

Report by the Parliamentary Commissioner
for Administration (the Ombudsman) and
the Local Government Ombudsman to
Ms A MP on the results of an investigation
into a complaint made by Mr and Mrs C and T

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Foreword

We are laying this report before Parliament to help others learn from the service failure and maladministration it describes.

This report is about a vulnerable young man who was a victim twice, once from the crime against him and again from the service he received from Trafford Youth Offending Team during discussions about his involvement in restorative justice and from Trafford Metropolitan Borough Council during the handling of his complaint.

The young adult had been subjected to witness intimidation before he was due to give evidence about a robbery and was offered the opportunity to take part in restorative justice. The young man and his parents complained to us about the behaviour of a Youth Offending Team member and the subsequent handling of their complaint.

Our investigation found service failure and maladministration on the part of the Youth Offending Team and the Council which resulted in distress and anxiety for the young man and his family, making him question whether he had 'done the right thing' in seeking justice.

The Parliamentary and Health Service Ombudsman has seen a number of other complaints relating to the implementation of the Victims' Code.

As the current Victims' Code review is concluded and the new Code is published, we are calling for training of all criminal justice staff and active monitoring of compliance with the Code. We also want to see effective complaint handling when complaints are received about failures to comply with the Victims' Code.

Dame Julie Mellor, DBE
Parliamentary Ombudsman

Dr Jane Martin
Local Government Ombudsman for England

July 2013

The complaint

1. Mr and Mrs C and their son, T, complained that Trafford Youth Offending Team (YOT) did not comply with their obligations under the Victims' Code and that the handling of T's involvement in the restorative justice process was poor. Mr and Mrs C and T also complained about Trafford Metropolitan Borough Council's (the Council's) handling of their complaint. Mr and Mrs C and T said that as a result of Trafford YOT's and the Council's actions, T was unable to fully take part in the restorative justice process and the family had been caused anxiety and frustration.

Our decision

2. Having considered all the available evidence related to Mr and Mrs C and T's complaint about Trafford YOT and the Council, including their recollections, we have reached the following decisions.

The Parliamentary Ombudsman's findings on the complaint about the Victims' Code

3. We find that some of the actions of Trafford YOT did breach the Victims' Code.

The Local Government Ombudsman's findings on the complaint

4. We find that the actions of Trafford YOT and the Council fell so far below the applicable standard that they were maladministrative. We find that those actions caused an injustice to Mr and Mrs C and T. We also find that the Council's final response to Mr and Mrs C and T took a number of appropriate steps to 'put things right' for the family, but that there was more that they could have done. For that reason, we partly uphold the complaint about Trafford YOT and the Council.

Our jurisdiction and roles

The Parliamentary Ombudsman's jurisdiction and role

5. The Parliamentary Ombudsman has a statutory responsibility¹ to consider complaints, referred by a Member of the House of Commons (MP), from a member of the public who claims that an organisation has failed to perform a relevant duty owed to them under the Victims' Code.
6. Our investigation considered whether Trafford YOT failed to perform the relevant duties owed to Mr and Mrs C and T under the Victims' Code. To do this, we looked at the duties owed to Mr and Mrs C and T under the Victims' Code by Trafford YOT, and whether they fulfilled those duties.

The Local Government Ombudsman's jurisdiction and role

7. Under the *Local Government Act 1974*, part 3, the Local Government Ombudsman has wide discretion to investigate complaints of injustice arising from service failure or maladministration by local authorities (councils) and certain other public organisations. We may investigate complaints about most council matters, including the work of council officers in partnership arrangements.
8. If the Local Government Ombudsman finds that maladministration has resulted in an unremedied injustice, we may recommend redress to remedy any injustice we have found.

Powers to investigate and report jointly

9. *The Regulatory Reform (Collaboration etc. between Ombudsmen) Order 2007* clarified the powers of the Parliamentary Ombudsman and the Local Government Ombudsman, with the consent of the complainant, to share information, carry out joint investigations, and produce joint reports in respect of complaints that fall within the remit of both Ombudsmen.
10. Mr C complained to the Local Government Ombudsman on 18 September 2011. Mr C complained to the Parliamentary Ombudsman on 4 January 2012. In this case, the Local Government Ombudsman and the Parliamentary Ombudsman agreed to work together because the issues in Mr and Mrs C and T's complaint were so closely linked. A co-ordinated response consisting of a joint investigation leading to a joint conclusion and proposed remedy in one report seemed the most appropriate way forward.

¹ Under section 5(1C) of the *Parliamentary Commissioner Act 1967*.

How the Ombudsmen consider complaints

11. When determining complaints that injustice has been sustained as a result of maladministration, we begin by comparing what actually happened with what should have happened.
12. To do that, we need to establish the facts that are relevant to the complaint. We also need to have a clear understanding of the standards and guidance in place at the time of the events complained about, which governed the administrative functions of the organisation complained about.
13. In understanding what should have happened, we consider two components: the general standard, which is derived from the general principles of good administration and, where applicable, public law; and the specific standards, which are derived from the legal, policy and administrative framework and the professional standards relevant to the events in question.
14. In our investigation, we assess the facts of what happened in accordance with the standards of what should have happened. Specifically, we consider whether or not an act or omission by the organisation or individual complained about constitutes a departure from the applicable standard. If so, we then assess whether that act or omission falls so far short of the applicable standard as to constitute maladministration.
15. The general and specific standards applicable to this investigation are set out in paragraphs 16 to 56 – together they comprise the overall standard.

The general standards

The Ombudsmen's standards

16. The Parliamentary Ombudsman has published the Principles of Good Administration, the Principles of Good Complaint Handling and the Principles for Remedy. The Local Government Ombudsman has produced the axioms of good administration. Each document sets out what organisations should do to deliver good administration and good customer service, and how to respond when things go wrong.
17. The Ombudsmen agree that organisations should:
 - ‘*Get things right*’ – by acting in line with the law and in line with their own policies and guidance; and
 - ‘*Be customer focused*’ – by informing customers of what they can expect and should keep to their commitments. It also means that organisations should deal with people helpfully, promptly and sensitively.
18. When an individual complains about the service they have received, the Ombudsmen say that organisations should:
 - ‘*Get things right*’ – by focusing on outcomes for the complainant. They should also ensure that individuals are correctly signposted to the next stage of the complaint process; and
 - ‘*Put things right*’ – by acknowledging their mistakes and apologising for them. They should also take into account any additional injustice caused to the individual by pursuing the complaint.

The specific standards

What are youth offending teams?

19. Youth offending teams were set up as a result of the *Crime and Disorder Act 1998*. They are multi-agency teams, co-ordinated by local authorities. They are separate from both the police and the courts. Youth offending teams deal with offenders aged between 18 and 21 years old. They aim to prevent young people from offending, and re-offending.²

How do youth offending teams work?

20. Youth offending teams provide a range of community services, including the supervision of young offenders who have been given a community sentence.
21. For young offenders, there are a number of different types of community sentences. One type of community sentence is a referral order. A referral order is when a court decides that the young offender should work with youth justice officers to agree a programme of work to address the young offender's behaviour. As part of a community sentence, a young offender may also need to speak to the victim of their crime, listen to their story and apologise to them. The victim can ask for a written apology or a face-to-face apology.³

The Victims' Code and youth offending teams

22. The *Code of Practice for Victims of Crime* (the Victims' Code) sets out the minimum standards that victims of crime should expect from criminal justice agencies. The

Victims' Code applies to youth offending teams. It sets out what the youth offending team must do for victims, and when they must do it.

23. The Victims' Code sets out who is entitled to receive services under the Victims' Code. Services should be given to anybody who makes an allegation to the police that they have been directly subject to criminal conduct. If a victim is under 17 years old, their parent or guardian is also entitled to receive services under the Victims' Code. Vulnerable or intimidated victims, including those aged 17 or under at the time of the offence, are entitled to enhanced services under the Victims' Code.

24. The Victims' Code says:

'9.1 Youth Offending Teams (YOTs) are required to take account of victims' needs and have the following obligations in respect of victims of youth crime referred to youth offending teams.'

'9.2 On receipt of a victim's details from the police, the YOT must decide if it would be appropriate to invite the victim to become involved in a restorative justice intervention relating to relevant criminal conduct, and record the reasons for this decision.'

