

CHILDREN AND EDUCATION SCRUTINY COMMITTEE	AGENDA ITEM No. 9
18 JULY 2019	PUBLIC REPORT

Report of:	Director of Children's Services and Safeguarding	
Cabinet Member(s) responsible:	Cabinet Member for Children's Services and Education, Skills and University	
Contact Officer(s):	Belinda Evans, Customer Services Manager	Tel. 01733 296324

ANNUAL CHILDREN'S SOCIAL CARE STATUTORY COMPLAINTS REPORT 2018-19

R E C O M M E N D A T I O N S	
FROM: Customer Services Manager	Deadline date: N/A
It is recommended that the Children and Education Scrutiny Committee consider the report and make recommendations for further scrutiny if deemed appropriate	

1. ORIGIN OF REPORT

1.1 This report has been requested as a recurring annual item for scrutiny.

2. PURPOSE AND REASON FOR REPORT

2.1 This report is brought to this committee on an annual basis to allow the Committee to scrutinise complaints received under the Children's (Social Care) Services statutory complaints process.

2.2 This report is for the Children and Education Scrutiny Committee to consider under its Terms of Reference Part 3, Section 4 - Overview and Scrutiny Functions, paragraph No. 2.1 Functions determined by Council :

Children's Services including

- a) Social Care of Children;
- b) Safeguarding; and
- c) Children's Health.

2.3 This report links to Corporate Priority: Safeguard Vulnerable Children and Adults

2.4 The Children in Care Pledge includes a promise to give children in care information on how to make a complaint or to give a compliment. This report provides evidence that children in care are being given the required information as complaints are being received from children in care and are being satisfactorily resolved.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	N/A
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4. BACKGROUND AND KEY ISSUES

Background

- 4.1 The statutory complaints process covered by this report applies to complaints presented by or on behalf of 'children in need' or 'looked after' (meaning in the council's care) as defined by the Children Act 1989. Effectively this means those children in receipt of social care services.
- 4.2 This complaints process aims to provide additional safeguards for children and young people and to empower them to express their views about the services they receive. A young person may make a complaint directly or an adult (parent, carer, relative or advocate) may act on their behalf. This council provides an independent advocacy service, as required by law, and therefore a number of children are supported through that service.
- 4.3 Only eligible people can use this complaints process, eligibility under the regulations is stated as follows

WHO CAN COMPLAIN

- any child 'in need' and/or 'looked after' by the local authority
- their parent, or anyone with parental responsibility for such a child
- a foster carer (whether approved by this authority or another or via an independent fostering agency)
- a child leaving care
- a Special Guardian or child (or their parent) who is subject to such an order
- any person applying for a Special Guardian support service s14F(3) or (4)[1] or to adopt a child
- any child who may be adopted or their parent or guardian
- any person covered by adoption services
- people previously adopted, their parents, natural parents or former guardians
- anyone the local authority accepts has a 'sufficient interest' in a child's welfare

However this right is not automatic and the complaint must meet other criteria, including being in the best interests of the child, and if the child has capacity with their consent.

- 4.4 There are three stages to the statutory complaints process:
- Stage 1, requiring a response within 10 working days and a maximum of 20 if a delay is unavoidable
 - Stage 2, requiring independent investigation within 25 working days and a maximum of 65 in exceptional circumstances
 - Stage 3, requiring presentation to an independent complaint review panel within 30 working days.

Where a complaint is not resolved at Stage 3, the complainant may appeal to the Local Government Ombudsman who may choose to investigate and may agree with or overturn the local authority's response

- 4.5 Complaints data contributes evidence to the Annual Performance Assessment and Ofsted inspections of services. This information demonstrates how far the concerns of service users are reflected in changes to services which improve outcomes for children and young people. Evidence that children and families know how to complain and do make complaints is seen as positive evidence of their empowerment. Complaints therefore must always be investigated in a spirit of openness and learning, although of course not all complaints will be justified and upheld.

4.6 The Central Complaints Office has been responsible for the statutory complaints process for Children's Social Care since 2010. The team provide periodic performance data to the senior management team within social care throughout the year. Complaints officers receive complaints by email, phone and in person from children and their parents, providing guidance about the process. They then ensure the complaint is allocated to the correct manager to provide a response. If the customer is not happy at any stage of the complaints process the complaints team can provide help and support with the process until the issue is finally resolved or referral to the Local Government Ombudsman is made.

4.7 One of the important aspects to the role of the Complaint Manager is the ability to make decisions about which complaints made to the service meet the criteria to be considered under the statutory process.

We see a large number of complaints each year that cannot be accepted under the statutory process for a number of reasons but the top 3 reasons are

- The case is in court or there is a criminal investigation ongoing
- The complainant has 'insufficient interest' (in relation to the child)
- The complaint is out of time/or out of jurisdiction

This year we have rejected 52 cases in these circumstances. This is a slight decrease from the figure of 69 rejected in the previous year.

