

Purpose: For Information



# Committee report

## **HEALTH AND ADULT SOCIAL CARE SCRUTINY SUB COMMITTEE**

Date **16 July 2018**

Title **ADULT SOCIAL CARE STATUTORY ANNUAL COMPLAINTS REPORT 2017 / 2018**

Report of/to **EXECUTIVE MEMBER CLARE MOSDELL**

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### EXECUTIVE SUMMARY

1. This statutory annual report for adult social care complaints is produced in accordance to the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
2. The report provides information on the number and type of complaints received by adult social care for the period 1 April 2017 to 31 March 2018 and the actions and learning adopted to continuously improve the services we provide to those we serve.

### BACKGROUND

3. From 1 April 2017 to 31 March 2018 adult social care received 7166 new requests for support. During this reporting period, we supported 252 people to go into permanent residential or nursing care. As at 31 March 2018, the council were providing 348 direct payment personal budgets and 1358 managed accounts to provide care and support for individuals at home.
4. The Department of Health Guidance 'Learning from Complaints' (2006) defines a complaint as: *"An expression of dissatisfaction or disquiet about the actions, decisions or apparent failings of a local authority's adult social services provision which requires a response."*
5. We always aim to provide high quality services that meet the needs and circumstances of individuals and their carers. However, given the personal and complex nature of our services, sometimes things do go wrong. The complaints process is a mechanism to identify problems and resolve issues if things do go wrong or fall below expectation. We try to sort things out quickly and fairly. We want to learn from our mistakes or the concerns that arise as a result of complaints.
6. Adult social care has a dedicated complaints and investigations manager who is responsible for the operation of adult social care complaints policy and associated operating procedures. This post ensures that linkages with the relevant people and

processes across the NHS Trust and CCG are maintained and embedded to enable further joint working for complaints that cross organisations when this is appropriate, and also works with provider organisations to address complaints that are directed at services not directly provided or commissioned by the council.

7. Adult social care complaints are dealt with effectively and are properly investigated. Complainants are treated with respect and courtesy; receive a timely and appropriate response and are told the outcome of the investigation into their complaint.

## STRATEGIC CONTEXT

8. By ensuring that all complaints received are dealt with effectively, adult social care is meeting the following requirements, as set out in the corporate plan 2017 – 2020:
  - Vulnerable people are supported and protected
  - People have a place to call home and can live with independence
  - People take responsibility for their own health and well-being

## COMPLAINT ACTIVITY 1 APRIL 2017 TO 31 MARCH 2018

9. Complaints can cross over between reporting periods. Activity on the case is reported in the period in which the case is closed and when it is therefore known whether the complaint was upheld; partly upheld or not upheld.

<b>COMPLAINTS</b>	2017 / 2018	2016 / 2017	2015 / 2016
Complaints carried forward from previous reporting period	12	6	7
New complaints received in the period	77	82	81
Complaints actioned and closed in period	84	76	82
Complaints carried forward into following reporting period	5	12	6
Complaints did not proceed to formal complaint (addressed by service)	32	35	27
Complaints referred to other agencies	9	11	15
Complaints not upheld	16	14	21
Complaints partly upheld (complex cases where one or more elements of the complaint was upheld but not the overall complaint)	11	8	16
Complaints upheld	16	8	3
Complaints considered by the LGSCO	10	12	8

10. In 2017/2018, 77 complaints were received by the complaints team, which equates to just over 1% of people involved with social care during this period. This is 77 separately recorded issues, not necessarily 77 different people making complaints because the same person can raise different issues on separate occasions.
11. Having referred on the cases where concerns needed to be dealt with by other agencies or other departments within the council (9 cases), and including the 12

cases carried over from the previous reporting period, 80 cases were dealt with directly by the complaints manager. 32 were addressed informally or did not proceed into formal process, 43 were addressed as formal complaints and 5 had not been completed in the period, and so were carried over to the following reporting period.

