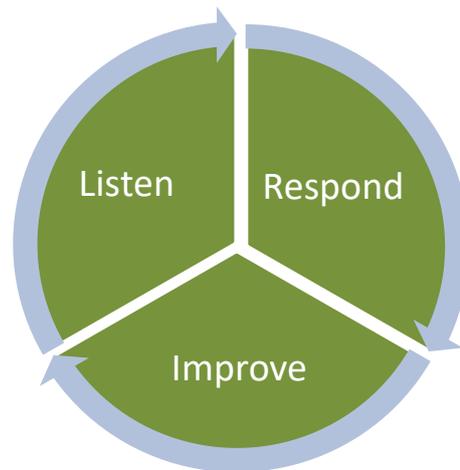


# Adult Social Care



## Statutory Complaints and Compliments Annual Report April 2018 – March 2019

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# 1. Purpose and Context of Report

## 1.1. Purpose & Scope

The purpose of this report is –

- To report to members and officers detailing Leicestershire County Council's (LCC) adult social care complaints and compliments activity from 1 April 2018 to 31 March 2019.
- To set out future developments and planned improvements.
- To meet the Council's statutory duty requiring the production of an annual report each year.<sup>1</sup>

This report provides analysis and comment for Adult Social Care Services on all complaints managed under the statutory complaints process. Those complainants not qualifying under the statutory process have been considered under the County Council's Corporate Complaints and Compliments Annual Report presented to the Scrutiny Commission.

## 1.2. Background Context

The Adult Social Care Service sits within the Adults and Communities Department and both arranges and supports the provision of a wide variety of services.

This includes helping people to remain living independently in their own homes with increasing levels of choice and control over the support they receive. When this is no longer possible, the department supports residential or home care as well as having lead responsibility for safeguarding adults at risk of harm.

9,626<sup>2</sup> people received long-term support from the Social Care service during 2017-18. This figure is a 3.5% reduction from last year.

The department always aims to provide high quality services that meet the needs and circumstances of individuals and their families. The department actively promotes involving clients and carers in shaping services; using their skills and experiences to help ensure they meet customer needs. However, given the personal and complex nature of some adult social care services, sometimes things do go wrong.

The complaints process is a mechanism to identify problems and resolve

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<sup>1</sup> [Statutory Instrument 2009 no.309 \(18\)](#)

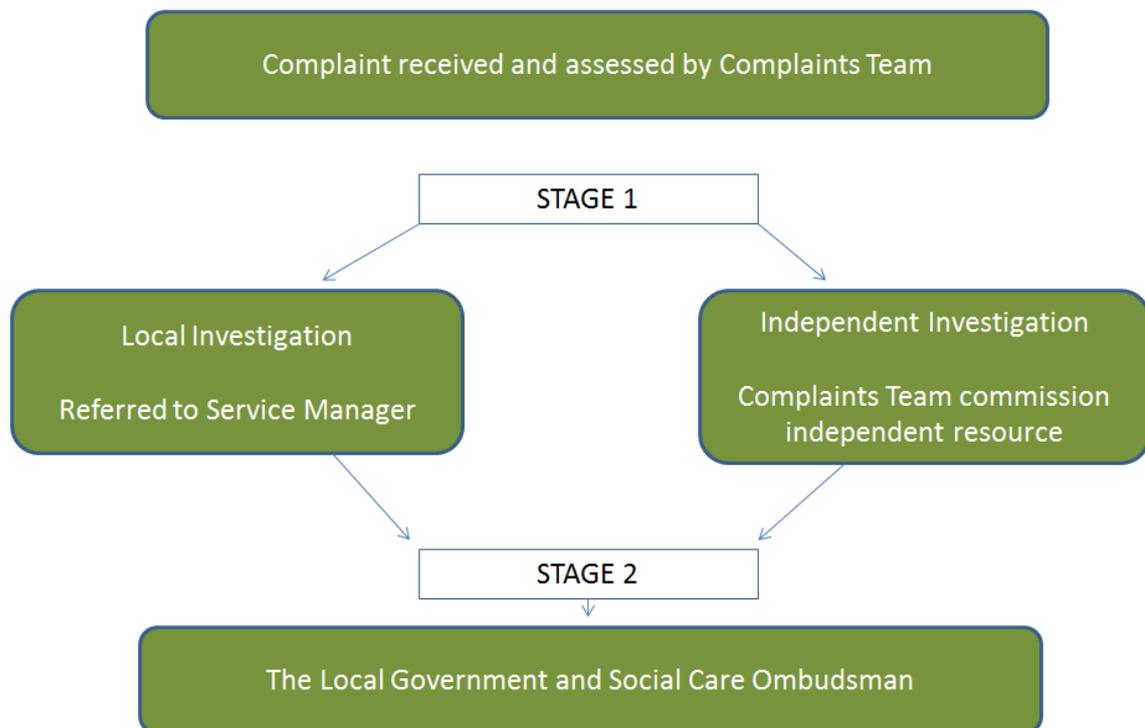
<sup>2</sup> Figures supplied by Performance and Business Intelligence Team

issues. If things go wrong or fall below expectation, the County Council will try to sort things out quickly and fairly. Learning from our mistakes and concerns that are raised is used to make changes and improve services.

