

CREATING OPPORTUNITIES AND TACKLING INEQUALITIES SCRUTINY COMMITTEE	Agenda Item No. 6
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Report of the Assistant Director of Children’s Social Care

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CHILDREN’S (SOCIAL CARE) SERVICES STATUTORY COMPLAINTS PROCESS (CHILDREN ACT 1989) ANNUAL REPORT 2010/11

1. PURPOSE

This is the annual report submitted to Scrutiny Committee about Children’s (Social Care) Services statutory complaints process.

2. RECOMMENDATIONS

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

3. LINKS TO SUSTAINABLE COMMUNITY STRATEGY

The annual complaints report is a fundamental part of the Sustainable Community Strategy.

4. 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 The complaints process aims to provide additional safeguards for children and young people and to empower them to express their views about services they receive. A young person may make a complaint directly or an adult (parent, carer, relative or advocate) may act on their behalf. The city council provides an independent advocacy service, as required by law, and therefore a number of children are supported by that means.

4.3 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 acceptable
- 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 overturn the local authority's response.

- 4.4 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.
- 4.5 During 2010 a change was made to the complaint monitoring service due to the departure of the complaints manager within Children's social care who was operating as a stand alone service. A decision was taken for the administration of the Children' Social Care complaints function to be transferred to the Council's Corporate complaints team for a trial period of one year initially which has greater resource levels ensuring that the team can respond more quickly to complaints. There is also greater focus on the use of electronic record keeping which has resulted in a more accurate picture of complaints in progress. The team are able to provide performance data on a monthly basis to keep the senior management team within social care more informed of problems which may arise.

5. COMPLAINT VOLUMES AND PERFORMANCE

- 5.1 Statutory Complaints concerning Children's Social Care Services 2009

Total Complaints Received in 2010/11		
Informal Complaint	17	Resolved within 48 hours
Stage 1 complaint	63	Accepted as a valid complaint and investigated by team manager
Frozen	7	Not accepted due to Court action
Withdrawn	2	Customer decided to withdraw or Complainant did not meet criteria
TOTAL	89	

- 5.2 This year shows an increase in the complaint numbers recorded. This is partly due to more accurate recording of complaints. There was an increase of 25% in the number of complaints recorded at Stage 1 over the previous year.

- 5.3 Occasionally complaints are received that can be resolved very quickly, for example when a child or parent has been waiting to be contacted and a phone call by the team manager will resolve outstanding queries to the complainants satisfaction. If this is the case the complaint can be resolved within the first 48 hours and will then be recorded as informal. All formal complaints must be logged and a written acknowledgement sent within 3 working days.
- 5.4 Complaints where early resolution is not possible will be recorded and sent to the appropriate team manager on the day of receipt. The team manager will be given a deadline for response. Whilst waiting for response from the team manager the complainant will continue to have access to the complaints team if they are concerned or need to bring other matters to the attention of the department before the manager has contacted them.
- 5.5 On a few occasions during the year complaints have had to be frozen as the issues raised are likely to be addressed by or may prejudice pending legal proceedings. The complaints team will consult with the team manager and take legal advice to decide whether a complaint should be frozen. If this is decided the complainant is informed in writing and will be given the opportunity to raise the complaint after court proceedings are concluded; if the issue raised was not covered in court.
- 5.6 To use the Children's (Social Care) Services statutory complaints process the complainant must meet certain criteria. Only those people with sufficient interest in a child who is classified as a 'children in need' or 'looked after' or the child personally, can make a complaint under the policy. Sometimes complaints are received from interested parties who do not meet the criteria and the complaint has to be withdrawn. Alternatively a complainant may be the one who chooses to withdraw their complaint, but this is rare.

Table 2: Stage 1 Complaints Performance

Table 2: The Percentage Of Stage 1 Complaints Responded To Within 20 Working Day maximum			
	Complaints Received	No. Responded to within 20 days	No. responded to late or o/s a response at year end
Access to Resources	0	N/A	N/A
Adoption	6	4	2
Adoption support & kinship care	3	2	1
Assessment & Care Planning	13	5	8
Children in Need	8	5	3
Childs Integrated Disability Service	3	1	2
Education Team for Children in Care (ETCIC)	3	2	1
Family Assessment and Support Team	0	0	0
Fostering: Recruitment & Assessment	1	1	0
Fostering: Support & Supervision	0	N/A	N/A
Leaving Care	5	3	2
Multi Systemic Therapy Team	1	0	1
New Horizons	0	N/A	N/A
Permanency and In Care	3	3	0
Quality & Assurance	1	1	0
Referral & Assessment	16	8	8
Safeguarding	0	N/A	N/A
TOTALS	63	35	28 (11o/s at year end)

5.7 The aim is for complaints to be resolved at the lowest possible level and only to be escalated if not resolved in earlier stages or if investigations in earlier stages are unacceptably protracted. Complaints at stage 1 are investigated by the manager responsible for the team or service and in all cases, the manager is expected to engage with the complainant to clarify the nature of their complaint and seek resolution as swiftly as possible, making a formal adjudication on the complaint.

5.8 To make early resolution a reality the complaint must be given priority. As shown in table 2 above this is not always happening and nearly 50% of complaints are not being responded to within the statutory timescales of a maximum of 20 working days. Last December all managers in Children's Social Care attended a full day training that was delivered by the Local Government Ombudsman to ensure that the statutory complaints process was fully understood. At the same time a monthly performance report has been formulated by the corporate complaints team and this is now sent to the senior management team each month so that that the relevant service manager can address outstanding complaint responses with the team managers concerned. Both these changes have begun to have a positive effect and in the last quarter of 2010/11The average response time for Stage 1 responses decreased from 20 days to 16 days.

