

## The Highland Council

Education, Children and Adult Services Committee - 28 August 2014

Agenda Item	24
Report No	ECAS 41/14

Report by Depute Chief Executive/Director of Corporate Development and Director of Care and Learning

### Complaints Review Committee Outcome

#### Summary

The purpose of this report is to set out the findings and recommendations following a Complaints Review Committee held on 19th May 2014. The report also provides Members with an overview of the complaints process, and highlights to members the requirement for decisions of the Complaints Review Committee to be reported to the Education, Children and Adult Services Committee.

#### 1. Introduction

- 1.1 The right of Care and Learning service users and their carers or representatives to make a complaint relating to social work services is contained in Section 52 of the National Health Service and Community Care Act 1990 which inserted Section 5B into the Social Work (Scotland) Act 1968, requiring local authorities to establish procedures for considering complaints about the discharge of their social work functions. Directions for establishing such procedures are set out in the Social Work (Representations Procedure) (Scotland) Directions 1990.
- 1.2 The Social Work Directions outline a three stage process for complaints, where complainants can request that their complaint be reviewed by an independent panel should they remain unhappy with the outcome of the formal response to their complaint at stage 2 of the process. This independent panel is called a Complaints Review Committee and its membership consists of 2 lay members and a lay Chairperson.
- 1.3 The Complaints Review Committee formally reports its decisions to the Education, Children and Adult Services Committee of The Highland Council.

#### 2. Background

- 2.1 The original complaint in relation to the role and remit of the criminal justice service and the preparation of a court report was responded to by the Principal Officer, Criminal Justice Service. One element of the complaint was partially upheld in that it was accepted that the court report complained about did not reflect the complainant's views about being barred from a local pub. Otherwise the complaint was not upheld.
- 2.2 The complainant submitted a Stage 2 complaint which was investigated by the Principal Officer (Social Care), who had no previous involvement with the complainant or the criminal justice service. A formal Stage 2 response was provided to the complainant on 21<sup>st</sup> February 2014, partially upholding the same element of the complaint that had been partially upheld at stage 1. The complainant responded by writing to the then Director of Health and Social Care on 22<sup>nd</sup> February 2014.

2.3 The complainant wrote to the Chief Executive of Highland Council on 5<sup>th</sup> April 2014 requesting a Complaints Review Committee, listing his grounds as those detailed in his letter to the Director of Health and Social Care dated 22<sup>nd</sup> February 2014 and adding the additional grounds of:

- The inept manner in which his complaint had been handled to date.
- The fact that the themes of the original complaint continue to persist and remain unaddressed by those with a locus to do so.

### **3. The Complaints Review Committee**

3.1 The Committee spent some time establishing with the complainant the items of complaint that remained outstanding. The following issues were identified:

3.1.1 The complainant's account that his conviction for breach of the peace had arisen as a result of his retaliation to the harassment he believed that he was subject to within the community and his view that the reports submitted to the court did not properly convey these concerns.

3.1.2 That the court report did not properly reflect the complainant's mental health status in that it referred to a previous mental health diagnosis and did not, also refer to a letter the complainant had subsequently received refuting this.

3.1.3 That the court report did not mention previous findings by a Complaints Review Committee that there had been a deficiency in the amount of supervision offered to him while he had previously been on probation.

3.1.4. That the Head of Social Care had a conflict of interest in her involvement in the investigation of his complaint, when she had been involved in a prior Complaints Review Committee which had made some criticism of the criminal justice service.

3.1.5 The Committee heard from the complainant that he had an additional issue which concerned, in particular, the role of the Council in supporting and protecting vulnerable members of the community. He indicated that he had raised these issues with the criminal justice worker and with the Principal Officer (Social Care), so that they might follow up the incidents complained of and was concerned that they had failed to do so. The Committee took the view that these issues were not necessarily within its remit.

3.1.6 The Committee noted that the complainant had raised issues about a member of the community and that the criminal justice service had indicated to the Council's licensing section that he had raised the issue albeit no detail was provided. It was the Committee's view that it was not incumbent upon the criminal justice service to investigate these issues. The complainant accepted that other issues in relation to Pubwatch were outwith the remit of the Committee and required to be taken forward with the Police.

3.2 The Committee agreed to consider points 1 – 4 above.

3.3 **Complaint 1** - that the offence for which the complainant was prosecuted arose because of a deficit in local community policing. The complainant had provided numerous examples of this deficit to the criminal justice worker and was disappointed that this information was not included in the court report. The Committee noted that the only issue regarding the court report that had formed part of the Principal Officer's

investigation were the circumstances in which the complainant had been barred from a local pub and this complaint had been partially upheld. The Committee accepted that the letters of complaint did not refer to there being omissions within the report about his experience of community policing but, rather, the complainant sought to make more general complaints about community policing in Inverness. The Committee agreed that this was a matter for the Police and that given the complainant had not previously raised that the court report should have contained information about harassment there could be no criticism of the report in this respect. **This complaint was not upheld.**

3.4 **Complaint 2** - that the court report did not properly reflect the complainant's mental health status in that it referred to a diagnosis of a mental health disorder that had subsequently been withdrawn. The Committee was satisfied that the complainant's mental health had been referred to and it was recorded that the complainant was not currently on medication and had no ongoing health issues. The Committee agreed that all relevant information concerning the complainant's mental health was contained within the report. **This complaint was not upheld.**

3.5 **Complaint 3** - that the court report did not mention previous findings by a Complaints Review Committee that there had been a deficiency in the amount of supervision offered to him while he had previously been on probation and he believed that this deficiency should have been raised within the court report prepared by the criminal justice service. The complainant had attended the court and endeavoured to persuade the Sheriff that these findings were relevant, but had been unable to do so. The Committee agreed with the Head of Social Care that these criticisms were not relevant as the court was considering a new offence. **This complaint was not upheld.**

3.6 **Complaint 4** - In relation to the complainant's assertion that the involvement of the Head of Social Care was a conflict of interest due to her involvement in a previous complaint that had resulted in a Complaints Review Committee making some criticism of the criminal justice service; the Head of Social Care had appointed an investigating officer who had no prior involvement with the complainant, or with the criminal justice service and the response at stage 2 was based entirely on the findings of the investigating officer. The committee was concerned about the involvement of the Head of Social Care, but was satisfied that she had acted professionally at all times and the complainant had suffered no prejudice as a result of her involvement. **This complaint was not upheld.**

#### 4. **Conclusions**

4.1 The Committee stressed that on this occasion it was apparent that the complaints process had been followed at all times and that investigations had proceeded on a timeous basis. It was also noted that the complainant's main issue related to community policing and the complainant accepted this. The Committee was satisfied that there was no substance to any of the complaints raised and that the complainant had not suffered any prejudice in any of the services offered to him. The Committee was satisfied that the Criminal Justice Service had acted entirely properly and that the reports prepared were fit for purpose.

#### 5. **Committee Recommendations**

5.1 The Committee made no recommendations

## **6. Implications**

- 6.1 There are no resources, legal, equalities, risk, climate change/carbon clever, Gaelic or rural implications arising from this report.

## **7. Recommendations**

7.1 Members are asked to note:

- Note that the Complaints Review Committee met to consider this case, and the findings.
- Note that the Complaints Review Committee made no recommendations.

**Designation** Depute Chief Executive/Director of Corporate Development and Director of Care and Learning

**Date** 18 August 2014

**Author/Reference** Bill Alexander, Director of Care and Learning