

# ADULT AND OLDER PEOPLE'S SERVICES

## CUSTOMER CARE & COMPLAINTS POLICY AND PROCEDURES

***This policy sets out a framework for the management of complaints. It fulfils the current provisions of the Local Authority Social Services and NHS Complaints Regulations 2009.***

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## **PART A – POLICY**

### **1.0 INTRODUCTION**

Adults & Older People’s Services is committed to delivering high quality services based on choice, responsiveness and equity. Complaints provide us with an important insight into the experience and perception of people who use our services. They help us to learn lessons from mistakes that may have occurred and improve the quality of services that we provide.

This policy sets out a framework for the management of complaints in line with best practice and the expectations of: the Local Government Ombudsman, the Parliamentary and Health Services Ombudsman and the Care Quality Commission. It fulfils the current provisions of the National Health Services (Complaints) Regulations 2004, the 2006 Amendment Regulations and the Local Authority Social Services and NHS Complaints Regulations 2009. In line with these requirements the Complaints Procedure provides for complaints, both formal and informal, to be dealt with through local resolution by Adults & Older People’s Services. Any complainant who remains dissatisfied has the right to request an Independent Review from the Local Government Ombudsman.

Our aim is to ensure complaints made by service users, their relatives or carers are resolved openly and promptly. The procedure is designed to ensure that both complainants and staff are supported through the process and are treated fairly and equitably. It also aims to ensure that the organisation has sound systems for resolving individual issues and for disseminating learning from complaints, as part of effective quality assurance systems. The Directorate of Adults & Older People’s Services is committed to respecting the human rights of service users and carers and the principles of dignity, equality, respect, dignity and confidentiality will be taken into account when receiving, monitoring and reviewing complaints.

The Department of Adults & Older People’s Customer Care and Complaints Service is positive in its approach to equality and diversity.

### **2.0 KEY OBJECTIVES**

The objectives of this policy are to ensure that:

- The procedure is fair to service users, complainants and to staff;
- The procedure is accessible to all regardless of age, disability, gender, ethnicity/race, religion or sexual orientation.
- Making a complaint will not harm or prejudice the social care services that are given to service users, relatives or carers.
- Concerns and complaints are dealt with efficiently and are properly investigated;
- Complainants are treated with respect and courtesy and receive appropriate support throughout the handling of the complaint;
- Complainants receive a timely and appropriate response, identifying the outcome of any investigation;
- Action is taken where necessary in the light of the outcome of the complaint;
- Learning from complaints will be used to improve services.

## **3.0 SCOPE OF THE COMPLAINTS PROCEDURE**

### **3.1 What may be complained about?**

The complaints process is designed to allow persons to express any concerns about the services they receive from Adults & Older People's Services. A complaint may be defined as an expression of dissatisfaction about any action, omission or decision of Adults & Older People's Services in connection with the provision of social care

### **3.2 Who may complain?**

A complaint may be made by any person who is affected by or likely to be affected by the action, omission or decision of Adults & Older People's Services which is the subject of the complaint. Complaints may be made by carers and relatives about issues that affect them in their role as carer or relative.

A complaint may be made by a representative acting on behalf of an existing or former service user where that person:

- Is unable by reason of physical or mental incapacity to make the complaint him/herself;
- Has been asked to do so by the service user;
- Has died

In the case of a service user who has died or is incapable, the representative must be a relative or other person who in the opinion of the complaints manager, has sufficient interest in that service user's welfare and is a suitable person to act as a representative. If the representative is considered not to have sufficient interest or to be suitable, the Senior Customer Care & Complaints Officer shall notify that person in writing stating the reasons.

**Enquiries from Councillors & MP's:** Adults & Older People's Services will co-operate with requests for information, in compliance with the data Protection Act. Where an MP or Councillor acts on behalf of a constituent who has sought the assistance from that person, this shall be regarded as a form of consent. Careful judgement will be exercised by Adults & Older People's Services to ensure that information disclosed meets the test of necessity.

