

From: Roger Gough, Cabinet Member for Children, Young People and Education

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To: Children's, Young People and Education Cabinet – 25 September 2018

Subject: Complaints and Representations 2017-18

Classification: Unrestricted

Previous Pathway of Paper: None

Future Pathway of Paper: None

Electoral Division: All

Summary: This report provides information about the operation of the Children Act 1989 Complaints and Representations Procedure in 2017/18 as required by the Statutory regulations. It also provides information about the 'non-statutory' social care complaints and complaints received about Education Services.

Recommendation: The Children's, Young People and Education Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the contents of this report.

1. Introduction

- 1.1 This report provides information about the operation of the Complaints and Representations procedure relating to Specialist Children's Services and to the Disabled Children's Service. There is a statutory requirement on the Directorate to operate a robust complaints procedure for children and those who are eligible to make a complaint on their behalf. The procedure provides eligible children and their parents/carers with the right to be heard, the opportunity to resolve issues and to take matters further if they are not resolved. It also provides an additional safeguard for vulnerable children and young people, as well as being used as a quality assurance tool for individual professional development and wider service development.
- 1.2 The statutory complaints procedure is designed to ensure the rights and needs of the child are at the heart of the process and that young people's voices are heard.
- 1.3 The statutory requirement to produce an annual complaints report in respect of Children's Social Services is included in the Children Act 1989 Representations Procedure (England) Regulations 2006. The Regulations are specific about the type of information which must be included in the annual report.

- 1.4 All Children in Care in Kent are advised how to make a complaint and are informed of their right to access the advocacy service.
- 1.5 In addition to statutory complaints, the Complaints Team log and administer complaints received about services that are excluded from the statutory complaints procedure, as well as complaints from people without a statutory right to complain. 'Representations' are also accepted from those who have a statutory right to submit a complaint about children's social care services, but where there are reasons which prevent the complaint from being accepted, such as an ongoing Child and Family assessment, child protection enquiries or legal proceedings. All cases are recorded on the complaints database and, where appropriate, on the child's record.
- 1.6 Functions excluded from the complaints procedure include child protection multi-agency decisions and decisions that have been made in a court of law. Complainants are advised of the alternative routes available for challenging such decisions. Complaints which fall outside of the scope of the statutory complaints procedure are considered under the Council's corporate complaints procedure. All complainants and those making representations are routinely advised of their right to challenge the decision of the Council via the Local Government Ombudsman.
- 1.7 Complaints which do not fall within the scope of either the Council's corporate complaints procedure or the statutory Children Act procedure are handled as 'Enquiries' and customers are advised of alternative routes for progressing their concerns.
- 1.8 Issues raised by Members of Parliament and County Councillors on behalf of constituents are registered and responded to as 'Member Enquiries' but the elected representative is also advised of their constituent's right to make a formal complaint where appropriate.

Representations made to the local authority

Type of Record	2014/15	2015/16	2016/17	2017/18	Variance on previous year
Children Act complaint	196	210	165	96	↓ 42%
Corporate complaint	35	37	120	319	↑ 166%
Representation	253*	288*	271*	96	n/a
Member Enquiry	139	139	126	116	↓ 8%
Enquiry*				303	n/a
Compliment	94	68	84	84	0%
Total complaints	231	247	285	415	↑ 46%
Total all representations	717	742	766	1014	↑ 32%

**'Enquiry' has replaced the category 'Miscellaneous', which was reported alongside 'Representations' in previous years. 'Representations' is now only used for cases where the complaint would have been eligible for progression as a statutory Children Act complaint but could not be accepted because of legal proceedings or ongoing social work assessments/investigations.*

- 1.9 The Complaints Team also log compliments which are the positive feedback received about staff and services. In 2017/18 the number of compliments received remained the same as the previous year with 84 received and formally logged.
- 1.10 Set out below are a few examples of the compliments received in 2017/18 by children's social care services.

Feedback from young person about Child Protection Chair

A young person told her social worker that the Child Protection meeting was good, and the CP Chair suggested some good ideas that will be useful. They hoped that things would now improve and said how they "feel more positive and don't have negative thoughts to self-harm."

Parental comment about support from Social Workers

"The social workers were very helpful in making me understand the changes I needed to make to keep my daughter."

From Head Teacher about a Social Worker

"When you have a bad meal out...you tell everyone. When you have a good one...you tell no one! I just wanted to say that H is a 'good one' and that our school really appreciates her professional manner, measured responses and straight talking with families. She always returns calls and keeps us informed of changes that we need to know. I know she is relatively new to the profession, but from our experience she's great and it's important that we tell you."