25. In relation to contacting victims, the Victims' Code says:

'9.4 If it decides to make contact with victims, the YOT must explain its role and allow victims to make informed choices about whether they want any

² www.gov.uk/youth-offending-team.

³ www.gov.uk/community-sentences/community-sentences-if-you-are-under-18.

involvement and if so, the nature of that involvement. The involvement of victims must always be voluntary. Victims must not be asked to do anything which is primarily for the benefit of the offender.'

26. In relation to involving victims, the Victims' Code says:

'9.6 If the victim agrees to be involved, either directly or indirectly in a restorative justice intervention in respect of relevant criminal conduct, the YOT must, if the victim requests this, keep the victim informed about the progress of the case and notify the victim when the intervention has concluded.'

27. In relation to complaints about how youth offending teams have provided services under the Victims' Code, the Victims' Code says that the victim should write to the youth offending team explaining their complaint. If they are not satisfied with the outcome, the victim can refer their complaint to the Parliamentary Ombudsman.

Ministry of Justice guidance on the Victims' Code

28. The Ministry of Justice has produced guidance for youth offending teams, setting out how the Victims' Code impacts on their work. The guidance says that, when contacting victims, the youth offending team must explain their role and allow victims to decide whether they want to be involved in restorative justice. A victim's involvement must always be voluntary and they must not be asked

to do anything for the benefit of the offender.

29. The Ministry of Justice says that youth offending teams must ensure that staff working with victims have had training in the knowledge and skills needed to work with victims.⁴

Restorative justice

30. Restorative justice aims to bring the victim of crime in contact with those responsible for the crime, to try to repair the harm that has been done. Restorative justice holds offenders to account, and gives them an insight into the impact of their behaviour, and the opportunity to make amends. It gives victims the chance to have their say, to get answers to their questions, to receive an apology, and to move on with their lives.⁵

National Standards for Youth Justice Services

31. The National Standards for Youth Justice Services sets out the statutory, minimum requirements for organisations providing youth justice services. *National Standard 7* sets out how organisations should work with victims of crime.
32. This guidance says that youth offending teams should maximise a victim's involvement in restorative justice and should also maximise reparation to the victim. Youth offending teams should ensure that a range of restorative justice processes are available to meet the needs of victims. They should also ensure that every effort is made to engage with victims to maximise their participation

⁴ www.justice.gov.uk/youth-justice/working-with-victims/code-of-practice.

⁵ www.restorativejustice.org.uk/what_is_restorative_justice/in_criminal_justice/.

and satisfaction. Youth offending workers must discuss reparation with victims.⁶

Ministry of Justice guidance on referral orders

Referral orders and youth offending teams

33. In May 2009 the Ministry of Justice published revised guidance on referral orders: *Referral Order Guidance*. The guidance says that referral orders can be given to young offenders who plead guilty. Their aim is to reduce reoffending and provide restorative justice in a community setting. Referral orders last between three and twelve months, depending on the seriousness of the crime.
34. When a court makes a referral order, the young offender is referred to a youth offender panel. The young offender attends the panel with a parent or guardian, and the panel review the offence and its consequences. The victim is also invited to participate either by attending the panel or by submitting their views. The panel agrees a contract with the young offender, which sets out how they will make reparation to the victim or wider community and what activities will be completed to reduce the risk of reoffending. The panel monitors the young offender's compliance with the contract.⁷

35. Youth offending teams are responsible for delivering referral orders and holding youth offender panels. They are also responsible for ensuring compliance with the relevant standards and guidance (including the Victims' Code). Youth offending teams assess offenders, and produce reports for the youth offending panel. They also engage with victims to offer them the opportunity to participate in the process. The case manager at the youth offending team is responsible for ensuring that the contract is managed and the case is supervised in line with the relevant standards and guidance.⁸

Engaging victims in referral orders⁹

36. The guidance says:

'Victims must be given the opportunity to participate actively in the resolution of the offence and its consequences, subject to their wishes and informed consent. The youth offender panel process is an opportunity to address the victim's needs for information, answers to questions and reparation for harm done.'

37. The guidance goes on to say:

*'It is **essential** [their emphasis] that youth offending teams facilitate the involvement of victims. The involvement of victims must be entirely voluntary and based on informed consent. Victims may choose to attend a panel meeting, to have their views*

⁶ www.justice.gov.uk/downloads/youth-justice/yjb-toolkits/victims/national-standards-youth-justice-services.pdf.

⁷ Section 1: Background.

⁸ Section 4: The role of youth offending teams.

⁹ Section 6: Engaging victims.

represented, to submit a statement, to be kept informed, or not to participate in the referral order process in any way. They need clear information about the options they have and be given time to make up their mind, without pressure.'

38. The guidance says that contact with victims must conform with the Victims' Code and must be handled sensitively. Staff carrying out the contact must have specialised training in victim awareness and restorative justice approaches.
39. The guidance says that the youth offending team should contact the victim within five working days of the court order. It says it is usually helpful to send an introductory leaflet, and to follow that up with a telephone call offering a meeting, if appropriate. The youth offending team should provide clear and unbiased explanations about referral orders.
40. The guidance says that the victim's potential vulnerability should be carefully considered, and that young victims should usually have a parent or supporter with them at any meeting. If the victim requests it, they should be given information about the contract that is agreed with the offender, and kept informed of their progress. All contracts must include reparation to the victim or community. Any direct reparation must only proceed in line with the victim's wishes.
41. The guidance says that special care must be taken with young victims, and contact should be made with the victim and their parents by specially trained workers. Young victims should be offered additional

support to allow them to take part in restorative justice.

Youth offending panel meetings and referral order contracts

42. The guidance says that reparation to victims should be determined by the wishes of the victim. It can include an explanation, an apology and verbal, written or practical recompense for the harm caused. Youth offending teams should establish, before the panel meeting, what reparation the victim would welcome. The amount of community reparation to be included in the contract should take into account the wishes of the victim and be proportionate to the seriousness of the offence. For referral orders lasting ten to twelve months, youth offending panels should include a minimum of 30 hours of reparation work.¹⁰
43. The agreed contract should be signed by the young offender and also by the chair of the youth offending panel. A copy of the contract should be given to the young offender and should be made available to the victim.
44. The guidance sets out what questions victims should be asked to allow them to take part in the referral order process. Amongst other things, they should be asked about the offence and the offender, how they feel about direct and indirect reparation and whether they wish to receive a letter of apology.¹¹

¹⁰ Section 8: Initial panel meetings and agreeing contracts.

¹¹ Annex E.

Trafford Youth Offending Service guidance

45. In December 2010 Trafford YOT produced guidance on restorative justice. The guidance says that restorative justice aims to attend to the needs of the victims. It also aims to enable offenders to appreciate the consequences of their actions and to make amends. The key is to actively involve victims of crime in the youth justice process, helping them to get over the harm done.
46. The guidance says that the Victims' Code requires youth offending teams to make a decision about whether it is appropriate for the victim to be involved in restorative justice and to record the reasons for that decision. Where restorative justice involves a referral order, the victim must be contacted within five working days.
47. The guidance says that the offender's confidentiality should be respected, and that the youth offending team should not reveal the young offender's details or information about their personal circumstances to the victim.
48. The guidance says that vulnerable victims should be encouraged to access services from victim support, and consent should be sought from the victim to pass on their details. If a victim is vulnerable, this should be recorded on the youth offending team's computer system.
49. Trafford YOT also have guidance that sets out how victims should be contacted. The guidance says that when a court order is made, the case is allocated to a restorative justice worker. The guidance says that for cases involving a referral order, Trafford

YOT should send victims information leaflets, a personalised letter from the restorative justice worker and a blank victim impact statement with a pre-paid envelope for the victim to complete and return. The guidance says that the restorative justice worker should follow up that contact by telephoning the victim within five working days.

50. The restorative justice worker should offer victims information about the outcome of a young offender's sentence and the options for restorative justice. If the victim has agreed to accept a letter of apology, the restorative justice worker must give this to the victim, ideally in person.

