

The Year In Review



Children's Complaints and Feedback Team

Annual Report
April 2022 - March 2023

Produced by the CCFT
April 2023



Cambridgeshire
County Council

Message from the Children's Complaints and Feedback Team

Publishing an Annual Report every financial year is a statutory requirement placed upon each Local Authority (regulation 13(3) The Children Act 1989 Representations Procedure (England) Regulations 2006). The Report should be presented to the workforce, relevant Local Authority Committee, and made available to the Regulator and the general public.

Following feedback received at last year's Children and Young People's (CYP) Committee, the Complaints and Feedback Team (CCFT) reflected on Members' suggestions that future Reports should; *show a balance between the numbers of compliments and complaints received, the quotes provided relating to each and an analysis of what these showed.* The CCFT also undertook that the 2022-23 Annual Report would include; *specific reference to the number of complaints received in relation to Education, Health and Care Plans (EHCPs), and also to how learning and actions taken in response to complaints are monitored.*

As a result of this helpful feedback, the CCFT revised the format of the previous Annual Report, producing this 'new look' version which also hopefully demonstrates how information about complaints is being used to improve services and delivery, and how our quality assurance system includes a cycle of planning with outcomes fed back into operational delivery.

Learning as a result of complaints is relevant to all in Children's Services. Recently, and as a result of feedback received, the CCFT has sought to review its complaint policies and processes, specifically in relation to how it responds to complainants with disabilities to ensure there are no barriers to access. The CCFT have worked with an Equality, Diversity and

Inclusion (EDI) Business Partner to review all children's complaint literature to ensure we are compliant with Equality Act 2010 requirements, including; documents being made available in alternative formats (i.e. braille, coloured paper, large print, e-version etc), advocacy support, and other anticipated reasonable adjustments.



In addition to collating learning from complaints, the CCFT monitor the effectiveness of the complaints procedure as a measure of performance and means of quality control; with information derived from complaints contributing to practice development, staff training, commissioning, and service planning. Actions and recommendations arising from complaints are also monitored through the maintenance of an action tracker which is regularly shared with Senior Managers, to ensure practice and Service improvements are followed through.

Having undertaken a workforce survey during Summer 2022, to measure how effective the CCFT are at for the workforce, we have revised and refreshed our internal Quarterly Reports (in which we disseminate learning), complaint training programme, and organised three training sessions for responding managers in January, February, and March 2023 delivered by the Local Government and Social Care Ombudsman.

Children's Services
Change Lives. Every Day.

Cambridgeshire County Council

The Children's Complaints Manager
FREEPOST
BU72401
Buttsgrove Centre
28 Buttsgrove Way
Huntingdon
PE29 5LY

How Did We Do?

Please complete the form and return within 20 days of receipt. You can return this form either by post using the FREEPOST address above, or via email to ChildrensComplaints@ccfeedbackteam@cambridgeshire.gov.uk. Thank you.

Full along the dotted line, seal and post. No stamp is required.

Today's date _____

Your name _____

Your email address _____

Your address _____

About you (optional)
This helps us learn whether there are any distinct needs amongst minority groups which are not currently being met.

GENDER
☐ Female
☐ Male
☐ Transgender
☐ Non-binary
☐ Other _____
☐ Prefer not to say

AGE
☐ 0-10 years
☐ 11-14 years
☐ 15-17 years
☐ 18-24 years
☐ 25-34 years
☐ 35-44 years
☐ 45+ years
☐ Prefer not to say

SEXUAL ORIENTATION
☐ Heterosexual
☐ Homosexual
☐ Bisexual
☐ Gay / Lesbian
☐ Transgender
☐ Other _____
☐ Prefer not to say

ABILITY
Do you consider yourself to have a physical, mental, or emotional disability or limitation?
☐ Yes
☐ No
 If yes, please describe: _____

ETHNICITY
☐ Asian / Asian British
☐ Black / Black British
☐ Mixed / Multiple Ethnic Groups
☐ White / White British / Irish / Gypsy or Irish Traveller
☐ Other _____
☐ Prefer not to say

How did you feel about the complaint response?
 Very Dissatisfied ☐ Dissatisfied ☐ Neutral ☐ Satisfied ☐ Very Satisfied ☐

Please tell us about your experience with the complaints process.
 How to make a complaint was very unclear ☐ I wasn't contacted about my complaint / I wasn't listened to ☐ Nobody gave me any information about the complaints process ☐ My complaint hasn't been thoroughly investigated ☐ I don't think my complaint mattered to anyone else ☐

Do you want the Local Authority to take further action regarding your complaint?
☐ Yes ☐ No

Please use the below field to describe why you had a positive experience with the complaints process, or why you feel your complaint remains unresolved.
 (Please attach additional sheets of paper if necessary)

Jo Shickell
Children's Complaints Manager

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At a Glance

Considering all representations
received in the year

 compliments: **206** (204) *

 enquiries

general: **16** (30) councillor: **15** (7) MP: **112** (68)

Statutory

 stage 1: **52** (74)

 stage 2: **7** (15)

 stage 3: **3** (5)

Corporate

 stage 1: **339** (319)

 stage 2: **38** (25)

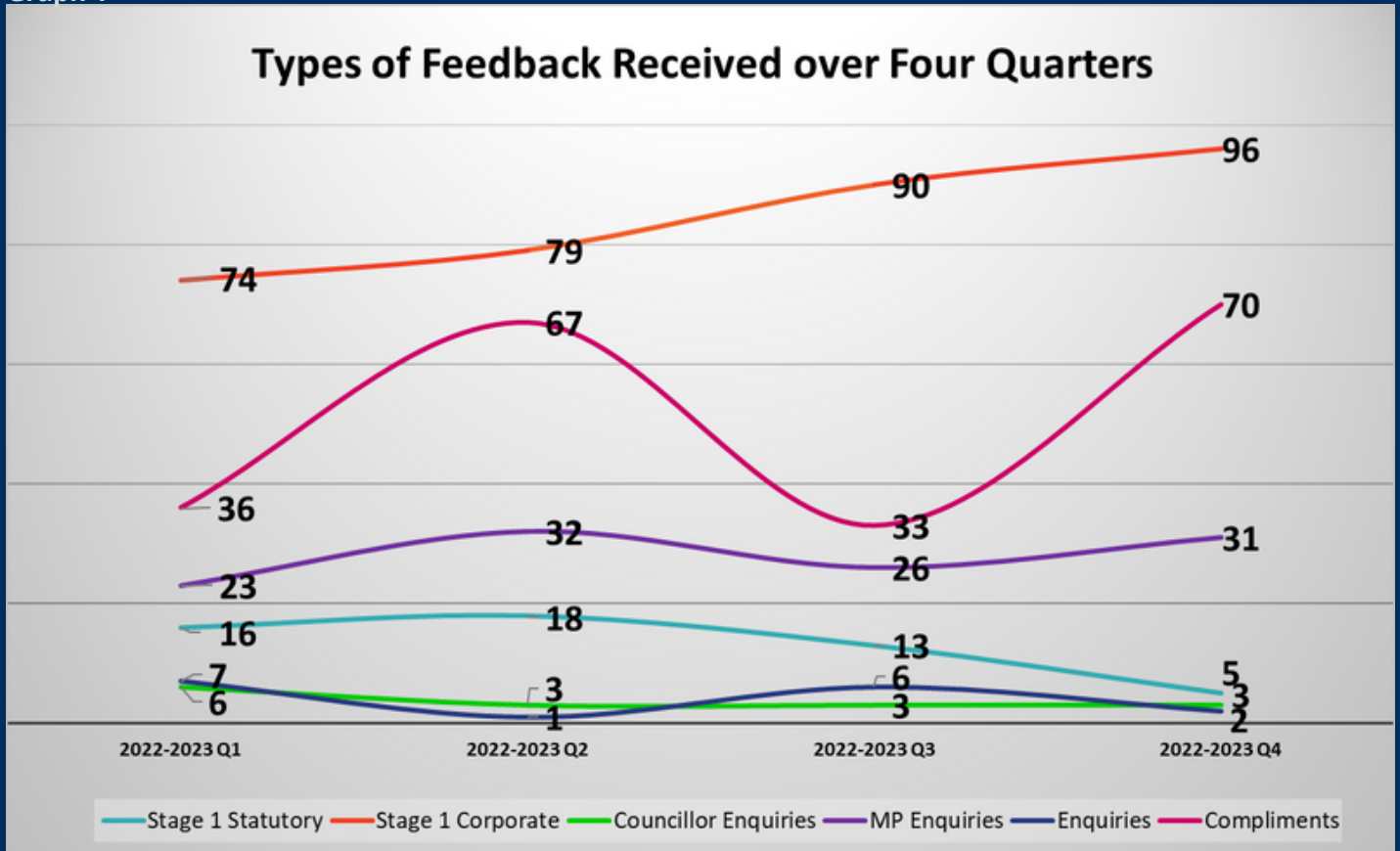
 stage 3: **17** (7)

