

COUNCIL – 26 JULY 2017

AGENDA ITEM 12

Question from Councillor J Radcliffe to the Cabinet Member Social Services & Early Help

“Can the Cabinet Member for Social Services provide an update on changes to the complaints procedure and how complaints are handled following publication of the Public Services Ombudsman’s report of December 2016 regarding the savings of looked after children?”

Response from the Cabinet Member Social Services & Early Help to Councillor J Radcliffe

Regulation 11, of the Social Services Complaints Procedure (Wales) Regulations 2014 states:

“A complaint to a local authority may be made about the exercise of its social services functions including—

- (a) the discharge by a local authority of any of its social services functions or a failure to discharge any of those functions;
- (b) the provision of services by another person or body in accordance with arrangements made by the local authority in the discharge of those functions;
- (c) the provision of services by the local authority in pursuance of arrangements made by that local authority under section 33 of the National Health Service (Wales) Act 2006 in relation to the functions of an NHS body (within the meaning of that section).

The Welsh Government: *A Guide to handling complaints and representations by Local Authority Social Services* (August 2014), states ...”This guidance covers all complaints and representations to a local authority about the exercise of its social services functions”.

In relation to social service functions, the guidance defines a complaint as:

- An expression of dissatisfaction or concern;
- Either written or spoken.....;
- Made by one or more members of the public;
- About a public service provider’s action or lack of action; or
- About the standard of service provided.

Our usual process is:

1. A complaint is received. We assess whether the complaint falls under “a social services function” (as per guidance above) and we assess whether it is subject to any other ongoing investigation which may take precedence over the complaints process – ie POVA/CP/criminal etc. We do this based on knowledge and understanding of the complaints process and in liaison with the person who has knowledge of the case - Team Manager/Group Manager.

2. Dependent on the nature of the complaint, a decision is made on whether it should be investigated formally under Stage 1 or whether, due to its nature it would be appropriate to address as a service issue and resolve informally (outside of the statutory complaints procedure).
3. Either way, an investigation is always undertaken by a lead officer – this is normally the team manager – for both formal Stage 1 and service issues.
4. For Stage 1 investigations, written responses are provided within statutory timescales (total for meetings, investigation and written response is 15 working days). For service issues, written responses aren't always provided as they can often be easily resolved via telephone communication.

In the case described below, as there was no formal policy in place governing the amount of “pocket money” that should be put away by foster carers for a child in their care, there was no requirement for this service to be provided. It was therefore deemed that the matter did not fall under a social services function. The complaint was therefore considered to not fall under the remit of Social Services Representations and Complaints Process. However, as can be seen from the detail below, the format of the complaints process was still followed.

In his report, entitled The Investigation of a Complaint by Mr N against Bridgend County Borough Council (22nd November 2016), the Ombudsman concluded that:-

Point 50: ‘ From a complaints perspective, it seems to me that the Council took too narrow a view when it concluded that Mr N’s case was not one that fell within its social services complaints procedure. I have concerns that the way the Council dealt with and responded to Mr N’s complaint meant that his voice as a LAC was not properly heard. As a consequence the Council lost the opportunity to learn lessons’.

The Ombudsman Recommended that:-

(b): ‘The Council should review this case from a complaint handling perspective and share with the Ombudsman’s office any lessons learned’.

The Ombudsman report was presented to Corporate Parenting on 18th January 2017.

On the basis of the information provided, the complaint was considered not to fall under the remit of Social Services Representations and Complaints Procedure but the decision was taken to address the matter as a service issue rather than as a Stage 1 complaint.

This decision was explained in writing to Mr N who was also advised at that time of the availability of an advocate to assist him, if he wished.

The Authority takes all complaints very seriously, and the process adopted to address service issues is very similar to that undertaken for a Stage 1 complaint under the Social Services and Representations process. Once the complaint had been investigated, a written response was provided to Mr N.

All service issues addressed via the Social Services Complaints Section are recorded in the same manner as a formal Stage 1 complaint to ensure that any trends can be picked up and that these are appropriately reported to senior management and included in the Complaints Annual Report.

The Ombudsman's findings and recommendation in respect of how this complaint was handled was accepted by the Council.

The changes we have implemented as a result of this are:

- We now ensure that we check and seek advice from legal regarding any complaints received where there is any ambiguity or doubt about whether the complaint fits under the definition "..... the exercise of its social services functions". The process for investigation remains the same.
- In addition to the regular reports to Group Managers, we now also provide regular reports to the senior management team of the Directorate detailing current complaints (formal and service issues) with an update of required actions. These reports include any ombudsman investigations.

Cllr Phil White
Cabinet Member Social Services & Early Help