

The Highland Council

Education, Children and Adult Services Committee 14 January 2015

Agenda Item	16ii.
Report No	ECAS 15/15

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 30th 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 Highland Council on 7th January 2014 in a letter addressed to Highland Council, NHS Highland, Police Scotland, Inverness Women's Aid, Citizen's Advice Scotland and SCRA. This set out a timeline of involvement with a range of services, which the letter described as 'gross negligence' and 'wilful misconduct' culminating in a situation in December 2013 when a Child Protection Order was sought to enable the complainant's daughter to be removed from her care following concerns about the complainant's mental health. The Child Protection Order was not enforced because the child's father assumed care of her, and she now resides with her father in another country.
- 2.2 The letter invited comments and indicated that further correspondence would follow. The District Manager for Inverness South wrote to the complainant to ascertain what her specific issues were with Highland Council, and with Health and Social Care in

particular.

- 2.3 Following a series of further correspondence between the District Manager and the complainant in attempts to establish the points of complaint, the Children's Services Manager (South) wrote to the complainant on 24th July 2014 setting out what she understood were the issues to be investigated and inviting the complainant to contact her if she wished to amend these. Six points of complaint were identified.

3. The investigation

- 3.1 The complaint was dealt with at stage 2 of the complaints process and investigated by the Children's Services Manager (South).
- 3.2 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.
- 3.3 The Head of Service wrote to the complainant on 26th August 2014 setting out her findings, based on the investigation report provided. The 6 points of complaint previously identified were considered, along with an additional complaint about the length of time taken to respond. Three complaints were upheld and one was partially upheld. An additional two queries were responded to.
- 3.4 The complainant contacted the Director of Care and Learning on 9th September 2014 stating that she was unhappy with the outcome of her complaint and wished to progress to a Complaints Review Committee.

4. The Complaints Review Committee

- 4.1 The Committee noted the issues that were upheld by the Service and agreed to consider the issues that were not upheld – complaint number 2, 4 b, c & d and complaint 5. The Committee also agreed to consider two additional issues regarding the duty of care owed to the complainant and the delay in dealing with the complaint.
- 4.2 **Complaint 2:** The complainant was assessed at New Craigs Hospital in April 2011 and social work services were contacted by a doctor stating that he had concerns in relation to her wellbeing. The complainant was then assessed by clinicians at New Craigs who did not consider that she required admission or that she was a risk to either herself or her children. The complainant was seeking an explanation as to what the difference was between this occasion and an incident in December 2013 when her daughter was removed from her care.
- 4.3 The complainant was of the view that failings by the service in 2011 contributed to the situation in 2013, which resulted in the removal of her daughter from her care. It was indicated on behalf of the Service that the situation was different in December 2013 because at that time there were significant concerns about the complainant's mental health as she was not engaging with mental health services. The Committee noted that there had been previous failings in the service offered to the complainant and her family and complaints in this respect had been upheld.
- 4.4 The Committee accepted that there had been failings in communication between services, although noted that these failings were not necessarily within Highland Council as the complainant was in receipt of services as an adult. It was apparent that concerns about the complainant's mental health were not passed to the child's

head teacher as her named person, and she therefore did not have all the relevant information. However, the Committee did not hear any evidence that would allow it to conclude that had information been shared, there would have been no need for a Child Protection Order, and they noted that in December 2013 the complainant was not engaging with services. **This complaint was not upheld.**