 LGO enquiries: **29** (20)

* Figures in brackets are for the preceding year: April 2021 – March 2022

Feedback Summary

Graph 1



The Children's Complaints and Feedback Team (CCFT) are responsible for receiving and recording all forms of feedback regarding Children's Services across Cambridgeshire County Council. Graph 1 gives an indication of the volume of different types of feedback received throughout the past four quarters.

As indicated in the graph, the CCFT facilitates responses to MP and Councillor enquiries relating to children. Whilst enquiries are dealt with outside of the Council's Complaints Procedure, they are investigated with the same level of rigor as complaints, and written in the expectation that they will be shared by the MP or Councillor with their constituent or resident.

In addition to the types of feedback recorded in the graph, the CCFT also deals with complaints which have escalated to Stages 2 and 3, as well as other forms of feedback throughout the year:

Resolving Professional Differences

11

Correspondences

15

Safeguarding Partnership Board Complaints

2

1

Social Work England

2

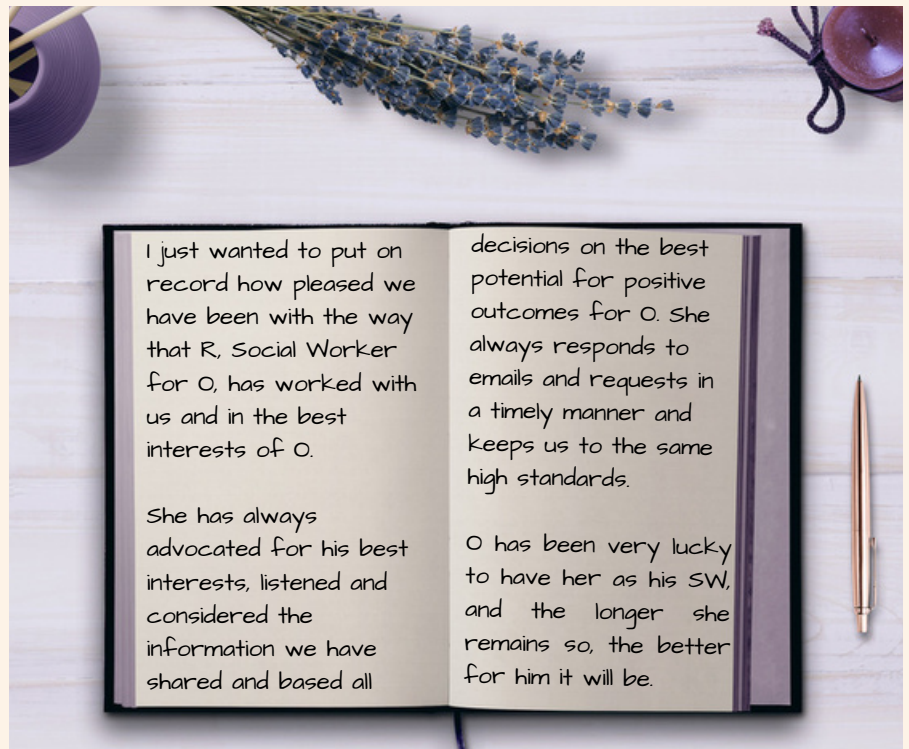
Representations

5

Celebrating Success

Between the period of April 2022 and March 2023, the CCFT received 206 compliments. The highest number of compliments received related to the Special Educational Needs and Disabilities (SEND) Service, which includes the Statutory Assessment Team (SAT) with 98 compliments, followed by the Targeted Support Service with 81 compliments.

What is most evident from all the compliments received is when workers listen, it makes all the difference. Feeling that their children or family's worries are important to the worker and that the worker is taking the time to really understand what is going on, even if the outcome isn't as they would have hoped, can reassure families that workers care, and are transparent and fair. Feeling heard can make the difference between being satisfied and feeling compelled to complain.



RE: Feedback for SAT

From: SENCO <SENCO@school.gov.uk>
Sent: 24 March 2023 12:36
To: Childrens Complaints and Feedback Team <ChildrensComplaintsandFeedbackTeam@cambridgeshire.gov.uk> Fri 24/03/2023 12:36

I also just want to take the opportunity to thank you for the time and energy you've put in to working with me so far, something I have learnt very quickly is that the LA get a tough gig and an overwhelming amount to manage.

You've made sure you've offered me answers, advice and solutions and felt incredibly supported and without ever making me feel patronised and reassuring me that I have what it takes to do this job successfully. I am grateful for how you help me create solutions and leave me with next steps and guidance to help how we shape and support our students and how I work with staff to meet the needs. Deciphering and decoding what can be challenging paperwork against statutory requirements has been the easiest part for me transitioning to be a SENDCo because of the support you have offered me.

I think sometimes it's important to stop and recognise the people that do make a difference along the way; so, thank you and have a great weekend 😊

Thank You

I was really nervous to have M visit us as I knew her a little from nursery and I've never had any help with the children and was worried what she may think.

Within very little time M had reassured me and made me feel at ease with her. I've always felt like abit of a nusense but as my situation quickly got worse I was contacted M for advice quite often. M could understand my situation better than I could and responded to me phone calls promptly reassuring me that I wasn't a nusense and that it was a good thing to ask for help. M picked up on the fact myself and the children had been abused in different ways very quickly, after being married for 17 years I was unaware of the emotional abuse I had

suffered, M was very tactful in the way she made me realise what was right and wrong. M was great with all of my children and understood their needs. M was again was tactful in the way she helped me see what I needed to do to help the children.

M has honestly helped change my life, although my time with her was not long, M really opened my eyes, she gave me so much help and support and knew that she needed to gradually tell me what was happening as wouldve found it hard to handle in one go. Life is up and down for us at the minute but we have so much help and support to start a new life. I will be forever grateful to M for helping me take that big leap, its scary but I can already see positive changes in the children. I will miss M, she is amazing at her job.

All of the compliments we received throughout the year are available online:

www.cambridgeshire.gov.uk/council/contact-us/council-complaints-procedures

and that's great!