Anonymous complaints fall outside the scope of the formal procedure. However where an anonymous complaint raises serious concerns, the Senior Customer Care & Complaints officer will refer the matter to the appropriate Departmental Management Team.

### **3.3 Time limit for making a complaint**

A complaint should be made as soon as possible after the event or within 12 months of finding out about the problem.

There is discretion to extend this time limit where it would be unreasonable for the complaint to have been made earlier and where it is still possible to investigate the facts of the case.

### **3.4 Who to complain to**

Complaints about Adult Social Care related matters should be raised directly with Adults & Older People's Services who commissioned the service.

People who are detained under the Mental Health Act may also raise their complaint with the Care Quality Commission.

### **3.5 Complaints which fall outside AOPS Complaints Procedures**

Complaints are not required to be dealt with where:

- The complaint has already been investigated in accordance with our formal procedures;
- The complaint is being or has been previously investigated by the Local Government Ombudsman or Parliamentary Health Services Ombudsman;
- Where a declaration of legal intent has been made;
- The complaint is from another local authority;
- The complaint is made by an employee about matters relating to his/her employment;
- The complaint arises from an alleged failure to comply with a request for information under the Freedom of Information Act 2000;
- The complaint relates to matters that should be dealt with under other proceedings such as safeguarding, grievance, whistle-blowing or bullying and harassment.

### **3.6 Relationship with other AOPS procedures**

#### **3.6.1 Disciplinary procedures**

The purpose of the complaints procedure is to identify where things may have gone wrong not to apportion blame. However some complaints will identify information about serious matters which indicate the need for disciplinary investigation.

Relevant papers that have been gathered during the investigation of the complaint may be passed to HR or Line Manager to consider whether disciplinary action is required.

A complaint may be investigated even if disciplinary action is being considered. However, the two procedures will remain separate and personal or confidential information about the member of staff being complained about will not be disclosed to the complainant.

Care must be taken by the Department of Adults & Older People's Services in disclosing details of disciplinary that have taken place as a result of the complaint, to the complainant, bearing in mind the rights of staff confidentiality.

#### **3.6.2 Safeguarding Adults**

In circumstances where there have been elements of serious concern about vulnerable adults identified as part of a complaint, the complaint will be closed off to the CCC Process, and will be investigated via the Pan London Safeguarding Process.

The complaint will be acknowledged by the CCC team and the complainant informed of the investigation by the Safeguarding Team. The outcome of the safeguarding investigation will form the written response to the complainant.

In the case of financial misconduct, the Councils Anti fraud Policy should be adhered to.

### **3.7 Complaints from staff**

Staff who have complaints about other staff or service users and/or relatives should take forward their concerns using LBG policies/procedures for either:-

- Grievance
- Bullying and Harassment

- Whistle Blowing

Staff may seek advice in the first instance from their line manager or human resources manager.

### **3.8 Declaration of Legal action**

Complaints received through a solicitor do not necessarily indicate that legal action is being pursued. If consent has been received a response should be made in the normal manner.

However, where the complainant makes explicit the intention to take legal action in respect of the complaint, then the complaints procedure should cease. The complainant and those complained about will be informed in writing of this.

Where a complaint reveals a prima facie case of negligence and/or there is a likelihood of legal action, the person in receipt of the complaint must refer to the Council's legal team for advice.

***In all cases it is necessary to inform the relevant Assistant Director & Director of Adults & Older People's Services.***

### **3.9 Criminal Proceedings**

If the subject of the complaint is a matter being referred to the police, the complaints procedure will be suspended pending the outcome of the investigation and the complainant informed of the reasons of the delay.

### **3.10 Coroner's cases**

The reporting of a death to the Coroner's office does not mean that investigation into a complaint should be suspended. It is important to initiate proper investigations regardless of the Coroner's enquiries, and where necessary to extend these investigations if the coroner so requests. However, where a complaint relates to the cause of death the London Borough of Greenwich will only formally respond in writing after the Coroner has delivered its verdict.