Analysis of information about complaints received during 2017 -18 gives Adult Social Care an opportunity to reflect on both the quality of the services it provides and also consider how well it listens and responds to service users.

## 2. Adult Social Care Complaints Procedure

The Local Authority Social Services and National Health Services Complaints (England) Regulations 2009 outlines the statutory responsibilities of the County Council. This is broadly set out below:



The above procedure was designed to offer Local Authorities flexibility to resolve complaints in the most appropriate manner. Stage 1 resolution can therefore consist of a number of processes (for example meetings) but the Local Authority must not unduly delay finalising this process which should always be concluded within 65 working days.

During 2018-19, no independent investigations were commissioned.

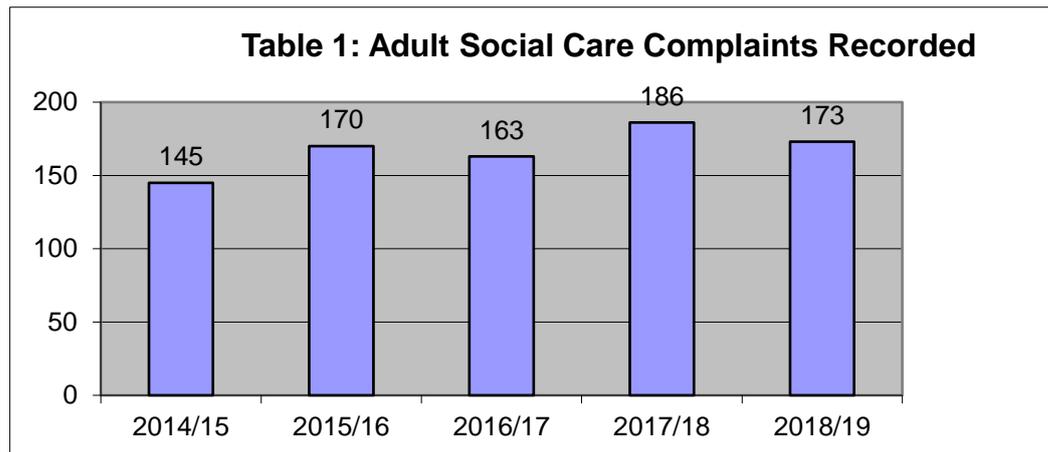
The Local Authority must advise all complainants of their right to approach the Local Government and Social Care Ombudsman should an agreed resolution not be found.

During 2018-19, the Council made changes to our local processes to add a “review” step within all Stage 1 responses. This followed learning from an Ombudsman complaint which and where the local response had not been sufficiently robust.

### 3. Complaints and compliments received 2018-19

#### 3.1. Complaint Volumes

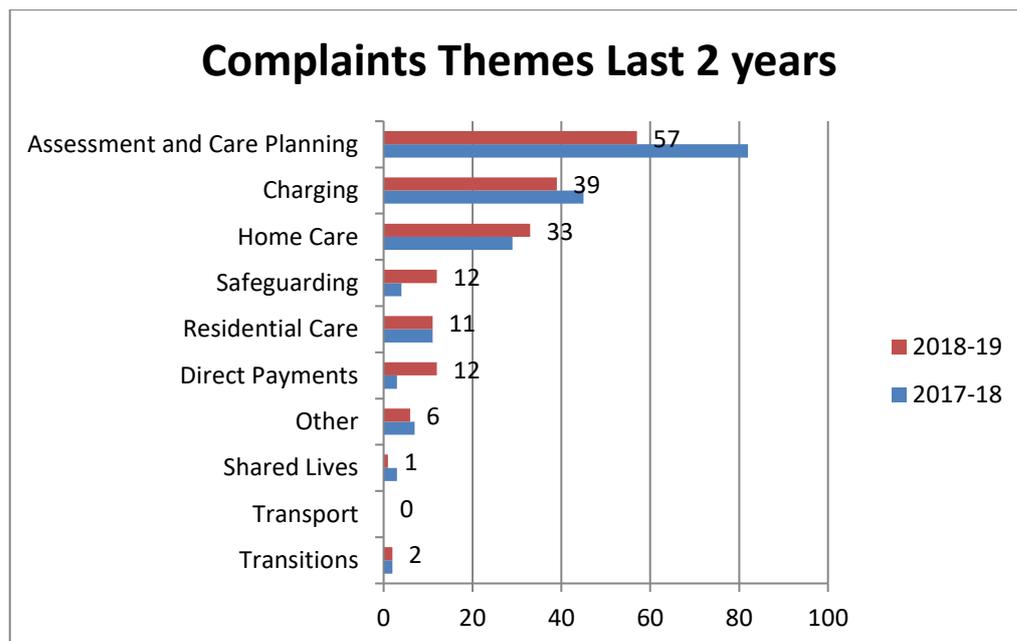
Table 1: Adult Social Care Complaints recorded over last 5 years



As illustrated above, the total number of social care complaints received this year dropped slightly from 2017-18. Adult Social Care was the only type of complaint to see a decrease during this period.

