

## **REPORT OF THE MONITORING OFFICER**

### **OUTCOMES FROM THE COMPLAINTS PROCESS - APRIL 2017 TO MARCH 2018**

#### **Purpose of the Report**

1. The purpose of this report is to present a summary of complaints made to the County Council between 1<sup>st</sup> April 2017 and 31<sup>st</sup> March 2018

#### **Introduction**

2. The Complaints and Information Team (C&IT) is based at County Hall and deals with all formal complaints made to the Council including those made through the Local Government Ombudsman. The team is distinct from the Customer Service Centre. C&IT also deals with all requests made under the Freedom of Information Act and Subject Access requests.
3. The service aims to provide a responsive and outcome focussed local complaints system and it is worth noting that the majority of all formal complaints are completed at the earliest stage of the complaints process and resolved at local level without further escalation.
4. Members will be aware that there are three complaints processes; two of which, children's and adult's social care processes, are statutory. The corporate complaints process deals with all other areas of Council service. Members receive quarterly reports giving details of completed complaints in their area and the outcome for each complaint.
5. Where complaints are partially or fully upheld, the remedies offered aim to be proportionate to the nature of the fault found and the level of impact this has caused to the customer or service user. Remedies offered at the early stages include a full written explanation with an apology and in some cases a meeting may be arranged.
6. In recent years there has been a reduction in the number of children's social care complaints which are escalated to an independent investigation at Stage 2 and Stage 3. This is due to the complaints team's emphasis on working with the complainant and department to explore alternative resolution options at the initial stage of the complaints process. Mediation type meetings have been found to be successful in many instances however this approach can impact on the response timescales in some instances.

7. The outcomes of complaint investigations are valuable for the Council to monitor so themes from upheld complaints can be identified quickly and service improvements implemented without delay. It is also important to know however that in the majority of cases where complaints are partially or fully upheld, the service failures identified relate to individual cases rather than across a whole service area.
8. Where the evidence demonstrates that a change in policy or procedure is required, an action plan is created, monitored and shared with leadership teams to ensure that service improvements are made. The Service and Corporate Directors receive the findings, conclusions and recommendations from all independent investigations and review panels at the final stage of the statutory process.
9. On completion of the Council's complaints process a complainant has the right to refer any remaining concerns to the independent Local Government and Social Care Ombudsman (LGSCO). Committee Members have requested to receive all final LGSCO decisions on a regular basis and monitor the outcome of these complaints. The Ombudsman provides an annual review of all the complaints received against the Council which was reported to this Committee in December 2018.
10. The Complaints Team are committed to ensuring all Nottinghamshire residents and their representatives receive an equitable and independent service in response to any concerns or complaints they raise with the Council. As we aim to seek a considered response and resolution to all complaints, we welcome contact from Members at the earliest opportunity when raising concerns on their constituents' behalf.
11. The statistical information relating to complaints made directly to the Council is set out in Appendix A to this report.
12. The total number of complaints received is consistent with previous years' figures however anecdotal evidence suggests the focus and nature of some complaints is changing. For example we have seen an increase in complex complaints which cover more than one area of service; including children and adults with complex needs requiring coordinated services from more than one organisation or independent service provider. These inevitably require specialised skills and knowledge to manage however are also more likely to be escalated by the complainant or their representative if the outcome they are seeking is unlikely to be achieved, which, can interrupt the formal complaints process.
13. The information provided for this year provides a breakdown of the reasons why some formal complaints do not complete the complaints procedure. During the initial assessment of some complex complaints they can appear to be matters eligible for the complaints process. Following further enquires and a detailed assessment of the concerns, it may be established that the substantive complaint needs to be referred on to be managed through a separate procedure. Examples include complaints relating to an insurance claim, where the issue relates to custody of a child and court proceedings or disputes about where an elderly person should live who lacks capacity to make decisions which would be for the court of protection to decide.
14. Each initial complaint enquiry is assessed before it is logged as a formal complaint. Although the number of formal complaints received has remained fairly consistent over

the past 5 years, the number of initial enquiries to the complaints team have increased. The graph (appendix B) shows the total number of formal complaints received with the number of additional enquiries above in the lightly shaded area.

15. The complaints team also responds to a range of enquiries from Council colleagues, external professionals or members of the public. Many are seeking advice about the complaints process or have a query which may require a response from the Council but they are managed outside the formal process.
16. The following information relates to the formal complaints which were investigated and received a formal response by the Council.

## **Adult Social Care**

17. It is important to understand complaints in the context of whole service provision. During 2017/18 Adult Social Care received new contact for 5,320 younger adults, 20,919 older adults. The number of complaints received this year is 378 which is an increase from the previous year.
18. The main themes relate to the provision of services following changes in assessment criteria and decisions in some cases not to fund long term care for service users. Other issues are paying for care, financial assessments, hospital discharge arrangements, the reduction in care packages and the quality of care from homecare or residential care providers. More complex complaints arose from disputes about the process or outcome of safeguarding investigations or where there was conflict between family members regarding the care and best interests of elderly parents.
19. Of the 378 complaints received during this period 311 were investigated. Of these 144 were not upheld, 94 were partially upheld and 73 were fully upheld. The uphold rate of 54% and resolution timescale is consistent with the previous years' figures.
20. Where complaints were upheld the remedies offered in addition to an explanation and apology included; offers to reassess the service user which in some cases led to a change of decision about provision of services and in some cases partial waivers of care charges were agreed.
21. As most complaints relate to the individual circumstances of each case, where fault has been found themes are difficult to identify and there are not ongoing lessons that can be drawn from them.