Complaint handling

Trafford Youth Offending Service's complaints procedure

51. Trafford YOT say that if an individual is dissatisfied with the service they have received, they should first complain to the person that they have been dealing with to see if it can be resolved immediately. If the complaint cannot be resolved, the complainant should write to the chief executive.
52. With regard to responding to complaints, Trafford YOT say:

'Every effort will be made to send a detailed reply within 10 working days. When this is not possible, a letter will be sent explaining the reason and giving a date by when a detailed response will be sent to you ... All complaint [sic] will be acknowledge [sic] within five days except where it's related to breach of national standard and an immediate response is necessary.'

53. Trafford YOT say that all complaints will be thoroughly investigated and dealt with even-handedly and in confidence. If the manager cannot resolve the complaint, they will ask another senior manager to try to resolve the complaint.

54. Trafford YOT say:

'An appointed member of staff/manager will be appointed and make sure that the complaint is investigated at the appropriate level and is resolved with 20 working days. Where the complaint is related to a serious breach of Nation [sic] Standard then an immediate decision will be necessary and the young person and their parent/carer will be advice [sic] to speak to a solicitor.'

55. Trafford YOT say that if a person remains dissatisfied, the manager of the youth offending service will ask another manager to carry out another investigation within a specified timescale.

- *Stage 3 – if the complainant is unhappy with the formal complaint response, they can ask for a review of their case. The head of service will decide if a Stage 3 review is necessary. If the Council decides that a Stage 3 review is not necessary, it will write to inform the complainant of that. If a Stage 3 review is carried out, it will be carried out on behalf of the chief executive by a senior manager or a review panel. A review panel consists of three officers who review the case independently and objectively, and decide whether to uphold the complaint. The Stage 3 review should take no more than 20 working days to make a decision and to inform the complainant in writing. The review panel may make recommendations to improve the service provided by the Council.*

Trafford Metropolitan Borough Council's complaints process

56. The Council has guidance which sets out how it responds to complaints. The Council operates a three-stage complaints process:

- *Stage 1 – informal resolution by addressing the complaint at the first point of contact.*
- *Stage 2 – if informal resolution was unsuccessful, the complaint is escalated. The Council says it will acknowledge the complaint within three working days and try to respond within 20 working days. If it is not possible to respond within 20 working days, the Council will tell the complainant.*

The investigation

57. During the course of this investigation, we have considered Trafford YOT's and the Council's comments, and the papers they provided. We have met Mr and Mrs C and T, and considered their comments. We have also met representatives from Trafford YOT and the Council. We have not included in this report all the information found during the course of this investigation, but we are satisfied that nothing of significance to the complaint and our findings has been left out.

Background

58. T was a victim of a robbery. In 2010, shortly before T was due to attend court, a group of youths gathered outside his home and tried to intimidate T to deter him from giving evidence at the trial.

59. At the trial in early 2011, some of the youths were convicted of witness intimidation against T. They were all given intensive referral orders lasting between ten and twelve months, and ordered to pay compensation.

Key events

Trafford YOT's initial contact with T

60. Following the trial, a referral order meeting was held for one of the offenders. A referral panel contract was agreed, which set out a number of actions that the offender would take part in.

61. In early 2011 a referral order meeting was held for another of the offenders. Again a referral panel contract was agreed, which set out a number of actions that the offender would take part in, including 'to attend a Restorative Justice Conference to meet the victim if appropriate'. The

contract was signed by the offender, the referral order panel leader and by an officer of Trafford YOT, Officer A.

62. Immediately following that meeting, Officer A telephoned T. The record says that Officer A spoke to T and agreed to meet him the following day. The case record for this day shows that T was offered direct and indirect reparation.

63. The next day, Officer A met T. The record of the meeting said that T was willing to attend a restorative justice conference meeting to meet one of the offenders, but did not wish to meet the other offender. The record also states: 'Assessed victim as potentially suitable [for restorative justice]. Very positive meeting'. The case record for this day shows that T had accepted indirect reparation.

64. One week later, Officer A met T again. The record of the meeting says:

'I met with the victim again and his family. The victims [sic] parents had reflected on the opportunity for a RJC [restorative justice conference] and changed their minds. They couldn't see that there would be any benefit to have a RJC ... The victim has now asked for a LOE [letter of explanation] which [sic] he might respond to ... I dropped the victim off [in town], he appeared a lot more chilled without his parents.'

The case record of this day shows that T had agreed to accept a letter of apology, and that the victim restorative justice process had been closed.

65. According to Mr C's account, these meetings did not go well. Mr C said that Officer A had wanted to meet T alone, when he needed the support of his family. Mr C also said that Officer A had tried to pressure T into meeting one of the

offenders, and that it was unclear what her role was. Mr C said that Officer A had questioned T's integrity, by asking if he was clear about who committed the robbery. He also said that Officer A had made excuses about the behaviour of one of the offenders' mothers in court and had revealed details of her job. Mr C also said that when T had asked what a probation order was, Officer A told him to 'ask your Dad'. Officer A had revealed personal information about a probation order he had had to Mr C's son, that she had referred to other cases of restorative justice where the victim had been shot, and that she had undermined and insulted Mr C to his son.

Mr C's complaint to Trafford YOT

66. On 21 February 2011 Mr C complained to Trafford YOT. Mr C complained about the behaviour of Officer A during the two meetings with Mr and Mrs C and T. Mr C described how the overall situation had affected T. On 23 February 2011 Trafford YOT wrote to Mr C and acknowledged his complaint. Trafford YOT said that the complaint would be investigated urgently. Trafford YOT apologised for any unnecessary hurt caused by Officer A's actions.
67. On 25 February 2011 the investigating officer (a manager from Trafford YOT) wrote to Mr C to say that the case had been passed to her to deal with. She said that she had spoken to Officer A, who would prepare a response to the points raised by Mr C. She said that when she returned from annual leave, she would contact Mr C to discuss the complaint and Officer A's response.
68. On 28 February 2011 (the date on this letter incorrectly says '2010'), Mr C wrote to Trafford YOT. Mr C said that he had received a letter from Trafford YOT (paragraph 67), but that he was confused by the content of the letter. Mr C said that the letter was in conflict with the complaints process. Mr C asked who would be responding to his complaint and why he was required to meet Trafford YOT before a written response had been sent.
69. On 3 March 2011 Officer A wrote an account of her meetings with Mr and Mrs C and T. Officer A said she prepared herself for the visit by reading the relevant literature and speaking with the case manager. She said that the information she gathered from her research and from conversations with members of the team suggested a contradiction regarding who had carried out the robbery. Officer A also said that her research had suggested that some of T's family had chased the offenders. Officer A also said she had met one of the offenders and his mother, and the offender had expressed great remorse and agreed to meet to discuss direct restorative justice. Officer A made the following points:
- T's parents were not happy for him to meet Officer A alone. Officer A said that she had spoken to T on the telephone to arrange the meeting, and then had met T and his parents the following day. Officer A said that she thought it would have been useful to speak with T alone, because if a face-to-face meeting with the offender was to take place, T's parents would not be present.
 - Mr C had strong views about the behaviour of one of the offenders' mothers. Officer A said she offered

empathy and said that it is sometimes difficult when other people have different values. Officer A said that she also suggested that the offender's mother may have been embarrassed by what had happened.

- Officer A said that she had wanted to focus on the behaviour of one of the offenders who had been assessed as suitable for restorative justice, but that she had heard that someone else was responsible for the robbery. Officer A said that she knew that she would need to prepare the offender properly before any meeting with T.
- Officer A said that the purpose of the meeting was to explore the opportunity for direct restorative justice between T and one of the offenders.
- Officer A said that T had initially shown a genuine interest in meeting the offender, but Mr and Mrs C were not as keen. Officer A said that once she explained restorative justice, Mr C had seemed to warm to the idea. Officer A said that Mr C continually made racist remarks about the offenders.

70. On 11 March 2011 the investigating officer at Trafford YOT wrote her report on Mr C's complaint. She set out her handling of the complaint and said that she had met Officer A to discuss the complaint. She also said that she had contacted Mr C and had asked to meet him to discuss the complaint and the outcomes that Mr C was seeking, but that Mr C had become 'irate' and said that he did not want outcomes, he wanted the case to be investigated. The investigating officer sent her report, and Officer A's report (paragraph 69) to the head of service at Trafford YOT.