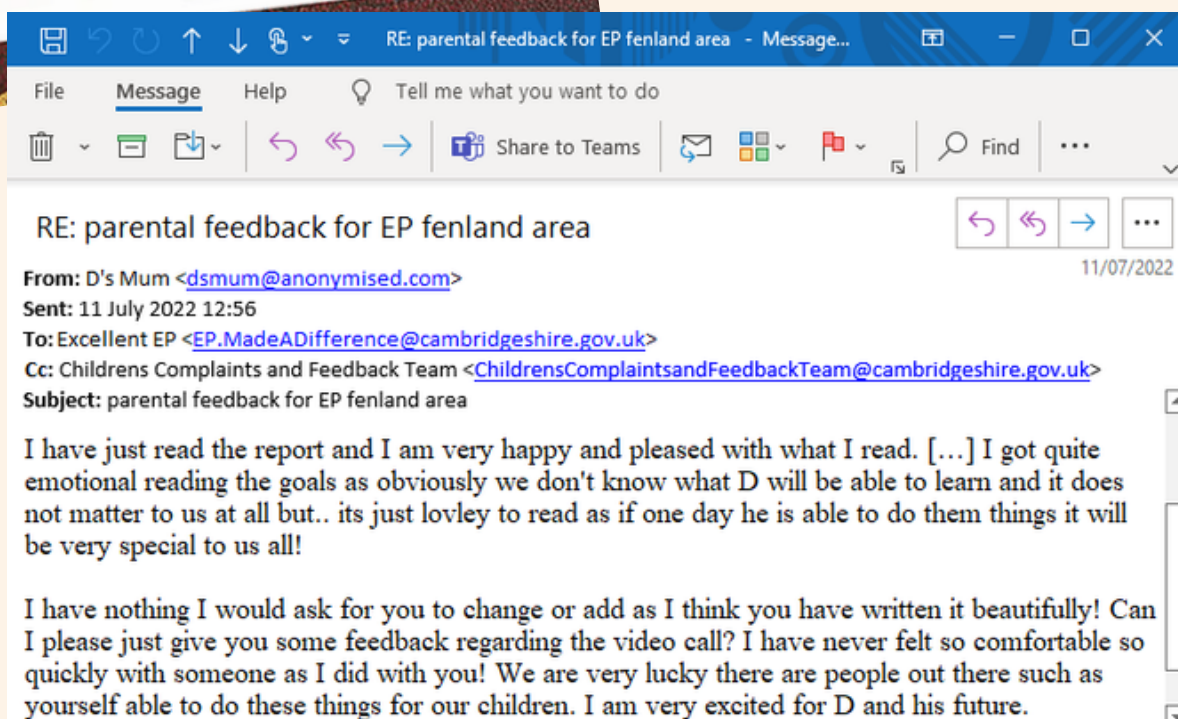
3:22 pm

Oh god, were do I start... Over the years we spent together from crying, laughing, having our debates and hours in silence, to our stubbornness We are here today many years later. Now I want to thank you :) so much for everything you have done for me, you really are one of a kind, I've never met someone like you who not just fights for me, saves my ass and held me like you do! You have helped me so much and despite the very frustrating, stressful moments you still gave everything for me!

5:20 pm

Thinking about it now I wouldn't be sitting next to you right now if it wasn't for you truly. Despite at times it felt like a dead end you still remained and oh god! You are so stubborn! We had good times together, I will always remember them! I still take dad to five guys and sit on the wall in Cambridge, ever since we did! I'm not saying goodbye to you, this isnt the end! It will be strange not working with you but it was a big plesure to work with you :) I am forever grateful for everything truly! You have made a huge difference to me, even if you don't see it.

5:21 pm



Complaints

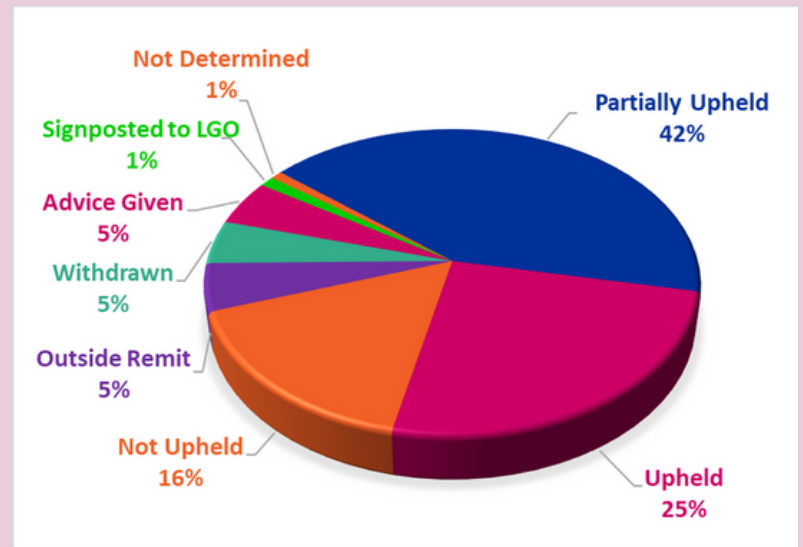
Children's Social Care has a formal complaints procedure offering three Stages, as set out in legislation and National Guidance. A detailed description of Cambridgeshire's procedure is available on the [Cambridgeshire County Council website](#).

In this past year, the CCFT received a total of 456 (432) Statutory and Corporate complaints combined across all three stages of the complaints process. Of these, 45 were Stage 2 complaints, and 20 were Stage 3 complaints. Out of the 459 complaints which concluded this year, the majority were partially upheld (42%) or fully upheld (25%).

In the year, 10% of complaints were reopened at Stage 1 following dissatisfied feedback from complainants, indicating some portion of their original investigation or response failed to address or resolve the concerns raised.

Out of the 456 complaints received this year, 42 were made by young people, of which 37 were assisted by an Advocate.

Graph 2



National Youth Advocacy Service (NYAS)

