



# Committee report

Committee	<b>POLICY AND SCRUTINY COMMITTEE FOR HEALTH AND SOCIAL CARE</b>
Date	<b>4 SEPTEMBER 2023</b>
Title	<b>ADULT SOCIAL CARE STATUTORY COMPLAINTS ANNUAL REPORT 2022 / 2023</b>
Report of	<b>DEPUTY LEADER AND CABINET MEMBER FOR ADULT SERVICES AND HOUSING, PUBLIC HEALTH, AND HOMELESSNESS</b>

---

## EXECUTIVE SUMMARY

1. This statutory annual report for adult social care complaints is produced according 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 2022 to 31 March 2023 and the actions and learning adopted to continuously improve the services we provide to residents.

## RECOMMENDATION

- |                                                     |
|-----------------------------------------------------|
| 3. The committee are requested to note this report. |
|-----------------------------------------------------|

## BACKGROUND

4. From 1 April 2022 to 31 March 2023 adult social care received 5657 new requests for support; this is the number of Initial Contact Assessments not unique people. During this reporting period, we supported 329 people to go into permanent residential or nursing care; this is the number of brand-new placements, not moves. As of 31 March 2023, the council were providing 340 direct payment personal budgets and 1903 managed accounts to provide care and support for individuals at home.
5. The Department of Health Guidance 'Learning from Complaints' (2006) defined 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."*

6. We always aim to provide a high-quality service that meet the needs and circumstances of individuals and their carers; however, given the personal and complex nature of our services, sometimes things do not turn out as intended. The complaints process is a means 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 because of complaints.
7. Adult social care has a dedicated nominated complaints officer who is responsible for the operation of adult social care statutory complaints policy and associated operating procedures.
8. This post also ensures that links with the relevant people and processes across the NHS Trust and ICB are maintained and embedded to enable further joint working for complaints that cross organisations when this is appropriate, and it also works with provider organisations to address complaints that are directed at services not directly provided or commissioned by the council.
9. Adult social care complaints are dealt with effectively and are thoroughly 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

10. By ensuring that all complaints received are dealt with effectively, adult social care is meeting the following vision set out in the Corporate Plan 2021 – 2025, to *“Place the health and wellbeing of residents at the centre of all we do”*.

## COMPLAINT ACTIVITY 1 APRIL 2022 TO 31 MARCH 2023

11. The number of adult social care complaints has remained stable during this reporting period 2022 / 2023, receiving 2 less complaints than the previous year.
12. Focussing on complaint numbers alone without context risks limiting the understanding of the value of this work; the focus should always be on reporting complaint outcomes and the benefits that can be gained from an investigation, notably achieving remedy for the complainant and the opportunity for learning and practice improvement for the benefit of the wider community in the longer term.
13. Several other local authorities across the southern region report a similar stable complaints landscape over this reporting period.
14. In its most recent annual review report (of the year 2021 -2022) the Local Government and Social Care Ombudsman report a falling trend in complaint numbers, a 16% reduction for the first time since 2010, albeit with a higher than ever uphold rate of 70%.
15. We remain mindful that following the pandemic, the landscape may still be a changing one and it is therefore important that we continue to monitor any trend

in conjunction with the experiences of other local authorities and the Ombudsman. Long-term effects of the pandemic period on complaint numbers may not be entirely evident for some time to come.

16. The nature of the complaints is one which has changed over the past couple of years, and our experience in this authority is reflected across all other southern region authorities.
17. There is a significant increase in the complexity of matters brought to the authority which proves time-consuming in terms of complaint handling, investigation and responding to complainants. Elevated levels of persistence and dissatisfaction are also both time-consuming and very challenging in terms of complaint-handling practice.

<b>COMPLAINTS</b>	2022/ 2023	2021/ 2022	2020/ 2021
Complaints carried forward from previous reporting period	2	9	8
New complaints received in the period	56	58	41
Complaints actioned and closed in period	51	65	40
Complaints carried forward into following reporting period	7	2	9
Complaints did not proceed to formal complaint (addressed by service)	19	31	18
Complaints referred to other agencies	2	4	2
Complaints not upheld	14	11	7
Complaints partly upheld (complex cases where one or more elements of the complaint was upheld but not the overall complaint)	8	10	5
Complaints upheld	8	9	8
Complaints considered by the LGSCO	9	4	8