Mr C's complaint to the Council

71. Given Mr C's dissatisfaction with Trafford YOT's handling of his case, Trafford YOT passed his complaint to the Council to investigate and respond to Mr C. On 15 March 2011 the Council wrote to Mr C. The Council said it would investigate Mr C's complaint, in line with its disciplinary process. The Council apologised for any confusion that Mr C had experienced so far. The Council said that, because of the nature of the disciplinary process, it was unlikely that it would be able to respond within the agreed time frame, but that it would complete the investigation as quickly as possible.
72. On 24 March 2011 Officer A was interviewed by Council officers under their disciplinary process. Officer A said that when she spoke to T, he had initially seemed keen on the idea of restorative justice but that his parents had been less keen and she had tried to speak with T on his own. Officer A said that her objective before the meeting had been to explore the concept of restorative justice and to make T aware of the opportunities. Officer A said that she had prepared herself for the meeting by reading the Crown Prosecution Service's files, pre-sentence reports for the offenders and information in relation to the offenders. She said that she had heard from various sources that a different offender might have been responsible for the robbery and was clear that Mr C had brought that issue up. Officer A said that she had mentioned the job of the offender's mother and she thought Mr C would have known that anyway.

73. On 2 April 2011 Mr C wrote to the Council. Mr C said that T had asked Officer A what an intensive referral order was, and Officer A had told him to ask his father. Mr C said Officer A made a direct reference to a probation order that Mr C had completed some years before. Mr C complained that Officer A made reference to restorative justice in cases where the victims had been shot, and he felt that that undermined the seriousness of the crime in T's case. Mr C said that after the second meeting, Officer A had asked T: *'Is your father always like this?'*, and Mr C said this undermined and insulted him.
74. On 6 April 2011 the Council wrote to Mr C. The Council acknowledged receipt of Mr C's letter (paragraph 73) and said that the investigators wished to meet Mr C to discuss the complaint. The Council said that when a complainant made allegations about the conduct of a Council officer, the complaint must be investigated under the disciplinary process and, once that was complete, it would complete the complaints process.
75. On 8 April 2011 the Council wrote to Mr C. The Council said that two investigators would visit Mr C at his home on 12 April 2011. The Council said that the investigators would also like to interview T to discuss the complaint made against his *'caseworker'*, Officer A. On 11 April 2011 Mr C emailed the Council. Mr C said that he had received the Council's letter but he wanted to make clear that T was the victim of the crime and was not a client of the caseworker. Mr C asked the Council to amend its records accordingly. The Council responded on the same day and said that officers were clear that T was a victim of crime and that the caseworker was working with the offender on a restorative justice programme. The Council apologised for any misunderstanding.
76. On 12 April 2011 Mr and Mrs C and T met the Council. Mr C complained that Trafford YOT's investigating officer had been very rude to him and should have provided him with a response to his complaint. Mr C said the complaints procedure was shambolic. The Council acknowledged that the complaint had not been dealt with in the correct manner. The Council apologised for the confusion. T told the Council that he had not wanted to participate in restorative justice, but Officer A was not listening to him. T said that Officer A was more interested in the offenders, and that she had seemed to be supporting the offenders more than him. Mr C said he understood that one of the offenders had written a letter of apology but this had not been sent. The Council said that was because *'everything was suspended due to the complaint and investigation'*.
77. On 18 April 2011 the Council carried out a second disciplinary interview with Officer A. Officer A denied making any reference to Mr C's previous probation order and said she had had no knowledge of that. Officer A accepted that she had mentioned that Mr C's sons had been in trouble before. Officer A said that she had not made any comments in the car to T about his father's behaviour. Officer A said that T had not seemed upset during their meeting.
78. On 21 April 2011 a member of Council staff emailed Mr C to thank him for meeting her to discuss the complaint. The Council officer provided an update on Mr C's complaint. She also said that one of the offenders had written a letter to T and they asked Mr C how T would like to receive that letter. Mr C replied on the same day and said that, during the meeting, he had asked for a copy of the initial enquiry carried out by the investigating

officer at Trafford YOT (paragraphs 69 and 70), and he asked for that information to be sent to him. Mr C said that the offender's letter should be placed in a sealed envelope addressed to T, and then put in an envelope addressed to Mr C, so that he could control the conditions under which T opened the letter.

79. On 5 May 2011 the Council completed a report about Mr C's complaint. Amongst other things, the report said that Officer A demonstrated a lack of self-awareness in terms of communication and listening skills, because she had not picked up on the intensity of feelings shown by T's parents. The report said that Officer A showed a lack of awareness about personal safety and there was also a concern about Officer A sharing information about the offender's mother's job without permission. The Council said that the restorative justice process had seemed to be offender focused and there was a gap in the support offered. The Council also said that the complaints process was unclear and needed to be simplified. The report recommended that certain areas of Officer A's work practices should be addressed, that she should not have any further contact with those involved in the case and that she should receive training and additional supervision for a period of three months. The report also recommended that the service standards should be re-set for Officer A and that the complaints policy should be reviewed.
80. On 6 May 2011 the Council decided not to provide Mr C with the information he had requested (paragraph 78).
81. Also on 6 May 2011 the Council responded to Mr C's complaint. The Council

apologised for the length of time the investigation had taken. The Council said:

- Mr C had complained that Officer A had wanted to speak to T alone, without his parents present, and that Officer A put pressure on T to take part in restorative justice. The Council said that Officer A had made the decision that, because of T's age, he could be spoken to alone. The Council said that this was in line with the Victims' Code, police guidelines for interviewing young people and Gillick competency and Fraser guidelines.¹² But the Council said Officer A should have given more appreciation to Mr C's views on the matter.
- Mr C had complained that Officer A made excuses for the behaviour of one of the offenders' mothers in court. The Council said that there was evidence to substantiate that concern, but the behaviour was unintentional.
- The Council said that there was evidence to substantiate Mr C's concern that Officer A had suggested that a different offender was responsible for the robbery.
- The Council said that there was no evidence to support Mr C's complaint that Officer A had questioned T's integrity.
- Mr C had complained that Officer A pursued the request for a face-to-face meeting with the offender, despite T's objections. The Council said there was evidence that Officer A had pursued the benefits of restorative justice without fully considering Mr C's and T's views.

¹² Gillick competency and Fraser guidelines are used to assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

- The Council said that there was no evidence to substantiate Mr C's complaint that Officer A did not acknowledge and understand the issues relating to T's emotional health and the trauma that the family had suffered during her home visits.
- The Council said that there was no evidence to substantiate Mr C's concern that Officer A seemed to be aware of personal information relating to Mr C.
- Mr C had complained that T felt undermined by the examples that Officer A gave about restorative justice. The Council said that there was evidence that T did feel undermined, although that was not Officer A's intention. The Council said that with hindsight, more weight should have been given to T's feelings.
- The Council said that there was no evidence to support Mr C's concern that Officer A undermined and insulted T.

The Council apologised to Mr C, T and Mr C's family for any undue stress or emotional upset the experience had caused them. The Council said that Mr C's comments would be used to improve services. The Council said that Mr C had completed its complaints process and, if he was unhappy, he should complain to the Local Government Ombudsman.

82. On 10 May 2011 Mr C telephoned the Council, as he was dissatisfied with the Council's response to his complaint. The Council decided not to speak to Mr C because he had already been informed of his right to appeal against its decision.
83. On 14 May 2011 Mr C wrote to the Council. Mr C said that he was dissatisfied with the response dated 6 May 2011 (paragraph 81).

Mr C said that at no point had he or T objected to the offer of restorative justice. Mr C said that Trafford YOT had not followed the correct process for contacting T. Mr C said that T was not provided with a victim impact statement and so Officer A did not have the information she needed to understand T's emotional health. Mr C said that the letter said he had no right of appeal, and that was not in line with the Council's complaints process.

84. On 21 May 2011 Mr C complained to the chief executive of the Council. Mr C set out his concerns about the handling of his complaint. Mr C complained that he had been denied a Stage 3 review by the Council. Mr C said that he was disgusted that a member of the public knew more about the complaints process than those who were supposed to implement that procedure. Mr C said that his treatment had been '*shambolic and unprofessional*' and showed a '*total disregard to the damage caused*'.
85. On 25 May 2011 the Council acknowledged Mr C's complaint. It said that it was investigating the issues he had raised and would provide a written reply by 22 June 2011.
86. Also on 25 May 2011, Mr C's solicitors wrote to the Council. The solicitors said that the Council had continually failed to afford T the opportunity to participate as a victim in the referral orders. The solicitors said that the caseworker had tried to persuade T to meet the offenders, and had not appreciated his needs and wishes. The solicitors said that the caseworker, and senior members of staff at Trafford YOT, had failed to offer T any further opportunity to participate in restorative justice. The solicitors requested that T be

provided with written information about how he could participate in restorative justice and for a meeting to be held to discuss that. The solicitors also asked for an explanation of the failings they had identified.

