



Purpose: For Information

Committee report

Committee	POLICY AND SCRUTINY COMMITTEE FOR HEALTH AND SOCIAL CARE
Date	19 JULY 2021
Title	ADULT SOCIAL CARE STATUTORY COMPLAINTS ANNUAL REPORT 2020 / 2021
Report of/to	CABINET MEMBER FOR ADULT SOCIAL CARE, PUBLIC HEALTH AND HOUSING NEEDS

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 2020 to 31 March 2021 and the actions and learning adopted to continuously improve the services we provide to those we serve.

BACKGROUND

3. From 1 April 2020 to 31 March 2021 adult social care received 7907 new requests for support; this is the number of Initial Contact Assessments not unique people. During this reporting period, we supported 320 people to go into permanent residential or nursing care; this is the number of brand-new placements, not moves. As at 31 March 2021, the council were providing 318 direct payment personal budgets and 1825 managed accounts to provide care and support for individuals at home.
4. 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."*
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 because of complaints.

6. Adult social care has a dedicated complaints officer who is responsible for the operation of adult social care statutory 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 vision set out in the corporate plan 2019 – 2022:
 - 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 2020 TO 31 MARCH 2021

9. The overall level of adult social care complaints received by adult social care has reduced during this reporting period 2020 / 2021, receiving 34 less complaints than the previous year.
10. It is always simplistic to focus only on complaint numbers; the focus should always be on reporting complaint outcomes, and the value an investigation can add to remedy a complaint for an individual, at the same time as improving practice and services for those we serve in the wider community. Nevertheless, it would be short-sighted not to recognise the reduced number complaints received this past year and seek to understand the reasons for this.
11. Under the Director's leadership the Care Close to Home strategy began its implementation in April 2017, and the innovative programme of transformation continues to be delivered across adult social care. The far-reaching impact of this work across the entire department is becoming increasingly evident:
 - Leadership which is organised, focussed, and provides clear direction and expectations of the service; managers who are more focussed, effective, and supported
 - New Practice Development Unit; Pride in Practice strategy including the Raising Standards initiative, robust quality assurance and audit practice and process, improved recording initiatives

- Restructured care management; integrated locality teams, new Initial Adult Social Care Contact team, learning disability service and mental health and safeguarding adults team management.
 - Newly commissioned services; Homeless Intervention and Support Team, Shared Lives, Extra Care Housing, Care and Support for in people in their own homes
 - New Integrated (Hospital) Discharge Team supporting the Discharge to Assess pathway
 - Improved systems and ICT solutions
 - Introduction of seven day working across several departments
12. Over the past few years, ways of working in the department have changed significantly, the focus always being to improve the experiences and service delivered to those we serve. The reduced number of complaints during this reporting period may appear to evidence that we are beginning to see the impact of this transformation. If this reduced level is sustained in coming years, then this evidence will increase in value.
 13. It is however important to caveat this point with recognising that the past year has seen unprecedented uncertainty for everyone living through the COVID-19 pandemic. For some people this situation has exacerbated their levels of anxiety and general dissatisfaction, whilst for others it has provided a 'distraction'. For some people it has brought about a new appreciation of public services.
 14. It is possible that any one or all of these factors may have affected the numbers of complaints we have received during this reporting period, however any longer-term effects (whether permanent or temporary) of the pandemic on complaint numbers may not be evident for some time. Other local authorities have reported the same patterns emerging regarding reduced complaint numbers over the past year.
 15. A significant part of the complaint officers time has been occupied in supporting those few individuals with raised anxiety levels exacerbated by the uncertainty of the pandemic. The complaints officer is often able to mediate communication channels between the individual and social work practice to provide support in managing these demanding situations.
 16. Whilst it is difficult to benchmark the number of complaints received against other local authorities because each complaint matter is individual and therefore it is not feasible to compare circumstances, it is possible to benchmark complaint handling and timeliness. Just as in this authority, other local authorities also report that the timeliness of their complaint handling has not been affected by the pandemic.
 17. 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.

