

# Corporate Issues Overview and Scrutiny Committee

25 November 2016



## (Former) Children and Adults Services Statutory Representations Report 2015/16

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**Report of Margaret Whellans, Interim Corporate Director, Children and Young People's Services (CYPS) and Jane Robinson, Interim Corporate Director, Adult and Health Services (AHS)**

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### Purpose of report

- 1 The purpose of the Annual Statutory Representations Report is to provide Overview and Scrutiny Committee with an overview of statutory representations relating to children's and adults social care services during the period 1 April 2015 – 31 March 2016. The report focuses on Children and Adults Services (former CAS) as one service rather than 2 separate services as it is a retrospective report relating to 2015/16.

### Background

- 2 The Annual Statutory Representations Report is prepared under the provisions and requirements of the '*Children Act 1989 Representations Procedure (England) Regulations 2006*' and the '*Local Authority Social Services and National Health Service Complaints (England) Regulations 2009*'. The reporting format reflects the requirements detailed in the regulations.
- 3 Corporate complaints and compliments are reported and approved by Children and Adults Services Management Team (CASMT) on a quarterly basis. Neighbourhood Services lead on the production of the annual corporate complaints, compliments and suggestions report and the extract relating to CAS is outlined in Appendix 2 for information.

### Content

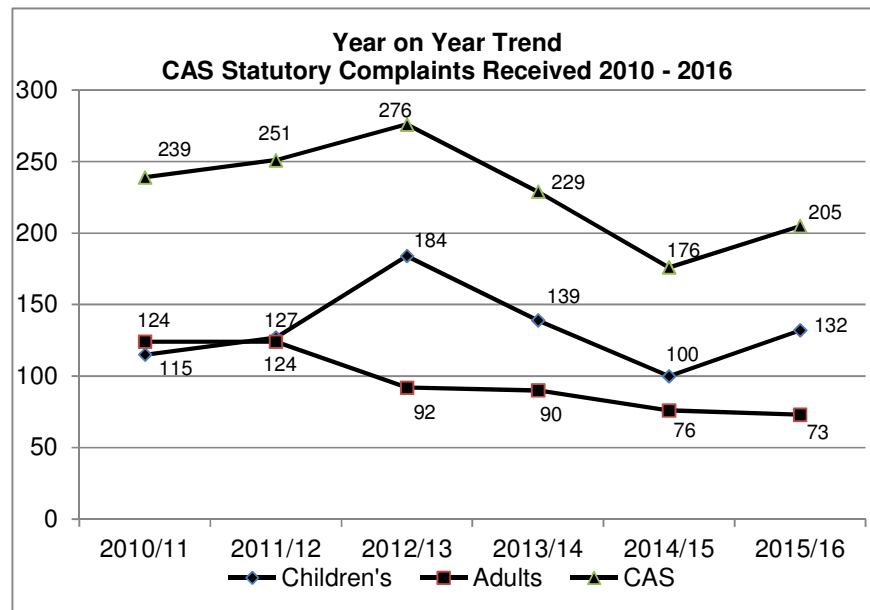
- 4 The Annual Statutory Representations Report brings together statutory representations from service users, families and carers that have been previously reported to CASMT on a quarterly basis and includes information on the management of statutory representations. The full report is attached as Appendix 3.

### Overview of statutory social care complaints

- 5 In 2015/16, a total of 205 statutory social care complaints were received by CAS.
- 6 There has been an overall increase of 16.5% in CAS complaints when compared with the number of complaints received in 2014/15 (176).

- 7 Graph 1 illustrates a steady overall increase in the number of statutory complaints received over the period 2010 – 2013, attributable to complaints in relation to children’s social care services. Between 2013 and 2015 the number of statutory complaints decreased in relation to both children’s and adults social care services. In 2015/16, the downward trend continued for adult services complaints but there was an increase in complaints relating to children’s services.

**Graph 1: Year on year trend 2010-2016 – CAS statutory social care complaints received**



**Children’s social care complaints**

- 8 In 2015/16, a total of 132 new statutory children’s social care complaints were received by CAS. The majority (98%) were actioned at Stage 1 of the statutory complaints procedure. Two were investigated directly at Stage 2 of the statutory complaints procedure. Six of the 132 complaints progressed to Stage 2 following the complainant’s dissatisfaction with the Stage 1 response.
- 9 There has been an overall increase of 32% in children’s complaints when compared with the number of complaints received in 2014/15 (100).

