

## The Highland Council

### Education, Children and Adult Services Committee 20 May 2015

Agenda Item	20.
Report No	ECAS 49/15

#### Complaints Review Committee Outcome

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

##### Summary

The purpose of this report is to set out the findings and recommendations following a Complaints Review Committee held on 11th March 2015. 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 telephone on 29<sup>th</sup> August 2014 and related to the complainants' dissatisfaction with the level of payment received for caring for a Looked After Child who was placed with them in August 2011 under a Kinship Care arrangement.
- 2.2 The complaint was allocated at Stage 1 to the District Manager, Mid, but was not progressed. Following a delay the complaint was reallocated to the Practice Lead, Children and Families, Caithness, who met with the complainant on 29<sup>th</sup> September 2014 and wrote to them on 2<sup>nd</sup> October 2014 advising that she did not uphold the complaint about payments as the complainants were receiving the appropriate level of payments for Kinship Carers plus additional allowances for activities. The Practice Lead advised that she would ask the child's social worker to explain to the complainants how to claim mileage expenses.

- 2.3 The stage 1 response further noted that the Area Children's Service Manager would discuss with the Fostering and Adoption team the possibility of the complainants being assessed as foster carers, which would enable them to receive a higher level of payment, although it was acknowledged that they had previously been discouraged from applying to be considered as foster carers.
- 2.4 The response noted the complainant's continued dissatisfaction regarding the delay in their complaint being dealt with and their requirement for confirmation from the Head of Service that this issue had been addressed with the originally allocated worker. It was also noted that the complainants wished their complaint to be escalated to Stage 2 with a view to them being offered an acceptable payment for their roles as long term carers for the child.
- 2.5 A letter was received on 13<sup>th</sup> October 2014 confirming the complainants' wish for their complaint to proceed to Stage 2 of the social work complaints process as they were dissatisfied with the outcome at stage 1.

### **3. The investigation**

- 3.1 An investigating officer was allocated, who met with the complainants to discuss the points of their stage 2 complaint and wrote to them on 13<sup>th</sup> November 2014 setting out her findings. The points of complaint and the outcomes were noted as:
- 3.1.1 **The kinship carer allowance does not cover the cost of looking after the child, given his difficult behaviour and the requirement for the complainants to take time of work to cover school holidays and periods of exclusion.** This complaint was **partially upheld** as it was noted that whilst the complainants had received the appropriate payment for Kinship Carers, they had waited over a year for the payments, which were then backdated.
- 3.1.2 **The complainants had enquired about becoming foster carers in May 2012, but were discouraged from pursuing this and the application therefore did not proceed.** This point was **partially upheld** and it was noted that the Area Children's Service Manager had contacted the Fostering and Adoption team with a view to the complainants being assessed as foster carers.
- 3.1.3 **The complainants had been raising issues for three years before they were advised of the social work complaints procedure, resulting in a delay.** This complaint was **upheld** and it was acknowledged that it is recorded that the complainants had repeatedly raised the issues that were now being addressed through the complaints process.
- 3.1.4 **The complainants raised a stage 1 complaint on 29<sup>th</sup> August 2014. This was passed to an investigating officer, who did not contact them. There was then a further delay while the complaint was reallocated.** This complaint was **upheld** as the complainants should have received a stage 1 response within five working days.
- 3.1.5 **The complainants had been informed that they were entitled to 45p per mile for taking the child to activities, but had only recently received this, backdated to August 2014. They believed that this payment should have been backdated to when the child was initially placed.** This complaint was **not upheld** as it was noted that there was no automatic right for Kinship Carers to

receive mileage payments, although this could be negotiated with the child's social worker. This issue had been discussed with the Area Children's Service Manager, who had agreed to consider backdating mileage payments to the date that these activities were included in the child's plan.

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

4.1 The complainants contacted the Head of Children's Services on 4<sup>th</sup> February 2015 stating that they were unhappy with the outcome of the stage 2 investigation and wished to progress to a Complaints Review Committee.

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

5.1 The Complaints Review Committee noted that two of the points of complaint were upheld. These were in relation to a lack of information given to the complainants about the complaints process in the three year period from the time the child was placed with them until August 2014; and in relation to a delay in progressing stage 1 of their complaint by the original allocated officer. The Committee noted that the complainants did not consider that they had received a satisfactory explanation of these issues, and agreed that it was not always satisfactory when a complaint is upheld that the complainant is not given the information they were seeking, however, these complaints would not be considered. Three points of complaint then remained partially upheld or not upheld:

5.2 The Complaints Review Committee upheld all three outstanding points of complaint as follows:

5.2.1 There was a lack of clarity about the initial placement arrangement of the child with the complainants and a dissatisfaction with the level of allowance paid to them.

5.2.2 The complainants were misinformed about the possibility of their applying to become foster carers as a result of which they considered they should be paid as foster carers on a back-dated basis.

5.2.3 The complainants queried the possibility of discretionary payments being back-dated to them for, in particular, transport to both school and activities.

#### **6. Conclusions**

6.1 The Committee considered that it was apparent that from the time the child was placed with the complainants communication had been poor and little information had been provided about their entitlements and responsibilities. The complainants were not aware of their right to request discretionary payments to pay for mileage, nor were they made aware of how the differences in payments for Kinship Carers and Foster Carers were paid until they requested that information. The complainants were then given information about the prospect of applying to be foster carers which was not accurate. This had contributed to their suffering a financial loss. The Service should consider how the complainants should be recompensed for this. The Head of Service had apologised to the complainants and had suggested that they progress an application to be approved as foster carers for the child in placement. The Committee supported this approach and endorsed the Head of Service's intention to review the process around the support of Kinship Carers.

## **7. Committee Recommendations**

- 7.1 The Committee made the following recommendations:
- 7.2 When a complaint is upheld by the service, whether at Stage 1 or Stage 2, consideration should be given to providing further information to the complainant to set out the reasons for upholding a particular complaint.
- 7.3 The service should ensure that information is given to carers at all stages and at the earliest opportunity to ensure that they are made aware of their rights and obligations. This should extend to information about eligibility for payments, both discretionary and mandatory.
- 7.4 The complaints process should be followed at all times. When it is clear that a service user has a complaint about a particular issue which is not resolved that person should be signposted to the relevant complaints process at an early stage.

## **8. Implications**

- 8.1 There are no resources, risk, equalities, legal, 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.

<b>Designation</b>	Depute Chief Executive Director of Care and Learning
<b>Date</b>	11 May 2015
<b>Author/Reference</b>	Bill Alexander, Director of Care and Learning