

## The Highland Council

### Education, Children and Adult Services Committee 17 March 2016

Agenda Item	16.
Report No	ECAS 29/16

#### 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 18 January 2016. 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 welfare guardian of a young person with complex needs who is approaching adulthood and will require lifelong support. The complainant has provided specialist foster care to the young person since 2005, in combination with residential care and education. The young person's home address is with the carer in another local authority area. The complaint relates to the arrangements for meeting the needs of the young person whilst in transition from Children's Services to Adult Services. Adult Social Care services (NHS Highland) are working with all parties to co-ordinate and progress a plan for the young person's care as an adult, based on full time residence in his own accommodation in the grounds of the complainant's residence.
- 2.2 The complainant raised a number of concerns about the planning process for

the young person and engagement with her as the young person's welfare guardian.

2.3 As the complaint was thought to cover both children's and adult services it was agreed with adult services that the investigating officer would be appointed by Highland Council Care and Learning Service. The investigating officer maintained dialogue with adult services, who are the lead agency for the case. The main focus of the complaint emerged as the planning since adult services took the lead.

2.4 A number of agencies needed to reach agreement in order to take forward the planning for the young person: Highland Council, NHS Highland, the receiving Council, the complainant and the support agencies who would be required to provide appropriate care.

### **3. The investigation**

3.1 The complaint, which was received on 7 September 2015, was dealt with at stage 2 of the complaints process at the client's request. An investigating officer was appointed, who reviewed all correspondence and documentation relating to the case and liaised with relevant parties, including NHS Highland, to enable her to complete a report to the Head of Children's Services.

3.2 The Head of Children's Services replied to the complainant on 9 November 2015 setting out her findings, based on the investigation report provided. Of the five points of complaint identified, three points were upheld. These were in relation to the delay in progressing transition plans for the young person; the appropriate resources to be provided for the young person in respect of his educational needs and the rights of the complainant as welfare guardian for the young person. Of the two remaining points, one was partially upheld and one was not upheld.

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

4.1 The complainant contacted the Head of Children's Services on 24 November 2015 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 remained unhappy because issues for the young person were still not resolved.

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

5.1 The Committee noted that 3 of the 5 points of complaint were upheld and did not consider these.

5.2 The two points of complaint which remained outstanding were considered by the Complaints Review Committee, are set out in paragraphs 5.3 and 5.4 below.

5.3 **The young person needed to be removed urgently from the placement as it was inappropriate to his needs. The complainant observed the young person to have become institutionalised by the systems and environment where he is placed. He consistently asked to come home every weekend and found it increasingly difficult to return to the placement. He wanted to**

**come home and increasing upset was caused to him by being prevented from doing this by Highland Council/NHS Highland. Extension to his placement would increase the significant challenges for him when he returned home. Inexcusable impediments were placed in the way of his release from the placement. There was no reason to prevent his release and this breached his rights.**

