

The Highland Council
Education, Children and Adult Services Committee
20 January 2016

Agenda Item	21.
Report No	ECAS 17/16

Complaints Review Committee Outcome

Report by the Depute Chief Executive/Director of Corporate Development 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 28 October 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 complainant is the mother of 2 children, who were accommodated by the Local Authority in 2013 following allegations of abuse and neglect. Planning for the children is now at the stage where permanent arrangements are being made and the children are currently in different placements. There have been difficulties, at times, in arranging contact between the siblings. The complainant has disagreed with the current planning for both children.
- 2.2 The complainant wrote to the Council on 9 September 2014 indicating that she wished to make an official complaint about the way the Council had handled the long term needs of her children. She was upset that her children would be separated from her and placed elsewhere. The Lead Officer met with the complainant on 18 November 2014 to clarify the issues of complaint and took the

view that the issues were sufficiently complex that they could not be considered within the stage 1 process and that the complaint should be escalated to stage 2. The Lead Officer wrote to the complainant on 20 November 2014 indicating that the only points of complaint that could be dealt with at stage one were in relation to the children being placed in separate foster placements and the issue of ongoing contact. She advised the complainant to address the other issues through the Child's Plan process and the Children's Hearing process.

2.3 A stage 2 complaint was then submitted and an investigating officer appointed. Due to staff absence, the case was reallocated in December 2014 and the new investigating officer met with the complainant on 25 February 2015 with a view to establishing the terms of the complaint. Some of the complaints raised related to decisions made by the Children's Hearing and, as such, could not be considered within the complaints process.

3. The Investigation

3.1 The investigating officer wrote to the complainant on 2 March 2015 setting out the terms of the complaint. This was followed by further letters on 11 March and 2 April 2015, but no response was received from the complainant. The investigating officer therefore eventually completed his investigation without written confirmation from the complainant of the details of the complaint, which is not the normal practice but it was determined that this would be preferable to refusing to take the complaint further in this case. The attempts to gain agreement to the basis of the complaint did however lead to significant delay.

3.2 The points of complaint were:

1. That the Child's Plan submitted to the Hearing in October 2014 had new allegations in it which were not discussed with the complainant.
2. That contact between the complainant and her son had not been arranged as per the conditions of his Compulsory Supervision Order.
3. That the complainant did not feel that she was assessed by the Care and Learning staff in respect of her parenting ability and capacity to protect her children before any decision was taken in respect of future planning for her children.
4. That the complainant had felt bullied at times by the children's social worker and by the fostering social worker in that:
 - In a meeting in July 2013 the social worker had asked the complainant's mother to leave the meeting then told the complainant that the children should have been removed much sooner than they were from her care. The complainant also felt that the social worker was "pushing" her to confess to the allegations of lack of care.
 - In a meeting in March 2014 the social worker was heard discussing the adoption plan for the complainant's son and had talked about him getting a "new mum and dad", which left her feeling very upset.
 - The fostering social worker spoke to the complainant in an angry manner and threatened to "dish the dirt if needed" in reference to concerns noted by Social Work concerning her care of the children.

3.3 The investigating officer reviewed all previous correspondence and documentation relating to the case and spoke with relevant parties and submitted his report to the Head of Children's Services on 15 May 2015.

3.4 The Head of Service wrote to the complainant on 21 May 2015 setting out her findings, based on the investigation report provided.

3.5 Point 2 was upheld. Points 1 and 3 were not upheld. There was insufficient evidence to make a finding on Point 4, due to the staff involved having left the Highland Council.

4. Request for Complaints Review Committee

4.1 The complainant contacted the Head of Children's Services on 12 June 2015 stating that she was unhappy with the outcome of her complaint and wished to progress to a Complaints Review Committee.

5. The Complaints Review Committee

5.1 The Committee noted that one point of complaint had been upheld, in that the Service had agreed that contact between the complainant and her son had not been arranged as per the conditions of his Supervision Order, although the service considered that there were valid reasons for contact being cancelled. The Committee therefore agreed to consider the remaining points of complaint.