#### 3.2. Complaints by Theme

Table 2: adult social care complaints by theme



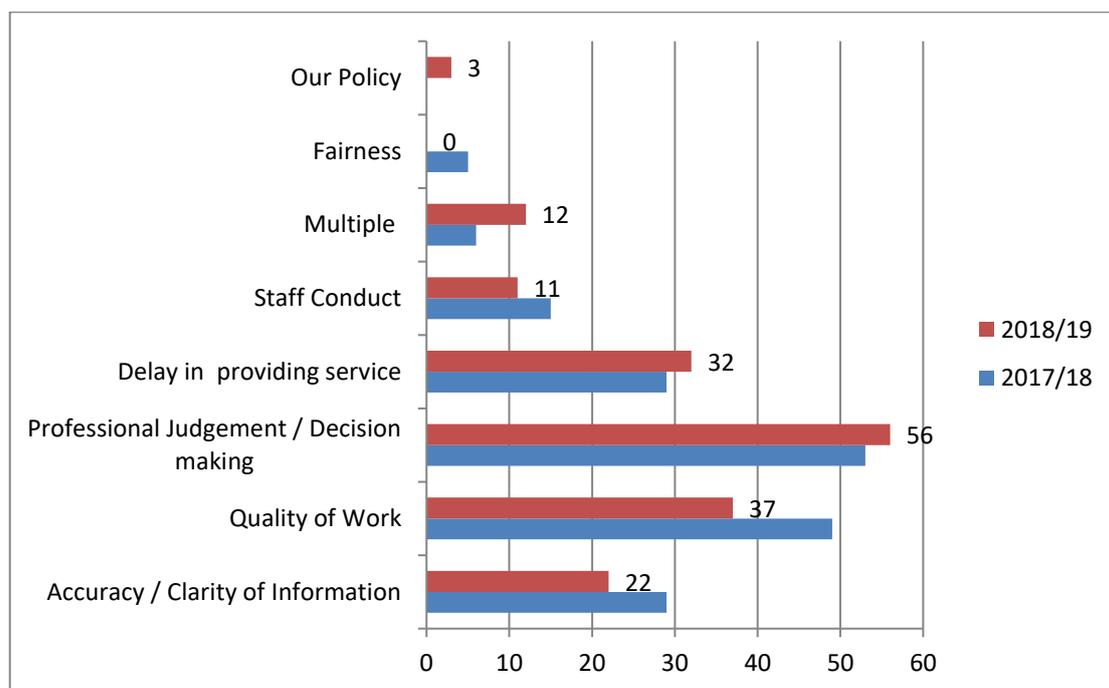
Complaints themes mirror the Local Government and Social Care Ombudsman classifications and can provide helpful insight as to the underlying topics that are generating complaints.

Unsurprisingly, the largest segment is also the broadest category around Assessment and Care Planning. This equates to 33% of the overall volume but represents an 11% decrease from last year.

The most notable changes from 2017-18 are the increases in Direct Payments complaints and Safeguarding complaints. These are discussed in more detail later in this report.

The Complaints team also undertake analysis of each complaint to try to understand the significant factor. This can help prioritise areas for the department to focus on improving. The results for 2018-19 are represented below along with comparative data for 2017-18.

Table 3: Complaint causes last two years



Decision making remains the highest single cause, with quality of work and delay making up the top three categories. This mirrors 2017-18 data.

There has however been a reduction in complaints citing Accuracy of Information. Largely this relates to a reduction in complaints regarding incorrect invoices and following significant work done within the department. This has been a regular theme in the last two annual reports and it is pleasing to see a reduction in this area.

