

# Adult Social Care Statutory Complaints And Representations Procedures



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## 1. Relevant Policies

- 1.1 These procedures should be read in conjunction with:
- Adult Social Care Statutory Complaints Policy
  - ASC Statutory Complaints Vexatious Complainants Procedure
  - ASC Statutory Complaints Guidance for Investigating Managers
  - ASC Statutory Complaints Guidance for Provider Investigating Managers
  - Protocol for Handling Multi-Agency Formal Complaints

## 2. Introduction

- 2.1 These procedures seek to provide guidance in handling Adult Social Care Statutory Complaints in line with the Adult Social Care Statutory Complaints Policy.
- 2.2 Concerns or worries are often raised as part of the normal everyday interaction between Adult Social Care and the customers they serve. Normally, these will be easily resolved by the staff working with the customer. However, where this is not possible the customer will be given the opportunity to raise a formal complaint.
- 2.3 This procedure **does not apply** to Children's Social Care Services. Such complaints will continue to be dealt with under the Children's Statutory Complaints and Representations Procedure. Where a complaint relates to a child during transition to Adult Social Care Services, the Customer Relations Manager will determine under which process the complaint will be handled.

## 3. Basic Principles

- Most complaints arise from a genuine feeling of grievance and not of maliciousness
- Small grievances can develop / increase if not dealt with at an early stage
- Complaints can serve to highlight deficiencies in service staffing levels
- People have the right to complain, to be heard and to have their complaints looked into as quickly as possible
- Handling complaints properly is an important part of the way the Council provides its services
- If the customer considers their comments as a complaint, then it should be regarded as a complaint. We cannot deny them the right to complain
- Complaints form part of the feedback system of how services are provided – and it's free!
- The confidentiality of the complainant and those mentioned in the complaint should be appropriately protected
- Even persistent / vexatious complainants can have a new valid complaint

## 4. Responsible Officer

- 4.1 The Adult Social Care Statutory Complaints Policy requires the Council to designate a "Responsible Officer", who will be responsible for managing the procedures for handling and considering complaints and ensuring compliance with the arrangements contained within the Policy.

- 4.2 Within Solihull, the Responsible Officer is the Customer Relations Manager, who is part of the Performance & Complaints Team. The Performance & Complaints Team are responsible for the day to day management of Adult Social Care Complaints, on behalf of the Adult Care and Support Directorate.
- 4.3 Regulations require that the Local Authority designates a Responsible Person, who is responsible for ensuring compliance with the Regulations. This responsibility has been delegated to the ASC Assistant Director, who is responsible for overseeing all complaint responses and providing the “Responsible Person” letter that accompanies the investigation response.

## 5. Receiving a Complaint

5.1 Complaints can be received at any point of access across the Council. They may also be received by the service or individual directly involved.

5.2 All complaints **must** be signposted to the Performance & Complaints Team, who has responsibility for recording and monitoring all complaints through to conclusion. Contact details for the team are:

Statutory Complaints

Council House

Manor Square

Solihull

B91 3QB

0121 704 8296

[Statutorycomplaints@solihull.gov.uk](mailto:Statutorycomplaints@solihull.gov.uk)

5.3 Complaints can be received via;

- a. Letter
- b. Complaint leaflet
- c. Phone
- d. Email
- e. Web form
- f. In person

5.4 Anonymous complaints should always be passed to the Performance & Complaints Team in the same way as other complaints. However, anonymous complaints fall outside the scope of the Adult Social Care Statutory Complaints Policy. The Customer Relations Manager is responsible for deciding what action will be taken on a case by case basis and whether the information should be acted upon under other procedures i.e. Safeguarding.

## 6. Data Protection

6.1 All functions within the complaints procedures must adhere to the requirements of the Data Protection Act 1998. Particular attention should be given to ensuring that personal information obtained in relation to a complaint is only used for that purpose. The consent of the service user will be sought by the Performance & Complaints Team to access and share relevant personal information to ensure a full response is made.