12. The overall level of adult social care complaints received by the council appears to have fallen slightly during 2017 / 2018, receiving 5 less complaints in total than the previous year.
13. It is too simplistic to believe that more complaints will always indicate a drop in adult social care services, or vice versa. Numbers of complaints received may mean that people feel able to speak up and that the council is taking a mature approach to encourage feedback as a way of learning and improving services. Therefore, we should focus on reporting complaint outcomes, and the value an investigation can add to remedy a complaint for an individual, at the same time as improving services for those we serve in the wider community.
14. 40% of the complaints dealt with by the complaints team were dealt with by early resolution before the formal process was required. This is achieved by the complaints manager actively working with both the service and the complainant to resolve concerns at an early stage, and so negate the need to use the formal complaint process.
15. This approach provides the complainant with a better service because they are achieving immediate satisfactory outcomes, which is often what the individual wants when a complaint is lodged, and this also saves a considerable amount of senior managers' time taken up by investigation and writing formal response letters.
16. 54% of complaints dealt with by the complaints team during this reporting period were investigated and responded to in formal process. This is a 15% increase since the last reporting period, and reflects the national trend in the most recent Local Government and Social Care Ombudsman (LGSCO) annual report.
17. During this reporting period, the average length of time taken to formally investigate a complaint and provide a written response to the complainant was 21.86 working days. This is significantly within the timeframe in the council's own policy, which allows 25 working days for the investigation and provision of a written formal response to the complainant.
18. During this reporting period, the complaints team has dealt with more complaints in formal process at the same time as reducing the average number of days to investigate and provide a formal written response to the complainant, which indicates improved practice and process in complaint handling.
19. Statutory guidance recommends a timescale of up to six months from the time a complaint is received until a written response is provided.
20. Timescales can vary considerably according to the steps that need to be taken to fully address the concerns raised, the complexity of those concerns, the engagement and responsiveness of the complainant, all of which impact on the speed with which resolution can be achieved.

## COMPLAINT OUTCOMES

21. Significant work goes into understanding and responding to complaints effectively. The majority of complainants want to get their concerns resolved quickly, and having someone to talk to that will hear their story and try to put things right helps achieve this.
22. Of the 80 complaints dealt with during this reporting period, 43 cases (54%) were dealt with in formal process.

### **NOT UPHELD: 16 cases out of 43 (37%)**

23. Of those matters that were not upheld, the issues ranged from failure to complete a social care assessment to failure to provide advice and information. Full and reasoned explanations were provided to each complainant showing that the correct processes had been followed and that the subject of the complaint in question had been advised and supported appropriately by adult social care staff.

### **UPHELD or PARTLY UPHELD: 27 cases out of 43 (63%)**

24. There has been an increase in the number of cases that were upheld and partly upheld. This is in line with the trend in the most recent LGSCO annual report and it also reflects the well-documented pressures the sector faces.
25. As part of the practice improvement work being undertaken in adult social care, the review and development of system and process continued and this can impact on service delivery in some areas.
26. Complaints which were either upheld or partly upheld in 2017/18 included delays, communication, and provision of advice and information. Work has been undertaken to make improvements in these areas to ensure that the service learns from complaints and that the same errors do not reoccur.
27. Examples of the type of complaints upheld or partly upheld in 2017/18 are given below:
  - Communication with the social care teams - in particular failure to keep individuals and their families updated with progress / outcomes of assessments, and failure to keep appropriate contact with individuals to update them where work in the service is ongoing, and they should be kept informed of steps being taken whilst there are delays.
  - Provision of advice and information – failure to record (or unable to evidence) that arrangements and charges for care placements were explained to an individual (although there has been improvement in this area from last year's figures).
28. In all cases where any element of a complaint has been upheld, an apology has been offered and, where appropriate, other steps have been taken to remedy the concerns raised. In all cases the service areas learn lessons from the complaint to improve processes and systems across the service.

## APPEALS ACTIVITY 1 APRIL 2017 TO 31 MARCH 2018

29. The formal adult social care appeals process was implemented in October 2016. This is a one-stage process and offers a transparent way in which an individual can ask for any decision made about them in adult social care to be reconsidered, for example an assessment of their needs, their independence plan or their financial assessment.
30. The appeal is considered by a different manager at the same (or higher) level than the original decision-maker, and the outcome of the appeal explained to the individual in writing.
31. The appeals process differentiates between matters which are complaints about things which have 'gone wrong', and situations where an individual is asking for a reconsideration and further explanation of a decision made by adult social care according to process. The reporting of complaints and appeals is split to distinguish between the two.