Telephone: 0808 808 1001

Email: help@nyas.net

Website: www.nyas.net

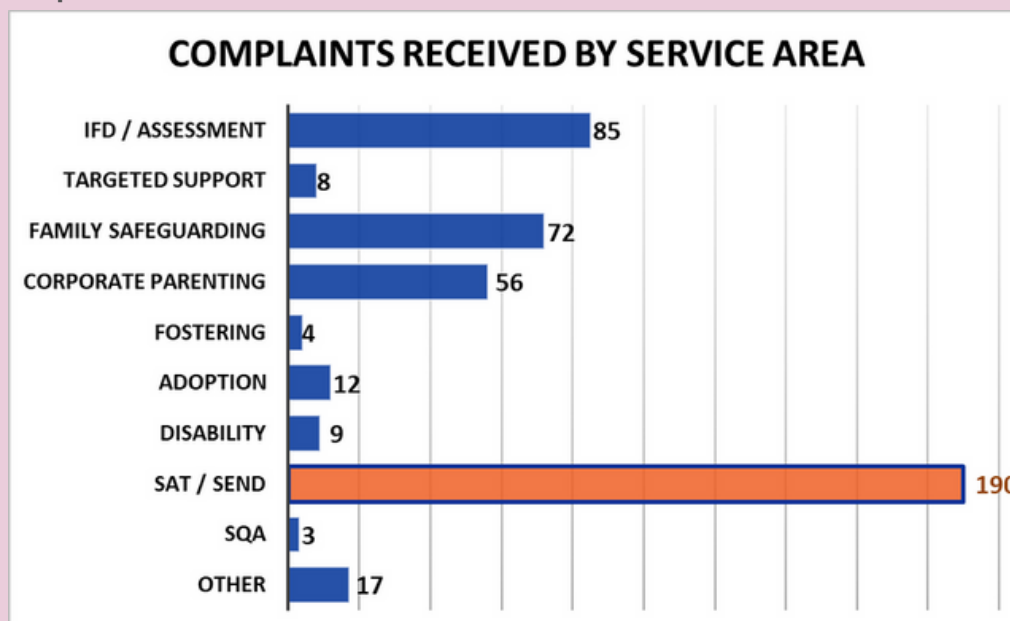
VoiceAbility Advocacy

Telephone: 0300 303 1660

Email: helpline@voiceability.org

Website: www.voiceability.org

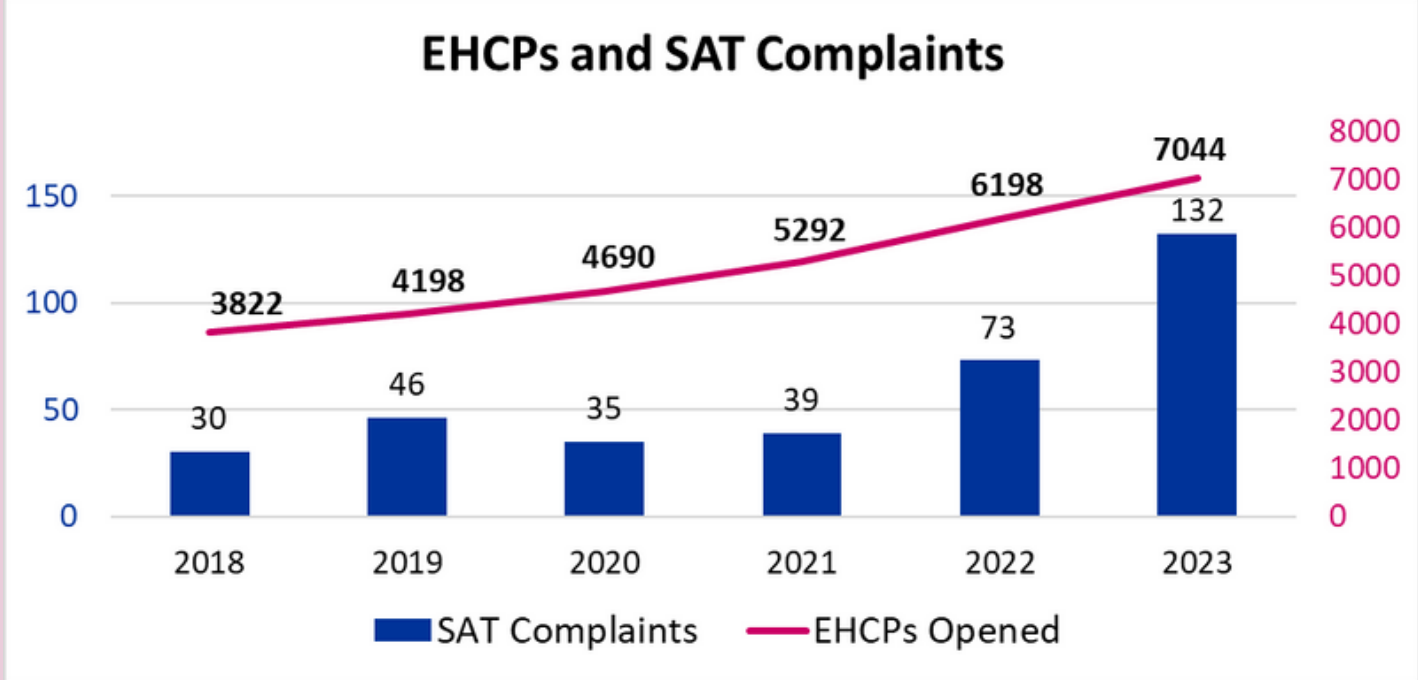
Graph 3



There were 459 complaints responded to this year. Out of these, 176 were extended beyond the initial timescale. Out of the 459 complaints responded to this year, 166 (equating to 36%) were responded to outside of the prescribed timescale (whether it was the initial or the extended timescale).

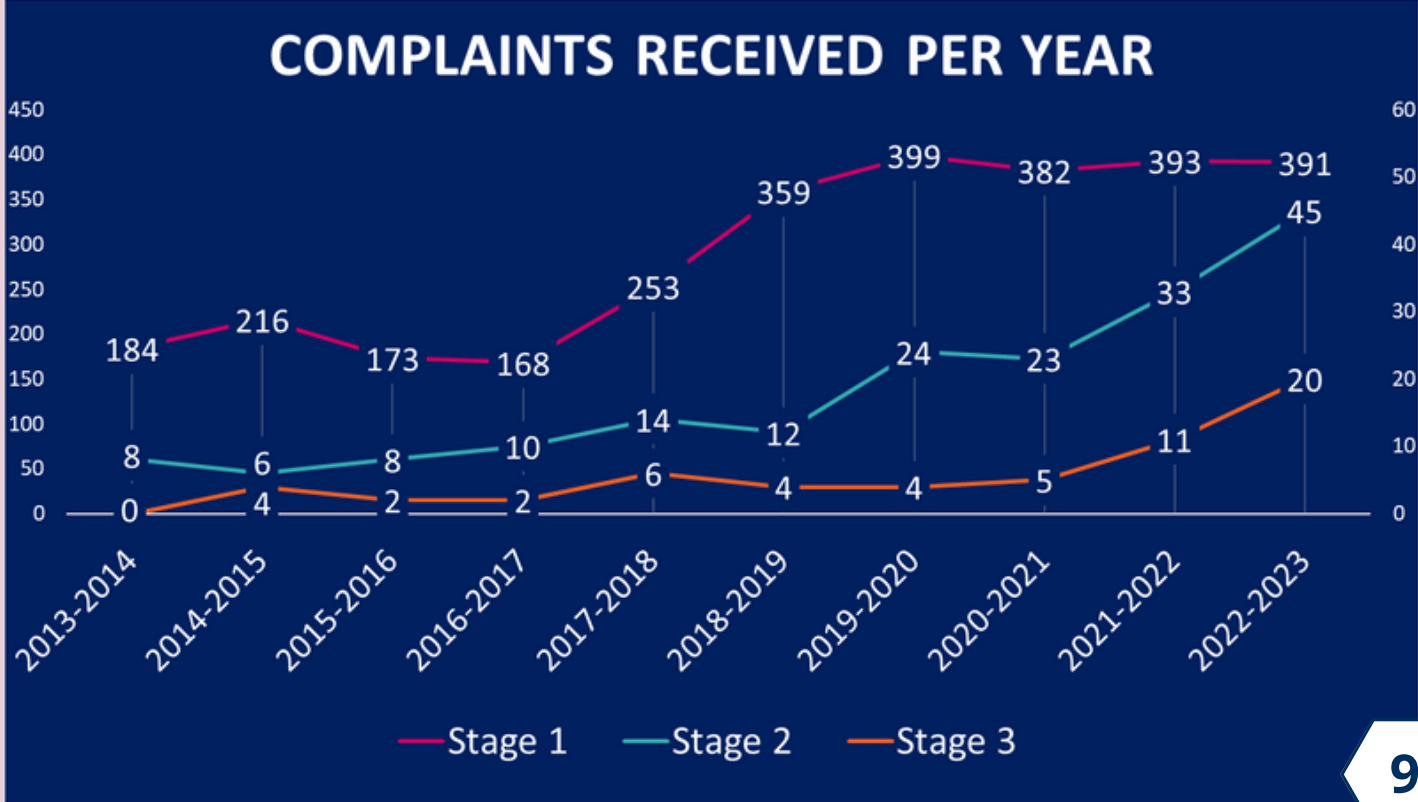
The service area that received the most complaints was the SEND Services, in particular the SAT with 190 complaints received this year, followed by the Integrated Front Door (IFD) and Assessment Teams with 85 complaints received. Over the past six years, the SAT has seen a marked year-on-year increase in the number of Education Health and Care Plans (EHCPs) being issued.