### **3.11 Cross boundary complaints**

Where complaints are about London Borough of Greenwich and another Oxleas/NHS organisation, LBG has a duty to co-operate with those bodies to provide a co-ordinated response to the complaint.

Where LBG received a cross-boundary complaint it will contact the complainant for consent to approach the other organisation involved and copy the complaint to them. Consent must also be sought on sharing personal information details arising from the complaint investigation. Agreement will be sought with that organisation about which body will take the lead in co-ordinating the complaint and communicating with the complainant.

Where the complainant does not want the details to be shared, the Senior Customer Care & Complaints Officer should advise them on the parts of the complaint it is able to deal with.

### **3.12 Services commissioned by London Borough of Greenwich (LBG)**

Complaints about services from private, voluntary organisations or independent providers commissioned by LBG should in the first instance be directed to that organisation. If the Complainant remains dissatisfied with the outcome from the organisation, the Complainant should inform our Initial Contact Officers (ICO's) who can raise a Quality Alert which will

be investigated and responded through an informal route. If the complainant continues to remain dissatisfied they can have any outstanding issues investigated by using the formal route via the Complaints process.

### **3.13 Financial redress**

Where the LBG's own investigation identifies failings which may warrant redress LBG has discretion to provide financial compensation for direct or indirect financial loss or distress caused. Any such financial redress is at the discretion of the Director of Adults & Older People's Services.

### **3.14 Unreasonably persistent complainants**

Occasionally complainants will persist with a grievance which staff considers has reached a conclusion through the complaints procedure. A policy for handling such situations has been developed by the LGO to protect both staff & complainant. The full policy is attached at

**(Appendix 4)**

## **4 Handling the complaint**

### **4.1 Service User confidentiality**

All information disclosed about a complainant must be confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know.

### **4.2 Consent to disclose confidential information**

The service user's express consent is not required to access information about him/her for the purpose of investigating a complaint raised by the service user.

Where a complaint is made by a carer or relative about issues that affect them in their role as carer or relative consent is not required.

Where a complaint is made on behalf of a service user who has not authorised access to or discussion of their records, the complaint should be investigated but care must be given not to disclose confidential information.

Where a service user lacks capacity and someone with Lasting Power of Attorney (LPoA) has been appointed to act on their behalf, then the LPoA should be consulted – as long as the LPoA specifically states that they have authority to consent on behalf of the service user.

Where a service user lacks capacity and has no-one to support them then a referral should be made to the relevant Independent Mental capacity Advocacy Service (IMCA)

### **4.3 Third party confidentiality**

Particular care must be taken where the service user's records contain information provided in confidence by or about a third party. Only information which is relevant to the complaint should be considered for disclosure and then only to those within the Council who have a demonstrable need to know. It must not be disclosed to the service user unless the person providing the information has expressly consented to the disclosure.

Disclosure of information provided by a third party outside LBG also requires the express consent of the third party. If the third party objects then it can only be disclosed when there is an overriding public interest in doing so.

#### **4.4 Dealing with media interest**

Any media interest in a complaint should be immediately referred to the Head of Communications and the Director of Adults & Older People's Services.

#### **4.5 Providing support**

##### **4.5.1 For complainants**

LBG will provide clear information on how to complain, where to receive support and how to take complaints further.

LBG promotes the use of independent advocates to support service users in making complaints.

Complainants should have access to translation, language and sign interpreters when needed. Responses will be translated if required.

##### **4.5.2 For staff**

It is important that staff experience the investigation of complaints as being fair and objective. A member of staff who is the subject of a complaint will be given details of the complaint relating to them by the Investigating Officer. They will be given the opportunity to respond to the complaint and must be given access to, or copies of, any records they have made in connection with the incident referred to in the complaint. The Investigating Officer should feedback the outcomes of the investigation together with any recommendations to all staff/service areas directly involved with the complaint.