<b>APPEALS</b>	<b>2017 / 2018</b>
Appeals carried forward from previous reporting period	1
New appeals received in the period	14
Appeals actioned and closed in period	13
Appeals carried forward into following reporting period	2
Appeals did not proceed to formal process (addressed by service)	2
Appeals not upheld	5
Appeals upheld	6
Appeals considered by the LGSCO	2

32. In this reporting period, a total of 14 appeals were received and 1 case was carried over from the previous reporting period. Two cases did not proceed into formal process, 5 appeals were not upheld and 6 appeals were upheld. There were 2 cases carried forward into the next reporting period.
33. In the cases where the appeal was upheld, 1 case agreed the revised independence plan, and in 2 the decisions taken were reviewed by the new manager considering the appeal. In 1 case a further assessment was requested and in 2 cases additional information was provided and so the assessment was updated to reflect this.

## LOCAL GOVERNMENT SOCIAL CARE OMBUDSMAN (LGSCO) INVESTIGATIONS

34. In the 2017/18 reporting period, 10 complaint matters were considered by the LGSCO. Three cases were still being investigated and decisions were awaited from the LGSCO at the end of the reporting period.
35. Seven cases were considered and completed by the LGSCO during the reporting period. There was one case where fault was found, one case where minor fault was found, and one case where no fault was found. The LGSCO confirmed they would

not investigate three cases, and they recorded one case as a premature complaint and the complainant was redirected back to the Council's formal process for a response in the first instance.

36. In the two cases where fault was found by the LGSCO; in one case, the fault was classified by the LGSCO as minor (an amendment to the safeguarding minutes was instructed and completed) and LGSCO determined that there was no injustice caused to the person concerned, and in the other case, the LGSCO identified that there had been a degree of maladministration by the council (a) in making arrangements with the provider to care for the individual and (b) in explaining the financial contributions to her representative, and also fault by the provider in failing to keep proper records about the individual's finances. The LGSCO decision in this case noted that injustice had been caused to the individual and their representative, and the LGSCO instructed a remedy to be paid, together with improvements to be implemented in practice.
37. The following actions and learning was undertaken in these cases.
  - A joint programme of work between the council and CCG was put into place to review and improve how the council and CCG work in partnership with each other in relation to the quality improvement (and related audit process) of all care providers.
  - The minutes of a safeguarding meeting were updated and recirculated to all attendees.
38. This is a significantly improved position from the last reporting period 2016/17 when the LGSCO found fault by the council in 7 of the 9 cases they investigated, five of which resulted in injustice caused to the individual.
39. In the 2017/18 reporting period, 2 appeal cases were investigated by the LGSCO after neither of these appeals was upheld in the council's formal process. Following their investigation, the LGSCO agreed with the council's decisions in both of these appeals, and no fault was found.

#### LEARNING FROM COMPLAINTS

40. The complaints manager has developed a quarterly report for the adult social care service board which reflects on the lessons learned from complaints, how these have been adopted in practice and the impact this has for the people we serve and their lives.
41. The following sample demonstrates some of the learning leading to improvements within adult social care services resulting from complaints during 2017/18.
  - The expected standards of communication were delivered to all staff, including responses to written and verbal correspondence and promotion of the use of the direct dial facility and 'silver numbers'.
  - The new Communications Pathway was designed and delivered to ensure that those we serve received the "right information at the right time".

- Financial assessment and charging awareness sessions have been delivered to Age UK with their advice and information staff to ensure that they are fully informed about the financial assessment process and the legislation which underpins this.
- A review of the standard letters and declarations used in the deferred payment process was completed to ensure that a person-centred approach is maintained in these communications.
- The Good Recording Principles document was developed and delivered to all adult social care staff.
- A close joint working approach between adult social care and shared services has been established to ensure the people we serve who owe money to the council for the services they receive are fully supported in the process to recover the money.
- A review of Adult Safeguarding to deliver the transformation of adult safeguarding practices ensuring the effective application of MCA in social work practice and providing additional guidance to providers in understanding the thresholds for safeguarding referrals.
- A revised end-to-end Continuing Health Care (CHC) pathway to define the internal process and responsibilities across both CCG and adult social care.

