
Report to Council

Date of Meeting: 15 December 2016

Subject: Social Work Complaints Review Committee Meeting

Report by: Head of Resources and Governance

1.0 Purpose

- 1.1. The Social Work Complaints Review Committee met on 8 November 2016. Following the meeting the findings and any observations require to be reported to Council.

2.0 Recommendations

- 2.1. It is recommended that Council:
- 2.1.1. consider and endorse the findings of the Social Work Complaints Review Committee; and
- 2.1.2. request the Head of Social Services to report to the next Scrutiny Committee in response to the observations made by the Committee.

3.0 Considerations

- 3.1. Complaints made to the Council in relation to the delivery of social work services are, in the main, dealt with and resolved by managers responsible for the service areas involved, and are referred to as a Stage 1 complaint. Where complaints are either not resolved at this level, or where the complainer is not satisfied with a particular resolution, they can be reviewed by the Service's Complaints Officer and/or a senior manager. This is referred to as a Stage 2 complaint. Where, for whatever reason, resolution has not been possible within the Service, the matter may be referred to a Social Work Complaints Review Committee. This is referred to as Stage 3.
- 3.2. Clackmannanshire Council's complaint procedures were established to meet the requirements of section 5B of the Social Work (Scotland) Act 1968, the Social Work (Representations and Procedure) (Scotland) Order 1990 and the Social Work (Representations and Procedure) (Scotland) Directions 1996. The Complaints Review Committee forms part of those procedures.
- 3.3. To ensure objectivity, members of a Complaints review Committee should be experienced and knowledgeable in relation to social work matters as far as

possible. In accordance with Standing Orders and the above mentioned Directions, the Committee on this occasion was comprised of an Independent Chairperson and two elected members.

- 3.4. The following sections of the report provide details on the background to the complaint. The paper attached (Appendix A) summarises the Committee's findings and observations.
- 3.5. **Background** – the complaints related to the events around the assessment and support provided to the complainer's father and mother (as the main carer) during January to July 2016. Specifically the issues raised were with regard to the length of time taken to complete an assessment of need, as well as the length of time required to progress the assessed adaptation to the complainer's parents' bathroom.
- 3.6. The original complaint was submitted by letter dated 12 July 2016. Stage 1 was completed by letter dated 3 August 2016. The complainer's dissatisfaction with this response, along with his request for review, was submitted by letter dated 10 August 2016. The Stage 2 response was issued on 8 September 2016. The complainer subsequently requested that the Stage 3 processes be undertaken.

4.0 Sustainability Implications

- 4.1. None

5.0 Resource Implications

5.1. Financial Details

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes ☒

- 5.3. *Staffing* – there are no staffing issues.

6.0 Exempt Reports

- 6.1. Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☒

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses ☐
Our communities are more cohesive and inclusive ☐
People are better skilled, trained and ready for learning and employment ☐

Our communities are safer	☐
Vulnerable people and families are supported	☒
Substance misuse and its effects are reduced	☐
Health is improving and health inequalities are reducing	☒
The environment is protected and enhanced for all	☐
The Council is effective, efficient and recognised for excellence	☒

(2) **Council Policies** (Please detail)

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes ☐ No ☒

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

10.0 Appendices

10.1 Appendix 1 details the complaint, the Committee's findings and observations.

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☒ (please list the documents below) No ☐

Documents – correspondence held on relevant complaint file.

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Stuart McQueen	Solicitor and Clerk to the Social Work Complaints review Committee	2085

Approved by

NAME	DESIGNATION	SIGNATURE
Stephen Coulter	Head of Resources and Governance	Signed: S Coulter
Nikki Bridle	Depute Chief Executive	Signed: N Bridle

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FINDINGS AND OBSERVATIONS

1. **Failure in meeting statutory duties** in terms of the Social Work (Scotland) Act 1968 and the Regulation of Care (Scotland) Act 2001 and in compliance with the “*National Standard Eligibility Criteria and Waiting Times for the Personal and Nursing care of Older people – Guidance*”. More specifically this related to the length of time taken to complete an assessment, the length of time taken to progress the adaptation of a bathroom and the length of time taken to provide a copy of the assessment document.

Finding:

This complaint was fully upheld at both Stage 1 and Stage 2 of the complaint process. Accordingly, the Committee could add nothing further.

2. **Breach of Human Rights** – reference was made to the underlying duty placed on public bodies in terms of s6 of the Human Rights Act 1998, as well as to a number of Articles in Schedule 1 to that Act.

Finding:

The Committee noted the statutory duty imposed upon public bodies, in terms of s6 of the Human Rights Act 1996, i.e. not to act in a way which is incompatible with a Convention right. It thereafter agreed that this duty underpins all actions undertaken by a public body, in this case Clackmannanshire Council.

With regard to the alleged breaches of the Articles quoted, the Committee determined that as these had not formed part of the original complaint at either Stage 1 or 2, the Committee were unable to explore these further as new complaints could not be introduced at this stage.

3. **Acknowledgement of impact, consequences and the source of liability** for the negligence in the above failures.

Finding:

The Committee determined that in the absence of any direct evidence in support of this aspect and noting the decisions of the client's family in regard to social services offers of assistance, it was not possible for them to draw any conclusion and therefore the Committee was unable to make a determination on this aspect of the complaint. It was noted though that at Stage 2 an apology had been provided in response to the distress the acknowledged failures had caused to the family.

Decision:

The Committee accordingly found that:

- 1) the Stage 2 complaint was fully investigated and responded to;
- 2) that a sincere apology was offered at both Stage 1 and 2 investigation outcomes;
- 3) and that the complaint was fully upheld at Stage 2 following the Social Work Complaints Procedure.

OBSERVATIONS:

During its deliberations, the Committee did make the following observations, and is recommending to Council that a Report be brought by the Head of Social Services to the next Scrutiny Committee in response:

1. Social Services recognised and accepted that the family concerned received a poor service and that mistakes had been made in service delivery. It was apparent to the Committee that the failure to complete the statutory assessment timeously arose because there had been no proactive case management, particularly during periods of staff absence, to prevent caseloads simply “lying unallocated”. It was felt that this demonstrated a failing in both the administrative and managerial systems which, if implemented and utilised properly, should have prevented such failures. What action has been taken to prevent such failings re-occurring?
2. The Committee noted that in the Second Stage response reference was made to disciplinary procedures being initiated where failures to operate within legislation and codes of practice had been identified. The Committee however noted that there was no evidence before it to suggest whether or not this course of action had been initiated and whether an investigation, at least, had been undertaken. Further information in this regard would be welcomed.
3. The Committee further noted that Social Services accepted there had been inadequate instruction given on the use of adaptations provided to service users. Reassurance is sought that this has been addressed within the service.
4. With regard to the complaint regarding a lack of financial advice regarding access to benefits, the Committee acknowledged that this was not a function for which Social Services were directly responsible. However, in its deliberations the Committee felt that as part of a holistic care approach which generally included sign-posting to other support services, this aspect had been less than satisfactory. Whilst this was acknowledged by the Service, reassurance is sought that effective sign-posting had been addressed within the Service.