18. Complaints can cross over between reporting periods. Activity on the case is reported in the period in which the case is closed, and the outcome is therefore known.
19. In 2022/2023, 56 new complaints were received by the complaints team, which equates to just over 0.1% of the number of new requests for support during this period. This is 56 separately recorded issues, not necessarily 56 different people making complaints because the same person can raise different issues on separate occasions.
20. Including the 2 cases carried over from the previous reporting period, and 7 not completed in the period and therefore carried forward to the next reporting period, 51 cases were dealt with directly by the complaints officer. Having referred on the cases where concerns needed to be dealt with by other agencies or other departments within the council (2 cases), 19 were resolved informally or did not proceed into formal process and 30 were addressed as formal complaints.
21. 37% of the complaints dealt with and closed by the complaints team during this reporting period were dealt with by early resolution before the formal process was required. This was achieved by the complaints officer working

collaboratively with the service and the complainant to resolve concerns at an early stage, and so negate the need to use the formal complaint process.

22. This is an approach endorsed by the Local Government and Social Care Ombudsman, encouraging local authorities to “fix matters upstream” wherever possible, and giving credit for this effort if they do have to then become involved later. An early resolution approach provides the complainant with a better experience because they are achieving a more immediate satisfactory outcome, which is often what the person wants when a complaint is lodged. Adopting this approach can also save a considerable amount of senior manager time across the department which can be taken up by a formal investigation and written response.
23. 59% of complaints dealt with and closed by the complaints team during this reporting period were investigated and responded to in formal process.
24. Each complaint matter is entirely individual and therefore it is not feasible to compare circumstances. It is also always problematic to compare purely the number of complaints received against other local authorities for the same reason. It is however possible to benchmark complaint handling and timeliness.
25. During this reporting period, the average length of time taken to formally investigate a complaint and provide a written response to the complainant was 15.45 working days. This is compared to an average of 22.1 working days across other local authorities in the southern region.
26. 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, and demonstrates robust, effective statutory complaint handling practice. Statutory guidance recommends a timescale of up to six months from the time a complaint is received until a written response is provided.
27. 100% of cases dealt with in formal process received a formal written response within the policy timescale.
28. 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 can impact on the speed with which resolution can be achieved.

## COMPLAINT OUTCOMES

29. Significant work goes into understanding and responding to complaints effectively. Most 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.
30. Of the 51 complaints dealt with and closed during this reporting period, 30 cases (59%) were completed in formal process.

### **NOT UPHELD: 14 cases out of 30 (47%)**

31. Of those matters that were not upheld, the issues raised allegations which ranged from a failure to provide information and communicate updates to a family member, to a failure to adhere to the hospital discharge policy.
32. Full and reasoned explanations were provided to the complainants showing that the correct processes had been followed, and that the people concerned had been advised and supported appropriately by adult social care staff.

### **UPHELD or PARTLY UPHELD: 16 cases out of 30 (53%)**

33. Themes of the complaints which were either upheld or partly upheld in this reporting period included communication, provision of advice and information, and delay. Work in these areas continues to ensure that learning is embedded, and practice improvements are delivered.
34. Examples of the type of complaints upheld or partly upheld in 2022 / 2023 are given below:
  - Communication: failure to effectively communicate changes in status of a residential care placement with a family member and an internal department.
  - Provision of advice and information: failure to provide accurate and timely information about charges for adult social care services.
  - Delay: delay in arranging domiciliary care at home to support an individual to return home following a short stay in a care home.
35. In all cases where the entire complaint (or any element of it) has been upheld, an apology has been offered and, where appropriate and necessary, other steps have been taken to remedy the concerns raised. Additionally, the department has undertaken reflection and identified learning from the situation, and undertaken improvements to practice, process, and systems where required.

### **APPEALS ACTIVITY 1 APRIL 2022 TO 31 MARCH 2023**

36. The formal adult social care appeals process is a one-stage process and offers a transparent way in which an individual can ask for a reconsideration of any decision made about them in adult social care, for example an assessment of their needs, their independence plan, or their financial assessment.
37. The appeal is considered by a different manager at the same (or more senior) level than the original decision-maker.
38. The person is provided with a written outcome of the appeal and the rationale for this is explained.
39. 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.

40. The reporting of complaints and appeals is separated to distinguish between the two areas.
41. In the recent *Equality and Human Rights Commission inquiry report "Challenging adult social care decisions in England and Wales"* it was notable that this authority is one of 34% of local authorities across England and Wales (153 authorities out of an eligible 174) who already operate a formal appeals process. This is an approach endorsed in the past by the LGSCO, and now by the EHRC recommendations in their report.