## **PART B – COMPLAINTS PROCEDURE**

### **5.0 Roles & Responsibilities**

#### **5.1 London Borough of Greenwich responsibilities**

LBG must ensure arrangements are in place for dealing with complaints in accordance with the Local Authority Social Services & NHS Complaints Regulations 2009.

#### **5.2 Individual roles & responsibilities**

##### **5.2.1 Director/Assistant Directors**

- Ensure that all staff are aware of their responsibilities and follow the procedures laid down in the policy;
- Ensure that management systems for complaints handling are in place within service areas;
- Ensure that all complaints received are investigated and appropriate responses provided within the agreed timeframe and copied to the CCC team for information.
- Meet with the complainant where direct involvement may help in the investigation and resolution of the complaint;
- Ensure that actions arising from the complaints are implemented.
- Ensure that systems are in place for regular reporting, monitoring and review of directorate complaints;
- Ensure that any action is taken on any recommendations arising from a Local Ombudsman Review.

##### **5.2.2 Heads of Service Managers**

- Ensure that team managers have appropriate knowledge, skills and experience to undertake the complaints investigation and formulate reports;
- Identify individual responsibilities within the directorate, ensuring that the investigating officer is suitably independent of the incidents that gave rise to the complaint;
- Undertake formal investigations as requested by the relevant Assistant Director;
- To ensure that all responses are reviewed and approved before being sent to the complainant;
- Meet with the complainant where direct involvement may help in the investigation and resolution of the complaint;
- Ensure that action arising from individual complaints and /or from complaints responses is implemented;
- Ensure that complainants are not treated adversely as a result of making a complaint.

##### **5.2.3 Business Support & Quality Assurance Manager**

- Ensures that the complaints procedure is managed in line with legislation and national policy and guidance;
- Provides advice and support to directorate teams;
- Supports systems of learning from complaints;
- Ensures provision of training and support to staff on the handling of complaints.

- Provides reports which will enable DAOPS to monitor performance in relation to the handling of complaints identify issues for organisational learning and through these identify areas for review of policy or practice.

#### **5.2.4 Senior Customer Care & Complaints Officer**

The Senior Customer Care & Complaints Officer is responsible for the day to day administration of formal complaints and Member enquiries.

- Accept & record all new complaints, Member enquiries & compliments and act as primary interface between DAOPS and the complainant;
- Co-ordinates and oversees the management and investigation of complaints ensuring that all complaints/member enquiries are acknowledged, investigated and responded to within the required timeframe;
- Make direct contact with the complainant to clarify issues and agree outcomes;
- Obtain consent to disclose information if the complainant is not the service user;
- Forward the complaint letter together with timescales to the appropriate Service Manager who will appoint an Investigating Officer;
- Maintain contact with the Investigating Officer to ensure the timely progress of the complaint and provide support and advice where appropriate;
- Maintain contact by phone and letter with the complainant as appropriate in protracted investigations;
- Attend meetings as requested between the complainant and relevant staff to help resolve the complaint;
- Ensure a comprehensive response is drafted which adequately addresses all concerns highlighted, including an action plan where necessary;
- Ensure that a comprehensive draft response is provided to the Director to respond to MP enquiries.
- Deal appropriately with any follow up contact from the complainant;
- Liaise with the Local Government Ombudsman and other external agencies as required and provide relevant information as requested;
- Maintain a database of all formal complaints/member enquiries and provide information to Senior Management Teams
- Provides reports which will enable DAOPS to monitor performance in relation to the handling of complaints, identify issues for organisational learning and through these identify areas for review of policy or practice;

#### **5.2.5 Investigating Officer**

- The Investigating Officer should be at manager level;
- Ensure that the complaint is investigated thoroughly and fairly to establish the facts of the case;
- Ensure that any staff mentioned in the complaint are informed;
- Offer to meet with the complainant to clarify issues, identify outcomes sought and where appropriate facilitate a resolution to the complaint;
- Interview staff and obtain copies of statements as necessary;
- Review documentation relevant to the complaint;
- Inform the Customer care & Complaints Team of any delay in completing the investigation, stating the reasons and giving a revised completion date;
- Provide a detailed comprehensive response, addressing all of the issues raised in the complaint, indicating whether the complaint is upheld/partially upheld/not upheld and include an action plan for all upheld issues.