#### ADVOCACY SERVICE

42. Some complainants may encounter difficulty in dealing with the complaints process. It is important to adopt a person-centred approach and recognise when there may be a different way needed to address a person's concerns. Whilst family members are often effective advocates, at times it is helpful to provide independent trained advocates to assist with complaint issues.
43. 59 of the 77 complaints received during this reporting period were represented by an informal advocate on behalf of an individual; 77%. The informal advocates were mainly family members, some of whom were legally appointed to act as Lasting Power of Attorney, others acting on a purely informal basis to raise concerns on behalf of their relative.
44. One complaint was received where the complainant was represented by a formal advocate.
45. The complaints and investigations manager is working with colleagues in the commissioning team to contribute to the tender process for the renewal of the advocacy contract with the council, to ensure that advocates fully understand their role in terms of work with complainants.

#### TRAINING AND DEVELOPMENT

46. The complaints and investigations manager has delivered complaints and appeals awareness refresher training to all teams across adult social care. This team-based training refreshed awareness of the complaints and appeals processes, outlined

how service users can access the processes, and explained how to resolve concerns at the earliest opportunity.

47. The training was also used to highlight current trends in complaint and appeal reporting and discussed examples of best practice to avoid receiving undue complaints and appeals. This training will continue to be refreshed annually and delivered to the teams through the adult social care team meetings.

## COMPLIMENTS

48. It is important to recognise when things go well in adult social care and in particular when a compliment is received for individual members of staff for their good work.
49. All compliments are recorded and included in the monthly report to service board, and knowing this improves staff morale and helps them feel valued.
50. The compliments received are displayed in the public reception area of Enterprise House, as well as in a 'compliments zone' for staff upstairs in the same building.
51. We recorded 149 compliments during the reporting period 2017 /18, a 263% increase from the number recorded in the previous reporting period. Examples of the compliments received during this period include:

*"Thank you very much for making it possible for my parents to have a bedroom together during their recent stay with you. It meant a lot to us, especially as it was their first experience of overnight care".*

*"Money alone could not have provided the kind of care and support I received. Whenever I needed it, help was there. A big thank you to all concerned".*

*"How grateful we both are for your kindness and dedication in trying to get the care needed.....you have shown understanding and compassions not only for (my husband's) needs but also of mine of which I appreciate very much, also for always being in touch and keeping me informed throughout. He is very happy to be home and things are working out well for him, with very nice carers and the support of the Community Services Outreach Team".*

*"The ladies I had to help me were lovely and they made a difference. They did not mind what they did to help and I shall miss their friendly faces first thing in the morning".*

*"A card to say I can't thank you enough for all the help and consideration you have given me this past year. You have gone above and beyond. Apart from your job as a professional I think you are such a lovely person and I am glad I have had the privilege to meet you".*

*".....how efficient you were and was very pleased with the service. She reported being much more confident at home now because of the rails and no longer needs assistance to get in and out the front door".*

*" I could not find fault with any of the carers who came to help me. I am a retired nurse and think I can be quite critical, but all the carers were professional, kind and courteous at all*



*times. They noticed if things were not right and if I was feeling low. My mother passed away whilst the carers were coming in to me. I just cannot praise them enough. I hope the IW Council are very proud of the team, if they aren't, they should be! Please convey my gratitude to all the staff that came into see me during the six weeks. Thank you".*

*"Just wanted to say thank you so much for your kindness and patience you showed with my mum. Having the package in place is quite empowering to her to keep her independence, and very reassuring for me being so far away. The family will keep doing what we can to keep it all working."*

*"Thank you for your personal and considerate letter with regard to my recent loss. My mother became very frail over the last couple of years and experienced discomfort from arthritis and poor mobility but never lost her sense of humour. However, she did benefit from dedicated carers which ensured she had a good quality of life to enable her to live in her own home, and I will always be grateful for this".*

52. To support individuals to have the opportunity to feedback and comment on our services we sent out 1306 National Social Services ASC Survey England, 434 of which have been received back, a return of 33%. The results of these are embargoed at present and will be provided to scrutiny through the normal reporting routes later in the year.
53. Additionally, 928 Local Satisfaction Surveys were also sent out to those who did not receive the national survey. 302 of these have been received back, a return of just over 33%. Of the 302 surveys returned, 84% of individuals described themselves as being satisfied with the services they receive.

