

Agenda Item	16.
Report No	CLH 13/19

HIGHLAND COUNCIL

Committee: Care, Learning and Housing

Date: 24 January 2019

Report Title: **Complaints Review Committee Outcome**

Report By: Depute Chief Executive and Director of Corporate Resources,
and Interim 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 November 2018. 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 Care, Learning and Housing Committee. Note that this requirement only applies to cases investigated prior to April 2018 due to subsequent regulatory changes.

2. Recommendations

2.1 Members are asked to:

- i. Note that the Complaints Review Committee met to consider the 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 until April 2018 outlined 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 two lay members and a lay Chairperson. The new arrangement is that stage 3 of the complaint process is referral to the Ombudsman by the complainant if they remain dissatisfied, therefore there are unlikely to be any further Complaint Review Committees in future.

4. Introduction

- 4.1 The background of this complaint relates to the planning for the care of the complainant's grandson, child X. At the time child X was removed from his mother's care in July 15 and the complainants requested to be assessed as Kinship Carers for child X. The complainants are the maternal grandparents of child X and requested to be assessed as Kinship Carers and the assessment found they were not suitable to be approved as Kinship Carers. Assessments are carried out by the Service and are subsequently considered by the Council's Kinship Panel which agreed with the outcome of the assessment and did not consider the complainants as suitable and did not approve them as Kinship Carers. This recommendation was upheld by the Council's decision maker and as such the complainants were not approved as Kinship Carers by the Highland Council.
- 4.2 The complainants were entitled to appeal this decision and did so and the appeal was heard by the Council's Director of Care and Learning on 20 September 2016. That appeal upheld the decision made by the Kinship Panel and, as such, the complainants were not approved as Kinship Carers for the care of their grandson.
- 4.3 This decision was subsequently challenged by the complainants by way of the judicial review process. That process was determined on 31 October 2017 and the complainants' petition for judicial review was refused.
- 4.4 Child X is cared for by his biological father who has parental rights and responsibilities in respect of child X. His father also has a residence order requiring child X to live with him and remains subject to a Compulsory Supervision Order. It should also be noted that there is a condition that child X should not have any contact with his maternal grandparents.

5. Investigation

- 5.1 A report was prepared by the Area Children's Service Manager and she considered five points of complaint. Three points were not upheld and a response was sent to the complainants by the Head of Service on the 30 May 2017. The complainants were dissatisfied with the outcome of the complaint and the complainants' solicitor issued an

appeal on the 27 June 2017.

- 5.2 The Complaints Review Committee considered the request to appeal the response of the complaint and as such arrangements were put in place for that hearing to take place.
- 5.3 It became clear that court proceedings had been issued in the Court of Session in that judicial review proceedings had been raised, therefore the Complaints Review Process was put in hold until such time as those proceedings had been completed.
- 5.4 It is understood that the outcome of the judicial review was issued by way of a decision on the 31 October 2017 but that decision was appealed by the complainants. That appeal, which was considered by the Court of Session by way of a reclaiming motion, did not alter the decision made by the Service and it was only once those proceedings had been terminated that the Complaints Review Committee were in a position to hear the complaint.
- 5.5 The Committee were informed that the complainants had instructed solicitors to deal with the Complaints Review Committee and a date was set for the hearing of the complaint.
- 5.6 It should be noted that the complainants did not appear nor were they represented. The complainants did not produce a report for the Committee.

6. The Complaints Review Committee

- 6.1 The Complaints Review Committee considered three outstanding complaints which required to be considered regarding the information considered during assessment of the complainants as Kinship Carers. Some of this information related to the assessment and some of the information was provided by child X's mother regarding concerns she had about her mother. The complainants disagreed with the information and considered it to be inaccurate. There was also a delay in the complainants timeously informing services child X was at risk of neglect and harm resulting in him being harmed. The complainants did not believe that Child Plan decisions were based on the child's best interests.
- 6.2 The Complaints Review Committee did not uphold any of the three complaints and were satisfied from the information provided to them that concerns relating to risk of neglect and harm of child X should have been reported by the complainants at a much earlier stage. They also considered the information shared by the complainants daughter was rightly investigated by the Service and relating to the complainants and could find no information to support the complainants view it had been concocted. The Committee accepted that the complainants should not be approved to provide safe care for child X and in their grandsons' best interests.

7. Committee Conclusion and Recommendations

- 7.1 The Committee made no recommendations and said it was apparent the Service have at all times acted in child X's best interests and his welfare has been their paramount consideration. It appears to the Committee that the actions by the Social Work Service were, at all times, exemplary and were focused on a child's needs which is entirely proper and consistent with their statutory duties.

8. Implications

8.1 There are no **Resource, Legal, Community (Equality, Poverty and Rural), Climate Change/Carbon Clever, Risk** or **Gaelic** implications arising from this report.

Designation: Depute Chief Executive and Director of Corporate Resources, and
Interim Director of Care and Learning

Date: 31 December 2018

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