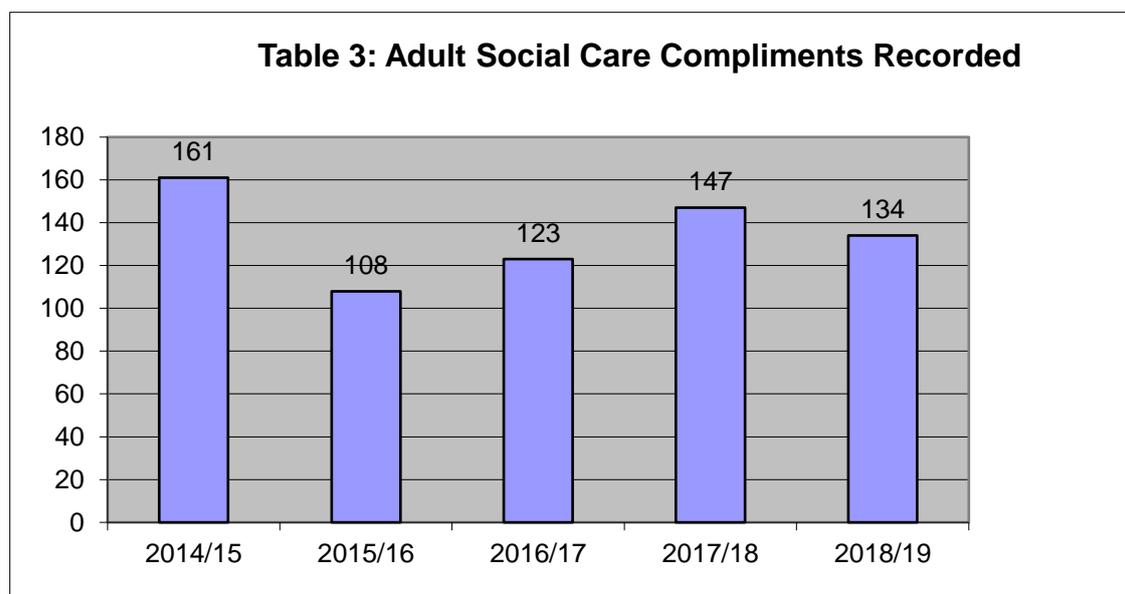
### 3.3. Joint Complaints

The Health and Social Care complaints regulations place a duty on Local Authorities to work together with health partners in responding jointly to complaints<sup>3</sup>. Leicestershire County Council accordingly has a joint complaints handling protocol, supported by a multi-agency group, which sets out common guidelines and approaches to this. Members include Leicester City Council, the Clinical Commissioning Groups, University Hospitals Leicester (UHL) and the Leicestershire Partnership Trust (LPT).

During the year 2018-19, just two complaints were considered using the Joint Complaints protocol. This is a significant decrease on last year (11)

### 3.4. Compliments received 2018-19

*Table 3 below shows the long-term trend in compliments recorded.*



There has been a slight decrease in compliments recorded during 2018-19. It is always important to recognise the good work that is being delivered by the department and to provide balance within the complaints annual report. For this reason, the complaints function does encourage the recording of un-solicited compliments which can either be submitted directly online or if received by council officers should be passed on for central recording.

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<sup>3</sup> [Statutory Instrument 2009 no. 309 \(9\)](#)

A small selection of the compliments received can be found in Appendix A. They show some of the ‘real-life stories’ where Adult Social Care makes a huge difference to peoples’ lives.

The Complaints team will continue to work closely with the department to try to reflect all the unsolicited feedback received across the teams and ensure visibility in annual reports.

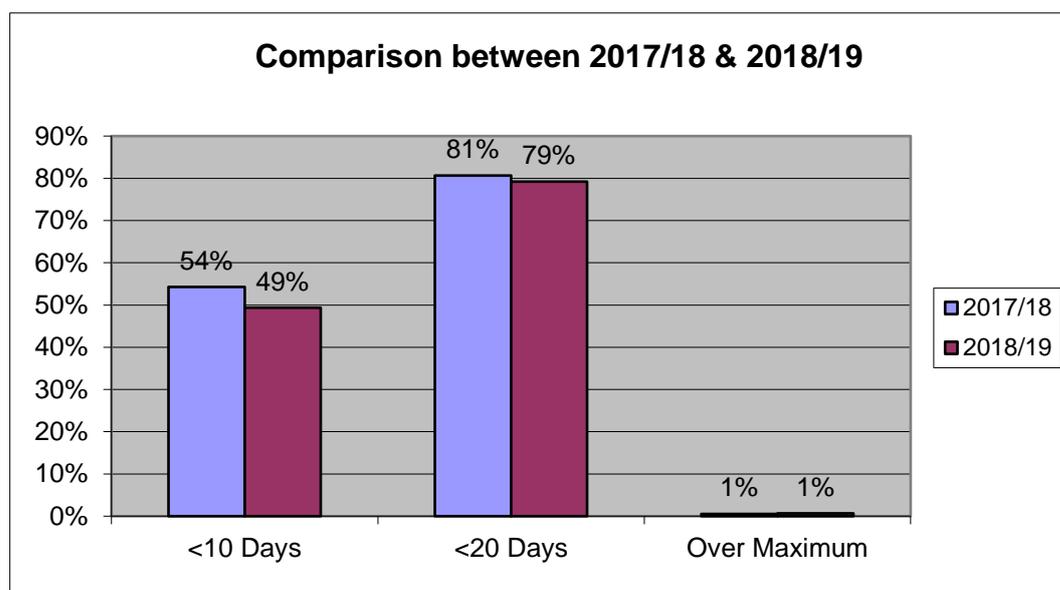
#### 4. Complaints resolved 2018-19

The key performance indicators for speed of response, outcomes, causes and identified learning are linked to complaints that have been *resolved* within any given reporting period rather than received.

This is important as it ensures that full data sets are able to be presented, both to departments on a quarterly basis, and at year end. It also avoids the scenario whereby Ombudsman findings of maladministration might not appear in annual reports (where outcomes are not known at the time of production).

