

Complaints Service

**Adult Social
Care
Complaints
Policy**

June 2019

HANDLING OF ADULT SOCIAL CARE COMPLAINTS

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1. Introduction

This policy sets out the framework for the handling of formal complaints relating to Adult Social Care issues.

It is intended for adults who use social care services, carers and their representatives. The purpose of this is to set out what people who use services, carers and their representatives can reasonably expect when they need to leave comments and feedback or complain about a service or member of staff.

It is important that people give feedback about their experiences of adult social care, so that services know what they are doing well and where they can improve.

2. Legislative framework:

- The UK government sets the policy framework for dealing with complaints about social care provision. This approach is set out in the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
- It is the policy of Leicestershire County Council to work within these regulations.

3. Principles of Good Complaints Handling

When things go wrong and you need to complain about a problem you have experienced you can expect us to deal with your concerns in line with these principles:

Fairness

We will encourage you to leave feedback, provide comments or make a complaint and you should not be treated unfairly as a result.

Customer first

You and your concerns should be at the heart of the process. You should feel listened to and respected. We will keep you informed and tell you what happened and why. We will try to resolve the problem as quickly as possible without delay.

If you need help to leave feedback, provide comments or make a complaint we will help you obtain support and involve your representative if you have chosen to have one.

Valuing and encouraging comments, feedback and complaints

We have a clear and accessible complaints procedure and will deal with your complaint in an open and transparent way. We welcome complaints and see them as valuable feedback.

Importantly complaints are an opportunity to learn from any mistakes and improve the quality of services for all.

Accepting something went wrong

When something has gone wrong we should take responsibility, apologise and explain what steps we will take to resolve the problem. Being open to the public about the action we have taken and how we have responded to a complaint can encourage others to come forward by showing it can make a difference.

One complaint, one response

Where more than one organisation is involved in your care you should be able to complain to any of them and they will contact the other organisations, carry out a joint investigation and provide a single joint response. You should not have to contact each organisation separately.

If you complain to us and we are not responsible for the care or service you have received, rather than turning you away, we should share your concerns with the correct organisation(s). We will need your permission to do this. If you'd prefer that we did not share your complaint with other organisation(s) we will signpost you to them instead and provide you with their contact details

Clear signposting to independent redress

We will inform you of your right to seek independent redress, through the Local Government and Social Care Ombudsman or any other more appropriate organisation

4. What is Adult Social Care?

Adult social care includes all forms of professional personal care and other practical help for people aged 18 and over who need it because of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or similar circumstances.

It includes:

- care provided in residential and nursing care homes
- home care services
- day care
- personal assistance for people with physical disabilities, learning disabilities, autism and mental health conditions
- support for carers
- care services provided by a local council or a private care agency
- care planning and assessments

Adult social care does not include healthcare provided in hospitals or care provided by medical professionals like doctors and nurses.

5. Who can complain?

- A person (or their representative) who receives or has received services via the Local Authority.
- A person affected, or likely to be affected, by the action, omission or decision of the Local Authority in relation to the Social Care function.
- A complaint may be made by a representative acting on behalf of the person who:
 - has died
 - is a child (in relation to Health Services provided, not Social Care)
 - is unable to make the complaint themselves because of physical incapacity or the lack of capacity within the meaning of the Mental Capacity Act 2005 or,
 - has requested the representative to act on their behalf.
- When a complaint is made by a representative in respect of a person who lacks capacity within the meaning of the Mental Capacity Act 2005, it must not be considered under the regulations if the Local Authority is satisfied that the representative is not conducting the complaint in the best interests of the person.
- If a complaint is not accepted on these grounds then the Complaints Manager representing the Local Authority, must notify the representative in writing giving a reason for the decision

6. Time Limit for making a complaint

- A person/s wishing to make a complaint must do so no later than 12 months after the date on which the matter occurred or, if later, the date on which becoming aware of the matter being complained about.
- The time limit shall not apply if the Local Authority is satisfied that the Complainant had good reasons for not making the complaint within the 12-month time limit and that despite the delay, it is still possible to investigate the complaint effectively. The decision as to whether to accept a complaint is at the Complaints Manager's discretion.

7. Matters excluded from the complaints procedure

The following are outside the scope of the statutory complaints procedure:

- A complaint made by an employee about any matter relating to their contract of employment
- An oral complaint that is resolved to the customer's satisfaction within 24 hours
- A complaint that has already been investigated by the Local Authority or is being (or has been) investigated by the Local Government and Social Care Ombudsman
- A complaint arising out of an alleged failure to comply with a data request under the Data Protection Act 1998 or a request for information under the Freedom of Information Act 2000
- People who purchase their own adult social care services, whether self-funders or under Direct Payment arrangements.