- 5.3.1 The complainant had raised concerns over the years about the young person's current placement. These related to the locked door policy, which she believed represented a deprivation of his liberty, and also to the education that was provided to him by a primary school teacher. She indicated that the young person was very upset at school on a regular basis and regularly asked when he might be permitted to leave.
- 5.3.2 The Service had not considered the placement to be a deprivation of the young person's liberty and their interpretation of the complaint related to whether there had been 'inexcusable impediments' to moving the young person on from the placement. The service considered that any delays were not deliberate and had arisen as a result of complications in making plans between the various agencies involved with the young person's future care. Whilst the young person was the responsibility of Highland Council as a child, this was likely to change as a result of the placement in the receiving authority and that Council would ultimately become responsible for his care.
- 5.3.3 There was difficulty because of the notice periods required by both the school and the organisation that would be providing ongoing support in the community. The receiving authority had indicated that they would not take on responsibility for the young person, and could not commit to funding his future care until a care package was in place. Highland Council, through NHS Highland had indicated that they required the receiving authority's consent to the package and support prior to arranging it. A single shared assessment had been prepared but there was discrepancy between the Service and the service providers about the specific care needs of the young person. A significant number of agencies were involved in the package of care to be provided. This had been further complicated recently when the complainant had suggested a transitional placement at an establishment in another local authority area to support him to make the transition from school to home. This appeared to have added to the delays in planning.
- 5.3.4 There had been no single meeting between the various agencies involved and those to be involved in the future. The Committee considered that there had been inexcusable delays in progressing matters for the young person. **This complaint was upheld.**
- 5.4 **Highland Council continued to pay a high fee to the current placement with no flexibility to transfer those financial resources to a more effective plan/package. Given the substantial cost of 2 to 1 care from the 3<sup>rd</sup> sector service provider, weekly boarding with the complainant's proposed alternative could be considered to be cost effective.**
- 5.4.1 The Service continued to pay for the young person's placement, albeit that funding had been agreed for support to be provided in a lodge at the complainant's residence. This had not been progressed due to problems in

identifying the support required and the problem of putting this into place without first agreeing the package with the receiving authority.

- 5.4.2 A package had been agreed, although it did not reflect the complainant's most recent stated wish that there should be a transitional placement at another establishment. The Committee did not hear any evidence about whether the cost of such a package would exceed the cost of the current package. The Committee understood that service provision for a particular user was not entirely dependent on costs, but must also properly meet the service user's assessed needs. The Service had taken the view that a transitional arrangement might not suit the young person due to the need to move him twice. There had also been issues around whether the proposed transitional placement could properly meet the young person's needs.
- 5.4.3 The Committee considered that the funding panel had not fully explored funding such a package, although the complainant clearly believed it was appropriate. The Committee were not in a position to uphold this complaint, but considered that the complainant required to discuss this option further with the current service providers for the young person, namely NHS Highland. **This complaint was partially upheld.**

## 6. Conclusions

- 6.1 The Committee sympathised with the complainant's position. She was the young person's welfare guardian and there were times when she had felt disenfranchised and not in a position to advocate in the young person's best interests. The Committee accepted that the complainant wanted the young person moved from his current placement as a matter of urgency. Funding had been confirmed to move the young person away from the placement but there had been difficulties in arranging a support package with providers and also ensuring that the receiving authority would agree to such a package once they assumed responsibility for the young person's care. The Committee was not in a position to require the Service to agree the timing of a package being put in place for the young person, but agreed that the package of care had been outstanding for too long. The Committee did not hear from Adult Services. Although the Head of Children's Services had sought to ensure their attendance, the relevant team manager was not available. The Committee suggested that in circumstances such as these, the Service should ensure that all relevant professionals were in attendance.
- 6.2 The Committee considered that there was also some confusion on the part of the complainant about what complaints the Committee would be able to consider. It should be made clear at the outset which complaints are being investigated and how the complaints process works so that a complainant is clear which complaints the Committee would be able to consider. The Committee also noted that the complainant had questions about those parts of her complaint that had been upheld. The Committee considered that it was essential, when a complaint is upheld, that the complainant is informed of what action, if any, would be taken as a result of the complaint being upheld.

## **7. Committee Recommendations**

7.1. The Committee made the following recommendations:

7.1.1 In the event that complaints are upheld by the service at the second stage, it is important that the complainant is advised what action will be taken in recognition that such a complaint is upheld.

7.1.2 When a service user makes a complaint to the Service it is recommended that the Service ensures that the complainant is aware of how a complaint will be dealt with. For example, it is recommended that the Service provide to a complainant at all stages details of not only the future timetabling of the complaint, but how the complaint will be dealt with at each stage.

## **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.

<b>Designation</b>	Depute Chief Executive/Director of Corporate Development Director of Care and Learning
<b>Date</b>	3 March 2016
<b>Author/Reference</b>	Bill Alexander, Director of Care and Learning