### **5.2.6 Front Line Staff**

All staff have a responsibility to be aware of and comply with DAOPS Complaints Policy & Procedure. In following this procedure all staff should ensure that:

- All complainants are listened to and treated with respect and courtesy at all times;
- Where possible verbal complaints and concerns are resolved at local level, making sure that complainants receive a full response with an apology where appropriate;
- Refer letters of formal complaint immediately to the Senior Customer Care & Complaints Officer;
- Keep line managers informed of any complaints, comments & compliments.

### **5.2.7 Senior Management Team**

- Responsible for supporting systems and processes for learning from complaints;
- Receive & review quarterly reports;
- Ensure that actions arising from complaints are implemented;
- Ensure that lessons are learned locally and improvements made.

## **6.0 Complaints Procedure**

Wherever possible complaints are dealt with through Local Resolution within DAOPS services. Any complainant who remains dissatisfied with the outcome of the investigation at local resolution has the right to approach the Local Government Ombudsman.

### **6.1 LOCAL RESOLUTION**

DAOPS is committed to responding to complaints quickly and sensitively at all levels. The majority of complaints will be resolved through local resolution. The local resolution process will be open, fair, flexible and conciliatory with the emphasis on resolving the complaint. This is an on-going process whereby the complainant is offered a range of options to facilitate resolution until such time that it is felt no more can be done.

Any response to a complaint will aim to satisfy the complainant that their concerns have been listened to and taken seriously, to offer an explanation and provide an apology if a mistake has been made.

#### **6.1.1 Informal complaints & concerns**

*Most complaints are dealt with informally by front line staff.*

The most appropriate route for concerns and issues that do not indicate serious misconduct/negligence, and where the complainant agrees, should be dealt with immediately by front line staff in liaison with their service managers if appropriate.

The first concern of staff is to ensure that the service user's immediate care needs are met and there is no immediate risk to the complainant or others. The complaint should then be dealt with rapidly in an informal and sensitive manner. On receiving a complaint staff should consider the seriousness of the complaint and the possible need for more independent investigation and assessment.

Complainants should be encouraged to speak openly about their concerns and be reassured that what they say will be treated with appropriate confidence and will not affect their care and treatment.

The response should aim to satisfy the complainant that their concerns have been taken seriously and an apology and explanation offered as appropriate. The response should also refer to any remedial action that is to be taken.

If a complainant wishes to complain to someone not directly involved in their care he/she should be encouraged to contact an independent advocate.

Where staff cannot resolve the complaint, or the complainant wishes it to be dealt with in a more formal manner, or where significant risk has been identified, then the complainant should be referred to the Senior Customer Care & Complaints Officer. Staff have a responsibility to support service users who wish to make a formal complaint.

It is important that people who wish to make comments or raise concerns about services provided by Adults & Older People's Services are encouraged to do so. Compliments should also be forwarded to the Senior Customer Care & Complaints Officer.

### **6.1.2 Formal Complaints**

Complaints must be formally investigated where:

- There is potential for media/political interest or
- At the request of the complainant.

Complaints will be dealt with through the Safeguarding Adults procedure where there is

- Any allegation or suspicion of abuse, serious neglect, serious misconduct;
- Any incident which appears to have resulted in permanent harm;
- Any incident which relates to death;
- A possible criminal offence;

#### **Procedure before investigation**

A formal complaint can be made orally, in writing, or electronically.

Where a complaint is made orally to the Customer Care & Complaints Team (CCCT) there will be a written record of the complaint and a copy sent to the complainant.

All complaints must be forwarded to the CCC team for recording and processing.

Within **3 working days** after the complaint is received, the Customer Care & Complaints Officer will send the complainant an acknowledgement letter.

Where the complainant relates to the care and treatment of a third party who has capacity, the Complaints Officer will seek consent.