##### 4.1. Responsiveness to complaints

Table 4: Adult Social Care Performance



There has been a slight drop in responsiveness to complaints during 2018-19, with a 5% reduction in those responded to within 10 working days. With 79% of all complaints responded to within 20 working days, this remains healthy performance across often complex subject matters.

As noted earlier in this report, changes this year to our procedures will have impacted on response times where the Council has offered a Head of Service review prior to referral to the Ombudsman. The Complaints Manager is considering how best to differentiate such cases in future reporting.

Whilst the statutory regulations give wide flexibility in terms of response times and allow up to 65 working days for complaints to be resolved, a key expectation of the public is that their concerns are dealt with promptly and this report provides good assurance of the department's commitment to this.

Just 1 complaint was not responded to within the statutory maximum timescale of 65 working days. This involved a retrospective safeguarding enquiry which required contributions from a care provider.

## 4.2. Complaint Outcomes

Table 5: Adult Social Care complaints recorded by outcome

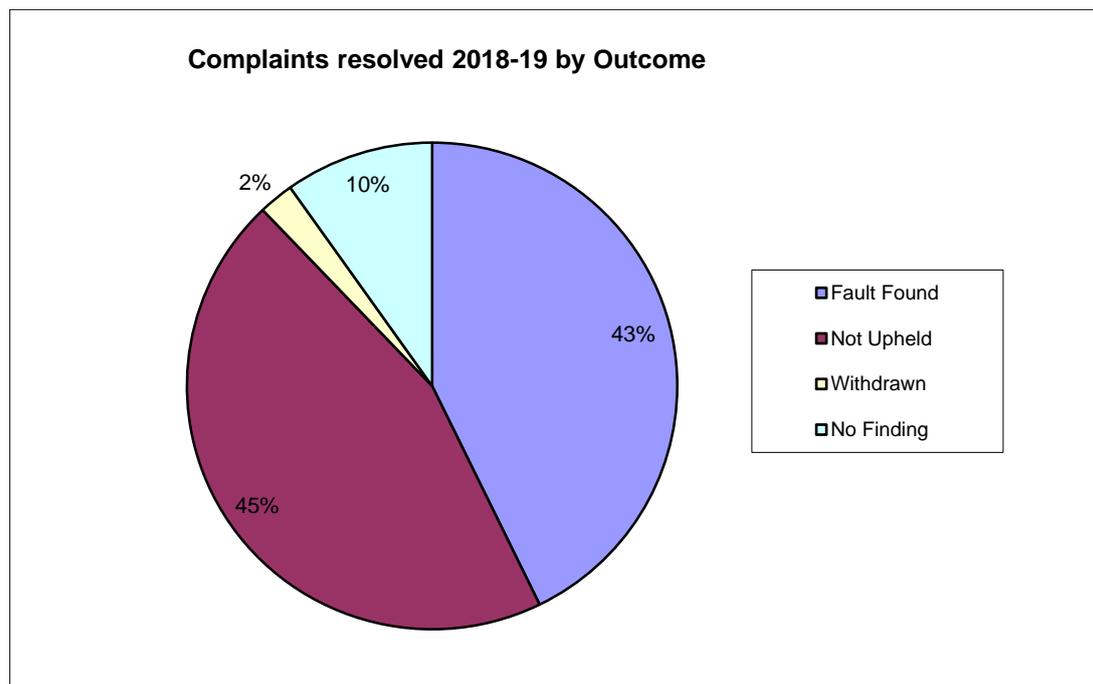


Table 5 above shows that 74 (43%) complaints were upheld. This is consistent with the previous year (42%)

## **5. Learning from Complaints**

Complaints are a valuable source of information which can help to identify recurring or underlying problems and potential improvements. We know that numbers alone do not tell everything about the attitude towards complaints and how they are responded to locally. Arguably of more importance is to understand the impact those complaints have on people and to learn the lessons from complaints to improve the experience for others.

Lessons can usually be learned from complaints that were upheld but also in some instances where no fault was found but the Authority recognises that improvements to services can be made.

Occasionally during the course of an investigation issues will be identified that need to be addressed over and above the original complaint. The Complaints Team will always try to look at the “bigger picture” to ensure that residents receive the best possible service from the Council.

### **5.2 Corrective action taken**

All of the 74 complaints where fault has been found have been reviewed by the Complaints Team to ascertain what action the relevant department has taken, both in remedying the fault, and any wider learning to avoid such issues occurring in the future.

