

## The Highland Council

### Education, Children and Adult Services Committee 11 November 2015

Agenda Item	17ii.
Report No	ECAS 105/15

#### Complaints Review Committee Outcome

#### Report by the Depute Chief Executive/Director of Corporate Development and the Director of Care and Learning

##### Summary

The purpose of this report is to set out the findings and recommendations following a Complaints Review Committee held on 16<sup>th</sup> September 2015. 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.

#### 1. Background

- 1.1 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.
- 1.2 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.
- 1.3 The Complaints Review Committee formally reports its decisions to the Education, Children and Adult Services Committee of The Highland Council.

#### 2. Introduction

- 2.1 The complaint relates to the service offered to an offender who had been ordered to carry out unpaid work following sentencing. There were a number of issues around the complainant's engagement with the unpaid work, and in particular the hours he was required to work. The complainant was in employment and was not always available to carry out his unpaid work order.
- 2.2 The Criminal Justice Service decided the complainant's engagement issues could be better managed during the week rather than at the weekend, and as it was unclear what days the complainant worked, he was asked to provide a payslip and sign a mandate enabling the service to contact his employer. Following this contact, the complainant's employment was terminated.

- 2.3 The original complaint was received on 12<sup>th</sup> April 2015 and was dealt with at stage 1 by the Principal Officer, Criminal Justice Services. The complaint was not upheld.
- 2.4 On receipt of the stage 1 response, the complainant wrote to the Service stating that he wished his complaint to be investigated at stage 2 of the complaints process.

### **3. The Investigation**

- 3.1 An investigating officer was appointed, who met with the complainant to discuss the points of his complaint.
- 3.2 Three points of complaint were identified as:
1. The complainant was unhappy that his unpaid work was switched to a weekday.
  2. The complainant was unhappy about criminal justice staff contacting his employer to confirm his working hours.
  3. The complainant believed that criminal justice staff shared information with his employer and that this resulted in his dismissal.
- 3.3 The investigating officer reviewed all correspondence and documentation relating to the case, and spoke with relevant parties to enable him to complete a report to the Head of Service.
- 3.4 The Head of Service wrote to the complainant on 1<sup>st</sup> July 2015, setting out her findings, based on the investigation report provided. Points 1 and 3 were not upheld. Point 2 was upheld as it was acknowledged that, whilst the complainant had given written permission for criminal justice staff to contact his employer, English is not his first language and staff should have taken appropriate time to ensure that he understood the reason for signing the mandate.

### **4. Request for Complaints Review Committee.**

- 4.1 The complainant contacted the Head of Service on 2<sup>nd</sup> July 2015, stating that he was unhappy with the outcome of his complaint and wished to progress to a Complaints Review Committee.

### **5. Conclusions**

- 5.1 The Committee was clear that the complainant had lost his job following contact by criminal justice staff with his employer, although it was noted that the decision was made to terminate his employment because of his criminal record. It was accepted that the criminal justice officer was entitled to make contact with the employer, and that the complainant had signed a mandate authorising this. The Service had accepted that the complainant may not have not fully understood the meaning of the mandate and that, as a result, that his employer might be contacted to confirm his working pattern. The Service accepted that this should have been made clear to the complainant and the Committee was supportive of this approach.
- 5.2 However, it appeared to the Committee that in the circumstances it would have been possible for the Service to make further enquiries with the complainant about his working hours without contacting his employer. It was unclear whether such

enquiries had been made. The Committee noted that had the complainant been unable to complete his unpaid work, a report would have been made to the court advising that he had breached his unpaid work order. It was not clear to the Committee whether the complainant had been advised of this and whether he had been given the opportunity to determine whether he would prefer such a report to be made rather than contact with his employer. This should have been discussed with him.

## **6. Committee Recommendations**

- 6.1 The Committee endorsed the approach by the Service and supported the recommendation made in the investigation report. Efforts should be made to ensure that service users are aware of the contents of documents that they are signing, particularly where English is not their first language. The Committee also took the view that it was important that service users are made aware of the impact of the order to which they are subject so that they are properly informed in respect of the legal position. It is also important, in the Committee's view, that service users be asked to provide information direct if it is possible, prior to approaches being made to a third party employer.
- 6.2 Complaints made to the service by a service user should, where possible, be made in writing and at all stages of the process the service user should be asked to confirm that the complaint to be investigated has been properly understood by the Service.

## **7. Implications**

- 7.1 There are no direct Resources, Legal, Risk, Climate Change/Carbon Clever, Rural or Gaelic implications arising from this report.
- 7.2 Equalities issues are set out in the report.

## **8. Recommendations**

- 8.1 Members are asked to note:
- that the Complaints Review Committee met to consider this case, and the findings.
  - the recommendations made by the Complaints Review Committee.

<b>Designation</b>	Depute Chief Executive/Director of Corporate Development Director of Care and Learning
<b>Date</b>	2 November 2015
<b>Author/Reference</b>	Bill Alexander, Director of Care and Learning