<b>APPEALS</b>	2022/ 2023	2021/ 2022	2020/ 2021
Appeals carried forward from previous reporting period	0	1	0
New appeals received in the period	2	6	5
Appeals actioned and closed in period	2	7	4
Appeals carried forward into following reporting period	0	0	1
Appeals did not proceed to formal process (premature)	1	1	0
Appeals not upheld	1	2	2
Appeals upheld	0	4	2
Appeals considered by the LGSCO	0	1	3

42. In this reporting period, a total of 2 appeals were received and there were no cases carried over from the previous reporting period. The 2 appeals received were dealt with in the formal appeals process and closed.
43. 1 appeal was not upheld (50%) and 1 appeal did not proceed into formal process. There were no cases carried forward into the next reporting period. There were no appeal cases considered by the LGSCO during this reporting period.

#### LOCAL GOVERNMENT SOCIAL CARE OMBUDSMAN (LGSCO) INVESTIGATIONS

44. In the 2022 - 2023 reporting period, 9 complaint matters were considered by the LGSCO. This represents only 15% of the number of complaints dealt with by the complaints team during this reporting period which indicates the quality of the investigations and formal statutory complaint responses provided by the council. It is important to recognise that it is inevitable that some cases will be escalated to the ombudsman regardless of the strength of the council's responses.
45. 8 complaint matters were completed by the ombudsman during this reporting period. There were 2 cases where fault was found following their investigation, there was 1 case where no fault was found, and a further 5 cases where the ombudsman decided not to investigate the matters brought to them. In 1 case, the ombudsman investigation remains ongoing at the end of this reporting period.
46. In the 1 case where fault was found, the ombudsman recorded the outcome as *"fault found causing injustice"*. The council completed the ombudsman's recommended actions and did so within the recommended timescales and to the ombudsman's satisfaction:

- Provided a written apology.
  - Made the recommended remedy payment to the complainant.
  - Adjusted the charges owed to the council.
  - Provided a written outcome of the safeguarding investigation.
  - Completed a review of the safeguarding section 42 enquiry procedure and supporting documentation.
  - All persons in receipt of reablement services now offered the opportunity to have a financial assessment *during* their reablement period, regardless of whether or not they continue and go on to receive chargeable services beyond the 'free of charge' reablement period.
47. In the other 1 case where fault was found, the ombudsman recorded the outcome as "*fault found no injustice*" and made no recommendations for action. Nevertheless, during its reflection on the case, the council identified its own learning and delivered a practice reminder with the relevant team.
48. In the 2022 -2023 reporting period, there were no appeal cases accepted for investigation by the ombudsman.
49. The ombudsman's annual review of complaints for this reporting period 2022 – 2023 is yet to be issued. In its most recent 2021 - 2022 report, **all** types of local authority complaints (of which adult social care forms only one part) were reported.
50. Of the complaints investigated by the ombudsman, this council had an uphold rate of 67%, compared to an average of 63% in similar authorities during that period. The ombudsman is 100% satisfied that this council has successfully implemented their recommendations to remedy complaints, which compares to an average of 99% in similar authorities.

### LEARNING FROM COMPLAINTS

51. The nominated complaints officer submits a quarterly report for the adult social care service board which reflects on the lessons learned from complaints, how these have been delivered in practice and the impact this has for individuals and their experience.
52. At the end of an investigation, it is expected that the investigating officer completes a 'Reflection and Learning' form which details notable practice, key learning messages, any improvements required to practice process and systems, and evidence of quality assurance. It is important that even when a complaint is not upheld, there is reflection to understand how the complaint came to be made in the first place as this may also identify some learning from the situation.
53. The following sample demonstrates some of the learning identified and improvement delivered across the adult social care department resulting from complaints during 2022 / 2023.
- An improved communication process between the financial assessment and charging team and council tax colleagues.

- An improved SPOC process to prevent excess charges submitted by providers being authorised and processed.
- A new standard operating procedure (SOP), together with a review of existing SOPs, at The Gouldings.
- A process to maintain oversight and monitoring of prime provider issues.
- Reflective learning sessions to (i) strengthen professional curiosity and (ii) the need to identify and report risk, alongside the relaunch of the updated Hoarding Guidance and the ASC Self-Neglect and Hoarding Toolkit.
- A news article published in the ASC Toolkit with links to the Third-Party Top Up policy and associated documentation to support staff to refresh their knowledge and practice in this area.