**Timescales**

- 10 The regulations state that whenever practicably possible, complaints should be resolved within 10 working days, which can be extended to 20 working days, where complaints are complex.
- 11 During 2015/16, 22 of the 130 Stage 1 complaints (16.9%) were responded to within 10 working days. A further 51 were responded to within 20 working days (38.6%). One Stage 1 investigation (0.8%) was ongoing at the year-end and the other 56 complaints (42.4%) were resolved outside the 20 day timescale.
- 12 The other 2 were actioned directly at Stage 2 for which there is a maximum 65 working day timescale. Neither was completed within the 65 days. One was

completed in 78 working days and one in 80 working days. Reasons for these delays included the necessity to engage an Advocate during the process, and complainants requesting additional time to review the draft investigation report and provide written comments. Complainants were kept up to date with these delays in both cases.

### **Outcomes and categories**

- 13 Of the 132 complaints, 22 were upheld in full (16.7%) and 37 were partially upheld (28%). There were 70 complaints (53%) that were not upheld. One complaint (0.8%) was still being investigated at the year-end. Two complaints (1.5%) which moved from Stage 1 to Stage 2 were also still ongoing at the year-end therefore their final outcome (at Stage 2) is to be confirmed.
- 14 Of the 59 upheld or partially upheld complaints, 'Professional Conduct of Staff'<sup>1</sup> featured in 28 complaints (57.1%). 'Lack of Communication/Information' featured in 24 complaints (40.7%). 'Lack of Service – Contact/Visits' featured in 11 complaints (18.6%) and a further 11 complaints (18.6%) were in relation to 'Speed of Service'. Note: a complaint can have more than one category recorded within it.
- 15 These have been the major categories for complaints within CAS as a whole during previous years. For this reason action has been put in place to obtain a more detailed analysis about these category areas, and work is being undertaken to seek a more detailed understanding regarding the frequency of occurrence, for inclusion in next year's report.

### **Complainant type**

- 16 Parents made the highest number of complaints, 93 (70.5%), regarding children's social care services.

### **Declined complaints**

- 17 During the year, CAS declined to consider 17 complaints; an increase on the 5 declined complaints in 2014/15. Declined complaints are not included in the numbers of actioned complaints.

### **Local Government Ombudsman (LGO)**

- 18 During 2015/16, the LGO contacted the Council in relation to 15 statutory cases regarding children's social care services. This represents a 36.4% increase on the 11 cases in 2014/15. Two cases were not taken to investigation. One LGO investigation was ongoing at the year-end for which a Draft Decision is awaited. Final Decisions were subsequently received for 12 complaints. Of these, 2 were upheld:
  - a. In 1 case the LGO agreed with the Council's finding of fault and recommended a financial remedy (£600).

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<sup>1</sup> The distinction between professional conduct issues and the separate category of 'Staff Attitude' is that the former relates to how the worker conducts themselves according to their professional responsibilities and the regulatory requirements whilst the latter relates to, for example, allegations of rudeness in communication.

- b. In 1 case the LGO found maladministration with injustice and made 2 recommendations, including a time and trouble payment (£350).

### **Remedies and learning outcomes**

- 19 Some examples of remedy and learning in relation to children's social care complaints include:

#### Professional Conduct of Staff

- Managers reminded staff through the supervision and appraisal process of their professional responsibilities when engaging with families and young people.
- Social workers were reminded of the importance of checking factual information with families before completing reports.

#### Lack of Communication/Information

- Managers and staff reminded that they should return calls when messages are taken or voicemails, as soon as practically possible.
- Information on how to make a complaint was made more widely available by being included in the introductory pack for families.

#### Speed of Service

- Staff reminded to ensure that parents are informed of dates, times and venues of meetings and contact sessions, and any changes to these, in good time
- Reminding social workers of the need to ensure that sufficient time is allowed for sharing reports with families for Child Protection Conferences.

#### Lack of Service – Contact/Visits

- Monitoring arrangements have been introduced to ensure improved performance and compliance with regard to Single Assessment timescales.

