



# **PRELIMINARY ENQUIRIES**

*under s 20A(1) of the Ombudsman Act 1978*

## **MS C & CHILD PROTECTION SERVICES**

Case Reference: 1004-172

March 2011

## **PRELIMINARY ENQUIRIES INTO THE COMPLAINT OF MS C AGAINST CHILD PROTECTION SERVICES**

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Ms C lodged a complaint with me under the *Ombudsman Act* in April 2010, concerned about the treatment of her five children whilst they were in foster care. The children were between 8 and 16 years of age. They had been placed with foster carers by the Department of Health and Human Services (DHHS) after they had become subject to a care and protection order under s 42 of the *Children, Young Persons and their Families Act 1997*.

The principal allegations made by Ms C in her complaint were that the children had suffered emotional and physical abuse at the hands of their carers, and that staff in Child Protection Services (CPS), the relevant part of DHHS, had not adequately addressed or responded to her concerns about the alleged abuse.

One of my Investigation Officers entered into lengthy correspondence with staff of CPS in relation to the allegations made by Ms C. She also inspected all CPS files relating to the children, and obtained information from the Family Inclusion Network (FIN), which had provided support for Ms C and her family. She also met with the children's parents on 13 August 2010, in company with my Principal Officer (Ombudsman).

My jurisdiction under the *Ombudsman Act* is confined to reviewing the administrative actions of public authorities (including DHHS). The relevant administrative action in this case was the response of DHHS to the allegations of abuse made against the carers, and my enquiries focussed on the appropriateness and adequacy of that response. It is beyond my power to directly investigate allegations of abuse against a foster carer.

The case attracted some media attention after one of Ms C's children, referred to as 'S,' wrote to the Leader of the Opposition, the Honourable Will Hodgman MHA, outlining treatment that he and his siblings had allegedly suffered at the hands of the carers. Mr Hodgman raised the allegations in the House of Assembly on 9 June 2010, without naming 'S'. Premier David Bartlett then issued a media statement to the effect that the allegations made against the carers had been extensively investigated by DHHS, and that DHHS had been unable to substantiate any of them. Mr Bartlett said that documentation on the files recorded the carers as providing a high level of care in sometimes difficult circumstances.

Shortly afterwards, an article about what Mr Hodgman had told the House of Assembly appeared in *The Mercury* newspaper. The newspaper report contained similar allegations to those made by Ms C in her complaint to my Office. The Minister for Children, the Hon Lin Thorp MLC, subsequently informed the media that the complaints referred to by Mr Hodgman had already been followed up and investigated by DHHS, and was also reported as having said that DHHS had failed to substantiate any of the claims made. Mr Hodgman sought to refute the Minister's statements, and in a letter

published in the Mercury on 15 June 2010 wrote that he had been told that CPS had not listened to or addressed the complaints made by the children.

I did not carry out a formal investigation into the complaint made to me by Ms C because I saw no reason to do so. Rather, the case was dealt with under s 20A(1) of the *Ombudsman Act 1978*, which empowers me to make any preliminary enquiries I consider necessary for the purposes of ascertaining if a complaint should be investigated. For reasons given below, the preliminary enquires made by my Office in response to the complaint led me to conclude that formal investigation of the matters raised in the complaint was unnecessary and unjustifiable.

In its initial response to the complaint, DHHS told my office that the carers had provided a high level of care in often challenging and extremely difficult circumstances. DHHS informed us that CPS and the many support workers allocated to the children had not had any concern for the welfare of the children whilst they were with the carers. However, the Department said that concerns for the welfare of the children had occasionally been raised by their parents and by a support worker for the family. These concerns had been fully investigated on each occasion, and had been judged to be unfounded. Numerous workers involved in the case management of the children had been contacted by DHHS, and none had any concern for the children's well being. The children themselves had all been interviewed on various occasions by DHHS officers, and had not raised any complaints about the carers or the care they were receiving.

Concerns were raised again at a Family Group Conference on 8 December 2009 by Ms C. It was agreed by all present that the children would remain with the carers for the remaining 10 days of the Court order then in place, with the children due to be reunified with their parents on 18 December 2009.

The latest concerns were raised with the carers for the first time on 14 December 2009 by two senior staff members from DHHS. After considering the responses provided by the carers, CPS concluded that a formal complaint process would not be instigated. All parties were notified of this.

Inadequate communication between CPS and Ms C appears to have been a significant contributing factor in this case. Ms C claimed that CPS had not taken her concerns seriously, or responded to them, but this was not borne out by the information available to me. The files provided to me were comprehensive, and showed that both CPS and the carers took exceptional care to ensure the welfare of these sometimes very difficult children.

DHHS also provided me with copies of the policies and guidelines in use by CPS staff in relation to how they communicate with parents. Those policies and guidelines, which I am satisfied are appropriate, were applied and followed in this case.

At no time did the children make accusations about the carers to their teachers, support workers or counsellors. In fact, when questioned, the

children denied any ill treatment by the carers. While the parents may have believed that the children had been ill treated and that CPS had not responded adequately to their concerns, I am satisfied on the material available to me that neither was the case.

**Simon Allston**  
**OMBUDSMAN**

**March 2011**