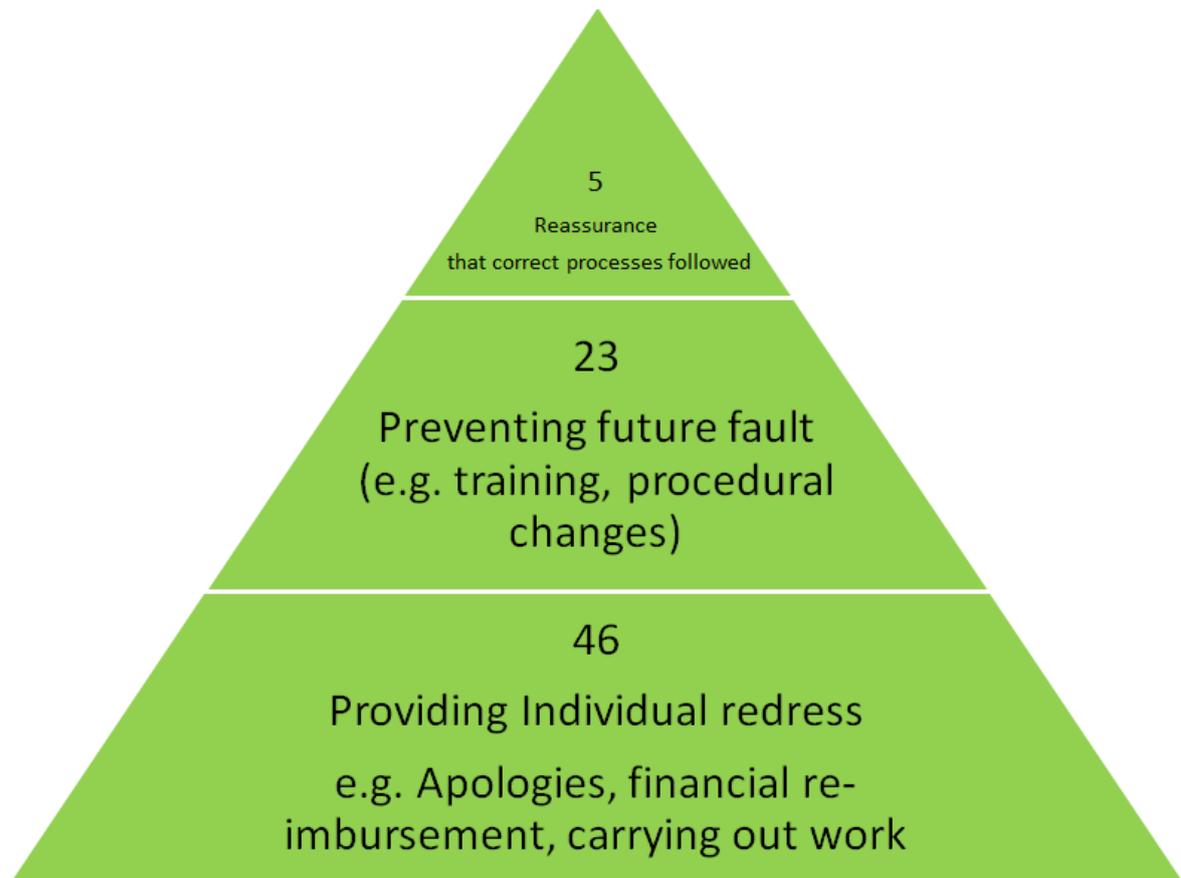
Remedial action typically consists of both individual redress (e.g. apology, carrying out overdue work) and wider actions that may affect many. On some occasions, fault has already been remedied so the complaints process is used to re-assure that appropriate action has been taken.

Table 8 (overleaf) depicts the actions taken during 2018-19. This shows that in 23 (31%) instances, clear actions were identified which should improve service for other members of the public. The most common of these is staff training but this category would include replacing faulty equipment, reviewing local policies and providing additional resources to help deal with demand.

In 14 instances financial redress was arranged to ensure that the complainant was put back in the position they would have been in had the fault not occurred. This is a vital part of the complaints process and this report provides re-assurance that managers are taking the appropriate action. Typically this is re-imbusement of care costs where these had either been calculated wrongly or there was evidence that clear explanations were not given.

In 5 instances fault was identified in that, although the correct action was taken, there were opportunities to be clearer around the reasons why. In such cases re-assurances have been provided within the complaints response.

Table 8: Actions taken for upheld complaints 2018-19



## 6.1 Service Improvements during 2018-19

Research shows that a primary driver for making complaints is so that lessons can be learned and processes improved. It is also a key part of an effective complaints procedure to demonstrate this organisational learning so that in turn the public can feel confident that complaints do make a difference.

Case studies can be a powerful way of promoting this and to illustrate some of the positive action taken this year from complaints, several examples are set out below:

### 5.2.1. A's Story – Lack of contact following a Safeguarding referral

A contacted the Council to report her concerns that her mother had mentioned being slapped by a carer. After hearing nothing further some two weeks later she made a number of follow up calls to the Council but struggled to get any clear update.

Some calls later she managed to speak with a social worker who advised that after visiting her mother she did not want to take things further or make a complaint and the case was closed. A questioned whether she had the capacity to make this as an informed decision.

## **The Council's findings**

The Council's investigations found a number of issues with the way this referral was handled. It was clear that as an individual making a referral A should have been spoken to after the visit to inform of the reason for closing the case. There were also issues with appropriate case notes being left which would have prevented further frustration when A contacted the Council later on.

There was also limited evidence to suggest that when visiting A's mother she was asked about whether or not she would like her daughter present at any safeguarding visit.