Following the changes to Data Protection legislation in 2018 we now need the consent of young people to accept a parent's complaint if the child has capacity. Over the age of 12 a young person will generally be considered to have capacity but this is discussed with the department on a case by case basis. If a complaint was rejected as the child did not consent it would be recorded as rejected for insufficient interest.

4.8 Where a complaint is not accepted the complainant will be advised of the reason why they are not eligible to use the statutory complaints process and what other process may be open to them. Some complaints will be accepted from parents and third parties under the corporate complaint process. There have been 35 complaints recorded about Children's Social Care teams under the corporate process in the past year. The key themes amongst these corporate complaints are

- Alleged breach of confidentiality
- Issues around Contact arrangements
- Alleged Incorrect data in reports

Further detail about these complaints and their outcomes will be included in the corporate annual complaint report which is presented to Growth Scrutiny committee each year.

4.9 COMPLAINT VOLUMES AND PERFORMANCE

Table 2 - Statutory Complaints recorded for Children’s Social Care Services:

Total Complaints Received in 2017-18			
	2016-17	2017-18	2018-19
Informal Complaint – Resolved within 72 hours	5	0	2
Stage 1 complaint Response Sent	74	62	74
Frozen Not accepted due to court action	0	0	2
Withdrawn	4	2	4
Straight to Stage 2	0	1	0
Only reviewed at LGO	1	1	1
TOTAL	84	66	83

4.10 There has been an increase in the number of complaints registered for the Children’s Social Care statutory complaints process this year. Although this is an increase of 25% this is in line with the number of complaints registered in 2016/17 and at a lower level than the 3 previous years.

4.11 There were two informal complaints logged this year, which is where the team manager was able to resolve the matter by telephone within 3 working days. The other accepted complaints were passed for formal Stage 1 response. The Team Manager will be given a deadline for response and the complainant will be sent a written acknowledgement from the Complaints Team by the third day. The Team Manager will investigate the matter, and it is recommended that they should make contact with the complainant to discuss their concerns and will then produce a letter responding to the concerns raised. Complainants have access to the complaints team while they are waiting for the response.

4.12 Sometimes complaints are made and then withdrawn before a response is made and this can be for a variety of reasons. This year four complaints were withdrawn by the complainants who decided not to pursue the matter and a further two were frozen as the case was referred to court and the complaint could not proceed until this was completed.

4.13 **Stage 1 Complaints Performance**

We have seen a significant improvement in the performance of Stage 1 responses this year.

The average days taken to respond this year is 13 days.

In 2017/18 the average time to respond to a complaint at Stage 1 was 21 days against a statutory timescale of 10 working days.

The senior management team in children’s services and the complaints service are in regular communications to prioritise overdue complaint responses. This improvement demonstrates the importance communicated to team managers about the priority that complaints must be given.

4.14 A prompt response is one of the important factors in ensuring that customers are satisfied with the response to their complaints and do not escalate issues. This is demonstrated in the fall in escalated complaints this year.

4.15 **Stage 1 Complaint Outcomes**

In 2017/18 a high proportion of complaints were recorded as either upheld or Partially Upheld- a total of 75%. This has fallen slightly in 2018/19 with 62% being either Upheld fully or partially.

Table 4 – Complaint Outcomes

OUTCOME OF COMPLAINTS BY TEAM						
TEAM	Totals	Not Upheld	Partially Upheld	Upheld	Informal	Withdrawn
Adolescent	2	0	0	1	1	0
Adoption	1	1	0	0	0	0
Assessment Team	17	3	9	2	1	2
Children in Care/Leaving Care	29	11	10	8	0	0
Clare Lodge	2	1	0	1	0	0
Family Safeguarding	24	6	13	2	0	3
TACT	1	0	1	0	0	0
0-25 Service	7	2	3	2	0	0
TOTALS	83	24	36	16	2	5

4.16 **COMPLAINT ESCALATIONS**

Complainants can escalate their complaint if they are unhappy with the response to their complaint at Stage 1. A thorough investigation coupled with a well written and prompt response will reduce the number of complaints which escalate. Both the speed and quality of response has improved significantly in the past year. Another factor is whether contact is made with the complainant by the team manager to fully understand their concerns before a complaint response is sent.

4.17 Only 25% of the complaints responded to involved contact being made by the team manager with the complainant either by telephone or in person. In order to reduce escalations further it would be beneficial if contact was made in the majority of complaints investigated by the department. This would also ensure the customer's perspective was understood which it is hoped would lead to greater identification of service improvements.