From a parent about post adoption support

"We have had a real battle on our hands with getting our son the help he needs. It was a little slow at the beginning getting things moving with post adoption but I have to say the help I have received from A and A has been fantastic and I know it's their job but they genuinely seem to want to make a real difference to us and work really hard to support us. I just wanted to take this opportunity to say how hard the post adoption team has worked for us."

Judicial commendation from Judge

"I have previously commented on the excellent support and work done by the social work team. The result in this case reflects the clear witness statements and care plans. I am pleased to report that this is not just my opinion, but that H and E deservedly received a judicial commendation."

2. Consideration of complaints

- 2.1 It is a legal requirement to handle complaints from Looked After Children and Children in Need, or those eligible to make a complaint on their behalf, through the three-stage procedure specified in the Children Act 1989 Representations Procedure (England) Regulations 2006.

2.2 There are three stages to the statutory complaints procedure:

- Stage 1 - Local Resolution (20 working days)
- Stage 2 – Independent Investigation (up to 65 working days)
- Stage 3 - Independent Review Panel (30 working days)

2.3 The following table shows the number of Children Act complaints dealt with at each stage.

Stage	2014/15	2015/16	2016/17	2017/18	Variance on previous year
Stage 1 – Local Resolution	193	210	165	96	↓ -42%
Stage 2 – Independent Investigation	25	36	19	9	↓ -53%
Stage 3 – Independent Review Panel	1	1	3	7	↑+133%
Local Government Ombudsman referral *	29	17	41	33	↓ -20%

**includes non-statutory complaints and enquiries about new complaints*

2.4 There continues to be a decrease in the number of complaints handled through the statutory Children Act complaints procedure, and an increase in the number handled through the Council's own corporate complaints procedure. The Complaints Team continue to carefully and thoroughly assess each complaint, and progress those which are not made either by or on behalf of a child or young person through the Council's corporate complaints procedure. Consideration is given to the type of issues being raised, with complainants being encouraged to allow the local social care team an opportunity to resolve their concerns informally before requesting progression as a formal complaint. Most 'enquiries' are resolved without the need to then progress as a formal complaint.

2.5 The number of Stage 3 Review Panels held in 2017/18 increased for a second year (7 compared with 3 in the previous year). Previously there had been greater emphasis on informing people of their right to take their complaints as part of an early referral to the Ombudsman. However, the Local Government Ombudsman found fault with the Council on several occasions in 2016 for not following statutory procedure and advising complainants of their right to progress to Stage 3 of the complaints process on completion of Stage 2. Complainants are now always advised on conclusion of Stage 2 that they have a right to request further consideration of their complaint by an Independent Review Panel.

2.6 A recent report from the Local Government Ombudsman stated 99 complaints relating to children and education services in Kent were received in 2017/18. Many of these would have been initial enquiries to the Ombudsman that would have been referred to KCC for local resolution or would have been considered outside the remit of the Ombudsman. However, 33 complaints were considered further by the Ombudsman regarding Children's Social Services in

2017/18. Although the numbers appear quite high, they are reflective of the population of the county and the statutory requirement of ensuring complainants are aware of their right to contact the Ombudsman if they are dissatisfied. Overall the Ombudsman's report noted that the national average for cases investigated and upheld by the LGO is 57%, this is up nationally from 53% last year. Kent County Council's average for 2017/18 is **39%**; a significant decrease on 63% from the previous year. This would indicate that complaints are being investigated thoroughly by the Council before progressing to the Local Government Ombudsman.

3. Type of complaints made

Stage 1 Children Act complaints received – by service

Service	Number	% of total
Adolescent Support	1	1%
18+ and Care Leavers Service	12	12%
Adoption Service	1	1%
Central Referral Unit	1	1%
Child Protection	8	8%
Children in Care	41	43%
Children in Need	17	18%
Children with Disabilities	13	14%
SEN	1	1%
Virtual School Kent	1	1%

Stage 1 Children Act complaints received - by key theme

Key theme	Number	% of total
Assessments	5	5%
Communication	11	11%
Contact issues	3	3%
Data Protection	2	2%
Disputed decision	14	14%
Financial issues	5	5%
Placement issues	17	17%
SEN	1	1%
Service provision	21	20%
Service quality	23	22%

