

Agenda Item	24.
Report No	PEO 25/17

## 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 June 2017. 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 People 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 alleged comments by a social worker to the complainant who had recently assumed responsibility for caring for their grandchild who had been removed from the care of their parents under a Child Protection Order.
- 4.2 The Complainant is employed by the Highland Council and works in the same building as the Social Work Team responsible for the care and support of their grandchild. The child's case was open to the Social Work Team and it is as a result of their intervention that the events complained of took place.
- 4.3 The complainant raised concerns regarding alleged comments made by the social worker in relation to the case, and in particular that a conversation about the case had taken place with the complainant in an open plan office.
- 4.4 The complaint was initially raised through the social worker, whose manager subsequently met with the complainant and issued a written apology about the conversation having taken place in an open plan office.
- 4.5 It was clear that the complainant wished to take matters further and a copy of the Complaints Procedure was sent to the complainant which was returned on 4 November 2016.

## 5. The Investigation

- 5.1 An Investigating Officer was appointed with a formal response being provided on 10 January 2017. Two points of complaint were identified.
- 5.2 Of the two points of complaint, one was upheld with the second point not being upheld.
- 5.3 The complaint was offered the opportunity to refer to the Complaints Review Committee if they were not satisfied with the outcome. The complainant made a referral to the Complaints Review Committee.
- 5.4 The Complaints Review Committee were initially concerned that a thorough investigation had not been carried out at Stage 2 of the complaints process. The Committee was adjourned to allow the Service to prepare further reports.
- 5.5 Following the adjournment, the Committee and the Service, along with the complainant, agreed that any complaints concerning a related complaint submitted by one of the child's parents would not be considered by this committee.

## 6. The Complaints Review Committee

- 6.1 The Complaints Review Committee considered there were two points of complaint. These complaints were:
  - Alleged breaches of conduct in practice by the Social Worker
  - Process and procedure which had been handled in relation to the complaint.
- 6.2 Regarding the first complaint, the Committee heard that the conversation in question had taken place in a large open plan office where at least one other person was present. The Committee were in no doubt that this should not have happened but noted this complaint had been upheld by the Service.
- 6.3 The remaining concern is in relation to what the complainant describes as the Social Worker's breach of conduct and practice in connection with the language that was allegedly used in discussion with the complainant. In the absence of any corroborating evidence, particularly contemporaneous records by the social worker, the Committee was unable to reach a conclusion as to what was actually said during the conversation. On this basis the Committee makes no finding in this element of the complaint.
- 6.4 Regarding the second complaint, the service accepted failings in dealing with the Stage 2 process of the complaint and the Committee made no further comment. The Committee was, however, disappointed at the way in which stage 1 of the complaints process was handled. In particular the influence the manager sought to place on the complainant and the lack of any records kept of the initial visit regarding the complaint. On this basis the Committee **concluded that this complaint was upheld.**

## 7. Committee Conclusion and Recommendations

- 7.1 The Committee noted that this was a complex complaint, where the complaints had not been properly articulated or investigated at Stage 2 of the process. This led to significant issues in the proper hearing of the complaint.
- 7.2 The Committee also noted it is inevitably difficult in cases where two differing versions of the same conversation are relayed. Without corroboration it is impossible to say which version should be preferred. It was the Committee's view that these situations

emphasise the need for contemporaneous notes to be kept insofar as possible.

## **8. Implications**

8.1 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