-ordinating a response with other service providers.

3. Being open and accountable

- Being open and clear about policies and procedures and ensuring that information, and any advice provided, is clear, accurate and complete.
- Stating its criteria for decision making and giving reasons for decisions
- Handling information properly and appropriately.
- Keeping proper and appropriate records.
- Taking responsibility for its actions.

4. Acting fairly and proportionately

- Treating people impartially, with respect and courtesy.
- Treating people without unlawful discrimination or prejudice, and ensuring no conflict of interests.
- Dealing with people and issues objectively and consistently.
- Ensuring that decisions and actions are proportionate, appropriate and fair.

5. Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Putting mistakes right quickly and effectively.
- Providing clear and timely information on how and when to appeal or complain.
- Operating an effective complaints procedure, which includes offering a fair and appropriate remedy when a complaint is upheld.

6. Seeking continuous improvement

- Reviewing policies and procedures regularly to ensure they are effective.
- Asking for feedback and using it to improve services and performance.
- Ensuring that the public body learns lessons from complaints and uses these to improve services and performance.

PRINCIPLES OF GOOD COMPLAINT HANDLING

Good complaint handling by public bodies means:

Getting it right

- Acting in accordance with the law and relevant guidance, and with regard for the rights of those concerned.
- Ensuring that those at the top of the public body provide leadership to support good complaint management and develop an organisational culture that values complaints.
- Having clear governance arrangements, which set out roles and responsibilities, and ensure lessons are learnt from complaints.
- Including complaint management as an integral part of service design.
- Ensuring that staff are equipped and empowered to act decisively to resolve complaints.
- Focusing on the outcomes for the complainant and the public body.
- Signposting to the next stage of the complaints procedure, in the right way and at the right time.

Being customer focused

- Having clear and simple procedures.
- Ensuring that complainants can easily access the service dealing with complaints, and informing them about advice and advocacy services where appropriate.
- Dealing with complainants promptly and sensitively, bearing in mind their individual circumstances.
- Listening to complainants to understand the complaint and the outcome they are seeking.
- Responding flexibly, including co-ordinating responses with any other bodies involved in the same complaint, where appropriate.

Being open and accountable

- Publishing clear, accurate and complete information about how to complain, and how and when to take complaints further.
- Publishing service standards for handling complaints.

- Providing honest, evidence-based explanations and giving reasons for decisions.
- Keeping full and accurate records.

Acting fairly and proportionately

- Treating the complainant impartially, and without unlawful discrimination or prejudice.
- Ensuring that complaints are investigated thoroughly and fairly to establish the facts of the case.
- Ensuring that decisions are proportionate, appropriate and fair.
- Ensuring that complaints are reviewed by someone not involved in the events leading to the complaint.
- Acting fairly towards staff complained about as well as towards complainants.

Putting things right

- Acknowledging mistakes and apologising where appropriate.
- Providing prompt, appropriate and proportionate remedies.
- Considering all the relevant factors of the case when offering remedies.
- Taking account of any injustice or hardship that results from pursuing the complaint as well as from the original dispute.

Seeking continuous improvement

- Using all feedback and the lessons learnt from complaints to improve service design and delivery.
- Having systems in place to record, analyse and report on the learning from complaints.
- Regularly reviewing the lessons to be learnt from complaints.
- Where appropriate, telling the complainant about the lessons learnt and changes made to services, guidance or policy.