Graph 4



As illustrated above in graph 4, we have also seen a significant increase in SAT complaints since 2020, however in 2022-23 this rise has grown disproportionately relative to the number of EHCPs issued.

Graph 5



The issues being complained about largely relate to either the Education Health and Care Needs Assessment (EHCNA) process or concerns relating to EHCPs, including; delays of the issuance of plans (frustrating the parent's right to appeal), EHCNAs failing to include necessary information from relevant agencies, concerns relating to the availability of special school places, provision as stated in the EHCP not being delivered, and poor communication from SAT.

There was a stark increase in SEND/SAT combined complaints from 77 in 2021-22 to 146 in 2022-23. This significant increase led to an overall increase in the number of Corporate Stage 2 complaints worked on from 25 in 2021-22 to 39 (27 of which relate to SEND/SAT) in 2022-23 and 7 Corporate Stage 3 complaints in 2021-22 to 19 (15 of which relate to SEND/SAT) in 2022-23.

Complaints are a good indication of what is not working well in the organisation, and we know that SEND areas need significant focus; special school places, EHCP processes and timeliness, SEN Support, information sharing (Local Offer) and building confidence in the system. The overriding principle of the SEND Transformation Programme, in line with the joint SEND Strategy, is early prevention, ensuring support is in place as early as possible to support children and young people and their families. The vision being children and young people with SEND will have their needs and outcomes more effectively met at all stages of their journey through the system.

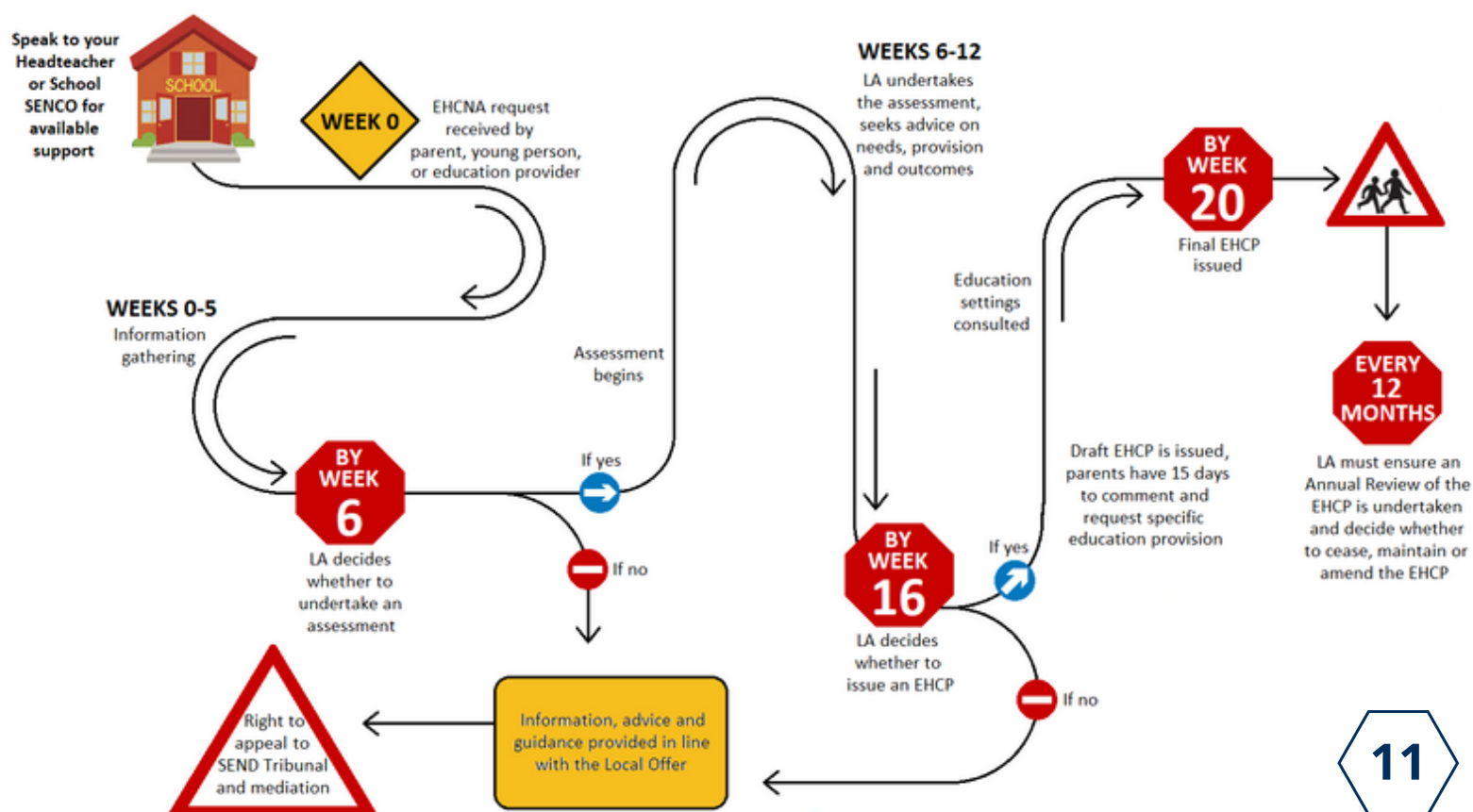


The EHCP Improvement Plan is a full-scale system and service delivery improvement portfolio. It aims to review policy and practice as part of wider plans to improve timeliness, quality and confidence in the system and increased transparency in decision making. This will include reviews of the EHCNA process, obtaining appropriate information from partner agencies and continuing review and improvements to be made to the mediation/tribunal process. A steering group has already been set up to plan the timelines of work, however in the meantime, work has begun with partner agencies examining health advice as part of the EHCNA process.