## **Actions taken**

Following several complaints raising these and other related safeguarding themes, the department has undertaken significant work in the Safeguarding area and to improve our service. This includes:

- Introduction of a safeguarding core day which is mandatory for all staff working on safeguarding enquiries to try and ensure consistency in practice. There is a key focus on applying safeguarding thresholds consistently
- Safeguarding Team now focus on initial enquiry to help ensure a timely response in line with "Making Safeguarding Personal" principles and more consistent thresholds application
- Revised process guidance in place for Organisational Safeguarding and on-going work is being planned to support Locality Teams with this
- The roll-out of new training for Service Managers based on the Signs of Safety approach to assist managers in a more consistent and person-centred approach in managing safeguarding meetings and enquiries
- Vulnerable Adults Risk Management (VARM) guidance is being updated to provide further clarity around the process-this is reflected in on-going VARM workshops
- Plan with Legal Services to provide briefing to managers around legal report writing e.g for inquests, Court of Protection (COP) applications within safeguarding enquiries
- Mental Capacity Assessment (MCA) guidance templates are near to completion to assist with consistent and robust MCA assessments within safeguarding enquiries
- Audits are on-going, next in September will focus on application of MCA in safeguarding enquiries

## 5.2.2. J's Story – Confusion what Direct Payments can be used for

J was assessed as a carer and granted a monthly payment. She was led to believe that this could be used entirely flexibly to support her well-being. She received no support plan setting out any restrictions so used the monies on gym memberships, massages and other things. The Council, some two years later, sought to claw this money back.

### The Council's findings

When investigating the complaint, the Council could not find any evidence that clear advice was given around the limits of what the payments could be used for.

This coupled with the length of time before anyone flagged the issues led to a decision that it would be unfair to seek to reclaim any monies spent.

### Actions taken

There have been a number of similar cases this year and it is clear Direct Payments is an area where improvements are required.

To help generate these improvements a specific work programme was launched

The Improved Management of Direct Payments (IMDP) project has since implemented the following improvements:

- Launched new Direct Payment agreements which clarify roles and responsibilities regarding the Direct Payment.
- Provided guidance and training for all staff on using the appropriate Direct Payment agreement.
- Transferred all Service Users who manage their own DP onto the new agreement. Review team are transferring all Service Users with a Service User Representative during business as usual reviews.
- Developed Direct Payment Staff Guidance. All staff are being briefed on this guidance throughout May and June 2019. All staff will have their own copy of this guidance in July 2019. This will provide a single point of reference for DP queries and help to ensure consistency and best practice across Care Pathway and Finance.
- Developed 8 Service User Factsheets which help to explain DPs. Care Pathway staff will hand these to service users and families during the Support Planning stage. The Factsheets have been validated by a service user group.

### **5.2.3. D's story – Lack of clear information regarding charges**

D contacted the Council as was frustrated with the length of time that it was taking to arrange payment of a carers grant which was approved some 6 months previously.

#### **The Council's findings**

The Council identified administrative issues which prevented the payment being made and issued an apology.

#### **Actions taken**

Support for carers was a theme of last years report and one where significant improvements have been made.

Despite these positive steps, work is continuing on improving the work with carers including:

- a renewed offer to carers
- streamlining of processes to improve carer experience
- reduction in times to process payments
- a revised training programme for staff and managers.

All the above has already demonstrated significant benefits this year with a significant reduction of complaints in this area.

## **7. Local Government Ombudsman**

### **8.1 New complaints received by the Ombudsman 2018-19**

As has been explained already, the statutory social care procedure is a two stage process with the Ombudsman as the second stage.

The Local Government and Social Care Ombudsman opened investigative enquiries of the Council on 11 complaints during the year. Due to a change in how premature enquiries are recorded this is not comparable to the data from 2017-18, but this represents approximately 6% of the overall complaints.

### **8.2 Complaints resolved by the Ombudsman 2018-19**

The Ombudsman made decisions on thirteen cases during the year with fault being found in 5 cases (38%). This represents an increase from last year (20%)

Brief details for the five cases where fault was found appear below:

#### **1. A complaint regarding a lack of clarity around charges for care and inadequate care provision by the commissioned provider**

The Ombudsman found a number of faults including:

- A failure to share a copy of a care and support plan with the family
- That the care and support plan did not meet statutory guidance due to a lack of clarity on the personal budget and a lack of clarity regarding what was to be commissioned by the Council and what the Direct Payments should be used for.
- Inadequate care provision by the Home Care providers
- A lack of information given about other ways of delivering care

The Council accepted the decision and agreed to make a payment of £700 and outlined how it was addressing the issues raised.

#### **2. A complaint regarding the Council's decision not to fund a health care package as it was more expensive than other providers and exceeded the personal budget**

The Ombudsman criticised the Council for taking too long to deal with the complaint and that it failed to make clear why it would not consider an exception to our policy.

The Council agreed to make a formal apology for the length of time to resolve the matter and to take steps to remind staff of the importance of clearly explaining the rationale for decisions.