COMPLAINTS	2020/ 2021	2019 / 2020	2018 / 2019
Complaints carried forward from previous reporting period	8	8	5
New complaints received in the period	41	75	73
Complaints actioned and closed in period	40	75	70
Complaints carried forward into following reporting period	9	8	8
Complaints did not proceed to formal complaint (addressed by service)	18	31	35
Complaints referred to other agencies	2	2	1
Complaints not upheld	7	24	18
Complaints partly upheld (complex cases where one or more elements of the complaint was upheld but not the overall complaint)	5	11	0
Complaints upheld	8	7	16
Complaints considered by the LGSCO	8	7	8

18. In 2020/2021, 41 new complaints were received by the complaints team, which equates to just over 0.5% of the number of new requests for support during this period. This is 41 separately recorded issues, not necessarily 41 different people making complaints because the same person can raise different issues on separate occasions.
19. Having referred on the cases where concerns needed to be dealt with by other agencies or other departments within the council (2 cases) and including the 8 cases carried over from the previous reporting period, 47 cases were dealt with directly by the complaints officer. 18 were addressed informally or did not proceed into formal process, 20 were addressed as formal complaints and 9 had not been completed in the period, and so were carried over to the following reporting period.
20. Just over 47% 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 being proactive and 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.
21. 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 immediate satisfactory outcomes, which is often what the individual wants when a complaint is lodged. Adopting this approach can also save a considerable amount of senior manager time taken up by a formal investigation and written response.
22. 53% of complaints dealt with and closed by the complaints team during this reporting period were investigated and responded to in formal process.
23. During this reporting period, the average length of time taken to formally investigate a complaint and provide a written response to the complainant was 14.37 working days.

24. 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.
25. 98% of cases dealt with in formal process received a formal written response within the policy timescale. In just one case, to ensure that the investigation and formal response was robust, it was necessary to extend the timescale due to the complexity of the concerns and the huge volume of information which needed to be reviewed and considered during the investigation. In this one case, both the complainant and advocate were kept fully informed throughout. The case was completed in 48 days, which is still well within the statutory guidance recommendation of six months.
26. 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

27. 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.
28. Of the 38 complaints dealt with and closed during this reporting period, 20 cases (53%) were completed in formal process.

NOT UPHELD: 7 cases out of 20 (35%)

29. Of those matters that were not upheld, the issues raised ranged from failure to provide financial and charging information to failure to complete an assessment in accordance with the Care Act. 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: 13 cases out of 20 (65%)

30. Complaints which were either upheld or partly upheld in this reporting period included delays, communication, and provision of advice and information. Work in these areas continues to ensure that learning is embedded, and improvements are achieved.
31. Examples of the type of complaints upheld or partly upheld in 2020 / 2021 are given below:
 - Communication: failure to communicate effectively when arranging care and support to support a return home.

- Provision of advice and information: failure to provide accurate and timely information about charges for adult social care services.
 - Financial Assessment and Charging: failure to correctly apply the charging regulations to the financial assessment.
 - Delay: setting up a direct payment personal budget.
32. 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.
33. In all cases the service areas learn lessons from the complaint to improve practice, process and systems across the service.

APPEALS ACTIVITY 1 APRIL 2020 TO 31 MARCH 2021

34. 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.
35. 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 is explained to the individual in writing.
36. 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.
37. The reporting of complaints and appeals is therefore split to distinguish between the two.

APPEALS	2020/2021	2019/2020	2018/2019
Appeals carried forward from previous reporting period	0	0	2
New appeals received in the period	5	13	16
Appeals actioned and closed in period	4	13	18
Appeals carried forward into following reporting period	1	0	0
Appeals did not proceed to formal process (addressed by service)	0	0	4
Appeals not upheld	2	4	11
Appeals upheld	2	9	3
Appeals considered by the LGSCO	3	1	2

38. In this reporting period, a total of 5 appeals were received and there were no cases carried over from the previous reporting period; 4 appeals received were dealt with in formal process and closed.

39. 2 appeals were not upheld (50%) and 2 appeals were upheld (50%). There was 1 case carried forward into the next reporting period.
40. Of the 2 appeal cases which were upheld, in both cases a further assessment was carried out based on additional information provided in the appeal process.