4.18 An optional conciliation process was established in 2012 to give complainants the opportunity to meet with a senior manager along with the complaint manager if they were unhappy with the response to their complaint received at Stage 1. The aim is to try to reach a resolution as early as possible without the need to progress to independent investigation (Stage 2). There were just

8 conciliation meetings held this year, most were successful with only one escalating to the next stage.

4.19 2 cases have escalated to Stage 2, one is proceeding and the other has been frozen due to court action. This is lower than in previous years. Stage 2 complaints are investigated by two independent persons working in collaboration and commissioned by the Complaint Manager. They interview the complainant and interview staff and other witnesses. They write a report of their findings and submit this for adjudication by a senior manager within Children’s social care.

4.20 Stage 3 panels are the final stage of the process and can be requested by a complainant who is not satisfied with the outcome of the independent investigation which is conducted at Stage 2. There have been no Stage 3 panels held this year.

4.21 When a complainant is not happy with the outcome of their complaint at the end of the complaints process they have the right to approach the Local Government Ombudsman (LGO) with their concerns. The LGO is independent and can make various decisions in respect of the complaints his office receives. In the year 2018/19 the LGO made several decisions in regard to complaints about Children’s Social Care. As the LGO generally review complaints at the end of the process - all of these complaints were registered in a previous year but the final decision on the complaints were made in 2018-19 and so are included in this report.

The detail of these four cases is attached as Appendix A.

ACCESSIBILITY

4.22 Complaints received from children and young people are increasing as a percentage of all complaints received. These were predominantly from young people in care or Leaving Care young people. All of the young people making a complaint were teenagers and the majority had the support of an advocate to help them voice their complaints.

4.23

Table 5. Who is making Complaints?	2016/17	2017/18	2018/19
Children/Young People	6	1	0
Looked After Children inc Leaving Care young people	16	13	25
Parents/Guardians	53	41	42
Other Carers	1	0	1
Foster Carers	2	2	5
Prospective Adopters	0	1	0
Adoptive Parents	3	2	1
LAC (now Adult)	1	1	2
Friend	1	0	0
Relatives	1	5	7
Total	84	66	83

The CSC statutory process was designed to be used by children or on their behalf. Traditionally,

4.24 however, complaints have been received predominantly from parents and many local Authorities have struggled to reach out to children in their care to make them aware of their rights to complain. Over the past 10 years our Children’s Social Care service has improved opportunities for young people receiving their service to give feedback including providing leaflets at Child Care reviews and the use of a mobile App called Momo which allows children and young people to raise issues easily. With the changes to Data Protection legislation it is now a requirement to seek a young person’s agreement to a complaint being made on their behalf if they have capacity (generally if they are 12 years or older). Even if the child is younger the Complaints manager must assess if parents or carers are making complaints in the best interests of the child.

4.25 Independent Advocacy support is available for any young person considering a complaint. This service is currently provided by National Youth Advocacy Service (NYAS). In 2018-19 65% of the young people making complaints were supported by NYAS. This illustrates that the availability of NYAS advocacy is welcomed by many young people and some are accessing this service, whilst some feel able to make their complaints independently.

COMPLAINT CATEGORIES

4.26 Table 6 below shows how complaints were categorised into 10 nationally recognised categories by the complaints service to help identify why complaints occur and to allow focus on the main areas of concern.

Table 6: Complaint Categories

4.27

Nature of Complaint	2016/17	2017/18	2018/19
About Legislation	0	0	0
About Policy	4	2	1
Breach of Confidentiality	1	0	1
Broken Promise/Appointment	7	1	1
Delay/Failed Service	28	32	48
Denial/Withdrawal/Change Service	9	5	14
Lack of /Incorrect Information	3	2	1
Not to Standard	14	11	2
Staff Attitude/Conduct	13	12	12
Other	5	1	3
Total	84	66	83

SERVICE IMPROVEMENTS

4.28

Where a complaint is upheld either fully or partially it is often necessary for some remedial action to be undertaken to rectify the problem. Sometimes there may also be a recommendation from the investigating manager to improve the service for the future. This could, for example, be in relation to a change in the service delivery or a procedure. Any actions or service improvements

that are identified by the service is documented and passed to the Quality Assurance team who monitor the delivery of these.

4.29 A list of the actions and improvements from complaints in 2018/19 is attached as Appendix B

Whilst there is evidence of actions resulting from complaints investigations there is a scarcity of service improvements being identified from the complaints to which responses have been sent after investigation. As over 65% of complaints identify some fault by the department it should be possible to improve the volume of service improvements being identified. The Quality Assurance team are collaborating with the complaints team to develop a tool that will encourage team managers to identify service improvements as part of their complaint evaluation.

COMPLIMENTS

4.30 Children's Social Care have set up a mechanism over the past 2 years to record compliments received by the department. Compliments are received by young people, families and often other agencies who are involved in cases in a professional capacity, including teaching staff, health visitors, court and police and probation officers.