- 6.2 The Performance & Complaints Team will seek written consent from the service user for a representative to make complaints on their behalf. Where the service user does not have capacity to consent, the Performance & Complaints Team will liaise with the relevant Team Manager to determine whether the complainant is acting in the best interests of the service user.

## **7. Timeframes**

- 7.1 All complaints should be passed to the Performance & Complaints Team as soon as possible after receipt.
- 7.2 Where possible, the Performance & Complaints Team will acknowledge receipt of complaints within 3 days of receipt into the Team. This will include the defined complaint(s), details of the investigating manager and the timeframe by which a response will be provided.
- 7.3 The Performance & Complaints Team may need to liaise further with the complainant regarding the detail of the complaint and this may delay final confirmation of the complaint.
- 7.4 Investigating managers will provide a draft response to the Performance & Complaints Team within 20 working days of receiving the defined complaint(s). (See *Appendix 1a: Statutory Complaints Guidance for Investigating Managers*).
- 7.5 Complainants will receive a final response to their complaint within 30 working days of the complaint being accepted. This will only be extended in exceptional circumstances and must be agreed with the Customer Relations Manager and the complainant.

## **8. External Independent Investigations**

- 8.1 External independent investigators will only be appointed if the case has sufficient complexity and it would not be feasible for an Investigating Manager to be appointed internally. The Customer Relations Manager, in conjunction with the Assistant Director, will determine if an investigation warrants the appointment of an external independent investigator. The service area will meet the cost of appointing an external independent investigator.
- 8.2 The Customer Relations Manager will appoint an external independent investigator from the list of external investigating officers and will ensure that the investigating officer:
- a. Has had no previous involvement in or responsibility for the service area being complained about
  - b. Has sufficient relevant investigative experience
  - c. Is able to complete the investigation within the prescribed timeframe

## **9. Withdrawing a Complaint**

- 9.1 A complaint may be withdrawn by the complainant at any time, either verbally or in writing. The Performance & Complaints Team will inform the Investigating Manager that the complaint has been withdrawn and that no further action is required.

- 9.2 Should the complainant advise the Investigating Manager directly, that they wish to withdraw the complaint, the Investigating Manager should notify the Performance & Complaints Team, who will then write to the complainant to confirm that the complaint has been withdrawn and no further action will be taken.

## **10. What May Be Complained About**

- 10.1 A complaint can be made in relation to any aspect of Adult Social Care including;
- a. Adults Social Care Finance
  - b. Attitude or behaviour of Staff
  - c. Decision Making
  - d. Delivery / non delivery of service
  - e. Dissatisfaction with care plan / assessment / review
  - f. Domiciliary care providers
  - g. Failure to respond / delay
  - h. Frequency / change / cost of service
  - i. Impact of LA policy on service user
  - j. Inappropriate / quality of service
  - k. Service declined / eligibility criteria not met
  - l. Timescale of a decision about service provision
  - m. Unhappy with the impact of contracting process
  - n. Unsatisfactory communication
- 10.2 These suggestions are not an exhaustive list and should be used as a guide only.
- 10.3 These procedures cannot be used to investigate complaints about the content of Council policy. Such complaints should be referred to the Council's Corporate Complaints Process.

## **11. Direct Payments**

- 11.1 It is important to understand the difference between complaining about how the direct payments scheme is organised and dealing with problems that may arise with an employee or service provider.
- a. If there are problems around the employment of a carer, this is not something that the statutory complaints system can be used for. However, the Council contracts with a direct payment support service that can provide advice and guidance in relation to employment issues relating to PAs.
  - b. If problems occur regarding the service provision from an agency chosen by the service user, then the complainant needs to go directly to the service provider involved and use the provider's own complaints procedure.
- 11.2 The following issues can be considered under the Statutory Complaints Process:
- information provided by the Council about direct payments
  - the way in which the payments are managed by the finance team
  - the process of allocating a direct payment
  - where the Council has commissioned services to support the person to manage direct payments

11.3 These suggestions are not an exhaustive list and the Customer Relations Manager has the discretion to consider complaints on a case by case basis.