- 3.1 There is no direct correlation between the number of complaints received and the services or issues being complained about. This is due to the multi-faceted and often complex nature of some complaints which can span multiple services.
- 3.2 The majority of complaints received and progressed through the Children Act complaints procedure were in relation to the Children in Care service. Although this may appear to be a negative statistic it is in fact a positive one in terms of the complaints process, as it indicates that children and young people who are looked after by the Council feel able to make complaints if they are dissatisfied with any decisions or the quality of service they receive. Ofsted are particularly keen to see evidence which shows that young people are aware of, and feel able to access, the complaints procedure as a way of having their voices heard.
- 3.3 Previously a high proportion of complaints relating to the Children in Care service were from or on behalf of Unaccompanied Asylum Seeker Children (UASC). The previous year showed that 44 complaints were received either directly from the young people or from their advocates. However, in 2017-18 this reduced to 20, with the remainder being made by 'citizen' Looked After Children (LAC).
- 3.4 Complaints about placement issues made up 17% of the complaints received and progressed through the statutory procedure in 2017-18. Some were from the children and young people themselves, complaining about proposed placement moves. Although most complaints received were in relation to service quality, with issues such as staff attitude and disagreement with care plans being the main concerns. Another common theme arising from statutory Children Act complaints is a lack of general support, this falls under the category of service provision and relates mainly to care leavers.

4. The outcome of complaints

- 4.1 When responses to complaints are sent, a determination is made as to whether the complaint was upheld. Of the 96 Stage 1 complaints completed in 2017/18; 8% were fully upheld and 24% were partially upheld. The majority however were not upheld (55%), and 8% were successfully resolved and subsequently withdrawn from the process. The remainder bypassed Stage 1, this often occurs when it is clear that a complaint is unlikely to be resolved at Stage 1 or if the complaint is of a serious nature and requires an immediate independent investigation.

Stage 1 Children Act complaints - outcome

Outcome	Number	% of total
Upheld	8	8%
Partially upheld	23	24%
Not upheld	53	55%

Issue resolved/withdrawn	8	8%
Stage bypassed (straight to Stage 2)	4	4%

- 4.2 In 2017/18, there were 9 Stage 2 complaint investigations started. Three complaints were partially upheld, 1 was not upheld, and 2 are currently still underway. In addition, 2 cases were closed as the complainants instigated legal proceedings against the Council, and a further one was closed with an early referral to the Local Government Ombudsman as it was clear that the complaint investigation could not meet the expectations of the complainant.
- 4.3 Seven complaints were escalated to a Stage 3 Review Panel. Two of these were not upheld and 5 were partially upheld.

5. Complaints considered by the Local Government Ombudsman

- 5.1 The Ombudsman's decisions in relation to cases received about children's social care in Kent were as follows:

- Fifteen complaints were not investigated – this includes complaints where it was determined that it was outside the jurisdiction of the Ombudsman or the decision was taken not to proceed following an initial assessment of the case.
- Seven complaints were considered premature as they had not been through the Council's complaints procedure.
- No fault was found in 7 complaints.
- The Local Government Ombudsman found fault with the Council on 4 complaints (Appendix A – example of complaint upheld by LGO).

6. Details about advocacy services provided under these arrangements

- 6.1 It is a statutory requirement for the Council to offer independent advocacy services to a child or young person wishing to make a complaint.
- 6.2 A change was made to Kent's advocacy arrangements on 1 April 2015 so that there is one point of contact for independent advocacy for all children and young people in Kent wishing to make a complaint, irrespective of their status as Children in Need, Children in Care, subject to a Child Protection Plan, or as Care Leavers. The advocacy service in Kent has been provided by the Young Lives Foundation since 1 April 2015.
- 6.3 In 2017/18 there were 21 Stage 1 complaints raised by advocates on behalf of children and young people. Whilst it is right that children and young people have access to advocates to support them, in recent years there has been a greater emphasis on trying to resolve the issue rather than going direct to the complaints procedure. In addition, there were 3 complaints from children and young people which were raised on their behalf by solicitors.

7. Compliance with timescales (social care)

Process/Stage	% of responses provided within timescale	Performance against previous year
Stage 1 (10 working days)	45%	↓-23%
Stage 1 extended (20 working days)	78%	0%
Stage 2 (65 working days)	75%	↑+22%
Stage 3 (30 working days)	57%*	↓-43%
Non-statutory (20 working days)	84%	↑+9%
Member Enquiries (20 working days)	80%	↑+10%