In the year 2018/19 the department has received 158 compliments about the work of the various teams in Children's Social Care. This is a 30% increase over the previous year. The number of complaints received from service users or external agencies is comparable to the previous year at 55 compliments, whilst those received from internal partners towards social care team workers has increased by 70% to 103 compliments. Knowing that a volume of positive feedback is received from service users is encouraging for the staff and helps to put the number of complaints received into context. It is not possible to reproduce all of the compliments for data protection reasons but the type of compliments received are typified by the examples below.

External Compliments

- "She is family" "I am very happy with my social worker, she helps me" (Young person in Care)
- She gave me the courage to stand up for myself, feel free and made me understand I'm not guilty and I'm worth it. She made me understand the impact of domestic abuse on me and my kids. (Parent)
- Thank you for all you have done for us, we really do appreciate it. You have been so kind and we are going to miss you (Parent)
- Really positive result overall, well done on your perseverance and thank you for listening (Headteacher)
- Thank you so much. You don't understand how happy I am. Thank you to both of you for showing me how to better myself as a parent for that I'm always grateful x (Parent)
- The social worker was solid on the stand. She was confident, measured and fair but very child focused and totally knew her case. It was a delight representing her. (Barrister)
- You were chosen to work with us for a very good purpose and we are all safer since you came along. We will be eternally grateful (Parent)

Internal Compliments

- Just wanted to commend you on being able to draft a really good written agreement under pressure – the Guardian was impressed with your conduct (Legal to Social Worker)

- I would just like it noted the positive and proactive social work that you have carried out to ensure that X can attend college and the positive impact that this will have for X (IRO to Social Worker)
- I'm sure that one day this young man will appreciate how lucky he was to have such a skilled, committed, determined and passionate social worker. (IRO to Social Worker)

BENCHMARKING & COMPLAINT VOLUMES IN CONTEXT

4.31

In previous years the Committee members have asked the Complaint Manager if Benchmarking is available to compare the performance at this Authority with Children's Social Care complaints which are dealt with in other Local Authorities. The Complaint Manager conducted a Peer review with the complaints team at Milton Keynes Council. Milton Keynes is comparable in many respects, being a Unitary Authority with a fast growing population of a similar size to Peterborough. The Complaint Manager has provided a comparison report to evidence her findings from this review.

This is attached as Appendix C.

The peer review was conducted using an Assessment Tool to consider the strengths and weaknesses of CSC complaint handling in Peterborough. The assessment is attached as Appendix D.

4.32

It was hoped that it may have been possible to bring an interim report to this Committee at the end of last year following the completion of this review but the work priorities of the Complaint Manager were influenced by the relocation of her teams from their old location and an earlier submission was not possible.

Committee members also made a request to put the number of complaints made about this service in context. It was agreed that in future reports information on the numbers of young people receiving services in the Year could be provided to allow members to compare this to the number of complaints received.

This year in 2018/19 the number of referrals open was 3625 so the 83 complaints investigated represent 2.3% of the total caseload. This is a higher percentage compared with 2017/18 where 4397 referrals were open and 66 statutory complaints were investigated representing 1.5% of the total caseload.

5. CONSULTATION

5.1 None Required

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 That the report will highlight areas of service improvement

7. REASON FOR THE RECOMMENDATION

7.1 The Scrutiny Committee are requested to consider the report and make recommendations for further scrutiny if deemed appropriate.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 Not Applicable

9. IMPLICATIONS

Financial Implications

9.1 No Financial Implications - although the report does detail some compensation payments made in the settlement of complaints.

Legal Implications

9.2 The processes used by the Complaints Team when investigating complaints fully comply with the Children Act 1989 Representations Procedure (England) Regulations 2006 and the statutory guidance (link below) which has been issued by the DfE under the Local Authority Social Services Act 1970.

Equalities Implications

9.3 No Equalities implications, as the processes followed by the Complaints Team ensure that service users are treated equally.

Rural Implications

9.4 No Rural Implications

9.5 Does this report have any implications for Children In Care and Care Leavers? If so, include these in this section.

This report does have implications for both Children in Care and Care Leavers. The CSC statutory complaints process is designed specifically for children and young people who are in receipt of Children's Social Care services. It would, therefore, be of particular relevance to these young people to be aware of the right of complaint, how complaints are responded to and what outcomes, actions and service improvements result from the complaints that are made.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 <https://www.gov.uk/government/publications/childrens-social-care-getting-the-best-from-complaint> - Children Social Care: getting the best from complaints

11. APPENDICES

11.1 Appendix A - LGO Decisions in CSC 2018-19
Appendix B - Service Improvements and Actions CSC 2018-19
Appendix C - Complaints Peer Review with Milton Keynes Council 2018
Appendix D - Peterborough City Council Assessment Tool