Note: a complaint can have more than one category recorded within it

### **Benchmarking comparisons**

- 20 Benchmarking information from North East local authorities for the 2015/16 reporting year is shown in Table 1. From the information supplied by 10 neighbouring local authorities:

- Durham had the fifth lowest rate of Stage 1 complaints (1.16) per 1000 population aged 0-19 years. In 2014/15 and 2013/14 Durham had the second lowest rate and now therefore showing a decline in performance.
- Durham had the second lowest percentage (6.1%) of Stage 1 complaints progressing to Stage 2, the same result as in 2014/15.

**Table 1: Complaints relating to children’s social care services – North East regional authorities 2015/16**

| Local Authority | Number of Complaints | Rate of Complaints (per 1000 0-19 Population*) | Number of Complaints Actioned at Stage 2** | Stage 2 Complaints as a % of Stage 1 Complaint Numbers** |
|-----------------|----------------------|--|--|--|
| A               | 37                   | 0.82   | 4  | 10.8%  |
| B               | 26                   | 0.85   | 4  | 15.4%  |
| C               | 25                   | 1.11   | 5  | 20.0%  |
| D               | 50                   | 1.12   | 1  | 2.0%   |
| <b>Durham</b>   | <b>132</b>           | <b>1.16</b>                                    | <b>8</b>                                   | <b>6.1%</b>  |
| E               | 81                   | 1.20   | 11   | 13.6%  |
| F               | 56                   | 1.19   | 8  | 14.3%  |
| G               | 45                   | 1.36   | 4  | 8.9%   |
| H               | 67                   | 1.86   | 16   | 23.9%  |
| I               | 54                   | 2.15   | 14   | 25.9%  |
| J               | 176                  | 2.86   | 23   | 13.1   |
| K               | No Information       | -  | No Information                             | -  |

\* ONS Mid-2013 estimates; Office for National Statistics

\*\* Note: some complaints actioned at Stage 2 in 2015/16 may have been investigated initially at Stage 1 during 2014/15 or 2015/16; and some may have been investigated directly at Stage 2, bypassing Stage 1

21 The Local Government Ombudsman (LGO) ‘Review of Local Government complaints 2015-16’ was published on 28 July 2016 and includes the following headline information regarding complaints in relation to education and children’s services:

- The LGO experienced a 6% increase from the previous year in relation to the number of enquiries and complaints received across all services. In contrast, Children and Adults Services within Durham County Council experienced a 16.5% increase.
- The majority of complaints to the LGO were in relation to education and children’s social care services. There were 3,438 complaints and enquiries, which represents 17.5% of the total (19,702).
- Overall, the LGO experienced a 13% increase in comparison to the previous year in relation to complaints and enquiries regarding education and children’s services. In DCC, there was a 32% increase in complaints received in relation to education and children’s services in 2015/16.
- The LGO upheld 53% of these 3,438 complaints. In comparison, the percentage of complaints partially or fully upheld in relation to education and children’s services in DCC was 47%.

#### **Adult statutory social care complaints**

22 In 2015/16, a total of 73 new statutory adults social care complaints were received by CAS.

23 There has been an overall decrease of 3.9% in adults complaints when compared with the number of complaints received in 2014/15 (73).

## **Timescales**

- 24 All complaints were completed at the year-end. Of the 73 complaints, 72 (98.6%) were completed within the individual timescales agreed in the Complaints Resolution Plan (CRP), compared with 100% in 2014/15. The 1 complaint completed outside of the negotiated timescales was due to the service issuing a response 1 week after the date given on the CRP.

## **Outcomes and categories**

- 25 Of the 73 complaints received, 18 were upheld in full (24.7%) and 24 were partially upheld (32.9%). There were 31 complaints that were not upheld (42.4%).
- 26 Of the 42 upheld or partially upheld complaints, 'Lack of Communication/Information' featured in 8 (19%) complaints as a category. A further 8 upheld/partially upheld complaints (19%) were in relation to 'Disputed Decision'. Seven complaints featured 'Professional Conduct of Staff' (16.7%).

## **Complainant type**

- 27 Relatives (non-parent) made the highest number of complaints, 43 (58.9%), regarding adult social care services.

## **Declined complaints**

- 28 During the year, the service declined to consider 7 adult social care complaints, an increase on the 4 declined complaints in 2014/15. Declined complaints are not included in the numbers of actioned complaints.