**Two Stage 3 Review Panels were delayed at the request of the complainant to enable them to attend in person.*

- 7.1 There has been a significant decrease in the number of complaints that were responded to within the statutory 10-day timescale, down from 68% in 2016-17 to 45% in 2017-18. The number of complaints that were responded to within the maximum extended 20-day timescale remained the same as the previous year at 85%. Performance has been directly affected by implementation of the new centralised customer feedback system, which took a few months for staff working in complaints to familiarise themselves with in terms of process and the recording of data. The significant increase in the volume of complaints received has also impacted on the capacity of the Complaints Team in terms of monitoring each case, as well as the capacity of staff in the social care teams in providing responses.
- 7.2 The Council should consider Stage 2 complaints within 25 working days of the start date (the date upon which a written record of the complaints to be investigated has been agreed), but this can be extended to 65 working days if required. There have been some challenges in meeting these timescales, with difficulties appointing Investigating Officers, Investigating Officers having competing priorities with their regular role as Team Managers within children's social care, and difficulties engaging complainants with the process all contributing to some of the delays. Of the complaint investigations that were completed within 2017-18, 75% were responded to within the 65 working day timescale. Three cases were withdrawn and two are still in progress.

8. Learning the lessons from complaints

- 8.1 In 2017/18 there were a number of complaints that led to lessons learnt:
- A complainant was prematurely informed of the initial decision on a case, which was later changed. Processes have been tightened to ensure that outcomes of safeguarding referrals/enquiries are not shared until after management oversight has occurred.
 - Dedicated business support has been put in place to monitor and track Health Assessments for children and young people who are looked after by

Kent County Council. This will ensure that the risk of assessments being delayed is significantly reduced.

- An initial induction year is now in place for foster carers, with a senior and fostering social worker assistant offering more regular visits and a planned programme of information sharing to avoid carers feeling isolated and struggling to access information.
- Conference Chairs have been advised to consider dividing Child Protection Conferences into separate segments when there are several carers involved. This would ensure that personal information relating to individual prospective carers is not discussed collectively and shared more widely than necessary.

8.2 Although learning does take place in relation to complaints, this continues to be an area for further improvement to ensure that the learning is captured and utilised as fully as possible, and in a systematic way, across the Directorate.

9. Review of the effectiveness of the complaints procedure

9.1 The Complaints Team was situated within the Operational Support Unit, which managed both the Children Services Complaints and Adult Social Care Complaints Teams. The Children's Complaints Team was however transferred back into the Children, Young People and Education Directorate in April 2018. Many of the complaints can be complex and require sensitive handling. In addition to managing the complaints the team also produce regular complaints reports for management teams and weekly update reports.

9.2 The effectiveness of the complaints procedure depends on the wider organisational culture and the propensity to learn the lessons where the service has not been to the required standard. Transferring the team into the CYPE Safeguarding and Quality Assurance Unit will facilitate a closer working relationship with those officers tasked with improving service delivery across children's social work services. In addition, the Complaints Team receive support from Senior Management for the prioritisation of complaints and ensuring the availability of Independent Investigators where a Stage 2 Investigation is required.

9.3 **Training** – Individual sessions raising awareness of the complaints process and advising on key themes arising from complaints are provided to local teams and services by the Complaints Team. In addition, individual support and advice is provided to all new Investigating Officers appointed to undertake complaint investigations at Stage 2 of the statutory Children Act complaints procedure.

9.4 **Complaints Database** - Following the decision to procure a corporate database for all Directorates, a new database was implemented across the Council in October 2017 to ensure that customer feedback is recorded centrally to enable the consistent management of cases, as well as the production of a range of complaints reports.

9.5 **Young Lives Foundation** - The Young Lives Foundation is an independent organisation which provides an Advocacy Service and the Independent Persons for the Stage 2 complaints. The reports produced by the Independent Persons have generally been to a good standard and delivered within the required timescales. The Advocacy Service has also been proactive in supporting and representing children and young people to make their views known. Regular meetings take place to monitor the contract with the Young Lives Foundation.

10. Objectives for 2018/19

10.1 Objectives for 2018/19 include:

- To continue to improve the quality of data entered on the new customer feedback system to ensure accurate and informative performance and learning data is captured;
- To continue to provide useful management reports and to develop a coherent approach to learning key lessons and following up on actions from complaints and related feedback;
- To continue to ensure the operation of the complaints procedures in line with statutory requirements and monitor performance standards;
- To work with colleagues in developing training for managers to ensure quality complaint responses are provided;
- To resolve complaints from children and young people at an earlier stage;
- To promote the complaints process with children and young people, particularly those who are looked after by the Council, to ensure they are aware of their right to submit a complaint;
- To seek user feedback from individuals who have made complaints.

11. Complaints about Education Services

11.1 Complaints about Education Services are not generally dealt with through the Children Act complaints procedure unless they are in relation to Looked After Children for who KCC has a corporate parenting responsibility. Complaints about schools are managed within each school's complaints procedure and some disagreements, for example disputes relating to Education, Health and Care Plans are considered through appeals to a statutory tribunal.