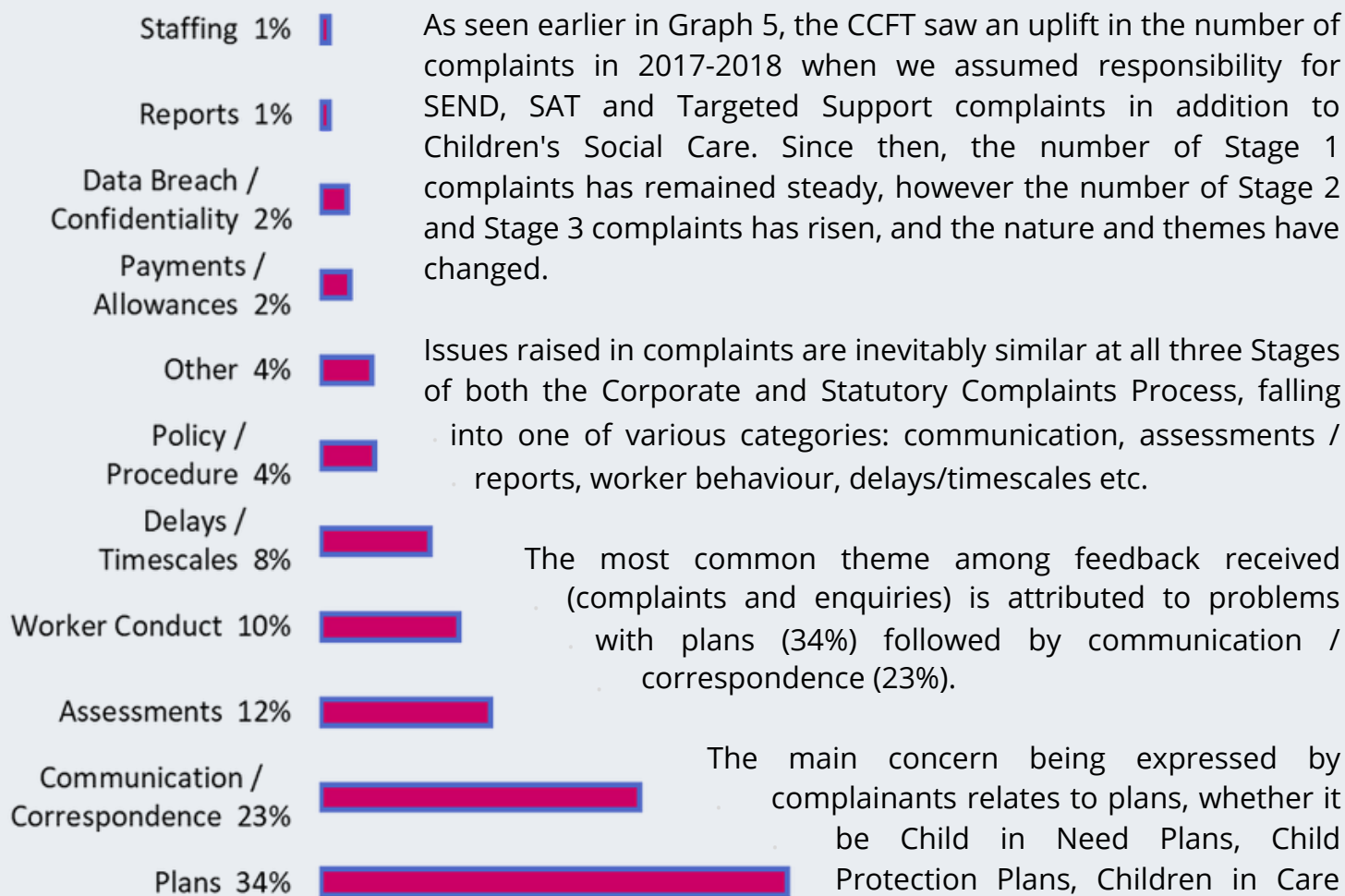
For children with an EHCP or in the EHCNA process a new case management system is being prepared for implementation by the SAT, this will improve business administration and will support timely communication, plus professional and parent portals will allow people to upload information and see the status of their case. Initial implementation of this will take place in October 2023.

The SEND Information Hub is a new Local Offer website with an accessible layout, improved search facility and more information to better inform parents/carers and professionals. This will be launched on 15 May 2023. This compliments the Ordinarily Available Provision (OAP) Toolkit which provides clarity about the support that can be made available for children without an EHCP at SEND Support and was launched in April 2023.

Education Health and Care Needs Assessment (EHCNA) Timeline



Complaint Themes



As seen earlier in Graph 5, the CCFT saw an uplift in the number of complaints in 2017-2018 when we assumed responsibility for SEND, SAT and Targeted Support complaints in addition to Children's Social Care. Since then, the number of Stage 1 complaints has remained steady, however the number of Stage 2 and Stage 3 complaints has risen, and the nature and themes have changed.

Issues raised in complaints are inevitably similar at all three Stages of both the Corporate and Statutory Complaints Process, falling into one of various categories: communication, assessments / reports, worker behaviour, delays/timescales etc.

The most common theme among feedback received (complaints and enquiries) is attributed to problems with plans (34%) followed by communication / correspondence (23%).

The main concern being expressed by complainants relates to plans, whether it be Child in Need Plans, Child Protection Plans, Children in Care Plans or EHCPs. Often, they report feeling that their worker has not taken into consideration their

FEEDBACK BY THEME

concerns which, in turn, has resulted in inadequacies with plans or indeed inaccurate information being contained in assessments and reports.

Occasionally, complainants report that their child's needs have not been adequately reflected in an assessment or report, which results in plans being made which do not fully support their child's needs. Other related areas of concern are the turnover of workers leading to inconsistency and a lack of progress.

The second most common theme is poor communication. In such instances, complainants report not being able to contact their worker or not receiving calls back to discuss their concerns.

With delays and exceeded timescales being another common complaint theme, sending complaint responses out late (36% were sent outside of best practice timescales this year) can compound matters.

We have also seen a recent increase in complaints from non-resident parents, often fathers, concerned about bias being afforded to the resident parent.

Local Government Ombudsman

A complainant retains the right to approach the Local Government Ombudsman (LGO) at any point in the 3 Stage complaint process, however, the Ombudsman would ordinarily expect the Local Authority to consider their complaint first, so may direct the complainant back to complete all 3 Stages before considering their concerns further.

From April 2022 to March 2023, the CCFT worked with 38 Local Government Ombudsman enquiries. 9 were received in a previous year, and 15 remained ongoing as of the end of this year. Therefore, a final LGO decision was reached for 23 enquiries this year.

1 not upheld
3 partially upheld
5 upheld
14 outside of remit

Of the 29 enquiries received this year, 2 were in relation to Adoption, 6 for Family Safeguarding, 1 for Fostering, 5 for Integrated Front Door / Assessment, 14 for Statutory Assessment Team / SEND, and 1 Other.

Of the 23 LGO enquires which concluded this year, the most common theme was in relation to plans (43%).

In the first quarter of the year, the LGO issued a Public Report relating to a Cambridgeshire EHCP case entitled '*Upheld; maladministration and injustice following a final decision on a Statutory Assessment Team complaint*'. To remedy the injustice caused, the LGO recommended the following;

- apologise to the parents and young person, for the faults identified;
- arrange alternative provision for the young person, suitable for their age, ability and aptitude until they can return to school, and keep this under review;
- issue an amended final EHC plan in line with the agreed amendments in the latest version of the working document, and advise the parents of their right of appeal to the SEND tribunal; secure the provision in this amended final EHC plan and explain to the parents how the provision will be delivered;
- set a date for an Annual Review following the issue of this amended final EHC plan;
- pay the family £7,000 to recognise the lack of education and special educational needs



provision from September 2020 to February 2022;

- pay a further £1,000 to recognise the stress, frustration and time and trouble caused to the family by the faults identified in the investigation;
- consider appointing an Officer with no previous involvement to oversee the next steps in this case;
- remind officers of the limited circumstances in which families have a right of mediation or appeal and the timescales for each process;
- remind officers of the need to involve children and their parents in discussions about alternative provision when they cannot attend due to health reasons, and the circumstances in which parents can be asked to seek further medical evidence;

Since the Public Report was issued, the Local Authority have held an Annual Review meeting which led to the agreement of a package of alternative provision. The package was agreed for the remaining period of the academic year and the Authority agreed to a further payment to provide additional support for a period

when the package was less than the parental request. The alternative provision package increased from September 2022 and has been agreed in the form of an Education Personal Budget.

