

The Highland Council

Education, Children and Adult Services Committee 27 August 2015

Agenda Item	31.
Report No	ECAS 77/15

Complaints Review Committee Outcome

Report by the Depute Chief Executive and the 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 29th June 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 complainants had applied to be foster carers for Highland Council and attended a fostering preparation course in May 2013, before submitting their formal application to be assessed. The complaint arose following the decision of the Adoption and Fostering service not to progress the complainants' application, due to a number of concerns that arose during the initial stages of assessment. This decision was communicated to the complainants in December 2013.
- 2.2 There was then an extended series of correspondence between the complainants and the service, where the complainants requested information regarding the reasons for the decision. The complainants met with the Manager (Adoption and Fostering) and the Area Children's Service Manager in May 2014, following which the Manager (Adoption and Fostering) wrote to the complainants on 5th August 2014 indicating that, given that the female applicant's previous employer would

not supply a reference and also because of further concerns which had been identified, the decision had been made not to proceed with the fostering assessment.

- 2.3 The complainants did not accept this decision and wrote to the Area Children's Services Manager indicating their wish to make a formal complaint. Following this, the Head of Children's Services sought to resolve the matter conclusively, but was unable to do so and provided a complaints leaflet in a letter of 5th December 2014.

3 The investigation

- 3.1 The complainants submitted their formal complaint on 8th December 2014. The District Manager for Sutherland was appointed as the investigating officer and met with the complainants on 29th December 2014 to establish the points of their complaint. The District Manager wrote to the complainants on 31st December setting out the points of complaint that he believed had been agreed. The complainants provided further written clarification on 8th January 2015, which was discussed and agreed with the District Manager, Sutherland and confirmed in writing on 16th January 2015.

- 3.2 Seven points of complaint were identified:

- 3.2.1 That Highland Council's IT recordings are inaccurate regarding an allegation dated 24/12/2010 and that any reference to either complainant in connection with this allegation should therefore be removed from the records.
- 3.2.2 That Highland Council did not receive any signed authorisation from the female complainant in relation to obtaining references and that Highland Council did still seek references without permission.
- 3.2.3 That at a meeting in December 2013 the complainants were told that Highland Council was not progressing with their assessment citing the female applicant's poor performance at training as the reason. This is believed to be in conflict with a description of them at the training recorded in a memo from the trainer to the clerk of the fostering panel dated October 2013.
- 3.2.4 That a letter received from the Manager, Adoption and Fostering in August 2014 cited "other concerns" as to why Highland Council were not proceeding with the assessment but that Highland Council have never explained what these other concerns were.
- 3.2.5 That Highland Council discriminated against the female applicant by not either offering or supplying a hearing aid system during the preparation days for being a foster carer.
- 3.2.6 That the Team Manager, Adoption and Fostering, Lochaber, alleged that the female applicant breached confidentiality in her previous role by discussing the care of a child whilst in that role with the male applicant.
- 3.2.7 That the letter Highland Council received from the female applicant's previous employer should be considered as a reference and that the subsequent information gained from the employer is inaccurate and should not have been considered in the assessment of the applicants.

- 3.3 The investigating officer reviewed all previous correspondence and documentation relating to the case and spoke with relevant parties to enable him to submit a report to the Head of Children's Services on 28th January 2015.
- 3.4 The Head of Children's Services wrote to the complainants on 12th February 2015 setting out her findings, based on the investigation report provided. Point 2 of the complaint was upheld and an apology offered for any distress and upset caused. Points 3 and 4 were partially upheld. Points 1, 5, 6 and 7 were not upheld.

4 Request for Complaints Review Committee.

- 4.1 The complainants replied to the Head of Children's Services on 21st February 2015 stating that they were unhappy with the outcome of their complaint and indicated their wish to progress to a Complaints Review Committee following receipt of further information in relation to point 4 of their complaint.

5 The Complaints Review Committee

- 5.1 The Complaints Review Committee noted the points of complaint and agreed to consider points 1, 3, 4, 5, 6 and 7, noting that point 2 had been upheld by the service.
- 5.2 Points 1, 4 and 7 were **not upheld**.
- 5.3 At point 3, the complainants contended that at a meeting in December 2013 they were told that the female complainant's poor performance at training was the reason why the Service had chosen not to continue with their assessment as foster carers. It was subsequently put to them that the Service had taken into account an alleged incident involving the female applicant in December 2010 and further concerns which had been raised within a reference. The complainants were dissatisfied that issues about the female complainant's performance at the preparation group had been brought up seven months after the event. The Committee considered that the Service's failure to advise the complainants of their concerns about presentation at the preparation group was not acceptable if the Service subsequently intended to rely on this seven months later. **This complaint was upheld.**
- 5.4 At Point 5, the complainants believed that the Service had discriminated against the female complainant by not supplying a hearing aid loop system during the preparation course. The complainant explained that she could not say, when asked in advance, if she would need a hearing loop because she did not know the venue or the number of participants. The Committee considered that it would have been wise for a hearing loop to have been both requested by the complainant and provided by the Service in any case and disregarded if proved unnecessary. The Committee agreed that the complainant was put at a disadvantage when, once on the course, she found that a hearing loop was necessary and the Service was unable to provide one. **This complaint was upheld in part.**
- 5.5 Regarding point 6, the Committee decided that insufficient evidence was available as there were conflicting accounts of the conversation and accordingly, **made no findings.**

6 Conclusions

- 6.1 The Committee noted that there had been a significant amount of correspondence and time taken in dealing with this complaint and considered that much of this work may not have been required had the Service been explicit from the outset about the reasons for the decision not to progress the complainants' application to be foster carers. The Committee noted that the Service recognised that this was an issue, and endorsed the comments made by the Head of Service in this regard.
- 6.2 The Committee was clear that Highland Council has duties to prospective foster carers in terms of legislation and guidance to ensure their needs are met in relation to disability. Whilst the Committee was not necessarily satisfied that there had been a failing in this regard, the Committee endorsed the training programme which the Manager (Adoption and Fostering) had indicated to be put in place to ensure that staff of the Adoption and Fostering service at all times have explored the full needs of prospective foster carers to ensure that they can properly participate in courses. The Committee approved of this training programme.

7 Committee Recommendations

- 7.1 In circumstances where the Service makes a decision not to proceed with an assessment of a candidate as a foster carer, the Service should be explicit and timeous in providing reasons to prospective foster carers about the failure to take forward their application. These reasons should be provided in writing and should be complete and unambiguous.

8. Implications

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

9. Recommendations

9.1 Committee is asked to :

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

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

Date 17 August 2015

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