- 5.9 To improve the standards of complaint handling further a new set of guidance is being produced so that the officers responding to complaints know what is required and have an established framework to follow. A new quality assurance process will complement this guidance which is shortly to be introduced and will involve the checking of all formal complaint responses before they are sent to the complainant. It has also been agreed that a more robust escalation process will be put in place so that complaints not responded to within the earlier deadline of 10 days are brought to the attention of the relevant service manager and subsequently the Head of Service so they can be prioritised to ensure they meet the statutory deadline of 20 working days.
- 5.10 On reviewing the outcome of Stage 1 cases in table 3 below it is clear that of those cases which have so far received a response 44% of these cases have some merit and service improvements need to be identified to ensure lessons are learnt and the percentage of upheld & partially upheld complaints is reduced. As there were 11 cases outstanding a response at the year end it is not possible to provide a complete picture of the validity of complaints made in the year.

Table 3

OUTCOME OF STAGE 1 COMPLAINTS 2010/11		
Upheld	9	All aspects of complaint upheld
Partially Upheld	14	Some aspects of complaint upheld
Not Upheld	29	None of the complaint was justified
Outstanding a Response	11	No response yet been sent
Total Stage 1 complaints	63	

- 5.11 Complaints progressing beyond stage 1 of the process show an increase over the previous year. Where the complaint was escalated to Stage 2 it was generally the case that this could have been avoided if the complaint had been given an appropriate level of attention and expediency by the Stage 1 investigator. An improvement in Stage 1 performance will ultimately save the department from the expenditure of unnecessary Stage 2 investigations which currently cost around £2000 per case.
- 5.12 During the year six cases were escalated to Stage 2. Although only one of these cases was fully upheld, there were delays and poor service identified in several of the remaining cases.
- 5.13 During 2010/11 two complaints were escalated to Stage 3 of the process, and an Independent Complaint Review Panel was held in each case. The first case resulted in the complaint not being upheld and the complainant has

subsequently appealed to the Ombudsman who is currently considering the case. The other case was upheld by the panel and the Assistant Director concerned agreed to make a payment for missed respite care for the complainant's daughter. Stage 3 panels should be a last resort due not only to the cost involved but also the delay and stress this visits on the complainant. However the process requires a panel to be held in all but exceptional cases before a complainant can exercise their right to refer their case to the Ombudsman.

- 5.14 There are currently 2 cases which are being considered by the Ombudsman which both occurred before the year being reported. It is likely that the decisions in both these cases will be communicated to the Authority within the next few months.
- 5.15 A pool of (self-employed) Independent Persons required to meet the requirements of Stages 2 & 3 of the procedure needs to be reviewed following some poor decisions in a couple of Stage 2 cases. Research amongst other Local Authorities has been undertaken to ensure that the Authority can attract the correct calibre of person which in some part is reliant in paying competitive fees.

6. ACCESSIBILITY

Table 4. Who is making Complaints?								
TOTAL	Children	Parents/ Guardians	Carers	Foster Carers	Professionals	LAC (now Adult)	Friend (with sufficient interest	Relatives
89	6	60	1	3	1	1	3	14

- 6.1 All Council complaints and appeals procedures are documented in a complaints booklet which is displayed in the Council's main offices. . Table 4 (above) shows adults are more likely to use the formal process than children and young people themselves, so they are reminded of their right to questions, challenge or complain at each statutory child care review (for looked after children and young people) and/or Child Protection Conferences.
- 6.2 Independent Advocacy support is available for those meetings or for any young person considering a complaint

7 KEY THEMES

Table 5: Complaint Categories

Nature of Complaint	2010/11
About Policy	3
Breach of Confidentiality	8
Broken Promise/Appointment	3
Delay/Failed Service	21

Nature of Complaint	2010/11
Denial/Withdrawal/Change Service	7
Lack of /Incorrect Information	10
Not to Standard	4
Staff Attitude/Conduct	31
Other	2
Total	89

- 7.1 It is not possible to make a direct comparison regarding the most common reasons for complaints over the past year against previous years. Early in 2010 it was agreed between the then Children's Social Care complaint manager and the current Corporate complaint manager to rationalise the categories being used to record the complaints received by Children's Social Care. The decision was made to allow a direct comparison between the two complaints procedures as well as enabling clearer identification of trends by using fewer categories (there are now 11 categories in place as opposed to 26 previously).
- 7.2 As shown in table 5 above the most common category for complaints is currently staff attitude/conduct followed by delay/failed service. This is not unexpected in a service which has a lot of direct staff contact with customers. Customers' expectations can sometimes be unrealistic regarding how a service is delivered or the timescales involved. This is comparable to the corporate complaint trends where these 2 categories are also the most prevalent. Further analysis will be undertaken on the upheld complaints to confirm if further training or coaching needs to be provided or disciplinary action taken where complaints about staff attitude/conduct are upheld.

8. IMPLICATIONS

Implications arise for the continuous improvement of children's social care services and the annual performance assessment whereby it will be demonstrated that complaints are received and responded to in accordance with the statutory process and lessons learnt from complaints are fed into service improvements

9. EXPECTED OUTCOMES

It is expected that the panel will consider this report and the potential for further areas of scrutiny.

10. BACKGROUND DOCUMENTS

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

Statutory Instrument 2006 No.1738 The Children Act Representations Procedure (England) Regulations 2006

<http://www.opsi.gov.uk/SI/si2006/20061738.htm>

Getting the Best from Complaints – Social Care Complaints and Representations for Children, Young People and Others

[http://www.everychildmatters.gov.uk/resources-and-practice/IG00152/;](http://www.everychildmatters.gov.uk/resources-and-practice/IG00152/)

11. APPENDICES

None