## **Local Government Ombudsman (LGO)**

- 29 During 2015/16, the LGO contacted the Council in relation to 19 adult statutory cases. This represents a 46.2% increase on the 13 cases in 2014/15. Three LGO investigations were ongoing at the year-end for which Draft Decisions are awaited. In 3 cases, enquiries were received and information is awaited on what action the LGO intends to take. Final Decisions were subsequently received for a further 13 complaints. Of these, 4 were upheld:
- a. In 1 case the LGO found maladministration without injustice. No recommendations were made to the Council but a care home was required to make improvements.
  - b. In 1 case the LGO found fault without injustice and agreed that the Council's offer to make a time and trouble payment of £350 was adequate remedy.
  - c. In 1 case the LGO found maladministration with injustice but closed the case as the Council had remedied the injustice.
  - d. In 1 case the LGO found fault with injustice and recommended that the Council should apologise to the complainant for the injustice and write advising of actions taken to avoid a recurrence.

## Remedies and learning outcomes

- 30 Some examples of remedy and learning in relation to adult social care complaints include:

### Professional Conduct of Staff

- Staff were reminded of the need to ensure that the conversations about the financial implications of any services provided are discussed and clearly understood by service users and their families and that the appropriate documentation is completed to reflect these discussions.

### Lack of Communication/Information

- Team managers and staff were reminded that they need to ensure that service users and their families understand the purpose of an assessment and why decisions have been made.
- Staff were reminded to clearly communicate the criteria for the Intermediate Care Plus (IC+) service, particularly when service users are admitted to hospital during a period of service provision, and that the service user and their family understand that the services is based on assessed need and is for up to 6 weeks.

### Speed of Service

- Staff were reminded that adequate notice of meetings should be given to service users and their families

### Lack of Service – Contact/Visits

- Staff in the Emergency Duty Team were reminded that referrals can be made to the IC+ service outside of an emergency situation.

Note: a complaint can have more than one category recorded within it

## Benchmarking comparisons

- 31 Benchmarking information from North East local authorities for the 2015/16 reporting year is shown in Table 2. From the information supplied by 10 neighbouring local authorities:

- In 2015/16 Durham had the second lowest rate of complaints (0.18) per 1000 population aged 18 and over. This is an improvement on 2014/15 and 2013/14 when Durham had the fourth and fifth lowest rate respectively.

**Table 2: Complaints relating to adult social care services – North East regional authorities 2015/16**

| Local Authority | Total Number of Complaints | Rate of Complaints (per 1000 18+ Population*) |
|-----------------|----------------------------|---|
| A               | 11                         | 0.10  |
| <b>Durham</b>   | <b>73</b>                  | <b>0.18</b>                                   |
| B               | 15                         | 0.21  |
| C               | 23                         | 0.21  |
| D               | 47                         | 0.29  |
| E               | 73                         | 0.32  |
| F               | 40                         | 0.34  |
| G               | 62                         | 0.39  |
| H               | 87                         | 0.39  |
| I               | 49                         | 0.59  |
| J               | No information             | -   |
| K               | No information             | -   |

\* ONS Mid-2013 estimates, Office for National Statistics

32 The LGO 'Review of Local Government complaints 2015-16' which was published on 28 July 2016 includes the following headline information regarding complaints in relation to adult social care services:

- Overall, the LGO experienced a 6% increase from the previous year, in relation to complaints and enquiries regarding all services provided or commissioned by local authorities. In contrast, Children and Adults Services within Durham County Council (DCC) experienced a 16.5% increase.
- Of the 19,702 complaints and enquiries received, 13.1% were in relation to adult social care services (2,584).
- The 2,584 complaints and enquiries received in relation to adult social care services represents a 4% increase in comparison to the number received in 2014/15. In the same period, complaints received in respect of adult social care by DCC decreased by 3.9%.
- The LGO upheld 58% of these 2,584 complaints. In comparison, the percentage of complaints partially or fully upheld in relation to adult services in DCC was 57.6%.

### **CAS Compliments regarding social care services**

33 As shown in Graph 2, a total of 396 compliments were received by CAS in the reporting year, of which 212 related to children's social care and 184 to adult social care.