If the issues raised in the complaint indicate serious risk/abuse then the complaint will be investigated via the Pan London Safeguarding process and will be closed off to the CCC team. The complainant will be informed of this decision.

A copy of the complaint letter will be sent to the relevant Assistant Director and Service Manager, asking for an investigation to be conducted. The investigation will be the responsibility of the Safeguarding Service Manager, though may be delegated to a nominated officer, depending on the seriousness of the complaint. However the responsibility of the investigation report remains with the service manager.

## **Investigation & response within departmental 10 day target**

### **Local investigation**

If appropriate, and in agreement with the complainant, the issues may be passed to local managers for resolution. In such cases a response will be provided. A written response will be provided if appropriate. In many instances meetings with the complainant are the best way to resolve the concerns raised. Notes of the meeting should be agreed with the complainant and sent to all those present. Any actions should be followed up and relayed to the complainant in writing. Complainants must be informed of their right to take their complaint further through DAOPS formal complaints procedure. A copy of this letter must be sent to the CCC team for recording. The complaint will be closed at this stage unless the complainant feels further investigation is required.

Written complaints received directly by service managers should be dealt with in the manner described above. Copies of each complaint together with the response should be sent to the CCC team for recording.

### **Formal investigations**

Formal Investigations are those investigated via DAOPS Complaints Process. The aim of the investigation is to gather sufficient factual and other information to determine what has happened and to identify any appropriate action needed. The response should address all the issues in the complaints letter and also include additional points agreed during the telephone conversation or meeting with the complainant.

A variety of sources should be used when investigating formal complaints. (see [Appendix 3](#))

As part of the resolution process the Investigating Officer should offer a meeting with the complainant to clarify the issues involved and outcomes being sought. A range of options may be offered to the complainant including:

- A facilitated meeting with staff involved in the complaint;
- Meeting with managers;
- Offer of a second opinion;
- Change of worker;
- Formal Investigation.

The actions agreed upon must be deemed reasonable and proportionate to the issues/s being complained about. Details of any additions or changes to the original complaint or the investigation process should be emailed to the Senior Customer Care & Complaints Officer and this will be added to the complaints record.

It may be possible, at the meeting to resolve some or all of the concerns to the complainant's satisfaction. Notes of the meeting, including all agreements made, should be incorporated into the investigation report & response letter.

The time-scale for investigation & response should be discussed and agreed with the complainant. The normal time-scale for responding to a complaint is 10 working days. In complex case this may be extended, and a timescale agreed with the investigating officer.

The investigating officer will provide a detailed response addressing all of the issues raised in the complaint. Each issue should be identified as upheld or not upheld with the supporting

evidence to justify the conclusions. Where an issue complained about is upheld, specific reference should be made to action taken to minimise risk of reoccurrence.

The draft response will be seen by the service manager for approval before being sent to the complainant within 10 working days. If this is not possible the CCC team must be advised of the reasons. The CCC Officer will then inform the complainant of the delay and provide regular updates on the investigation.

The written response will include information on how the complainant can take the complaint further if they are dissatisfied with DAOPS response.

The response will be logged on to the CCC database. The complaint will be considered closed unless DAOPS hears further from the complainant. Where the complainant is unhappy with the written response DAOPS may, where appropriate, consider:

- A management review of this investigation. This will be carried out by another manager not connected with the initial investigation into the complaint;
- Obtaining an independent opinion;
- Arranging mediation;
- Arrange a meeting with Senior Managers/Assistant Director

The complainant will be informed of their right to take the complaint to the Local Government Ombudsman.

## **6.2 OMBUDSMAN REVIEW**

Where a complainant remains dissatisfied with the handling of the complaint and DAOPS believes that there is nothing more than can be done to resolve issues, the complainant will be directed to the Local Government Ombudsman.

The request for review should be made within a period of 12 months of the person first knowing of the matter.

The Ombudsman's Office will review the complaint and where appropriate refer back to DAOPS for further action.

A copy of the Ombudsman's final response will be sent to both the complainant and DAOPS for information.