Trafford Council's Stage 3 review

87. On 2 June 2011 the Council wrote to Mr C and said it would carry out a Stage 3 review of his complaint. On 10 June 2011 the Council emailed Mr C to explain the process for the Stage 3 review. The Council said it would review the documentation and determine the scope of the review, which would be sent to Mr C for his agreement. The Council said that once the review had taken place, the review panel had five working days to prepare a draft report of its decisions and recommendations, which would be sent to Mr C within 20 working days.
88. On 10 June 2011 the Council responded to the letter from Mr C's solicitors (paragraph 86). The Council said that it did not accept there had been any breaches in response to the specific allegations. The Council acknowledged that T felt that he had been let down in the process, and so the Council was keen to ensure that T was more involved in future. The Council set out a timeline of the case and, amongst other things, said that T had been contacted by a second caseworker following the referral order meeting (paragraph 62). The Council said that indirect reparation was still available to T, who could choose to write an impact statement to be shared with the offender and could request a specific area for the offender to complete his reparation hours. The Council proposed a meeting with T and Mr C to discuss the options for restorative justice.
89. On 11 June 2011 Mr C wrote to his solicitor in response to the Council's letter of 10 June 2011 (paragraph 88). Mr C said that T was never asked what type of work he would like the offenders to take part in. Mr C said that T had not been contacted by a different caseworker as the Council had said, and asked for details of what Trafford YOT's records showed. Mr C said that the conduct of Trafford YOT had caused T '*unforgivable amounts of stress and upset*'. It appears that Mr C's solicitors sent this letter to the Council and, on Mr C's behalf, accepted the offer of a meeting with the Council.
90. On 17 June 2011 the Council emailed Mr C. The Council said there was a mistake in its letter dated 10 June 2011 (paragraph 88) because it was the same caseworker, Officer A, who had been in contact with T following the referral order meeting to discuss restorative justice.
91. On 20 June 2011 Mr C emailed the Council. Mr C said that he understood that his complaint was waiting for a Stage 3 review, but he had not been given any details of when the review was being carried out. Mr C sent a second email on the same day and said that they had had to arrange an emergency appointment for T with his counsellor. Mr C said that they were awaiting information from the counsellor as to T's future engagement with Trafford YOT and would keep them informed of developments.
92. On 21 June 2011 Mr C wrote to the Council. Mr C said that T was distressed by the mention of a different caseworker in the Council's letter of 10 June 2011 (paragraph 88), and felt that his integrity had been questioned. Mr C said that Trafford YOT had not been honest and upfront in their responses and that the truth was being shielded. Mr C said that T

was finding it hard to come to terms with the *'inhumane and degrading'* manner in which he had been treated by the Council.

93. On 21 June 2011 the Council responded to Mr C. The Council invited Mr C to submit any further information to assist the review, and advised that the review would go ahead on 5 July 2011. The Council said that Mr C was welcome to attend the review, or an officer could visit Mr C at his home. The Council set out the timeline for the review, and said it would provide Mr C with the review report within 20 working days. Mr C acknowledged receipt of the Council's email and confirmed that he would attend the review on 5 July 2011.
94. On 27 June 2011 Mr C emailed the Council. Mr C said that the response he had received from the Council (paragraph 81) had been based on the notes of the Council's meeting with Mr and Mrs C and T (paragraph 76), but that Mr C had not seen the notes before the response had been completed. Mr C set out the areas where he disagreed with the notes of the meeting. Mr C asked for a copy of the handwritten notes of the meeting and also asked for the documents relating to the initial investigation by the investigating officer at Trafford YOT. Mr C said he had repeatedly asked for this information but it had not been sent to him. The Council responded on the same day and said that the handwritten notes of the meeting had been destroyed and so it could not forward them to Mr C.
95. On 30 June 2011 the Council emailed Mr C. The Council set out the scope of the Stage 3 review and which officers it intended to interview as part of the investigation.
96. On 2 July 2011 Mr C wrote to the Council. Mr C said that he had received a copy of the statements from the investigating

officer at Trafford YOT and Officer A (paragraphs 69 and 70). Mr C said that he wanted to respond to Officer A's comments. Mr C said that Officer A had said she had carried out research into the offences, but that that was not in line with the Ministry of Justice's guidance. Mr C refuted Officer A's allegations that his sons chased the offenders. Mr C said that he and Mrs C had not been happy for Officer A to speak with T alone and they made that clear. Mr C said that in good faith, they allowed Officer A to meet T alone at the second meeting, but when they overheard Officer A questioning T about who was responsible for the robbery, they decided not to allow that again. Mr C said it was clear that Officer A was pursuing her own objective for T to meet one of the offenders. Mr C said that Officer A had accused him of being racist, which he strongly refuted. Mr C said that the offenders had also made allegations of racism against him, but the police had found that there was no case to answer. Mr C said he had been given no right to respond to that *'slandering attack on [his] character'*. Mr C said that Officer A had been solely focused on direct restorative justice for one of the offenders, and that was inappropriate. Mr C said that every member of his family had been demonised by Officer A in an attempt to mask her own failures, and that T had been denied restorative justice. Mr C said the handling of his complaint had compounded the situation.

97. On 3 July 2011 Mr C emailed the Council. Mr C said that he wanted to complain about the slanderous remarks made by Officer A in her report. Mr C said he hoped that issue could be added to the ongoing investigation.

98. On 4 July 2011 Mr C wrote two letters to the Council. In reply to the Council's letter of 30 June 2011 (paragraph 95), Mr C listed the officers who he believed should be interviewed as part of the investigation. Mr C also set out some points that he believed should be included in the investigation. Amongst other things, Mr C asked the Council to consider why Officer A's first response to the investigating officer at Trafford YOT was not carried out under the disciplinary procedure, why Officer A's comments that Mr C had used racist language were not considered in the investigation, and why no impact statement had been obtained from T. In the second letter, Mr C said it was clear that Officer A had intended to raise the issue of who was responsible for the robbery when she visited T at home. Mr C said that if Officer A knew who was involved in the robbery, she should have given that information to the police. Mr C said that although he accepted that the Stage 3 review was not looking at T's future involvement with Trafford YOT, the fact that his involvement in restorative justice had been suspended pending the outcome of his complaint meant that the two issues were inextricably linked.
99. On 4 and 5 July 2011 the Council carried out nine interviews with members of staff who had been involved either with T's case, or in responding to Mr C's complaint.
100. On 9 July 2011 Mr C wrote to the Council. Mr C said that he understood that the head of Trafford YOT had recently been visited by police who were looking into new information about the robbery committed against T. Mr C said that Trafford YOT had told the police that T was not interested in restorative justice. Mr C said that he could not see the relevance of that matter but that he wanted to make it clear that T had never refused to engage in restorative justice. Mr C said that T had been keen to engage, but that he felt that direct contact would not be safe and would not benefit him. Mr C said that following his complaint, T's involvement in restorative justice was suspended. Mr C said that T felt let down by Trafford YOT, which made him reluctant to engage in restorative justice, but that was not through any fault of his own. Mr C said he had not received an accurate reply to the letter from his solicitor sent on 25 May 2011 (paragraph 86), and he asked for a reply within the next 14 days.
101. On 17 July 2011 Trafford YOT completed the action plan in relation to Officer A. Trafford YOT set out the actions they would take in line with the recommendations set out in the Council's report (paragraph 79). Amongst other things, Trafford YOT committed to reviewing certain aspects of Officer A's work practices, to reviewing the supervision process to ensure employees are adequately supported and challenged in their work, to improve communication between teams and relevant agencies, and to review the complaints process.
102. On 18 July 2011 the Council interviewed Officer A. In relation to who was responsible for the robbery, Officer A said that she got that information from the Crown Prosecution Service and from other staff. In relation to the allegation that T's family had chased the offenders, Officer A said she had got that information from pre-sentence reports and in the offender's statement, as well as from the Guns and Gangs worker.