#### FINANCIAL / BUDGET IMPLICATIONS

54. There are no financial / budget implications in connection with this report.

#### LEGAL IMPLICATIONS

55. The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 requires the responsible body to prepare an annual report which must specify the number of complaints received. A complaint may be made by a person who receives or has received services from a responsible body or a person who is affected, or likely to be affected, by the action, omission or decision of the responsible body.
56. Every effort has been made to respect the confidentiality of the complainants, and this means that descriptions of the kind of concerns raised through the complaints process can only be described in general terms.

#### EQUALITY AND DIVERSITY

57. There are no equality and diversity implication in connection with this report.

## CONCLUSION

58. A robust complaints process and complaints reporting are able to support adult social care in a number of ways:
- Building better relationships and increased satisfaction of the people we serve
  - Identifying and implementing service improvements for the people we serve
  - Free market research and feedback from the people we serve
  - Identifying training needs for staff
  - Informing policy and budget planning for the service
  - Identifying better use of resources which saves time and money for the authority
59. Adult social care recognises it is crucial to have in place an effective, accessible and fair process for service users' comments to be heard and resolved wherever possible. Our complaints process provides this opportunity and is integral to the statutory functions of the department. Our local user survey is used to support the formal complaints information and also provides a balance of compliments, in relation to the services and experiences of people using the services.
60. We acknowledge that things can go wrong and with increasingly limited resources, prioritised to meet the needs of the most vulnerable, complaints will be made. There is no easy solution, particularly given the significant financial challenges currently being faced by all councils. However, we do know that in these times it becomes increasingly important to support and promote principles of being fair, open, and timely in our response to complaints.

## RECOMMENDATION

61. Members are requested to note this report.

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DR CAROL TOZER  
*Director of Adult Social Care*

CLLR CLARE MOSDELL  
*Executive Member for Adult Social Care*

# **Adult Social Care Statutory Annual Complaints Report 2017-18**

**Dr Carol Tozer**  
**Director of Adult Social Care**

**APPENDIX 1**

# Purpose of the Report

This report provides information on the number and type of complaints made to Adult Social Care for the period 1 April 2017 to 31 March 2018.

It is produced in accordance with the requirements of The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

# Complaints Process

- Complainant driven process
- Aim is to bring it to the earliest resolution by reaching the quickest and best outcome for the individual concerned
- Statutory guidance encourages a positive approach to resolving complaints

# Complaints Timescales

- Law requires complaints are addressed within timescales ***negotiated*** with the complainant, taking account of the complexity of some cases
- Statutory guidance recommends a timescale of up to 6 months to respond to a complaint
- IWC for formal investigation and response is an average of **21.86 working days** – well within the councils' own policy of 25 working days

# Advocacy

- The council recognise the importance of adopting a person-centred approach, and when there may be a different way needed to address a person's concerns
- 59 of 77 complaints were represented by an informal advocate on behalf of an individual
- One complaint was represented by a formal independent advocate

# Adult Social Care Complaints

- **77** new complaints opened during this period (plus 12 carried forward)
- **84** cases closed in period (5 carried forward to 2018/19)
- **32** cases did not proceed to formal process - or were resolved early by the service
- **9** cases were referred to other agencies (safeguarding, health, care agency)



# Formal Process Outcomes

16 cases were **not upheld** = **total 37%**

11 cases were **partly upheld** and 16 cases were **upheld** = **total 63%**

There has been an increase in the number of cases that were upheld and partly upheld. This is in line with the trend in the most recent LGSCO annual report and it also reflects the well-documented pressures the sector faces.

