

CORPORATE PARENTING BOARD – 20 JANUARY 2020

Title of paper:	Children in Care Social Care Complaints	
Director:	Helen Blackman Director, Children’s Integrated Services	Wards affected: All
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Other colleagues who have provided input:	Ian Hillier Complaints and Mediation Officer	
Relevant Council Plan Key Theme:		
Nottingham People		<input checked="" type="checkbox"/>
Living in Nottingham		<input type="checkbox"/>
Growing Nottingham		<input type="checkbox"/>
Respect for Nottingham		<input type="checkbox"/>
Serving Nottingham Better		<input type="checkbox"/>
Summary of issues (including benefits to citizens/service users):		
<p>This report includes a brief summary of the statutory Social Care Complaints procedure, which ensures young people have a robust process to express their dissatisfaction. The report highlights complaints made specifically by Children in Care in accordance with the statutory Social Care Complaints procedure. This report also focuses on the nature of the complaints made and whether the complaints were addressed within the statutory timescales.</p>		
Recommendation:		
1	That the board continue to support the effective complaints handling of young people in care and understand required duties of corporate parents in relation to addressing the concerns of young people in care.	

1 REASONS FOR RECOMMENDATIONS

- 1.1 Nottingham City has a legislative duty to ensure all young people have a robust complaints process to address any concerns that that they are responsible for.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The aim of the Social Care Complaints Team is to resolve service user dissatisfaction and learn from complaints in order to improve service delivery. The complaints service operates a statutory complaints procedure, which includes the production of an annual report on the operation of the complaints procedure.¹

¹ The Children Act 1989 Representations Procedure Regulations 2006

- 2.2 Complaints, which are made and resolved within 24 hours, are not logged as complaints. This is in line with national guidance.
- 2.3 The remit of the complaints team is not simply to receive calls. The team is required to check that a person who wishes to make a complaint on behalf of a child has sufficiency of interest in respect of making a complaint: it obtains consent from the citizen/service user, where this is required. In respect of children's complaints, consideration may need to be given as to whether a child is Fraser competent; in other circumstances, consideration will need to be given to determine whether a complaint is being made in the interests of the citizen, where she or he may lack the necessary capacity, as determined under the Mental Capacity Act. Where a Power of Attorney is raised as a right to make a complaint on another person's behalf, the complaints team has to establish whether such a Power is registered or not.
- 2.4 It is only after these matters have been considered that the Social Care Complaints Team asks a Service Manager or Team Manager to provide a written response to a complaint, and to respond to the complaint within the timescales, as defined within the relevant statutory complaints process. At stage 2 of the procedure independent investigators are commissioned by the Complaints Team to investigate complaints and to provide reports to the Authority detailing their findings and recommendations. Where a complainant remains dissatisfied a stage 3 complaints review panel, comprised of three independent people, is asked to review the Authority's response to the complaint as well as the stage 2 findings.
- 2.5 The Complaints Team provides advice to the operational teams on how to avoid unnecessary escalation of complaints to the Local Government Ombudsman. Further support is provided to the Department in managing complaints from the Local Government Ombudsman, along with training for all front line staff.
- 2.6 The Complaints Team has been integral in identifying complaints that have the potential to be escalated to the Local Government Ombudsman; advice is offered to operational staff how to limit the impact of such complaints, thereby reducing any reputational damage to the Authority.
- 2.7 Where a complaint reaches the Ombudsman, the Complaints Team is highly skilled at risk assessing complaints in order to identify potential failings, so that they may be rectified and resolved, before the Ombudsman investigates the complaint, again this helps to avoid reputational damage.
- 2.8 The expectation from Ofsted is that the Local Authority does not operate a one dimensional view of quality & practice. Complaints provide a particular perspective on performance.

Children's Statutory Social Care Complaints Procedure.

- 2.9 Stage 1 – the department is asked to provide a written response within 10 working days, this may be extended to 20 workings days.
- 2.10 Stage 2 – the complainant, usually where s/he remains dissatisfied following a response at stage 1, may request an investigation of their complaint; this is usually undertaken by an Independent Investigator, overseen by an Independent Person, both commissioned by the Complaints Team. Records are scrutinised and staff are interviewed by the investigator, after which the stage 2 outcome is provided in the form of a detailed investigation report, which should be available within 25 working days, but this may be extended to 65 working days.

- 2.11 Stage 3 – if the complainant remains dissatisfied after receiving the investigator’s findings and any recommendations, s/he may request that an independent panel (comprised of 3 independent people) review the complaint and investigation. The complainant and any representative, and a representative from the department, along with the investigator and independent person are invited to the panel too.
- 2.12 The relevant director then writes to the complainant to explain if the department accepts the findings and recommendations of the Stage 3 Panel; the director also explains what action plan has been agreed to be put in place so as to complete any recommendations.
- 2.13 Complaints Received from Children in Care April – December 2019