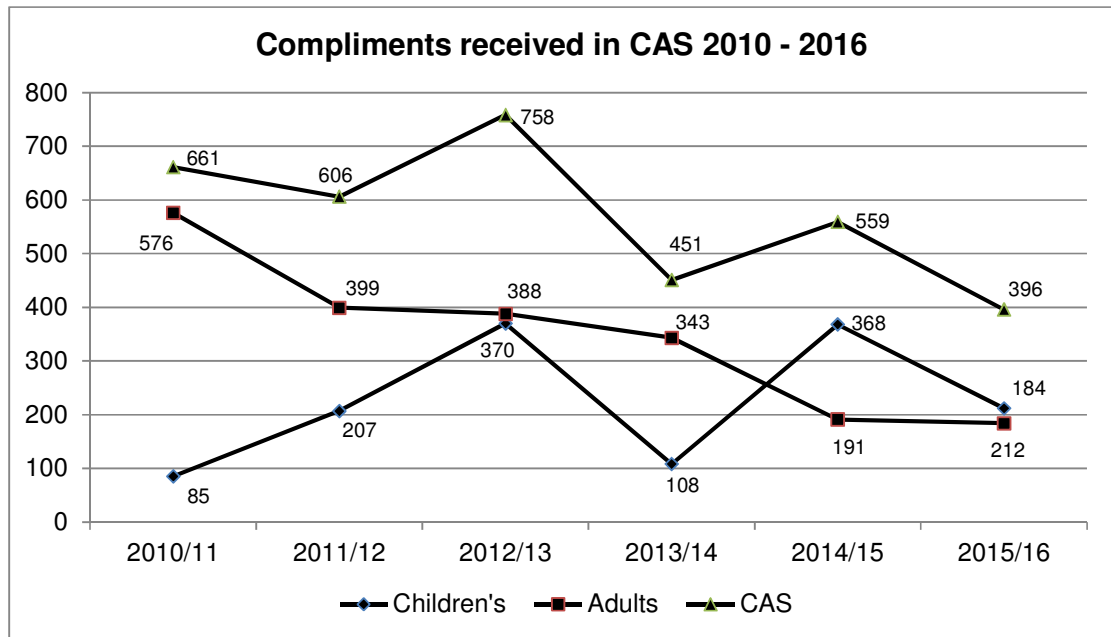
34 Overall, there has been a decrease of 29.2% in compliments in comparison to the previous year when 559 compliments were received.

35 The ratio of compliments to all complaints received across CAS is 1.9:1. This means that for every complaint received, almost 2 compliments were received. This



represents a decrease on the previous year when the ratio of compliments to complaints was 3.2:1.

**Graph 2: Compliments received in CAS 2010-2016**



36 Examples of compliments and themes are contained within the Annual Statutory Representations Report (Appendix 3) under parts three and four.

### Summary

37 In 2015/16, there was an increase in complaints relating to children's services, resulting in an increase in numbers in CAS overall. However with the exception of 2014/15, the total number of complaints received in 2015/16 was still lower than in any other year since 2010/11.

38 During 2015/16 the number of compliments for CAS decreased to its lowest level in 6 years. Despite this, the ratio of compliments to complaints of 1.9:1 meant that for every complaint received, almost 2 compliments were received.

39 Partially or fully upheld complaints constituted 44.7% of children's complaints and 57.6% of adults' complaints received respectively.

40 The highest number of upheld and partially upheld complaints across CAS relate to 'Lack of communication/ information' and 'Professional Conduct of Staff'. The service continues to closely monitor these areas, and the complaint category codes have been reviewed and amended to give a more detailed descriptor, to enable a better understanding of the themes of complaints.

41 CAS continues to develop a collaborative approach with complainants to seek to reach appropriate resolution. An approach based on local resolution, where the complainant is central to the discussion and resolution, is proactively encouraged.

## Recommendations

- 42 It is recommended that Committee note the contents of the Annual Statutory Representations Report (Appendix 3).