LOCAL GOVERNMENT SOCIAL CARE OMBUDSMAN (LGSCO) INVESTIGATIONS

41. In the 2020 - 2021 reporting period, 8 complaint matters were considered by the LGSCO. This represents 21% 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.
42. 6 cases were completed by the LGSCO during this reporting period. There were 2 cases where fault was found following investigation, and there were 2 cases where no fault was found. The LGSCO confirmed that 2 complaints had been brought to them prematurely and redirected the complainants back to the council for the completion of the statutory complaints process. There are a further 2 cases still being investigated by the LGSCO at the end of this reporting period, and therefore the outcomes remain undetermined and are carried over into the next reporting period.
43. The 2 cases where fault was found by the LGSCO represent 5% of the cases dealt with by the complaints team in this reporting period.
44. In one case where fault was found, the LGSCO recorded their outcome as "fault found, with injustice". The element of fault found by the Ombudsman investigation was with the actions of the housing renewals team (i.e. the council's regulatory services) and was not attributable to adult social care involvement. Therefore, regulatory services provided the apology and paid the Ombudsman's recommended remedy to the complainant.
45. In the other case where fault was found, the LGSCO recorded their outcome as "fault found with maladministration and injustice". The Ombudsman investigation found that the council had failed to identify the complainant as being the sister of an individual prior to it applying for deputyship. The Ombudsman did not find any fault with the council's administration of the individual's affairs. As recommended by the Ombudsman in its final decision statement, an apology was provided to the complainant in this case.
46. In the 2020 -2021 reporting period, 3 appeal cases were accepted for investigation by the LGSCO. This represents 60% of the number of appeals dealt with by the complaints team during this reporting period.
47. In 2 cases there was no fault was found with the council's decision-making and they were not upheld. In 1 case, representing 20% of the appeal cases dealt with in this period, the LGSCO recorded their outcome as "fault found with maladministration and injustice". As recommended by the Ombudsman in this case, the council provided an apology, and a review assessment and a new disability-related expenditure assessment were completed for the individual. Improvements were

also made to the disability-related expenditure process and associated documentation as a result.

48. The LGSCO Annual Review of Complaints for this reporting period is yet to be issued by the Ombudsman. In their 2019 - 2020 report, all types of local authority complaints (of which adult social care forms only one part) were reported. Of the complaints investigated by the LGSCO, the council had an uphold rate of 47%, compared to an average of 56% in similar authorities during that period. The LGSCO are 100% satisfied that the council has successfully implemented their recommendations to remedy complaints, which compares to an average of 99% in similar authorities.

LEARNING FROM COMPLAINTS

49. The 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 adopted in practice and the impact this has for the people we serve and their experience.
50. At the end of an investigation, it is expected that the investigating officer completes a "Lessons Learned" form which details notable practice, key learning messages, improvements made 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.
51. The following sample demonstrates some of the learning leading to improvements within adult social care services resulting from complaints during 2020 / 2021.
 - The structure of the locality teams, including their duty function, has been reorganised and improved to ensure that the pathway is more streamlined, and continuity is maintained.
 - The disability-related expenditure (DRE) decision-making process has been improved to ensure this is robust and equitable, including a review of the suite of associated documentation, i.e. the DRE application form and the letters communicating the details of the decision-making to the individual.
 - Internal communication between teams across the department, particularly between care management and the single point of access teams, has been improved to ensure that all cases waiting for care and support to be sourced are regularly reviewed, and interventions can be implemented where needed.
 - The internal monitoring processes of the deputyship team have been reviewed and improved to ensure robust, active management of individual's financial affairs is maintained and transparent.

ADVOCACY SERVICE

52. 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.

53. The 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 a prevent conflict of interest of informal advocates, or when the informal advocate may be involved in the matters complained of or the outcome sought.
54. 22 of the 38 complaints (58%) dealt with in this reporting period were represented by an informal advocate on behalf of an individual. 4 of the 5 appeals (80%) dealt with in this reporting period were represented by an informal advocate.
55. 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.
56. There were no complaints and no appeals received in this reporting period where the complainants and appellants were represented by a formal independent advocate.
57. The complaints officer also works closely with those individuals 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 individuals 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.

INTEGRATED COMPLAINT HANDLING PRACTICE

58. Given the local and national thrust 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.
59. 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.
60. The complaints officer works closely with colleagues in both the NHS Trust and CCG 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.
61. This integrated approach on a case by case basis currently works very well. Communication between partners is excellent, supporting the shared objective to provide the complainant with a smooth pathway through the formal statutory complaints process.

62. 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.

TRAINING AND AWARENESS

63. The complaints officer continues to deliver regular complaints and appeals updates to all teams across adult social care, refreshing awareness of the complaints and appeals processes, outlining how individuals can access the formal process, and promoting best practice approaches to resolve concerns at the earliest opportunity.
64. 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.
65. The complaints officer is working with the council's learning and development team to develop 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 will also form part of the induction for all new staff in the department.