103. On 21 July 2011 Mr C emailed the Council. Mr C asked what date Officer A's disciplinary hearing had taken place. The Council replied the following day and said that the Council had met Officer A on 24 March 2011 (paragraph 72) and 18 April 2011 (paragraph 77).
104. On 22 July 2011 Trafford YOT wrote to Mr C's other sons in relation to a separate matter. In that response, Trafford YOT said that they had interviewed Officer A and she had accepted that she had exaggerated the use of the word 'research' in her earlier statement (paragraph 69). Trafford YOT said that Officer A had said that in relation to the allegation about T's family chasing the offenders, she had been referring to the account by one of the offenders.
105. On 24 July 2011 Mr C emailed the Council. Mr C said that he had seen a letter from Trafford YOT to one of his other sons in response to a separate complaint. Mr C said that the response suggested that a 'victim worker' is a separate role from a 'case manager'. Mr C asked why Officer A acted as both a case manager and a victim worker. Mr C said he felt that Officer A was acting as a case manager and he asked why a victim worker was not allocated to T.
106. On 31 July 2011 Mr C emailed the Council. Mr C said he had seen a copy of a letter sent by Trafford YOT to another of his sons in response to a separate complaint. Mr C said that it was clear that Officer A was working with some of the offenders rather than being a victim worker. Mr C said that the victim worker, the case worker and the case manager should have been three different people, but that the Council had not acknowledged that. Mr C asked for a response to his letter dated 9 July 2011 (paragraph 100).
107. On 1 August 2011 an officer from the Council sent an internal email from the complaints officer to the Council's legal adviser. The officer noted that the Stage 3 review was almost complete and that the only issue that remained was to decide whether to offer the family financial compensation. The officer said that the Council would need to be clear that any payment related to the stress or mental anguish caused by the complaints process.
108. On 2 August 2011 the Council wrote to Mr C. The Council said that it had completed its Stage 3 review, and enclosed a copy of the report. The Council apologised to Mr C's family, and especially to T, for its mistakes in relation to the handling of the restorative justice process and errors in the complaints process. The Council offered mediation between T and Trafford YOT in an attempt to incorporate T's thoughts and feelings regarding restorative justice into what remained of the offenders' referral orders. The Council acknowledged Mr C's strong rejection of the allegations of racism made by Officer A. It is not our intention to repeat in full the information contained in that response but, amongst other things, the Council made the following points:
- Because Trafford YOT had a different complaints policy from the corporate complaints policy, this resulted in delay and unnecessary confusion for Mr C and his family.
 - The investigating officer's reference to finding '*resolution*' in relation to the complaint was acceptable, because resolution should be the aim of all complaint investigations.
 - Mr C should have been sent notes of his meeting with Council officers before the completion of the investigation.

The person responsible had had to take emergency leave, so the notes were not sent. The officer offered her apologies to Mr C for that.

- The response from the Council dated 6 May 2011 (paragraph 81) was not an appropriate response to the complaint.
- It was unclear who raised the issue about who was responsible for the robbery but, nevertheless, it was insensitive for Officer A to highlight that there may be an alternative view about who was responsible.
- Officer A's approach was not sensitive to the emotional distress that T was likely to feel.
- Officer A did not sufficiently emphasise the range of restorative justice options available. Procedures about contacting victims were not followed.
- No formal decision was taken to suspend restorative justice. With hindsight, it would have been wise for another restorative justice caseworker to be allocated, rather than waiting for the complaint to be investigated. Restorative justice was still available for T.
- Officer A was acting as a victim worker. Usually, offenders have separate caseworkers from the victim worker. It is common practice for the offender's caseworker and the victim worker to discuss whether the offender is suitable for restorative justice.

The Council recommended:

- an unreserved apology for Mr C and T to cover all areas where mistakes had been made;

- an offer of mediation between T and Trafford YOT to allow him to participate in what was left of the referral orders;
- continued monitoring of the action plan; and
- a record made that Mr C strongly refuted the allegations of racism.

109. On 3 August 2011 Mr C contacted the Council. According to the Council's note, Mr C was unhappy that the Council had not addressed his main concern. The Council does not say what concern Mr C is referring to, but notes that Mr C had forwarded a response from Trafford YOT in response to a complaint from one of Mr C's other sons. Mr C asked the Council if it had reached a different conclusion now that officers had seen the additional evidence. The Council contacted Trafford YOT and asked for details about the identity of the case managers and the roles they played in relation to T and the offenders. On the same day, Trafford YOT responded to the Council. Trafford YOT gave the names of the case managers for both offenders and said that it was good practice for the case manager not to work with both the offender and the victim, because of the risk of bias. The victim worker would not have had any information on the case beforehand, but she attempted to gauge the feelings of the victim by discussing it with the case manager. Trafford YOT said that the victim worker could have done it the other way around, and visited the victim first. Trafford YOT said that from her discussions with the case manager, it was clear to the victim worker that only one of the offenders was suitable for restorative justice.

110. On 8 August 2011 Mr C wrote to the Council. Mr C asked for the names of the caseworkers allocated to the offenders. Mr C also asked for a letter correcting the inaccuracies contained in the letter from the Council dated 10 June 2011 (paragraph 88).
111. On 11 August 2011 the Council emailed Mr C. The Council reiterated the comments from Trafford YOT (paragraph 109) and gave the names of the caseworkers allocated to the offenders.
112. On 15 August 2011 Mr C emailed the Council. Mr C asked what Officer A's job title had been when she visited Mr C's home in February 2011. Mr C also asked what role the caseworkers for the offenders were expected to carry out.
113. On 16 August 2011 Mr C emailed the Council. Mr C said that the Council had not responded to his request for a corrected version of the letter sent on 10 June 2011 (paragraph 88).
114. On 17 August 2011 the Council emailed Mr C in response to his email of 15 August 2011 (paragraph 112). The Council confirmed that Officer A was a restorative justice and parenting officer. The Council said that the case managers for the offenders wrote reports, carried out risk assessments, addressed issues of vulnerability, delivered intervention programmes and enforced statutory orders. On the same day, the Council sent Mr C a second email in response to his email of 16 August 2011 (paragraph 113). The Council said that its letter of 10 June 2011 (paragraph 88) had made reference to two caseworkers being involved in T's case, but that was inaccurate. The Council apologised for any confusion caused by that error. The Council also apologised for not responding earlier to correct that matter.
115. On 21 August 2011 Mr C wrote to the Council to accept the offer of mediation to facilitate T's participation in restorative justice. On 23 August 2011 the Council acknowledged receipt of Mr C's email.
116. On 26 August 2011 the Council emailed Mr C. The Council said that it had identified a mediator to facilitate T's participation in the restorative justice process. The Council suggested some dates for a meeting and asked Mr C to confirm who would be attending the meeting. On 28 August 2011 Mr C replied to the Council. Mr C suggested two dates to meet the mediator. On 1 September 2011 the Council emailed Mr C again to say that the mediator was no longer available on the suggested dates. The Council asked Mr C to consider alternative dates. Mr C replied the following day and gave some dates when the family were available.
117. On 7 September 2011 Mr and Mrs C and T attended the mediation meeting. An officer from the Council also attended, and provided information about how much time was left for the offenders to complete reparation. One of the offenders had sixteen hours of reparation to complete, and the other offender had ten hours of reparation to complete. At the meeting, T said that he did not want to meet the offenders. T was shown some of the projects used by Trafford YOT in the restorative justice process and he requested some more details in order to make an informed choice. The Council officer agreed to provide that information as soon as possible. T said that he did not want matters to be held up, and he selected one of the projects for the offenders to work on while he had the chance to decide on how the offenders should spend the remainder of their reparation time.