Where the Local Authority decides not to consider a complaint (with the exception of oral complaints resolved in 24 hours), they must as soon as is practical notify the customer of their decision and the reason behind it.

8. Procedure for handling a complaint

The regulations set out a two-stage process for Adult Social Care complaints handling -

- **The first stage is a combination of processes working towards Local Resolution**
- **The second stage is the Local Government and Social Care Ombudsman.**

Within this first stage, the Department should adopt a flexible, person centred and proportionate approach to complaints handling. The format of investigation will be dependent upon the nature and complexity of the complaint. This means that a combination of investigation (in house and independent) and alternative dispute resolution (mediation and conciliation) can be used within the first stage process. Please refer to appendix 1.

Guidance issued by the Department of Health suggests that each complaint is assessed by the Complaints Manager to determine the seriousness and level of risk to the organisation and individuals concerned, which, in turn should determine:

- how the complaint is handled and
- a locally agreed timescale for resolving the complaint

In most cases, it will be appropriate for a Service Manager to investigate, however where the Service Manager has already been involved or the subject matter warrants it, escalation to the Head of Service would be appropriate.

It is expected that most complaints will be responded to within 10 working days, although flexibility exists to extend up to a maximum of 65 working days for the most complex of cases.

There is no requirement to automatically go through all the stages within this first stage investigation, although it is acknowledged that complaints handling can be a dynamic process and new issues may arise during the investigation that affects the management of the complaint and may impact upon timescales.

The Complaints Manager will monitor and review this and can exercise discretion in this area, both in respect of escalation and timescales. The arrangements need to be sufficiently robust to meet any challenges from the Local Government and Social Care Ombudsman, which will be the second stage of the process, so it is important that any investigation is thorough.

9. Multi-Agency complaints

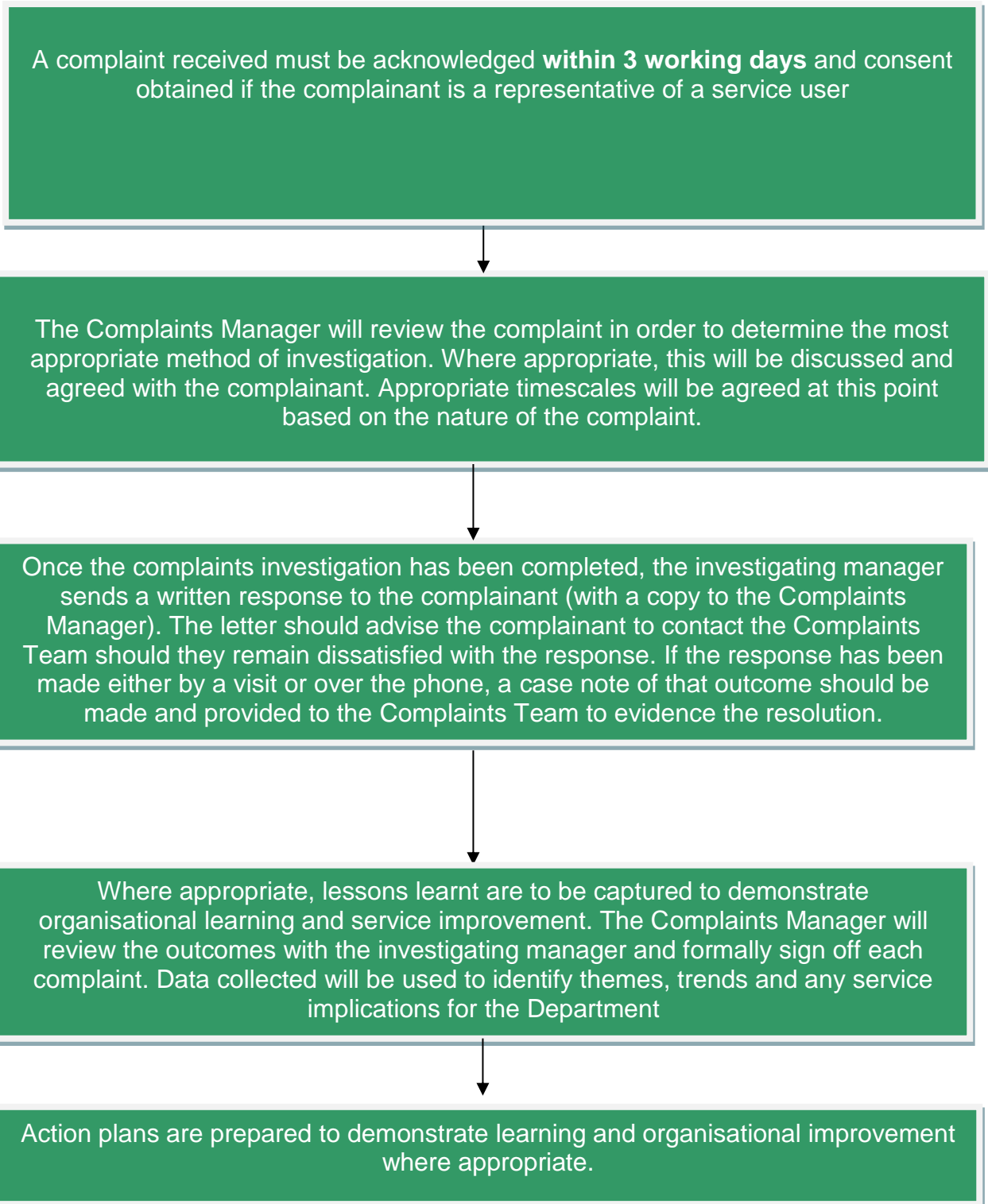
The local authority has a duty to co-operate for the purpose of co-ordinating the handling of a complaint with another responsible body and ensuring that the customer receives a co-ordinated response. As part of this duty each body should agree who will lead on co-ordination of the complaint and communication with the customer.