- 4.5 **Complaint 4b:** The complainant was unhappy that a children's service worker made the following record following an interview with her son: *"he recites the situation regarding the house clearly and believes that the house and everything in it is theirs and not [his grandfather's]."* She is of the impression that the member of staff did not believe that the house and its contents belonged to her and her sister. It was indicated on behalf of the service that the language used was properly recorded by the worker and reflected the exact words used by the child. The Committee accepted that in the circumstances the language used could be considered to give an impression which was not necessarily the case and were of the view that the language used in this recording was careless. The Committee was, however, satisfied that there had been no intention to mislead any person who might read the record. **This complaint was not upheld.**
- 4.6 **Complaint 4c:** The complainant stated that the social worker described her son as unhappy and that this conflicted with the view of the head teacher. The Committee found no evidence concerning this point and accordingly, made no findings.
- 4.7 **Complaint 4d:** The complainant was unhappy that an interpreter was not present as her son's English was not perfect. The complainant was of the view that her son should have been provided with an interpreter when he was interviewed by the head teacher and the social worker and referred to inter-agency guidelines which sets out that when a child's first language was not English a child should, whenever possible, be interviewed in their first language. The Service offered the view that this was not a formal investigation and had it been a formal investigation then an interpreter might have been considered. Both the social worker and head teacher had considered the child's English to be very good and that he showed very good understanding. The Committee took the view that it would have been good practice to ask the child if he required an interpreter as it was clear that at the time he attended the school his first language was not English. **This complaint was upheld.**
- 4.8 **Complaint number 5:** The complainant was of the view that the social worker had acted in favour of her father rather than in her favour when she had been the one who was inconvenienced rather than him. The Committee heard no evidence in this respect and was not necessarily persuaded that there was any relevance to any bias the social worker might have shown in favour of the complainant's father. **This complaint was not upheld.**
- 4.9 **Delay in the complaint being investigated.** The Committee considered that there had not been an unreasonable length of time for the complaint to be investigated given that there were difficulties liaising with the complainant as she was regularly out of the country and in hospital. However, the Committee did consider that the Service could have made more effort to ensure that the complainant was kept advised about the effect the delay had on the process so that she was aware that timescales were not being followed. The Committee also heard from the complainant that she was of the view that the delay was a tactic employed by the Service with a view to delaying and possibly prejudicing any other claims she might have through the court system or through the Ombudsman. The Committee heard no evidence to support this. **This complaint was not upheld.**

4.10 **Duty of Care:** The Committee was also asked to consider whether the Service owed a duty of care to the complainant as an adult. The view was taken by the Service that the complainant had not been assessed as an adult who required support from the Service. It was, however, apparent to the Committee that she might have been so assessed had information been shared with all services. It was the Committee's view that this underlined the absolute necessity for there to be information sharing at all levels so that services could be properly tailored to protect adults and children in the Highland area.

5. Conclusions

5.1 The Committee was concerned about the service provided to the complainant and her family. It was clear that there was a breakdown in communication between various agencies and, on occasion, it was apparent that information which was relevant to the welfare of the complainant's daughter was not shared by, in particular, mental health professionals responsible for the complainant's care. Whilst it was far from evident that this failing contributed to the situation which took place in December 2013, it was evident that in the period leading up to the Child Protection Order that the child's named person did not have all the information which might have been relevant to the child's care. The Committee heard from the Service that there had been improvement in information sharing following specific targeting of training towards mental health professionals. The Service also indicated that Child Protection Advisers were raising awareness in mental health settings and that further training was being offered to mental health professionals in the use of the Highland Practice Model. The Committee noted that passing on information was a matter of individual responsibility and welcomed and endorsed the training in place to ensure that information sharing was given the priority it merits. The Committee would endorse the use of any further training to ensure that the Highland Practice Model was followed to ensure that children in Highland are fully protected.

6. Committee Recommendations

6.1 Where a child does not speak English as a first language, the use of an interpreter should be considered, even if the conversation with the child does not constitute a formal interview. If the child is old enough, he or she should be asked if an interpreter would be helpful for them so that any meeting can be conducted in their first language.

6.2 The Committee recommends that there continues to be further training sessions which the Service referred to in order to promote the principle of information sharing.

7. Implications

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

8. Recommendations

8.1 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

5 January 2015

Author/Reference

Bill Alexander, Director of Care and Learning