## ADVOCACY

54. 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 formally provide independent trained advocates to assist with complaint issues.
55. The nominated complaints officer works closely with social workers to identify and support an individual to access formal advocacy support should this be required for the complaints process. It is occasionally necessary to prevent a conflict of interest of informal advocates, or when the informal advocate may be involved in the matters complained of or the outcome sought.
56. 35 of the 56 new complaints (63%) dealt with in this reporting period were represented by an informal advocate on behalf of an individual. 1 of the 2 appeals (50%) dealt with in this reporting period were represented by an informal advocate.
57. 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 or friend.
58. There were 3 complaints (5%) received in this reporting period where the complainants were represented by a formal independent advocate.
59. The nominated complaints officer also works closely with those people who may wish to provide feedback about their experiences, however they may not wish to make a formal complaint and may feel an aversion to the term 'complaint'. It is important to ensure that these people are still supported to 'have their voice heard', reassured that their experience and feedback is valued, and that action is taken in response if appropriate. Additionally, comment and feedback forms are provided with all completed social care assessments and review assessments to enable a person to provide feedback on their experience should they wish to do so.



## INTEGRATED COMPLAINT HANDLING PRACTICE

60. Given the local and national direction of travel towards integrated partnerships and that care pathways can sometimes involve several partners, it is important that individuals are still able to raise concerns and complaints and provide feedback about their health and social care experience when their pathway may involve different partners.
61. Currently each partner maintains its own complaints procedures and timescales (these can vary considerably). There is very good practice evidence that an integrated approach is always adopted when required by complaint matters which involve different partners.
62. The nominated complaints officer works closely with colleagues in both the NHS Trust and ICB to collaborate. Depending on the issues concerned, an agreement is reached where one partner is named as the 'lead' partner, and the other partners then contribute to a coordinated investigation and response. The lead partner acts as a single point of contact for the complainant to ensure that they do not have to take their complaint through various routes.
63. This integrated approach currently works very well on a case-by-case basis. Communication between partners is excellent, supporting the shared objective to provide the complainant with a smooth pathway through the formal statutory complaints process.
64. To support this integrated complaint-handling practice, there is a formal 'Protocol for Handling Inter-Organisational Complaints' signed by the NHS Trusts, Clinical Commissioning Groups and Local Authorities across the Wessex region (Hampshire, Dorset and Isle of Wight). Those party to this protocol, working in partnership with those outside of the protocol (for example prison healthcare), ensure that any complaints arising from joint working are dealt with in accordance to the protocol.
65. The nominated complaints officer is member and regular attendee of the Wessex Complaints Manager Group which has its own joint-working protocol document.

## TRAINING AND AWARENESS

66. The nominated complaints officer continues to deliver regular complaints and appeals updates to all teams across adult social care, refreshing awareness of the formal complaints and appeals processes, outlining how individuals can access the formal process, and promoting best practice approaches to resolve concerns at the earliest opportunity.
67. The sessions are also used as an opportunity to highlight current trends in complaint and appeal reporting and to discuss examples of best practice to avoid receiving undue complaints and appeals.
68. There is an online e-learning training module for all adult social care staff to support their response to complaints and appeals, including investigation

techniques and the writing of formal written responses. This module forms part of the induction for all new staff in the department.

