

Agenda Item	22.
Report No	PEO 23/17

HIGHLAND COUNCIL

Committee: People Committee

Date: 23 August 2017

Report Title: Complaints Review Committee

Report By: Depute Chief Executive/Director of Corporate Development and Director of Care and Learning

1. Purpose/Executive Summary

- 1.1 The purpose of this report is to set out the findings and recommendations following a Complaints Review Committee held In December 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.

2. Recommendations

- 2.1 Members are asked to:
- i. Note that the Complaints Review Committee met to consider this case, and the findings.
 - ii. Note there are no recommendations made by the Complaints Review Committee.

3. Background

- 3.1 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.
- 3.2 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.
- 3.3 The Complaints Review Committee formally reports its decisions to the People Committee of The Highland Council.
- 3.4 Social Work Services provided by NHS Highland under the Partnership Agreement continue to be subject to the Social Work Directions. The Complaints Review Committee is competent to consider complaints raised under the Social Work Directions, regardless of the lead agency involved in providing those services.
- 3.5 Members should note that Social Work Complaints have been brought in line with other processes, with effect to new complaints from April of this year. Hence, the work of the Complaints Review Committee will cease once all live complaints are concluded.

4. Introduction

- 4.1 The complaint relates to changes in the process for reviewing and updating the Child's Plan for the complainant's son, following a change in care which included accommodating the child for a number of days during the week. Prior to this change Child's Plan meetings had been chaired by the Lead Professional. Following the change in care arrangements the meetings were chaired by a Quality Assurance and Reviewing Officer (QARO) who has an independent role in the process. This role is laid out in legislation, the Looked After Children (Scotland) Regulation 2009.
- 4.2 Following the initial meeting chaired by the QARO, the complainant questioned the lack of a formal minute of the meeting and the role of the QARO. An email exchange between the QARO and the complainant ensued. Subsequently the complainant took issue with the Service's failure to treat this correspondence as a complaint.
- 4.3 A copy of the Complaints Procedure was sent to the complainant on 2 September 2016.

5. The Investigation

- 5.1 An Investigating Officer was appointed with a formal response being provided on 3 October 2016. Eight points of complaint were raised by the complainant. The complaints related to the changes in the running of Child's Plan meetings, including the role of the QARO, and the actions of officers following the complainants contact after the first meeting under the new arrangements.

5.2 Of the eight points of complaint, two were upheld at Stage 2 of the complaints process, with a further two points being partially upheld. The remaining four points were not upheld. The complainant was offered the opportunity to refer to the Complaints Review Committee if they were not satisfied with the outcome.

6. Request for Complaints Review Committee

6.1 The complainant requested the complaint be progressed to a Complaints Review Committee on 12 October 2016.

7. The Complaints Review Committee

7.1 The Complaints Review Committee considered the six points of complaint not upheld or partially upheld by the Service. These complaints were:

- The complainant questioned the value of having a QARO chair the Child's Plan Meeting, failing to accept that they are independent and refusing to accept the QARO in future meetings
- Failure by the Service to provide a minute of the Child's Plan meeting despite requesting one.
- Failure by the Service to respond to an email questioning the value of having a QARO chair the meetings
- Failure by the Service to respond to an email seeking clarification of the QAROs roles, responsibility and accountability.
- Failure by the Service to acknowledge that the complainant was making a complaint when responding to the concerns raised
- Failure by an officer of the Service to cease email contact causing stress, duress and upset.

7.2 Regarding the first complaint, the Committee heard that role of the QARO in chairing Child's Plan meetings was outlined in legislation and Highland Council procedures. These regulations are applied consistently across the area and whilst it is possible to make an exception, there was nothing exceptional in the case that would indicate a QARO should not chair the Child's Plan meetings. On this basis, the Committee concluded that this complaint was **not upheld**.

7.3 Regarding the second complaint, the complainant had expected and subsequently asked for a minute of the initial meeting chaired by the QARO. The Committee heard that it was the lead professional's responsibility following the meeting to update the Child's Plan with any actions and information. In this manner, the Child's Plan is a living document and records the reviews undertaken. This is clearly laid out in Council procedures and had been explained to the complainant. On this basis, the Committee concluded that this complaint was **not upheld**.

7.4 Regarding the third complaint, the complainant questioned the value of the QARO in the process and had not received a response. The Committee heard that the Service had explained to the complainant that the QARO can provide a different perspective on how a case was being managed. The complainant, however, did not accept this view and suggested they could chair such a meeting themselves. The Committee agreed that there was value in there being an independent chair and in any case this was required by regulation. On this basis the Committee concluded that this complaint was **not upheld**.

- 7.5 Regarding the fourth complaint, the Committee heard from the Service that although explanations had been given they were initially perhaps not detailed enough and in addition they were not provided timeously. The complaint was **partially upheld** by the Service and the Committee made no further comment.
- 7.6 Regarding the fifth complaint, this complaint had already been partially upheld by the Service, as set out above. The complaint was **partially upheld** by the Service and the Committee made no further comment.
- 7.7 Regarding the sixth complaint, the Service explained that on the basis the complainant had indicated that they had been caused stress, duress and anxiety as a result of the issues raised, that that in itself was sufficient to consider that a bullying and harassment complaint should be partially upheld. The Committee, however, disagreed with the service view and argued that the language used by the complainant had been strong, forceful, personal and at times quite inappropriate. The responses to the complaint, when considered objectively, could not in any way be considered bullying or harassment. No evidence was provided that the Service had responded after being requested not to do so. **Accordingly, the Committee would not have upheld any part of the complaint, although it noted an apology had been offered.**

8. Committee Conclusion and Recommendations

- 8.1 The Committee made no recommendations. It noted that the complainant does not agree with the approach taken by the service in the management of the Child's Plan review meetings. The Service is, however, bound by the regulations in place. The complainants agreement or otherwise with the content of the regulations is not a matter to which the Service can have regard.
- 8.2 The Committee also noted that the officers involved exercised restraint in responding to him and that at all times their language was measured and appropriate.

9. Implications

- 9.1 There are no **Resource, Legal, Community, Climate Change/Carbon Clever, Risk** or **Gaelic** implications arising from this report.

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

Date 11 August 2017

Author Kevin Colclough