Complainant	Nature of complaint	Days to resolve	Outcome
1	Concern about the quality or appropriateness of the service	Mediation	No findings made
2	Unwelcome or disputed decision	Ombudsman	Premature
3	Delivery or non-delivery of services including complaints procedures	26	Mostly upheld
4	Delay in Decision Making	5	Not upheld
5	Attitude or behaviour of staff	21	Not upheld
6	Concern about the quality or appropriateness of the service	10	Upheld
7	Attitude or behaviour of staff	19	Not upheld
8	Unwelcome or disputed decision	15	Mostly not upheld
9	Attitude or behaviour of staff	7	Not upheld
10	Concern about the quality or appropriateness of the service	13	No Findings made
11	Concern about the quality or appropriateness of the service	11	Still open
12	Concern about the quality or appropriateness of the service	Stage 2 26	Mostly not upheld

Complaints received are usually multiple in number, as such, some individual complaints may be upheld and some not upheld. Therefore, the outcome of the overall complaint may be mostly upheld or mostly not upheld, as cited above. In situations where none of the complaints are upheld then the overall complaint is “Not upheld” or “Upheld” where the complaints are all upheld.

There are times where there is a ‘No Finding’ outcome. This is usually where there is no evidence to support a view made or where we are unable to come to a definitive decision.

2.14 Main Points:

- Compared with the previous reporting period the number of complaints decreased from 24 to 12.
- Of the complaints received, 9 were resolved at stage 1 of the complaints procedure. A further one was mediated, one was investigated at stage 2, and one was considered to be premature by the Ombudsman, and returned to the council to be considered at stage 1.

- All but 2 complaints were concluded within the statutory timescale of 20 working days.
- No strong themes were identified because during this reporting period no two complaints were the same.

Individual complaint synopsis

- **Young Person 1** had complained about staff attitude and poor communication from the leaving care team. It was agreed the issues would be discussed with the young person. However, he chose not to pursue the matter further.
- **Young Person 2** complained directly to the Ombudsman about what she believed was the council's decision to ignore timescales set to complete an assessment. The Ombudsman would not consider the complaint as the council had not had an opportunity to consider it, and so it was returned to the council for investigation.
- **Young Person 3** is a young man with a learning disability who complained that the court had stipulated he was to have monthly contact with his daughter, but the council had failed to ensure this was arranged and had failed to provide him with train tickets to enable him to visit his child. The council accepted that errors had been made, including booking seats on the wrong train for him and that contact sessions had been cancelled. A written apology was provided.
- **Young Person 4** complained she no longer wished to be a "child in care" and she was unhappy because she felt it was taking too long for her carers to receive a special guardianship order for her. This was not upheld at stage 1, but subsequently was investigated at stage 2.
- **Young Person 5** was unhappy that her mobile phone had been removed from her in the residential home. The complaint was not upheld.
- **Young Person 6** a young man with autism used Mind Of My Own to send us his complaint. He was unhappy that another young person had shared his transport so that he could be dropped off somewhere else on a number of occasions. The residential unit met with the young person, apologised, and ensured it would not happen again.
- **Young Person 7** who lives in a residential setting complained his social worker doesn't visit him very often. The stage 1 response explained that visits are every 6 weeks, but he was welcome to contact his social worker at any time, and she would respond as soon as possible.
- **Young Person 8** was unhappy about the delay in completing a risk assessment to enable her to see her father. It was accepted that a change in social worker had caused some delay, and so an apology was provided in writing, from the council.
- **Young Person 9** complained that a senior manager had laughed at her and had found it funny that she was now in secure accommodation. Although the complaint was not upheld the council apologised if the manager's actions and comments were misconstrued.
- **Young Person 10** was unhappy he was finding it difficult to get hold of certain staff in the leaving care team. A response was provided and the complaint was not pursued any further.
- **Young Person 11** this is a current complaint from a young man who is unhappy that some of his personal items have gone missing from his room in a residential home.

- **Young Person 12** A stage two investigation was undertaken when a young person complained that she remained unhappy with the stage 1 response she had received. An Independent Investigator upheld her complaint that it took too long to agree the terms of her Special Guardianship Order; but her other complaints, including that social workers were not listening to her, were not upheld. Both the council and the young person accepted the findings of the stage 2 investigation.

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

3.1 None.

4 FINANCE COLLEAGUE COMMENTS

4.1 None.

5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS

5.1 The Children Act 1989 (S24D & 26[3] & The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 require each Local Authority to establish formal procedures for considering complaints in respect of services to children. Government Regulations were introduced in 2006 and the Secretary of State issued statutory guidance under the Local Government Social Services Act 1970. Failure to adhere to timescales could mean maladministration payments being made to the complainant.

5.2 If the above legislation is not adhered to the Local Authority will fail to fulfil its statutory duty and this will impact on service delivery to complainants resulting in the involvement of the Local Government Ombudsman with a potential outcome of the Department being requested to make maladministration payments if the LGO feels there has been undue delay in progressing the complaint, this in turn may cause reputational risk to the Department.

6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS

6.1 None.

7 EQUALITY IMPACT ASSESSMENT

7.1 An EIA is not required because the report does not contain financial proposals or decisions.

8 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

8.1 None.

9 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

9.1 The Children Act 1989 (S24D & 26[3] & The Local Authority Social Services Representations Procedure (England) Regulations 1991 National Health Service Complaints (England) Regulations 2006.

8.2 Getting the Best from Complaints National Guidance.