## **Children's Social Care**

22. Children's Social Care dealt with 22,880 enquiries with 10,414 progressing to referrals in the year ending 31/03/18. During this period there were 818 children on child protection plans, 798 Looked After Children and 1218 children assessed as Children in Need. Within the three groups 115 children had a recorded disability.

23. The number of complaints received during the year is 320 and of those 252 were investigated at Stage 1. The statutory children's social care complaints process has 3 stages: initial response from the relevant team or service manager, independent investigation, and finally a review by a panel of 3 independent people.
24. Of the 252 complaints completed at Stage 1 during this period 118 were not upheld, 82 partially upheld and 52 fully upheld. The 20 working day response timescale at Stage 1 remained at 83% which is consistent with the previous years. During the year 2 complaints were independently investigated at Stage 2. Both investigations found case specific communication failures and the recommendations made were accepted and actioned by the department. One complainant referred their complaint to the Independent Review Panel at Stage 3 who made an additional recommendation of a further apology which was offered in this case.
25. The main themes of children's social care complaints include; delay in an assessment process, concerns about the content or outcome of assessments, professional decisions in child protection cases, communication, conduct or action of individual workers and the way referrals have been handled. It is worth noting that a significant number of children's social care complaints arise where there is conflict within families and disputes regarding contact arrangements between children and family members.
26. Other more complex complaints which may involve more than one organisation include those relating to historical and contemporaneous allegations made against adults who have or currently work with children. These can be difficult to manage and resolve. They are also very difficult for the subjects of the complaints as they potentially have a significant impact in terms of their employment. Disputes commonly arise when the person at the centre of the allegation wishes to dispute the evidence provided by third parties, the process of the investigation into the allegation and the outcome decision reached by the concluding multi-agency strategy meetings.
27. The learning outcomes from complaints identified; that some information in assessments and social work reports should be recorded more accurately and shared with parents promptly to allow an opportunity for further discussions and factual amendments to be made. In cases where a complainant strongly disagreed with a professional view, the remedy offered was the opportunity to submit their own written views to be considered alongside the social work assessment. The reasons for most complaints to be upheld or partially upheld relate to individual cases and often involve some form of communication issue.

## **Corporate Complaints**

28. The number of corporate complaints received during the year was 328 and of these 270 were considered at Stage 1 with 131 not upheld, 45 partially upheld and 94 fully upheld. Although there appears to have been a significant reduction in the number of complaints received during this period, the nature of these complaints covers a range of services and can involve seasonal fluctuations. As was seen in the previous year a single issue relating to the implementation of the policy to ask residents to register to use local household waste recycling centres generated 220 complaints.

29. A large proportion of complaints received each year relate to highways issues including highways maintenance, potholes, traffic management, tree, hedge and verge maintenance and the lack of response to fault reporting in this area of work. Others include, transport complaints for example issues with bus services, changes to bus timetables, the issuing of concessionary bus passes. The relocation of bus stops or installation of shelters accounts for a number of other complaints throughout this period.
30. As with previous years, a consistent number of complaints relate to school admissions and the school appeals process.
31. A further theme of the more complex complaints received concern the process followed in completing Education, Health and Care (EHC) plans which are managed by the Integrated Children's Disability Service (ICDS). EHC plans are for children and young people whose special educational needs require more help than would normally be provided in a mainstream education setting. The ICDS is responsible for maintaining approximately 2700 EHC plans and complaints raised about this service are managed through the corporate complaints process unless the substantive issue relates to the action of the children's social care team. Where a complaint relates to a dispute about the EHC plan itself and concerns the level of support offered, the complainant has the right of appeal through a separate tribunal process. These are not considered via the Council's complaints process.
32. The Integrated Children's Disability Service have used some lessons learnt from the outcome of complaints to make service improvements. This has resulted in a review and update of operational working protocols across the EHCP process including EHC Needs Assessments; Placement at Risk and Annual reviews.
33. Of the 270 complaints which were completed and resolved at Stage 1 during the year, 131 complaints were not upheld, 45 were partially upheld and 94 fully upheld. The remedies included written or verbal apologies and an explanations for the service failure. Examples of action taken included customer service training for staff, reviewing processes and updating the Council's website.
34. There were 5 complaints independently investigated at the second stage of the complaints process with 3 not upheld and 2 partially upheld. These were unrelated concerns involving different services and appropriate remedies were offered and accepted by the individual in each case. Both involved a further apology and in one case some additional IT support was offered to the customer.

### **Reason/s for Recommendation/s**

35. To enable members to scrutinise complaints dealt with using the Council's complaints procedure between 1<sup>st</sup> April 2017 and 31<sup>st</sup> March 2018.