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**Appendix 1: Implications**

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|---|---|
| <b>Finance</b>  | Complaints can lead to financial claims for compensation in some cases.   |
| <b>Staffing</b>   | N/A.  |
| <b>Risk</b>   | Upheld complaints can lead to reputational risk for the local authority.  |
| <b>Equality and diversity/<br/>/Public Sector Equality Duty</b> | Consistent with national and local requirements. Representations procedure takes into account equality and diversity and ensures accessibility. The profile of complainants in relation to equality and diversity is consistent with the equality and diversity profile of County Durham. |
| <b>Accommodation</b>  | None.   |
| <b>Crime and disorder</b>                                       | Any complaint made in relation to hate crime will be redirected to the appropriate officer to progress under the relevant policy and procedure.   |
| <b>Human rights</b>   | Compatible with Human Rights Act – able to record and respond to complaints about alleged breaches.   |
| <b>Consultation</b>   | None.   |
| <b>Procurement</b>  | None.   |
| <b>Disability Issues</b>  | Taken into consideration within the procedure.  |
| <b>Legal Implications</b>                                       | Complaints Team work closely with Legal Services when appropriate.  |

## Appendix 2: Summary of CAS Corporate Complaints, Compliments and Suggestions 2015/16

- 1 From 1 April 2015 to 31 March 2016, a total of 33 corporate complaints were received in CAS as shown in the table below:

| Q1 15/16<br>Total | Q2 15/16<br>Total | Q3 15/16<br>Total | Q4 15/16<br>Total | Total of Corporate<br>Complaints Received<br>in 2015/16 |
|-------------------|-------------------|-------------------|-------------------|---|
| 8                 | 9                 | 6                 | 10                | 33  |

### Acknowledgement within 2 working days 2015/16

- 2 Of these 33 complaints, 32 were acknowledged within 2 working days (97.0%) during the period 2015/16.

### Corporate Complaints responded to within timescale 2015/16

- 3 Of the 33 corporate complaints received, 26 were responded to within the agreed timescale (78.8%). During quarter 1, this was prescribed at 10 working days for all corporate complaints, in accordance with the policy. The policy was then amended, so that each individual complaint is given a personalised timeframe for response. The 7 complaints not responded to within timescale (21.2%) were particularly complex cases and apologies were offered to the complainant.

### Service Breakdown of Corporate Complaints received 2015/16

- 4 The breakdown of the 33 corporate complaints is as shown in the table below.

|  | Q1       | Q2       | Q3       | Q4        | Totals    |
|--|----------|----------|----------|-----------|-----------|
| <b>Adult Care*</b>                     | 0        | 0        | 1        | 0         | 1         |
| <b>Children's Services*</b>            | 4        | 4        | 4        | 8         | 20        |
| <b>Commissioning</b>                   | 1        | 0        | 0        | 0         | 1         |
| <b>Education</b>                       | 1        | 3        | 1        | 2         | 7         |
| <b>Planning &amp; Service Strategy</b> | 2        | 2        | 0        | 0         | 4         |
| <b>Public Health</b>                   | 0        | 0        | 0        | 0         | 0         |
| <b>Totals</b>                          | <b>8</b> | <b>9</b> | <b>6</b> | <b>10</b> | <b>33</b> |

\* Complaints relating to social care services can be actioned through the corporate complaints process, if they do not meet the criteria within the statutory regulations to be actioned as a statutory complaint.

## Learning Outcomes

5 Actions as a result of learning from corporate complaints are shown overleaf:

- A telephone caller was kept on hold for an excessive period, the system was checked and it was found that the telephone system was not operating to normal standards and this was rectified.
- The procedures relating to the role of Local Authority Designated Officer (LADO) were reviewed.
- There was a review of the administrative resources within Service Support to ensure referrals are allocated to the appropriate social care team promptly.

## Compliments received 2015/16

6 The table below shows a breakdown by service area of the 166 compliments received by CAS between 1 April 2015 and 31 March 2016 relating to non-statutory services:

|  | Q1        | Q2        | Q3        | Q4        | Totals     |
|--|-----------|-----------|-----------|-----------|------------|
| <b>Adult Care</b>                      | 0         | 0         | 0         | 0         | 0          |
| <b>Children's Services</b>             | 34        | 29        | 27        | 44        | 134        |
| <b>Commissioning</b>                   | 0         | 0         | 0         | 0         | 0          |
| <b>Education</b>                       | 8         | 2         | 5         | 16        | 31         |
| <b>Planning &amp; Service Strategy</b> | 0         | 0         | 0         | 1         | 1          |
| <b>Public Health</b>                   | 0         | 0         | 0         | 0         | 0          |
| <b>Totals</b>                          | <b>42</b> | <b>31</b> | <b>32</b> | <b>61</b> | <b>166</b> |