118. On 9 September 2011 the Council emailed Mr C and set out a number of community projects for T to request that the offenders undertake. Mr C replied the following day. Mr C set out T's preferences for which project he would like the offenders to be involved in.
119. On 13 September 2011 Trafford YOT emailed the mediator. Trafford YOT said that they had taken into account Mr C's and T's request for the offenders to carry out reparation hours with two different projects. Trafford YOT said that the offenders would be working on these projects and that they would feedback to Mr C once the referral orders were complete. The mediator responded to the Council on the same day, and said that she would inform T of how the Council would be proceeding. The mediator said that T may ask for additional activities and it would be good if those could be accommodated and handled sensitively. Trafford YOT said that it might be difficult to accommodate further requests for the offenders to carry out certain activities because the appointments were planned in advance. Trafford YOT said they would not want T to have the impression that he could request further amendments when that may not be possible. The mediator replied and said that it was important that T felt that he had the opportunity to input and state his preferences in the restorative justice process, and if that was the case, then he would understand.
120. On 16 September and 14 October 2011 Trafford YOT emailed the Council with an updated action plan, which set out their progress on the agreed actions.
121. In late 2011 the Council emailed Mr C. The Council said that one of the offenders had fully completed their reparation work but that the referral order for the other offender had been extended. The Council set out the work undertaken by the first offender, which included two three-hour sessions at the project T had chosen.

Findings

Maladministration

Trafford YOT's initial contact with T

122. The Ministry of Justice guidance says that youth offending teams should contact the victim within five working days of a referral order being made and hold a referral order panel within 20 working days. In this case, Trafford YOT first contacted T six days after the referral order was made. That was slightly outside the timescale given in the guidance, but we do not find that is so serious as to amount to maladministration. However, while Trafford YOT did meet their target in relation to holding the referral order panel, the panel was held before Trafford YOT had contacted T and his family. The family were not invited to participate in that panel. That is not in line with the Ministry of Justice guidance on referral orders, and that is maladministration.
123. Officer A attended one of the referral order panels as a representative of Trafford YOT. Although at that time she was acting as neither a victim worker nor a caseworker for the offender, she met one of the offenders and his family in her capacity as a representative of Trafford YOT. It was only after that meeting that Officer A spoke to T. Trafford YOT did not consider whether it was appropriate for Officer A to act as T's victim worker, given that she had already been in contact with one of the offenders. That was a failure by Trafford YOT and is maladministration.

Meetings between Officer A and the C family

124. It is clear from Mr C's letters, and the comments we have received from Mr and Mrs C and T, that the meetings with Officer A did not go well. In his correspondence with Trafford YOT and the Council, Mr C raised a number of issues in relation to Officer A's actions during those meetings. Our investigation has considered those issues.
125. It was wrong for Officer A to ask T if he was clear about who committed the robbery, because those offenders had been convicted and sentenced by the court. In any event, the robbery was not relevant to the restorative justice that T should have been offered in this case. It was also wrong for Officer A to have tried to explain the behaviour of one of the offenders' mothers in court, and for her to have shared details about this person's job with the C family. It is not the victim worker's role to provide unnecessary information about the offender.
126. In its response to Mr C's complaint, the Council said that it was insensitive for Officer A to have referred to cases where victims of shootings had met the offenders. The Council's statement is correct; using that example was insensitive and unnecessary.
127. Under the Victims' Code and the Ministry of Justice guidance on referral orders, T was entitled to have his parents present during those meetings. Officer A asked to speak to T alone, and that was wrong. It is, however, important to note that Officer A did give the family the opportunity to refuse that request, which they did.

128. Mr C says that when Officer A told T to *'ask your Dad'* about probation orders, she was inappropriately commenting on a probation order that he had received in the past. Mr C says that Officer A may have got that information from one of the offenders' mothers who may have known about that. Officer A denies making that comment. By their very nature, a meeting between a victim (and their family) and a victim worker, is a private matter. However, without being present at that discussion, it is not possible to know what Officer A said about probation orders. We cannot say with certainty whether Officer A referred to Mr C when mentioning a probation order, and even if she did, we cannot know whether Officer A had prior knowledge of Mr C's probation order or whether there was any deliberate intention to reveal this information about Mr C. That does not mean we are suggesting that either party is being dishonest in their account of this matter, only that in the absence of any independent evidence, we are not able to make a definitive finding about Officer A's conduct in this regard.

129. Similarly, without being present, it is not possible to say how far Officer A pursued an agenda to convince T to meet one of the offenders. However, it is clear from Officer A's statement that she attended the meeting with the C family with the intention of encouraging T to meet one of the offenders, and she also said that that offender was remorseful and that she thought it would be useful for T to meet him. At the second meeting, T said he was sure that he did not wish to meet the offender. For Officer A to have then urged T to meet the offender was insensitive, and it was not in line with the guidance. It also undermined her role as a victim worker.

130. Mr C also said that Officer A had tried to persuade T to meet the offenders when she gave him a lift into town. Again, without being present, it is not possible to know whether Officer A's conduct during the car journey with T was inappropriate. However, while Officer A may have offered T a lift into town in good faith, it was wrong to do so, especially given that the meeting at the family home had not gone well. T clearly felt vulnerable to further attempts to persuade him to meet the offender, and Officer A also left herself open to further allegations about her conduct.

131. Trafford YOT had a responsibility to fully explain restorative justice to T and to allow him to fully engage with that process. Given the failings we have identified, it is clear that that did not happen in this case. That is maladministration.

Trafford YOT's actions under the Victims' Code

132. Section 9.2 of the Victims' Code says that youth offender teams must invite the family to take part in restorative justice, but it does not set out **how** families should be invited to take part. Although we have found that Trafford YOT failed to involve the family in the referral order panel, Trafford YOT did comply with the Victims' Code because they did invite the family to take part in restorative justice.

133. Section 9.6 of the Victims' Code says that if they ask, the family must be given an update on the offender's progress with the referral order. In this case, Mr C asked for an update and he was given an update by the Council. In these instances, we find no breaches of the Victims' Code.

134. However, section 9.4 of the Victims' Code says that the involvement of victims in restorative justice must be voluntary and they must not be asked to do anything for the benefit of the offenders. Given that Officer A urged T to meet one of the offenders, it seems likely, on the balance of probabilities, that other forms of restorative justice were not emphasised as they should have been. It also seems that Officer A was asking T to do something, at least partly, for the benefit of the offender. That is a breach of the Victims' Code.

Mr C's complaint to Trafford YOT

135. When Mr C complained to Trafford YOT, the investigating officer sought Officer A's account of what happened. Although Mr C believes that Officer A lied in her statement, we do not make that finding. Officer A was given the opportunity to give her account of events, and she did that. In her statement of 3 March 2011 (paragraph 69), Officer A said she got information about the robbery from her research, and later (paragraph 102) said that that included a statement from the offender. In her statement to Trafford YOT (paragraph 104), Officer A said she had exaggerated the term 'research' and that the information had come from a statement from the offender. Although Officer A accepted that she had exaggerated the term 'research', we did not take this to mean that Officer A had lied in her statement. In both accounts (paragraphs 102 and 104), Officer A accepted that the information came from one of the offenders. On that basis, we do not find that Officer A lied in her earlier

statement, but it was inappropriate for her to have exaggerated. Although Officer A exaggerated how much research she did, we cannot say that Officer A did this in a deliberate attempt to mislead those investigating the complaint. Having said that, it was wrong for Officer A, in her initial statement, to say that T's family chased the offenders. That was not relevant to the case or to the complaint.

136. When Mr C spoke to the investigating officer, she asked to meet Mr C to discuss a resolution to his complaint. While Mr C is dissatisfied with that, the investigating officer's actions were correct. The aim of a complaints process should be to resolve a complaint, and it is clear that that is what the investigating officer was trying to do.

137. At that point, the relationship between Mr C and Trafford YOT had broken down. Mr C was dissatisfied with Trafford YOT's handling of his complaint and, in those circumstances, it was appropriate and pragmatic to escalate the matter, and to arrange for someone else (in this case, the Council) to provide a response. While Trafford YOT did not follow the complaints process outlined in the Victims' Code, we do not find that they breached the Victims' Code in this respect. Mr C's complaint was not just about Trafford YOT's duties under the Victims' Code, it also related to Trafford YOT's administrative actions and their actions when Officer A met T. That being so, it was correct to arrange for a comprehensive, joined-up response to be provided to Mr C, rather than one from Trafford YOT that only focused on the Victims' Code aspects of the complaint.

The Council's Stage 2 review

138. Once Trafford YOT had escalated the complaint to the Council, there was some initial confusion about which complaints process to follow. Three weeks after the complaint had been escalated to the Council, on 6 April 2011, the Council decided to consider Mr C's complaint under their disciplinary policy (to deal with issues related to Officer A's conduct) and then the corporate complaints policy. In the absence of a clear process for such a complaint, the Council's decision was not unreasonable.