Where a complaint involves more than one organisation, such as a local authority and an NHS Trust, there should be full cooperation and coordination in seeking to resolve the complaint. The local authority will:

- seek the customer's consent to pass a complaint to the relevant organisation;
- identify and agree who has lead responsibility and who will act as the single point of contact with the customer;
- communicate this to the customer; and
- co-ordinate their response

Where the local authority receives a complaint that is solely concerned with services provided by another organisation, the Complaints Manager will seek the customer's consent to pass the complaint to the other organisation/s. Where the customer provides verbal consent, this should be recorded in the complaint case note.

10 Flowchart for the Handling of Complaints



11. Learning from complaints

- Adult Social Care Services is committed to facilitating organisational learning and development through complaints resolution. Resolving the individual complaint is only part of the process.
- Taking positive steps regarding identification, communication, procedural and operational or strategic issues are vital in ensuring a relevant and positive complaints service.
- Recommendations, learning and changes in practice as a result of complaints will be held centrally by the Customer Relations Manager, and reported on periodically as well as annually through the Annual Complaints report.
- The Annual Report will be produced for each year (for the period 1 April - 31 March). This will include information on the number of comments, compliments and concerns received as well as the number of complaints. The report will outline the subject matter of the complaints received, whether they have been upheld, the action that has or will be taken to improve services and the number of cases referred to the Ombudsman.
- Where significant issues have been raised the report will set out the lessons learnt, and the actions taken.
- The Annual Report will be made available to any person on request and is also available on our website.

12. Unreasonable, Vexatious or Unreasonably Persistent Complaints

- An unreasonable or unreasonably persistent complainant is someone who remains dissatisfied despite their complaints having been thoroughly investigated and fully responded to. The Ombudsman's Office describes this as complainants who, because of the frequency or nature of their contacts with an agency, hinder the consideration of their, or other people's, complaints.
- Unreasonable or vexatious complaints may include the following:
 - The same complaint with minor differences but the complainant will not accept the outcome of any investigation into their complaint.
 - Matters where the complainant is seeking an unrealistic outcome.
 - The complaint arises from a historic and irreversible decision or incident.
 - Frequent, lengthy, and complicated contact which is stressful for staff.

- Refusal to specify the grounds of the complaint despite offers of help from staff.
 - The complainant behaves in an aggressive manner to staff when presenting their complaint.
 - The complainant changes aspects of their complaint partway through the Investigation.
 - The complainant continually makes or breaks contact with the agency.
 - Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into e.g. excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
 - The complainant persistently approaches the agency through different routes about the same complaint, in the hope that they will secure a different response.
 - This list is not exhaustive and so only covers some of the main kinds of behaviours and actions that come to the agency's attention.
- Where a complainant is deemed to be persistent, vexatious or unreasonable, this will be considered on a case by case basis and agreed procedures implemented, in line with local policy.

13. Policy review arrangements

This policy will be subject to an annual review to ensure it is line with both national and local policy changes.

This document was last reviewed in June 2019