11.2 The number of complaints reported are those logged with the Complaints Team or on the new centralised system since October 2017, therefore they will not necessarily reflect the totality of complaints received as some services manage their own complaints and recorded them separately prior to October 2017. In 2017/18, there were 231 Education complaints received and logged. This was significantly more than the 102 complaints received and logged in 2016/17, although it is not clear whether this increase is partially, or wholly, associated to the implementation of centralised recording on the new customer feedback system. There were 280 Enquiries logged in 2017/18, these were mostly enquiries from MPs on behalf of constituents, with 42% of them relating to SEN, 20% Admissions, and 17% Home to School Transport.

11.3 The timescales for responses were as follows:

- 57% of complaints met the 20-day time-scale.
- 59% of enquiries were completed in 20 working days.

11.4 Of the 231 complaints received, 40% were not upheld, 23% were upheld and 26% were partially upheld. The remainder of cases have either been successfully resolved and withdrawn or the outcome is outstanding.

11.5 The complaints received about Education Services related to the following areas of work:

Area/District	Complaints Total	% of total
Admissions/Fair Access	12	5%
Community Learning & Skills	52	23%
Early Help/Preventative Services	4	2%
Early Years and Childcare	15	6%
SEN All Areas	114	49%
Home to School Transport	19	8%
Other education	15	7%
Total	231	

11.6 There were 28 cases where the Local Government Ombudsman was contacted and came to a final decision on the complaint. Of these, 4 were about SEN services; 13 were about home to school transport and 11 related to school admissions. In most cases there was no fault found or the complaint was considered premature or was closed after initial enquiries. There were however 4 cases where the Ombudsman found fault (Appendix B - example of complaint upheld by LGO)

11.7 As with Specialist Children's Services, Education complaints are now logged on the new complaints system. The functionality of the new system should enable greater flexibility in terms of the presentation of statistical information about complaints and it should assist with the administration of complaints.

12. Conclusion

12.1 The Council continues to operate a robust and responsive service for people making complaints about Children's Services. The Children Act and subsequent regulations and statutory guidance are quite prescriptive about the procedures for handling complaints from and on behalf of children in receipt of services under the Children Act. This includes complaints from children in care, care leavers and children in need. It is important that children

and families feel able to complain if they are dissatisfied with the service received as it provides an opportunity to resolve issues, and where the service has not been to the expected standard it is also an opportunity to learn lessons and put things right.

13. Recommendations

- 13.1 Recommendation: The Children's, Young People and Education Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the contents of this report.

14. Background Document

None

15. Report Author

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The following is a sample complaint that was upheld by the Local Government Ombudsman:

Complaint –

- Miss X complains about the actions of the Council in Child and Family Assessment reports.
- Miss X says the reports contained false information about her and her family and the Council shared that inappropriately. She said this was abuse against her and her family.
- Miss X complains the Council's remedy for the admitted faults in its actions does not adequately reflect the harm done to her and her family.

Decision –

I recommend the Council apologises again to Miss X for its accepted faults and clearly recognizes the impact on her of its actions, rather than referring to any 'good will' gesture.

I recommend the Council pays Miss X £600 to recognize the impact on her and her children of its actions.

These actions should be completed within one month of my final decision.

I recommend the Council looks at the Ombudsman's Guidance on Remedies, available on the LGO website, and reviews its own complaints process to incorporate suitable guidance on remedies for the future. This should be completed within three months of my final decision and evidence provided to the Ombudsman of changes made.

The following is a sample education complaint that was upheld by the Local Government Ombudsman:

Complaint –

The complainant (Mrs B) complains there was fault in the way a school admission appeal hearing was conducted in the following way:

- Panel failed to put to proof a weak prejudice case presented by the admission authority
- The Panel administrator did not forward to Mrs B a copy of a document (school plan) which the presenting officer referred to when presenting the admission authority's prejudice case

Decision –

Panel did not have sufficient information to make a robust decision about school prejudice and should have adjourned the hearing to seek out further information relevant to deciding whether an extra child could be admitted to Year 3. The Presenting Officer gave new information during the hearing and the information should have been disclosed beforehand to put Mrs B in the best position to prepare her case. In the circumstances Panel should have adjourned the hearing and sought further information.

To correct fault the Ombudsman recommended, and the Council agreed to carry out the following action:

- Arrange a fresh appeal with new panel members and a different clerk as soon as is reasonably possible
- Pay the reasonable travel costs of Mrs B to and from the venue

Outcome –

The agreed action suitably remedies fault. The complaint is therefore closed.