## COMPLIMENTS

69. It is important to recognise when things go well in adult social care and when a compliment is received for individual members of staff for their good work.
70. All compliments are recorded in the monthly report to service board and published on the Adult Social Care Toolkit. Staff report improved personal and team morale, feeling valued and a recognised a pride in their profession.
71. We recorded 242 compliments during the reporting period 1 April 2022 to 31 March 2023. Some examples of the compliments received during this reporting period include:
  - *"From the first conversation to arrange an appointment to see mum I was made to feel comfortable and reassured. She has been so incredibly supportive, helpful, and informative to my family throughout the whole of this upsetting stage of mum's life. From emails to texts, she kept us constantly informed at every stage of the process. Thank you."*
  - *"This is an excellent and worthwhile service. I was given six weeks of care as a package to assist me to literally get back on my feet. Thanks to the dedication and superb care that I received, I completed my self- appointed goal of walking without crutches ahead of schedule and have been discharged from the service."*
  - *"You have listened with empathy and understanding and have responded promptly and appropriately. It has made dealing with a difficult situation much easier."*
  - *"She was not only very professional, but she also showed true professional curiosity which ensured that she had a good understanding of both the parent and carer. Her manner was friendly, empathetic, encouraging, and confident in her role which gave everyone else involved, confidence not only in in her decision making but also her ability to look at all aspects of the situation. She is a superb advocate for adult social care at its best."*
  - *"J had a lovely answer phone message left for him by a service user that has been in hospital for over two years and recently discharged to a residential home. The service user wanted to express how much she appreciated all the support he has provided for her, and it was clear from the message that she had built up a trusting and honest relationship with him in being able to express her insight into things that may not have gone well with other services involved. What the message really highlighted was the empathic and relationship-based work that he is completing within his role and how much impact this has had for this person."*
  - *"I felt the interview for the care plan was conducted sensitively, thoroughly, and professionally. All aspects of my husband's needs, personality and medical history were explored, and the care plan is a true representation of*

*these. All concerned were kind and understanding at this distressing time in our lives. Thank you."*

- "I would like to formally say thank you to you and your service for managing the needs of my son and me so sensitively and professionally, particularly to his social worker. She has become involved at a very challenging part of our journey, with a dollop of crisis on top and she has been amazing. She has been attentive, calming, empathic and caring, not only to his needs, but also his mum - me - who at times has been hysterical, sad, confused, distressed, bereft and tired. She has always been there and has contacted us weekly just to check in which has really helped a difficult situation become manageable. She also has a skill to enable me to put things in perspective. So, thank you for being there and remaining professional at all times."*
- I have a heartfelt thank you for everything you have done. The activities you have arranged for him have made such a difference to his confidence and his self-esteem. He's so proud. Thank you for making this difference not just for him but for me as his mum - seeing the change in him it's priceless."*
- "Thanks to the responders who got help for him and said what a great reassurance it was that he was able to get help as all his family are on the mainland."*

72. For context, in 2022 / 2023, 56 new complaints were received by the complaints team, which equates to 0.1% of the number of new requests for support during this period. For this same period, 242 compliments were received for the service, which equates to 4.3% of the number of new requests for support.

73. To support individuals to have the opportunity to feedback and comment on our services we sent out 1025 National Social Services ASC Survey England, 357 of which have been received back, a return of 34.8%. The results of these are embargoed at present and will be provided for scrutiny through the normal reporting routes later in the year. We also issue a bi-annual carers survey supporting further opportunities for a person to tell us about their experience of our services.

#### FINANCIAL / BUDGET IMPLICATIONS

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

#### LEGAL IMPLICATIONS

75. 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.

76. 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

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

## CONCLUSION

78. A good complaints service is fundamental to the operation of any robust service delivery. It is a source of free intelligence which can lead to responsive, engaged, and improved services.
79. Adult social care has a robust and accessible complaint process, together with efficient complaint-handling and complaint reporting helping the department deliver a good service to those people we support. The department recognises it is crucial to have an effective, accessible, fair, and equitable process for a person's voice to be heard and concerns to be resolved wherever possible. The statutory complaints process provides this opportunity, and it is integral to the statutory functions of the department.
80. The annual national survey, the bi-annual carers survey and the opportunity to provide feedback and comments – whether positive, neutral, or negative - also support a person to have their voice heard and tell us about the services they receive and their experiences.
81. We acknowledge that things can still on occasion go wrong and with limited resources available to meet the needs of the most vulnerable, complaints will always be made. There is no easy resolution, particularly given the significant and sustained financial challenges which continue to be faced by all local authorities. Nevertheless, we do know that it is now more important than ever to support and promote the principles of being fair, open, transparent, and timely in our response to complaints, placing the people who use our services at the heart of what we do, and making sure that we listen to their voice.

Contact Point: Helen Babington Quality Complaints Co-Production Manager  
(Nominated Complaints Officer)

Adult Social Care ☎ 821000 extension 6542 e-mail [helen.babington@iow.gov.uk](mailto:helen.babington@iow.gov.uk)

**LAURA GAUDION**  
*Director of Adult Social Care  
and Housing Needs*

**CLLR IAN STEPHENS**  
*Deputy Leader and Cabinet Member for  
Adult Services and Housing, Public Health  
and Homelessness*