### **3. A complaint regarding the lack of clarity regarding charges on the Council's Shared Lives agreement**

The Ombudsman found fault that the Council's Shared Lives licence agreement failed to sufficiently explain the financial contribution expected.

In response the Council issued an apology and agreed to review the Shared Lives Agreement which includes the addition of an Easy Read fact sheet.

### **4. A complaint regarding failure to adequately safeguard a vulnerable adult and inadequate support to help the individual with managing finances**

The Ombudsman found no fault with the actions taken to safeguard the individual but determined that the Council could have done more by way of signposting and general advice around managing finances. The Complaints handling was also criticised in that the Investigating Manager was not considered suitably independent to carry out the investigation.

The Council agreed to undertake a retrospective financial assessment, correct some inaccurate advice given to another authority and issue a briefing note regarding complaints handling protocols.

### **5. A complaint regarding the Council not corresponding in Braille as requested**

The Council had already accepted fault in our internal responses. The Ombudsman was satisfied with the actions already taken to address the complaint. This included procuring new braille identity cards, improving how special characteristics are flagged in our database and discussions with our 3<sup>rd</sup> party provider to improve the quality of Braille material.

For the remaining eight complaints

- In six cases the Ombudsman decided not to investigate, either because there was no evidence of any fault, or the complaint concerned matters outside of her jurisdiction.
- In two cases, the Ombudsman, after investigation, was satisfied with the actions the Council had taken.

The Ombudsman also monitors remedies being carried out by the Council where fault has been found and remedial actions proposed. Failure to carry out remedies within agreed timeframes is recorded as non-compliance and can lead to public reports being issued.

All 5 of the above cases were recorded as compliant (100%)

## **9. Monitoring the Process**

The Complaints Team continues to support Adult Social Care Services to manage and learn from complaints. The key services offered are -

1. Complaints advice and support
2. Production of Performance Reports
3. Liaison with Local Government Ombudsman
4. Quality Assurance of complaint responses
5. Complaint handling training for Operational Managers
6. Scrutiny and challenge to complaint responses

Assistance continues to be routinely provided to Service Managers and other associated managers in drafting responses to complaint investigations. This helps ensure a consistency of response and that due process is followed.

Complaints training is also offered every quarter to managers and a number of social care managers took part in this training during the year.

Quarterly performance reports are produced and delivered at Strategic Leadership Team (SLT) and shared with the Lead Member for Adults and Communities. Over the last year every other quarter a more in depth discussion is held with SLT allowing for greater focus on emerging themes and actions that need to be taken.

During 2018-19, a Customer Satisfaction Performance Clinic was established in response to reduced satisfaction survey results. The Complaints Manager has assisted with this work on an advisory basis and will continue to work closely with the Customer Experience Improvement Lead and to ensure complaints data and intelligence is utilised fully.

## **10. Final Comments**

In times of change and austerity it is vital that service users are provided with a complaints process that is easy to access and fair. This year's Annual Report shows that Adult Social Care does listen and provides a number of examples of how complaints intelligence directly drives and improves service delivery.

During 2019-20, significant work is taking place to review our Target Operating Model. This and other programmed work seeks to simplify processes and should see improvements in a number of areas highlighted within this report, particularly around Charging and Direct Payments.

## **Appendix A: Sample of compliments received 2018-19**

- I just wanted to say huge thank you for your help-it's so much appreciated by my mum & dad & myself. I wish everyone within Social Services was as proactive, kind & helpful as you have been – **ADULTS CSC**
- You were extremely thorough and seemed to understand the situation the family were in during your review visit - **2 WEEK REVIEW**
- Please pass on all the family's thanks and appreciation for your recent help with respite stay – **OA CHARNWOOD**
- Compliments to your staff and especially F. In the family meeting yesterday. the way she handled the meeting and dealt with everything was first class – **OA HINCKLEY**
- Just wanted to let you know that the carers are fantastic...their help has been invaluable to me – **HART**
- Thanks to M for all your assistance with helping T confirm his place...we can all sleep easier now – **TRANSITIONS**
- I would like to draw to your attention the help that H has given me whilst I have been sorting out care for my mother & her husband... within half an hour all my concerns/worries had gone...I now had a clear understanding of how much support the Council would give and how much would be self-funded...H always has time for you and explains everything in a clear " non-complicated" way...At a time when you are looking for support and understanding he has stood out – **ADULT SOCIAL CARE FINANCE**
- I must commend the very high standard of the Best Interest assessment and Mental Capacity assessment undertaken by A – **DOLS**
- Thanks to T for all the support given to father before his death...exceptional care was provided - **OA Melton**
- We wish to thank the OT department for the outstanding care they have given. Thank you so much – **OT**
- Thanks for all your support during discharge from hospital...I would not have managed without you...It's an amazing service – **HOSPITALS**
- Thank you for providing such an excellent service. I am really impressed by your speed of your response and the clarity of the information that you have provided. – **ADULT SOCIAL CARE FINANCE**
- C is quite possibly one of the nicest and most professional officers that I have ever dealt with and a pleasure to work with her - **SAFEGUARDING**