

## The Highland Council

### Education, Children and Adult Services Committee 14 January 2015

Agenda Item	16i.
Report No	ECAS 14/15

#### Report by Director of Care and Learning and Depute Chief Executive

#### 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 7<sup>th</sup> October 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. Background

- 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. Introduction

- 2.1 The original complaint was received by Care and Learning Service on 25<sup>th</sup> May 2014. This letter set out the background and issues in relation to the circumstances leading up to an Child Protection Plan Meeting, held due to concerns about the care and welfare of the complainants' daughter, who has Type 1 Diabetes.
- 2.2 The family was unhappy that a Child Protection Plan Meeting was arranged without prior discussion with the family, and that the family were not supported to present their views to the meeting.

## 3. The investigation

- 3.1 The complaint was dealt with at stage 2 of the complaints process and an

investigating officer was appointed, who met with the family to discuss the points of their complaint.

3.2 Following this meeting, the points of complaint were identified as:

- 1 Inappropriate decision making around proceeding to a Child Protection Planning Meeting and failure to follow national and local guidance.
- 2 A lack of family involvement in undertaking the assessment for the Child's Plan and the failure to make a home visit or assessment, as detailed in guidance while making reference to assessment tools.
- 3 Lack of action to provide assistance to the mother and the child.
- 4 The actions of the paediatric diabetes team.
- 5 The outcome of the Core Group meeting held in respect of lack of funding and whether that request was escalated.

3.3 The investigating officer reviewed all previous correspondence and documentation relating to the case and spoke with relevant parties to enable her to complete a report to the Head of Service.

3.4 The Head of Service wrote to the complainants on 11<sup>th</sup> July 2014 setting out her findings, based on the investigation report. Points 1 and 2 were upheld and point 4 was partially upheld. Points 3 and 5 were not upheld.

#### **4. Request for Complaints Review Committee**

4.1 The complainant e-mailed the Head of Service on 13<sup>th</sup> July 2014 stating that she was unhappy with the outcome of her complaint and wished to progress to a Complaints Review Committee. The complainant clarified that she was unhappy that Police Scotland and a specialist Paediatric Diabetes Nurse, had not been interviewed as part of the investigation where this was a vital part of all the information provided to compile the report.

4.2 Following further correspondence, the Head of Service confirmed to the complainant on 11<sup>th</sup> August 2014 that her stage three complaint had been passed to committee services.

#### **5. The Complaints Review Committee**

5.1 The Complaints Review Committee noted that issues 1 and 2 had been upheld. Issue 4 had been partially upheld. The investigating officer had noted a breakdown in the relationship between the family and the Paediatric Diabetes team. The service had undertaken to facilitate further discussion with the Paediatric Diabetes team and intended to appoint an independent chair to take forward that process in order that communication issues could be improved. The Committee took the view that the actions of the Paediatric Diabetes team and, in particular, references made to the clinicians involved in that team were not matters that the Committee could properly consider on the basis that they were not social work complaints. It was not apparent to the Committee that the complainant had been made aware of the distinction between a social work complaint and a complaint that related entirely to the NHS and as such, while the Committee endorsed the integrated approach, its application to the complaints process had not been made entirely clear to the complainant. The Head of Service agreed that this complaint related to the NHS, although she maintained the commitment to set up the meeting referred to in order that action could be taken to improve communication between the family and the Paediatric Diabetes team, which it was

hoped would have a positive impact on the child. The Committee supported this approach.

- 5.2 The Committee agreed that there were two outstanding complaints which required to be considered:
- Complaint 3 - the lack of action to provide assistance to the mother and the child, and
  - Complaint 5 - the outcome of the Core Group meeting held in respect of lack of funding and whether that request was escalated.
- 5.3 In relation to complaint 3, the Committee heard from the complainant that she had asked for assistance from the Service since having her stroke and that no service had been provided to her. She indicated that on two occasions a support worker had visited, but these visits had not been successful in that she considered that both her children and her property were likely to be injured or damaged. She indicated that she was in receipt of self-directed support (SDS) payments for herself, but that the service was aware that these had not been used for herself, but to fund child minding services to assist her with the care of her children. She accepted that she had also used SDS payments to provide for a cleaner. She indicated that although she required a service from the Children and Families team she did not want different workers coming into her house on a daily basis and that she preferred to be able to access services from her regular child minder.
- 5.4 The complainant's position in this respect was accepted by the Committee, although it acknowledged that there was difficulty in providing the type of support the complainant wanted in her particular situation. The Committee therefore endorsed the use of SDS payments in this respect as it was clear that this would provide the kind of flexibility best suited to the complainant and her family. The family were in receipt of SDS payments for the child and additional payments had been made over the holiday period to help care for the 2 younger children. The Committee suggested that ongoing work to review the position concerning SDS payments be progressed as soon as possible.
- 5.5 There was little information provided to the Committee detailing the assistance offered to the complainant personally, other than that which she had provided. It was clear to the committee that the complainant did have cognitive difficulties which impacted on the care of her children and she was in need of support. It was not clear what support was being provided (other than SDS funded child care) and the Committee suggested that this be reviewed by the Adult Social Care team. The complainant had stated that she had a good relationship with her stroke nurse and latterly with the Children and Families social worker, but no reference was made to her relationship with the Adult Social Care Team.
- 5.6 There was not sufficient evidence provided in order to uphold this element of the complaint. The Committee was concerned that there might be a gap in the service provided to the complainant, but recognised that there were difficulties in providing such personalised services in the particular circumstances. **This complaint was not upheld.**
- 5.7 In relation to complaint number 5, no evidence was provided to the Committee about the outcome of the Core Group meeting held in respect of lack of funding and the complainant had made no comment about the amount of funding being made available to her, although it seemed apparent that she did require further

support, particularly since she and her husband had now separated. There was to be further dialogue to deal with ongoing support issues which would be reflected in increased SDS payments and this was endorsed by the Committee. **This complaint was not upheld.**

## **6. Conclusions**

6.1 The Committee was not in a position to uphold the complaints made, although they sympathised with the complainant's position. It was clear that there had been a breakdown in communication and trust between the parties and the Committee considered that the solution needed to extend beyond further dialogue and should include the provision of service which recognised the child's serious medical condition and that the complainant was a single carer with cognitive difficulties. The Committee did not comment on the points of complaint that had been upheld by the service, although the complainant made it clear that she expected an unreserved apology in respect of the failings that had already been acknowledged. The Head of Service indicated during the committee hearing that she did regret the distress which had been caused to the complainant. The complainant had however indicated that she required this in writing and the Committee would support this.

## **7. Committee Recommendations**

7.1 It should be made clear to a complainant at the outset what elements of a complaint could be dealt with through the CRC process.

## **8. Implications**

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

## **9. Recommendations**

9.1 Members are asked to :

- Note that the Complaints Review Committee met to consider this case, and the findings.
- Note the recommendations made by the Complaints Review Committee.

Designation

Director of Care and Learning

Depute Chief Executive/Director of Corporate Development

Date

24 December 2014

Author/Reference

Bill Alexander, Director of Care and Learning