5.2 That the Child's Plan submitted to the Hearing in October 2014 had new allegations in it that were not discussed with the complainant.

5.2.1 The Committee heard from the Service that there were no new allegations in the Child's Plan, although there were factual inaccuracies. The plan had been prepared by a new worker in a different format, and this may have led the complainant to believe that there were new allegations. The Committee considered that had the plan been discussed with the complainant, as partner to the plan, prior to submission to the Children's Hearing the factual inaccuracies might have been amended. The Service accepted that this would have been good practice, particularly given that the complainant had learning disabilities and might have required time to consider the document with her representative. **This complaint was partially upheld.**

5.3 That the complainant did not feel that she was assessed by the Care and Learning staff in respect of her parenting ability and capacity to protect her children before any decision was taken in respect of future planning for her children.

5.3.1 The Committee heard that a parenting assessment of the complainant had been carried out and information about this was included within the Child's Plan. The Committee accepted that the complainant did not feel that this had been carried out and the complaint related to her perception of what took place. Also, the complainant had not been given an opportunity to consider the Child's Plan documentation which included the parenting assessment and to therefore raise this point with the service in advance of the hearing in October 2014. **This complaint was partially upheld.**

5.4 **That the complainant had felt bullied at times by the children's social worker and by the fostering social worker.**

5.4.1 It is not the practice of the Service to interview people who are no longer in employment of Highland Council and, accordingly, it was necessary to look at records held to establish what had been said by members of staff at meetings. The complainant had indicated through her advocate that she had attended various meetings where comments had been made which had caused upset to her. There was confusion about who had been present at meetings when various statements were alleged to have been made. In relation to the comments by a social worker who was still employed by the service who had threatened to "dish the dirt", the investigating officer had not been able to establish whether this had indeed been said as he had not directly asked the worker what was said. The social worker denied using the phrase complained of.

5.4.2 The Committee stated it was disappointed that the investigating officer had not interviewed other professionals who had attended the meeting when this comment was alleged to have been made. The complainant had attended the meeting, along with a representative from Advocacy Highland. The Committee noted that it was difficult to establish what had been said when members of staff had left the Service and there were no proper records of who had attended meetings. However, this complaint related to the complainant's perception of having felt bullied by various workers. The Committee was unable to establish whether the complainant had actually been bullied by staff, but it was clear that she had felt bullied by conversations with workers. The Committee noted that the complainant had a learning disability and as such considered that efforts should have been made to ensure communication with her was appropriate. **This complaint was partially upheld.**

6. Conclusions

6.1 The Committee understood that the complainant had been upset by the permanency plans in place for her children. The complainant now accepted the plan for her daughter, but she still intended to oppose the plan for her son. It was clear to the Committee that any complaint made by the complainant should be seen in this context. The complainant has a learning disability and it is therefore important that extra efforts are made to ensure that communication with her is effective and appropriate. The Committee noted that communication with the complainant had been much improved since the allocation of a new social worker for the children. The Committee endorsed this approach.

6.2 The Committee considered that failings in communication had contributed to the breakdown of the relationship between the complainant and the service. The complainant had felt that she had not always been listened to by the service and she had not always been in a position to contribute to the plans in place for her children. As a partner to the plan it is imperative that her views are included. Efforts should be made to communicate with her and the Committee noted that such efforts were now being made.

6.3 The Committee noted that there were issues in this case about record keeping by the service. Accurate and complete records should be kept and these would support planning for the children and also assist in dealing with disputes when they arise.

7. Committee Recommendations

7.1 The Committee recommended that guidelines in place for record keeping should be adhered to at all times to ensure that accurate and full records are kept of all meetings held in relation to case management.

8. Implications

8.1 There are no direct Resources, Legal, Risk, Equalities, Climate Change/Carbon Clever, Rural or Gaelic 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 recommendation made by the Complaints Review Committee.

Designation	Depute Chief Executive/Director of Corporate Development Director of Care and Learning
Date	7 January 2016
Author/Reference	Bill Alexander, Director of Care and Learning