COMPLIMENTS

66. 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.
67. All compliments are recorded in the monthly report to service board and included the department monthly newsletter. Staff report improved personal and team morale, feeling valued and a recognised a pride in their profession.
68. We recorded 299 compliments during the reporting period 1 April 2020 to 31 March 2021. Some examples of the compliments received during this reporting period include:
- *"Thank you for your call this morning and taking the time to listen to me..... I appreciate how much effort has gone into providing care for my mother and how much work this ongoing situation entails for you. I am humbled by what you do and very grateful for your dedication to this difficult work."*
 - *" I am *'s daughter and I just wanted to personally thank you all for the speed and efficiency you helped my parents with my mum's care. It has helped my dad immensely and eased the pressure on the rest of the family. Thank you!"*
 - *"* and his family are grateful that he can stay in his own home".*
 - *"* was very helpful and helped * when he found it difficult to find the words. She was very patient with him and very supportive".*

- *"On behalf of the family I would like to express our sincere thanks for all the efforts and support * has provided in ensuring that the best possible protective care has been arranged for our relatives. *'s determination and dedication throughout has been commendable and even more so in these difficult times. She has kept us fully informed throughout. We would have struggled and been at a loss without her so please pass on our deepest sincere appreciation. I would also like to mention * who in the early stages in December also provided exceptional care. Social services is a very difficult and sometimes thankless endeavour, receiving much criticism. We are just so grateful your team has been there for them. A big thank you and kind regards."*
- *"I can't thank you enough for the support you gave us at the time we were seeking help."*
- *"She has tried very hard to see both side of situations regarding issues with the care provider and * and his care. She has always been available and contactable to the family. We are very happy that she has helped us and attended *'s review, and that she is in contact with us to make sure that *'s care is provided as per his wishes."*
- *"She was very thoughtful, caring and kind. She seemed to understand my sensitivities around some of the subjects. She seemed like a very nice lady as she made me feel confident when answering the questions."*
- *"You and * really seemed to hear how dire mums situation is and you acted completely professionally and with great compassion, which we will be eternally grateful for."*
- *My involvement with ASC has coincided with the most difficult period imaginable for all concerned. Nevertheless, the response that I have received from the several members of staff with whom I have dealt has been exemplary. Whilst being efficient, they have at all times been helpful, patient and understanding, and I feel that I have been dealt with with the greatest respect on matters of a personal concern."*
- *"Thank you for that information and reassurance. And thank you from both * and me for all you have done to help Mum. We will always remember your kindness in sitting down with Mum on that very first day and listening so carefully and compassionately."*

69. For context, in 2020 / 2021, 41 new complaints were received by the complaints team, which equates to just over 0.5% of the number of new requests for support during this period. For this same period, 299 compliments were received for the service, which equates to just under 4% of the number of new requests for support.
70. To support individuals to have the opportunity to feedback and comment on our services we sent out 1126 National Social Services ASC Survey England, 433 of which have been received back, a return of 38.4%. The results of these are embargoed at present and will be provided for scrutiny through the normal reporting routes later in the year.

FINANCIAL / BUDGET IMPLICATIONS

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

LEGAL IMPLICATIONS

72. 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.
73. 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

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

CONCLUSION

75. A robust complaints process and complaints reporting supports adult social care and the people we serve in several ways:
- Access to first-hand 'lived experience' which 'takes the pulse' of the people
 - Builds better relationships and improves the satisfaction within the community
 - Identifies and delivers service improvements
 - Free market research and feedback
 - Identifies training needs for staff
 - Informs policy and budget planning for the service
 - Identifies better use of resources which in turn saves time and money for the local authority
76. Adult social care recognises it is crucial to have in place an effective, accessible and fair process for individual's comments to be heard and resolved wherever possible. The statutory complaints process provides this opportunity and is integral to the statutory functions of the department. The survey is also used to support the formal complaints process and provides a balance of compliments and feedback from the experiences of people using the services.
77. We acknowledge that things can go wrong and with increasingly limited resources being prioritised to meet the needs of the most vulnerable, complaints will always be made. There is no easy solution, particularly given the significant financial

challenges which continue to be faced by all councils. However, we do know that during these times it is even more important to support and promote the principles of being fair, open, and timely in our response to complaints.

RECOMMENDATION

78. Members are requested to note this report.

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