139. As part of the Stage 2 review, the Council met the C family. At that meeting, the Council told the family that they had suspended their involvement in restorative justice until the complaint was resolved. That meant that the family received a worse service as a result of their complaint. During this investigation, Trafford YOT and the Council told us that T's involvement in restorative justice was never officially suspended. While that may have been the case, it is notable that both Trafford YOT and the Council acted as though it had been. T had no further involvement in restorative justice until after the Stage 3 review, and that was maladministration.

140. Linked to that, Trafford YOT failed to allocate a new victim worker to T. It was clear from Mr C's first complaint that the family's relationship with Officer A had broken down. At that stage, Trafford YOT should have fully considered whether it would be appropriate to allocate a new victim worker to T to allow him to fully participate in restorative justice.

141. The Council's Stage 2 investigation of Mr C's complaint was thorough, although it was somewhat constrained because the Council could not share details of any

disciplinary action taken against Officer A. However, even taking that constraint into account, the Council's explanations were brief and unhelpful, and they were not proportionate to the seriousness of the errors identified. The Council did not explain what information it had considered, nor how it had balanced that evidence to reach a decision on the complaint. At some points, the response to Mr C directly contradicted the findings of the investigation. That response was so poor that it amounts to maladministration.

The Council's Stage 3 review

142. Mr C was understandably dissatisfied with the Council's Stage 2 review but the Council failed to offer him a Stage 3 review as they should have done. That was a failure to act in accordance with the Council's complaints process. It was also around this stage that the Council replied to a letter from Mr C's solicitors. That response was inaccurate and defensive. The Council did not accept responsibility for any errors, despite the fact that the Council had previously apologised for those errors in the Stage 2 review. The response from the Council's solicitors undermined the apologies given to the C family in the Council's previous response. The Council's dealings with the C family at this stage were so poor as to amount to maladministration.

143. Having said that, once the Council agreed to carry out a Stage 3 review, the response was better. The Stage 3 review was comprehensive: the Council considered the relevant evidence and interviewed a significant number of individuals who had been involved with T's case, and Mr C's complaint. The Council also apologised for its errors, and reconsidered the issues that had not been upheld during the Stage 2 review.

Importantly, the Stage 3 review made a number of recommendations. Those recommendations included an apology to the family, an offer of mediation to allow T to participate in what was left of the restorative justice process, a note stating that Mr C refuted the allegations of racism, and recommendations in relation to the action plan that was developed to 'put things right'. Those recommendations were proportionate and properly reflected the findings of the Stage 3 review.

144. There was, however, a key element missing from the Stage 3 review, and that was an appreciation of the impact that Trafford YOT's and the Council's actions had had on T and the C family, particularly in relation to T's involvement in restorative justice. The referral orders had been made in early 2011 but T had no further involvement in restorative justice until September 2011 – a significant amount of time, given the relatively short period of the referral orders. Unfortunately, there was no way to give T any additional time to contribute to the referral orders; those time limits are imposed by the court. Given that the Council could not 'turn back the clock', an offer of financial remedy should have been made at that point. The Council failed to give that idea a full consideration, and failed to record why it decided not to offer compensation in this case. It meant that the remedy offered by the Council was not sufficient for the injustice that T and his family had suffered. That is maladministration.

What the family told us

145. T said that he did not feel supported by Officer A and he felt that she was giving him '*a hard time*'. He also said that the Council would not even admit it made a mistake when it addressed his complaint. Mr C said that through their handling of this case, Trafford YOT and the Council victimised T again. T said that because of his experience, he had questioned whether he did the right thing in reporting the offenders to the police. T said that he was very upset by the actions of Trafford YOT and the Council.

146. Mr C described how the family's involvement with these organisations had been harrowing and distressing and had caused the family countless sleepless nights. Mr C said that he found it difficult to answer T's questions about whether he had done the right thing, given the experience they had had, and that the family felt badly let down by these organisations. Mr C said that the family had also experienced guilt and frustration as a result of their experience.

Injustice

147. It is clear that the C family, and T in particular, have had a very difficult time. T was a victim twice: not only was T a victim of crime, but his distress, and the distress of his family, has been compounded by the maladministration they experienced on the part of Trafford YOT and the Council. We find the family's comments about their experience with Trafford YOT and the Council very persuasive. We can see how the family would have been deeply troubled by their experiences and how the poor handling of their complaint would have compounded matters considerably. We can also see how difficult it must have been for the family supporting T and reassuring him that he had done the right thing, given the poor experience and the poor outcomes they have had.

148. There are four key areas of injustice to the C family:

- stress and distress caused as a result of the family's contact with Officer A;
- a loss of opportunity for T to fully participate in restorative justice, because this was limited by the complaint and the length of time taken to resolve the complaint;
- stress, distress and frustration caused by poor complaint handling; and
- incomplete redress provided after the Stage 3 review.

149. In considering the injustice in this case, we need to bear in mind the work that the Council did during the complaints process.

150. The action plan was developed following the Stage 2 review, so it correctly reflected the faults identified at Stage 2. The action plan included changes to Officer A's working practices and changes to the working practices of Trafford YOT. The Stage 3 review improved on those actions. The Council offered an unreserved apology to the C family for its failures, and also offered mediation between T and the Council to try and incorporate his views into what was left of the referral orders. That was a sensible offer, and it did allow T some limited input into those referral orders. The Council recommended continued monitoring of the action plan, and there is evidence that the action plan was updated following the Stage 3 review and then monitored.

151. Having said that, in our view, there are some areas of injustice that have not yet been remedied. The Stage 3 review did not properly consider the impact of Trafford YOT's and the Council's actions on T's involvement in restorative justice. Had T been able to participate in restorative justice from the start, his views could have been incorporated into the original referral order contracts for both offenders. That would have allowed more time to arrange reparation activities in line with T's wishes. We know that, following mediation, T requested that the offenders carry out certain activities. Given the time that had elapsed, it was not possible to arrange those activities within the time constraints of the referral orders. Had Trafford YOT incorporated T's views from the beginning, there would have been sufficient time to arrange those activities.

152. While T did have a say in the activities carried out by the offenders, the offenders had already spent significant proportions of their reparation hours, and they were nearing completion of their referral orders. Those factors meant that T was denied the full involvement in restorative justice that he should have been entitled to. That is the most significant injustice in this case.

153. The Council and Trafford YOT should have offered T some level of financial compensation, to acknowledge the fact that they could not 'turn back the clock' and incorporate more of T's views into the referral order contracts. We cannot say that if the Council had offered compensation, that that would have satisfied the C family, but we can say that the Council missed an opportunity to 'put things right' for the C family sooner.

Recommendations

154. In order to resolve Mr and Mrs C and T's complaint, we recommend that:

- Within four weeks of the date of this report, a senior officer from the Council should write to Mr and Mrs C and T to apologise for the maladministration identified in this report, and for the breach of the Victims' Code identified in this report, and for the impact those failures had on the family.
- Within four weeks of the date of this report, Trafford YOT and the Council should between them pay Mr and Mrs C and T a sum of £2,500. The payment should be divided as follows:
 - £500 to Mr and Mrs C for avoidable distress, stress and frustration;
 - £250 to Mr and Mrs C for the time and trouble pursuing the complaint;
 - £750 to T for avoidable stress, distress and frustration; and
 - £1,000 to T in recognition of the lost opportunity to be fully involved with the restorative justice process.
- Within four weeks of the date of this report, the Council should provide Mr and Mrs C and T with an updated copy of the action plan, which demonstrates what actions have been undertaken as a result of their complaint.

Conclusion

155. In this report we have set out our investigation, findings, conclusions and decisions with regard to the actions of Trafford YOT. We have also set out our investigation, findings, conclusions and decisions with regard to Trafford YOT's and the Council's handling of Mr and Mrs C and T's complaint.
156. We hope that Mr and Mrs C and T will be able to see that their complaints have been thoroughly and impartially investigated and that our conclusions have been drawn from careful consideration of detailed evidence. We also hope that this report will draw what has been a long and complex complaints process to a satisfactory close.

Dame Julie Mellor, DBE
Parliamentary Ombudsman

Dr Jane Martin
Local Government Ombudsman for England

July 2013

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