The LGO will be issuing their Annual Review letters to Local Authorities on 19 July 2023, sending them to the Chief Executive, the Council Leader, and the Chair of the relevant Scrutiny Committee. The letters will include a summary of complaints for which the LGO has issued final decisions for the year ending 31 March 2023. On 26 July 2023, the LGO will publish all Annual Review letters on their website, uploading Councils' 2022/23 data to their **Your Council's Performance** interactive map which includes spreadsheets of all Authorities' complaints data.

The LGO have a number of useful resources on their website, including Cambridgeshire's performance in relation to complaints;

www.lgo.org.uk/your-councils-performance/cambridgeshire-county-council/statistics

Contact Information

PO Box 4771
Coventry
CV4 0EH

Telephone: 0300 061 0614
Email: advice@lgo.org.uk
Website: www.lgo.org.uk

CASE



SAT: Duty to Deliver on EHCP Provision, Not Met

Child A's parent complained that the Local Authority (LA) named their child's local mainstream primary school in their recently obtained Education Health and Care Plan (EHCP), despite the school stating they were unable to meet their special educational needs. The parent outlined how the local primary was not delivering the provision as stated in the EHCP, including Speech and Language Therapy (SALT) and Occupational Therapy (OT), and wanted the LA to change the EHCP to name an independent school instead.

The parent's complaint was investigated at both stages 1 and 2 of the Corporate Complaint Procedure before it was finally escalated to stage 3 for review. At stage 2, the parent was

advised that the named local primary remained child A's current school whilst the Local Authority explored the parental preference request, and child A was entitled to continue their education whilst this option was being explored as children cannot be left without a school placement. The parent was also advised that following the conclusion of stage 1, the SEND District Teams were asked to provide support to the school in implementing the provision, and an Educational Psychologist (EP) was assigned to meet with school staff. Following the EP's visit, the EP assured the school that specific named training would be delivered and they would investigate other training/packages of support to meet the identified need.

During the stage 2 investigation it was also found that SALT and OT had not been commissioned and therefore, the provision outlined in child A's EHCP had not been delivered since it had been issued some three months earlier. This oversight, misinformation, and lack of communication from the Statutory Assessment Team, plus a poor handover of casework caused delays in the provision of SALT and OT for child A.

- It was agreed that a Specialist Teacher and/or Specialist Practitioner from the District Team would help implement the identified interventions, through modelling and support to school to meet child A's needs.
- There would be a review of the funding provided to school to meet the identified need.
- The Statutory Assessment Team have been reminded to alert the SEND District Teams when a school is raising concerns around meeting a child's needs.
- The Link Specialist Teachers and Educational Psychologists will remind their schools to ensure pupils are raised, discussed and involvement requested as soon as support is required.
- Contact has been made with SALT, and a therapist has now started one-hour weekly sessions for twelve weeks.
- An ICT Assessment has also been booked.
- The SEND Head of Service is to review the process for handover of casework from a Statutory Assessment Casework Officer to a Monitoring and Review Casework Officer, following issuing of a Final EHCP.
- The Local Authority agreed an additional package of six hours of OT support and an additional 12 hours of SALT provision to be delivered over the summer holiday period.

How We Put
Things Right

Learning Points

The Local Authority have a duty to ensure the content of an EHCP is being delivered and although this duty is delegated to our schools, support ought to be offered where a school requests it.

The Local Authority could have responded more supportively at the point that the primary school raised concerns with meeting child A's needs. Once support was offered to the school, a review of the funding could have been undertaken to ensure appropriate funding was allocated to deliver the identified provision.

The Statutory Assessment Team could have made contact with the SEND District Teams sooner to ask that they become involved with supporting the school.

The investigation also noted that the timely commissioning of SALT and OT services could have been improved with better communication between SAT, Casework Officers and the school.

CASE 2 Failure to acknowledge or assess Kinship Carer

April 2021 – Over Easter, whilst the children were staying with an extended family member, several safeguarding referrals were received relating to the care provided to the children by their parent. As a result, the extended family member was asked to temporarily continue to care for their relative's children. However, CSC failed to conduct a Section 47 enquiry and wrongly considered the arrangement to be a private family matter. As such, the extended family member was not

assessed, nor visited and did not receive any financial support or assistance to meet the children's needs. As the family member lived in another Authority's area, Cambridgeshire attempted to transfer the case, however, the receiving Authority refused to accept the case due to a lack of assessment and plan.

When the family carer asked Cambridgeshire for respite assistance, the allocated Social Worker suggested the parents be contacted, contrary to a Court Order denying direct contact. Whilst it was accepted the intention was not that the parents should provide respite directly, rather be consulted as to other respite options, it was acknowledged that this communication was ambiguous.

It was also found that there had been multiple delays in sharing CiN minutes with the family carer, with drift and delay in addressing the emotional and psychological needs of the children due to an intention to transfer the case out of County.

It was agreed to back date the equivalent Connected Persons' financial contributions to the family carer from April 2021 (plus holiday and birthday money), until the Court awarded a Child Arrangement Order (CAO) (Private Law case), plus interest payments based upon the Retail Price Index (RPI) average for the period of arrears. It was also agreed that Cambridgeshire would pay the family carer a CAO allowance for two years from the date the CAO was made.

A Cambridgeshire Social Worker was allocated to arrange a meeting with the family carer's home Authority, inviting the family carer's local Housing Association to the meeting so they might consider what support they could provide moving forward. It was also agreed the Social Worker would complete a Later Life Letter for each child and to offer guidance on how to best to manage contact with the children's birth parents.

The family carer was awarded £300 in recognition of the time and trouble taken in bringing about their complaint, an additional £500 in recognition of having failed to be assessed as a Carer, £150 for each child in recognition of the distress and uncertainty they faced and £1600 to cover initial setting up home costs for the children.

A Senior Manager will arrange a workshop for both the Assessment Service and Family Safeguarding Service to cover the key learning from this complaint, and will ensure information is available on-line and in leaflet format to inform families of the role and responsibility of the Local Authority when children are placed/transferred/relocated out of County and when children are placed with connected carers.

How We Put Things Right

Learning Points

The family member should have been assessed as a Kinship Carer under Regulation 24 as soon as it was clear that the children would be staying with them under a longer-term arrangement.

It was also accepted that the children should have been referred to their family carer's home Authority prior to the closure of their case in Cambridgeshire.

CASE 3

Care Leaver: Raised Expectations Over EU Settled Status Leading to a Loss of Opportunity

A Lithuanian care leaver was incorrectly informed that, following their EU Settled Status application, they had been granted settled status by their social worker.

During the complaint investigation, it was found the care leaver's application for EU settled status had been incorrectly recorded as having been made in 2021 by a Child in Care (CiC) social worker,

on an internal tracker. The tracker was reviewed in November 2021, prior to transfer to the leaving care team, with the care leaver's status noted as 'not received' at that point.

Later it was found that the application had not been made, nor had this action been handed over from the CiC team to the leaving care team during the transfer in December 2021.

By not having EU Settled Status this hindered the care leaver's ability to gain employment.