## **12. Court Decisions**

12.1 Dissatisfaction with the way the Council has managed or handled a complainant's case, even when related to a case that has led to Court action, may be considered under these procedures. For example, the actions of a member of staff. However, the Customer Relations Manager will determine which elements of a complaint can be investigated under Adult Social Care Statutory Complaints Policy on a case by case basis.

12.2 These procedures cannot be used to investigate complaints about decisions that are taken by the Courts and cannot overturn a Court decision.

## **13. Vulnerable Adults**

13.1 Complaints that, in the view of the Performance & Complaints Team, contain concerns or information that may constitute abuse or risk of harm towards an adult will be referred to the appropriate Team Manager and/or the Police for consideration.

13.2 Should such a referral result in an individual safeguarding investigation, the complaints process will be suspended until that investigation is complete.

13.3 Should such a referral result in a large scale safeguarding enquiry, the Customer Relations Manager will liaise with the Safeguarding Manager to discuss any potential cross-over that may impact on either the safeguarding investigation or the complaint investigation. Should such a conflict exist, the complaint investigation will be suspended until the safeguarding investigation is complete.

## **14. Advocates**

14.1 There is no duty on local authorities to provide an advocate service to complainants. The department will, where possible and appropriate, facilitate the provision of independent advocacy services to complainants, by providing information and help to identify sources of advice including relevant local voluntary organisations, community and self-help groups or specialist organisations for those with special needs.

14.2 If a service user has access to an advocate as part of their social care service, then in liaison with the complainant, this advocate would be involved in the complaints process.

## **15. Inter-Agency Joint Working Protocol**

15.1 Each agency should have a joint working protocol to ensure that both customers and officers are aware of the process involved should a complaint cover more than one agency. This protocol sets out the steps in the decision making process about which organisation should take the lead in handling the complaint. It also sets out the steps necessary to gain permission to share

information and inform the customer throughout the process. (See *Appendix 1b: Protocol for Handling Multi Agency Formal Complaints*).

## **16. Self-Funded Services**

- 16.1 At present, those who purchase care under a private care arrangement and who need to raise a complaint have no redress to the Council for this service. In this instance, they would need to access the provider's own complaint procedure.
- 16.2 Adults who fund their own care will have access to an independent complaints review service provided by the Local Government Ombudsman (LGO).
- 16.3 The Performance & Complaints Team may provide **informal** advice to self-funders in how best to pursue their complaints.
- 16.4 Service users that are deemed to contribute 100% of the cost of their service would have recourse to the statutory complaints procedure, if their care is arranged and administered by the Council.

## **17. Complaints in Relation to Commissioned Services**

- 17.1 Complaints in relation to services commissioned by the Council to meet its social care functions should be forwarded to the Performance & Complaints Team.
- 17.2 The Performance & Complaints Team with the complainant's consent, will liaise with the contracted provider, to ensure the complaint is investigated thoroughly and response timeframes are adhered to.
- 17.3 *Appendix 1c: ASC Statutory Complaints Guidance for Provider Investigating Managers* provides details of the process to be followed by contracted providers.

## **18. Mediation / Alternative Dispute Resolution (ADR)**

- 18.1 Mediation or ADR can be used at all stages of the complaints process and provides all those involved with the time and space to listen to each other and their expectations, with a better chance of focusing on the solutions rather than the problem.
- 18.2 Mediation must be agreed by the Customer Relations Manager, the complainant and the responsible service area. Once agreed, mediation will be arranged by the Performance and Complaints Team.