## **Statutory and Policy Implications**

36. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Financial Implications**

37. A number of Adult Social Care complaints that were partially or fully upheld involved disputes about the payment of outstanding care fees. In some cases the remedy offered and accepted in each case was a waiver of a proportion of the charge. The information held by the complaints team indicates that in one case the amount waived was £32,000 due to a system error which dated back to 2011 and has subsequently been resolved. In a further 7 complaints waivers of approximately £7000 were agreed. The payments and waivers are covered by the service area involved in the complaint and the ASCH&PP department's budget.

## **RECOMMENDATION/S**

That members consider whether there are any actions they require in relation to the issues contained within the report.

**Marjorie Toward**

**Monitoring Officer and Service Director – Customers, Governance and Employees**

**For any enquiries about this report please contact:** Laura Mulvany-Law, Temporary Team Manager, Complaints and Information Team 9772788

### **Legal Comments SLB 19/02/2019**

Governance and Ethics Committee is the appropriate body to consider the content of this report. If Committee resolves that any actions are required it must be satisfied that such actions are within the Committee's terms of reference

### **Financial Comments [RWK 25/02/2019]**

The financial implications are set out in paragraph 37 of the report.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

**Electoral Division(s) and Member(s) Affected**

All

**Formal complaints. 1 April 2017-31 March 2018**

| <b>Adult Social Care</b>           | <b>2015/16</b> | <b>2016/17</b> | <b>2017/18</b> |
|------------------------------------|----------------|----------------|----------------|
| <b>Total received</b>              | <b>288</b>     | <b>334</b>     | <b>378</b>     |
| <b>Completed process.</b>          |                |                | <b>311</b>     |
| Not upheld                         | 104            | 85             | 144            |
| Partially upheld                   | 64             | 67             | 94             |
| Fully upheld                       | 55             | 50             | 73             |
| Completed within 6 month timescale | 93%            | 99%            | 99%            |

| <b>Adult Social Care</b>       | <b>2017/18</b> |
|--------------------------------|----------------|
| <b>Total received</b>          | <b>378</b>     |
| <b>Completed</b>               | <b>311</b>     |
| <b>Incomplete</b>              | <b>67</b>      |
| Ineligible                     | 4              |
| Issues previously responded to | 2              |
| Outside timescale              | 2              |
| Safeguarding procedure         | 4              |
| Not NCC complaints             | 4              |
| Withdrawn                      | 44             |
| Not known                      | 7              |

| <b>Children's Social Care</b>        | <b>2015/16</b> | <b>2016/17</b> | <b>2017/18</b> |
|--------------------------------------|----------------|----------------|----------------|
| <b>Total received</b>                | <b>312</b>     | <b>271</b>     | <b>320</b>     |
| <b>Completed</b>                     |                |                | <b>252</b>     |
| Not upheld                           | 129            | 114            | 118            |
| Partially upheld                     | 83             | 61             | 82             |
| Fully upheld                         | 45             | 31             | 52             |
| Response in 20 working day timescale | 82%            | 83%            | 83 %           |
| Complaints investigated at Stage 2   | 9              | 4              | 2              |
| Complaints considered at Stage 3     | 5              | 3              | 1              |



| <b>Children's Social Care</b>          | <b>2017/18</b> |
|--|----------------|
| <b>Total received</b>                  | <b>320</b>     |
| <b>Completed</b>                       | <b>252</b>     |
| <b>Incomplete</b>                      | <b>68</b>      |
| Alternative Dispute Resolution         | 2              |
| Alternative procedure / appeal process | 2              |
| Inconclusive                           | 4              |
| Ineligible                             | 6              |
| Issues previously responded to         | 1              |
| Outside timescale                      | 1              |
| Safeguarding                           | 2              |
| Withdrawn                              | 38             |
| Not known                              | 12             |

| <b>Corporate service</b>                     | <b>2015/16</b> | <b>2016/17</b> | <b>2017/18</b> |
|--|----------------|----------------|----------------|
| <b>Total received</b>                        | <b>428</b>     | <b>588</b>     | <b>328</b>     |
| <b>Completed process</b>                     |                |                | <b>270</b>     |
| Not upheld                                   | 181            | 303            | 131            |
| Partially upheld                             | 84             | 65             | 45             |
| Fully upheld                                 | 153            | 127            | 94             |
| Stage 1 response in 20 working day timescale | 84%            | 81%            | 80%            |
| Complaints investigated at S2                | 7              | 5              | 5              |
| Complaints considered at S3                  | 0              | 0              | 0              |

| <b>Corporate service</b>               | <b>2017/18</b> |
|--|----------------|
| <b>Total received</b>                  | <b>328</b>     |
| <b>Completed process</b>               | <b>270</b>     |
| <b>Incomplete</b>                      | <b>58</b>      |
| Alternative procedure / appeal process | 5              |
| Inconclusive                           | 7              |
| Ineligible                             | 4              |
| Issues previously responded to         | 3              |
| Not known                              | 10             |
| Not NCC                                | 3              |
| Policy Decision                        | 10             |
| Withdrawn                              | 16             |

## Appendix B