# Complaints Upheld and Partly Upheld

- **Delays** – keeping people informed of the progress of work, and of the outcomes of assessments
- **Communication** - response to correspondence and messages in a timely manner
- **Provision of advice and information** – accurate recording of information provided

# LGSCO Complaints

- 7 cases were investigated and completed by the **LGSCO**
- 2 found fault
- 1 found no fault
- 3 decisions were made ‘not to investigate’
- 1 ‘premature’ complaint recorded

# LGSCO Complaints - Faults Found

- **One fault found classified as “*minor*” with *no* injustice caused** - safeguarding minutes were amended as requested
- **One fault found a degree of maladministration** – a remedy was instructed and paid, and improvements to quality assurance practice were implemented jointly between IWC and CCG

# Adult Social Care Appeals

- **14** new appeals received during this period (plus 1 carried forward)
- **13** cases closed in period (2 carried forward to 2018/19)
- **2** did not proceed into formal process, and were resolved early by the service

# Adult Social Care Appeals

- **6 appeals upheld = 55%**
- **5 appeals not upheld = 45%**
- **LGSCO investigated 2 appeals, neither of which were upheld and the LGSCO supported the council's actions and decision-making in these cases**

# Learning from Complaints

- Concerns and issues raised are personal and individual in nature.
- The following sample demonstrates some of the learning leading to improvements within adult social care services resulting from complaints during 2017/18.

# Learning from Complaints

- The **expected standards of communication** were delivered to all staff, including responses to written and verbal correspondence and promotion of the use of the direct dial facility and ‘silver numbers’.
- The **Good Recording Principles** document was developed and delivered to all adult social care staff.
- A **review of the standard letters and declarations used in the deferred payment process** was completed to ensure that a person-centred approach is maintained in these communications.



# Learning from Complaints

- **A review of Adult Safeguarding to deliver the transformation of adult safeguarding practices** ensuring the effective application of MCA in social work practice and providing additional guidance to providers in understanding the thresholds for safeguarding referrals.
- **A revised end-to-end Continuing Health Care (CHC) pathway** to define internal process and responsibilities across both CCG and adult social care.
- **Financial assessment and charging awareness sessions** delivered to Age UK with their staff to fully inform about the financial assessment process and the legislation.

# Learning from Complaints

- A close **joint working approach between adult social care and shared services** has been established to ensure the people we serve who owe money to the council for the services they receive are fully supported in the process to recover the money.
- A **joint programme of work between the council and CCG** was put into place to review and improve how the council and CCG work in partnership with each other in relation to the quality improvement (and related audit process) of all care providers.

# Compliments

It is important that we recognise when things go well in adult social care, and in particular, when a compliment is received for individual members of staff for their good work that this is formally recognised and valued.

We recorded **149 compliments** during the reporting period 2017 /18.

# Compliments

*"Thank you very much for making it possible for my parents to have a bedroom together during their recent stay with you. It meant a lot to us, especially as it was their first experience of overnight care".*

*"Money alone could not have provided the kind of care and support I received. Whenever I needed it, help was there. A big thank you to all concerned".*

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# Compliments

*“The ladies I had to help me were lovely and they made a difference. They did not mind what they did to help and I shall miss their friendly faces first thing in the morning” .*

*“A card to say I can't thank you enough for all the help and consideration you have given me this past year. You have gone above and beyond. Apart from your job as a professional I think you are such a lovely person and I am glad I have had the privilege to meet you” .*

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# Compliments

*“I could not find fault with any of the carers who came to help me. I am a retired nurse and think I can be quite critical, but all the carers were professional, kind and courteous at all times. They noticed if things were not right and if I was feeling low. My mother passed away whilst the carers were coming in to me. I just cannot praise them enough. I hope the IW Council are very proud of the team, if they aren't, they should be! Please convey my gratitude to all the staff that came into see me during the six weeks. Thank you”.*

*“Just wanted to say thank you so much for your kindness and patience you showed with my mum. Having the package in place is quite empowering to her to keep her independence, and very reassuring for me being so far away. The family will keep doing what we can to keep it all working.”*

*“Thank you for your personal and considerate letter with regard to my recent loss. My mother became very frail over the last couple of years and experienced discomfort from arthritis and poor mobility but never lost her sense of humour. However, she did benefit from dedicated carers which ensured she had a good quality of life to enable her to live in her own home, and I will always be grateful for this”.*

# Summary

We acknowledge that things can go wrong and with increasingly limited resources, prioritised to meet the needs of the most vulnerable, complaints will be made. There is no easy solution, particularly given the significant financial challenges currently being faced by all councils. However, we do know that in these times it becomes increasingly important to support and promote principles of being fair, open, and timely in our response to complaints.