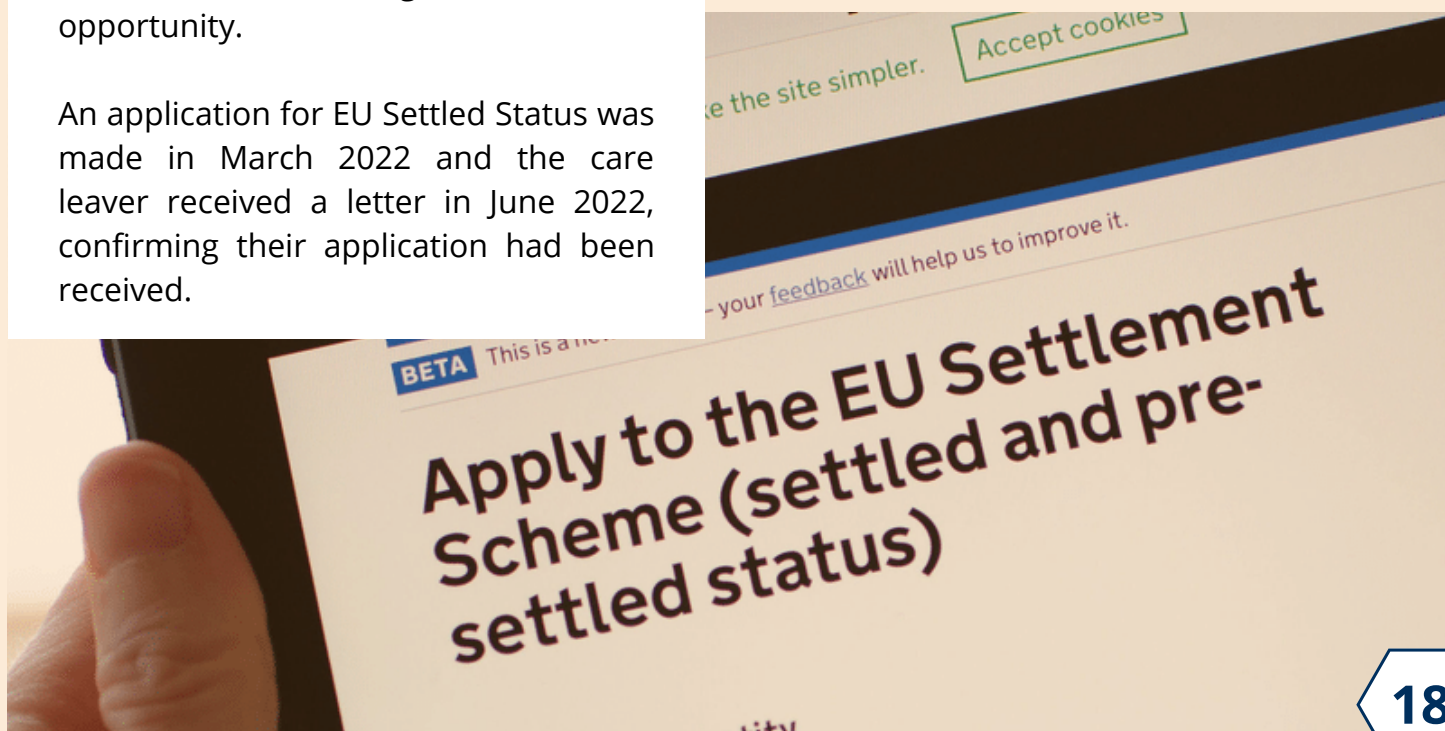
How We Put Things Right

Financial remedy of £1000 was paid to the care leaver in recognition of loss of opportunity.

An application for EU Settled Status was made in March 2022 and the care leaver received a letter in June 2022, confirming their application had been received.

Learning Points

References numbers will be added to the tracker to evidence the application has been made and by whom, so this can be followed up.



CASE 4

SAT: Statutory Duties to Consult during EHC Needs Assessment

March 2022 – Parent submitted an EHCP Needs Assessment request, asking for the Local Authority (LA) to consult with Children's Social Care and seven other partner agencies including a paediatric assessment for Autistic Spectrum Disorder (ASD). Additionally, during the assessment period, the parent requested a referral to Audiology for an Auditory Processing Disorder assessment for their child.

June 2022 - Parent raised a stage 1 complaint over the time taken to consult with the requested partner agencies and delay in issuing the draft EHCP.

July 2022 – As part of the stage 1 response, the parent was advised that having consulted with the requested partner agencies, as the child was not known, the agencies were unable to share any information to contribute to the EHC needs assessment. The stage 1 response concluded by signposting the parent to the school and GP so referrals could be made citing SAT were unable to make referrals for assessments. The parent was also advised that they could seek their own private assessments at their own expense and submit these during the process, as the Local Authority does not commission assessments from providers outside the Local Offer.

July/Aug 2022 - Disappointed with the stage 1 response, the parent escalated their complaint to stage 2. As part of the parent's Stage 2 complaint, they reiterated their view that the LA

has a legal obligation to complete the requested assessments and obtain advice from the range of professionals identified. Again, the Stage 2 response concluded that the LA can only obtain advice for an EHCNA where the child is known to the professional or Service and they hold information about the child. The LA maintained it does not consider it reasonable to seek assessments from Services who have no knowledge of the child, nor would they commission independent assessments as these would incur unreasonable costs to the public purse, suggesting the only professional that the LA must seek advice from during the Needs Assessment process is an Educational Psychologist (EP).

Aug/Sept 2022 – Dissatisfied with the Stage 2 response, the parent asked the Chief Executive to undertake a review at stage 3 of the complaint process. During this period, legal advice was sought to clarify the LA's understanding of this complex piece of legislation.

Advice received regarding SEND Regulations 6 (1) that there is a legal duty for a Local Authority to seek advice, (Paragraph 9.46): ***The local authority must gather advice from relevant professionals about the child or young person's education, health and care needs, desired outcomes and special educational, health and care provision that may be required to meet identified needs and achieve desired outcomes***, and under Regulation 6(1) of the Regulations it states the following:

(1) *Where the local authority secures an EHC Needs Assessment for a child or young person, it must seek advice and information, on the needs of the child or young person, and what provision may be required to meet such needs and the outcomes that are intended to be achieved by the child or young person receiving that provision—*

(a) *advice and information from the child's parent or the young person*

- (b) *medical advice and information from a Healthcare professional identified by the responsible commissioning body*
- (c) *advice and information from any person the child's parent or young person reasonably requests that the Local Authority seek advice from*

How We Put Things Right

- Legal advice to inform a change of practice.
- A Children's Social Care (CSC) eligibility Assessment is now underway which will be completed within 35 days.
- Should Health Services not be able to facilitate completion of an Assessment within a reasonable timescale, SAT to work with the parent on all areas of need identified to identify appropriate private professionals to undertake these Assessments.
- A remedy payment of £800 to be paid in recognition of the frustration, distress, loss of opportunity and time taken in bringing about the complaint.

Further to this, legal advice highlighted that The Local Government and Social Care Ombudsman (LGSCO) found against another Local Authority (19 020 776) in a decision dated 3 September 2022, in which it states:

- ***the “not known to this Service” response is not compliant with SEND Regulation 6(1).***
- ***The Council maintains overall responsibility for ensuring EHC Plans address all areas of need so has some responsibility for seeking the advice it needs to write a robust plan.***

Learning Points

Whilst there is some difficulty in absolutely clarifying what is meant by obtaining information and advice during the EHCNA process, the duty is clear, and this remains with the Local Authority. Therefore, should Health Services not be able to provide full advice and information within such timescales, the LA will need to work with the parent to identify and privately commission an Assessment, paid for by the Local Authority and if necessary, charged back to NHS Health Services.





Children's Complaints and Feedback Team

Box BUT2401
Butts Grove Centre
38 Butts Grove Way
Huntingdon
PE29 1LY

ChildrensComplaintsAndFeedbackTeam
@cambridgeshire.gov.uk

01223 714765



Cambridgeshire
County Council