## **19. Recording and Monitoring Complaints**

- 19.1 The Performance & Complaints Team have responsibility for recording and monitoring all complaints through to conclusion. Each complaint will be allocated a unique reference number and a named person within the Performance & Complaints Team, who will be tasked with monitoring and tracking the complaint through to conclusion.

- 19.2 The Performance & Complaints Team will liaise with investigating managers on a regular basis to ensure that complaints are thoroughly investigated and a response is provided to the complainant within the agreed timeframe.
- 19.3 Using the Respond database, the Performance & Complaints Team will record the complainant's contact details, the service user's details, the nature of the complaint and each individual issue, the name of the Investigating Manager, the response timeframe, the name of the Responsible Person and the complaint outcomes. This data will be used to produce regular monitoring reports.

## **20 Learning from Complaints**

- 20.1 Complaints and compliments are a valuable way of learning and will be used to inform service improvements. The Performance & Complaints Team will be responsible for ensuring that learning forms are sent to all investigating managers and will liaise with managers to track this learning through to implementation.
- 20.2 On a quarterly basis, the Performance & Complaints Team will provide a summary of learning to Directorate Leadership Team (DLT). This summary will include the number of learning forms sent out and completed per team, along with the area of learning identified i.e. Improve Communication.
- 20.3 On a quarterly basis, the Performance & Complaints Team will provide a detailed summary of learning for Adult Performance Clinics. This will provide more detailed information, including the specific learning actions identified and whether or not the learning has been implemented. The report will also include any trends identified or if the learning is team specific / service specific or if it can be applied to the organisation as a whole.
- 20.4 On an annual basis, the Performance & Complaints Team will provide a summary of all learning that has been implemented in the previous 12 months, in order to identify the impact the learning has had on practice and what has changed as a result. The summary will be provided to team managers and the results collated and fed back to DLT.

## **21 Compliments**

- 21.1 Compliments are positive feedback from service users / their representatives / other professionals and are a valuable tool for learning, as they provide information about which services people value and why. This is an opportunity to share best practice to ensure that services learn and develop.
- 21.2 Compliments submitted directly to teams should be forwarded to the Performance & Complaints Team, at which point they will be registered and acknowledged. Compliments should be submitted on the specified template.
- 21.3 Compliment data will be included in quarterly monitoring reports to DLT and to the Adult Performance Clinics.

## **22 Reporting Complaints Activity**

- 22.1 The Performance & Complaints Team will provide, on a monthly basis, a summary of active complaints, complaints closed within the period, response timeframes, learning identified, any Local Government Ombudsman (LGO) complaints and any compliments received. This summary is service specific and delivered at the Adult Performance Clinics.
- 22.2 The Customer Relations Manager will oversee the production of quarterly reports to DLT / SLT / Performance Clinics, containing details of complaint activity for the quarter, including the number of new complaints, number of closed complaints, outcome of complaints closed, response timeframes and any learning identified. The report will highlight any trends in complaints received and outcomes, as well as response timeframes and will also show any Local Government Ombudsman (LGO) complaints received and their outcomes.
- 22.3 The Customer Relations Officer is responsible for overseeing the production of the Annual Complaints Report, as defined in Section 17 of the Adult Social Care Statutory Complaints Policy.
- 22.4 The Annual Report is presented to the Director for Adult Care and Support for approval, before being presented to the appropriate Cabinet Member. The report will subsequently be a published document, available to anyone who requests a copy and will, therefore not contain any references to specific people that may breach confidentiality. This report is also made available on the Council's website.

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

- 23.1 The LGO receives and investigates complaints of maladministration by councils and operates separately from the Council's complaint procedure.
- 23.2 Any complainant can approach the LGO directly at any time. However, the LGO will, in most instances, refer the complainant back to the Council if the complaint has not completed the complaints process or the Council has not had the opportunity to respond initially.
- 23.3 The LGO encourages local settlement of complaints wherever possible.
- 23.4 The LGO can be contacted at:

The Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH  
Telephone: 0300 061 0614  
Fax: 02476 820 001