## **7.0 REPORTING & LEARNING FROM COMPLAINTS**

### **7.1 Learning from complaints**

DAOPS is committed to learning from all forms of service user feedback. Complaints are a positive aid to informing and influencing service improvements.

Quarterly Directorate reports on Complaints, compliments and outcomes of formal reports, including action plans, will be provided to and reviewed by our Senior Management Teams.

### **7.2 Monitoring compliance with the Policy**

All complaints will be recorded and monitored. Formal complaints files will be archived electronically and retained by DAOPS for 7 years.

**Adults and Older Peoples Services Complaints Flow Chart**

Complaint is received by the Customer Care & Complaints Team via letter, email, telephone, complaints leaflet, Customer Service Desk, Initial Contact Officers or in person



Within 3 working days the CCC team will contact the complainant to clarify the complaint issues, confirm the desired outcome and send an acknowledgement letter. The complaint is recorded on the CCC team database, the complaint letter and a copy of the acknowledgement letter, including a summary of the complaint, is sent to the relevant Service Manager for investigation and response.

**INFORMAL OR COUNCILORS ENQUIRY**

**FORMAL COMPLAINT**

**Complainant agrees for the concerns to be dealt with informally**

Complainant agrees for concerns to be dealt with informally by service area. Staff may meet with the complainant to seek a resolution to the concerns. Notes should be taken and these will form part of the written response. Response sent immediately or within **10 days**. Actions and outcomes are recorded on Frameworki and considered resolved at this stage. A copy of complaint & response should be sent to the CCC team for information and recording.

**Complainant wishes for a formal investigation**

Service Manager Investigation into issues raised. Written response and report approved by Service Manager, then sent to the complainant within **10 working days**. A copy is to be sent to the CCC team for recording.

**Complainant remains unhappy with response**

**Members Enquiry**

Received from Member of Parliament office

Copy to Customer Care & Complaints Team

Follow complaints procedure but draft response must be sent to the CCC Team within 10 days for Director of Adults approval. All MP enquiries require Director response.

**Return to Customer Care and Complaints Team**

Further investigation in line with DAOPS Complaints procedure. We will, where appropriate, offer further options for resolving the complaint e.g. a re-investigation or independent investigation, meeting with senior managers, independent review. If it is considered that nothing more can be done to resolve the complaint, the complainant will be directed to the **Local Government Ombudsman**.

## Guidance on Complaints Investigation

### Introduction

Listening to the concerns of service users and carers and learning from mistakes can help the Department of Adults & Older People's Services revise working practices and improve services.

To act appropriately in response to concerns raised we need to ensure a thorough investigation and a detailed response to the complainant. The objective is a good investigation to obtain a sufficient amount of information in order to understand what has occurred, decide whether the service provided was of required standard and identify appropriate remedial action.

This guidance has been produced to support the investigation and responding process as outlined in the Complaints Policy.

### An effective process

When undertaking an investigation remember:

The process should be humane; all participants should feel valued and respected;

The investigation must be thorough and balanced, it is important to engage everybody; complainant and staff, and allow them to tell their version of events.

The information in the response must be based on evidence which can be validated.

### The investigation process

The Investigating Officer should be of sufficient seniority to take the lead in investigating the complaint. The role is to gather all the key evidence, make a decision on the validity on the issues raised in the complaint and identify actions where the complaint has been upheld.

### Gathering information

#### **People**

In some cases the following people will need to be contacted by the Investigating Officer:

Any people identified by the complainant;

All staff involved or on duty at the time;

Any witnesses identified by staff;

Complainant (where appropriate)

Any other person who might help with the investigation e.g. other Directorate staff members.

#### **When interviewing staff**

Inform the member of staff they are being interviewed as part of the complaints process. Where a person has been named in the complaint they should be aware of the issues raised against them.

Where interviews take place, these should be recorded and signed by the person being interviewed.

#### **Records**

The following information should be included:

- Care plans/risk assessment
- Frameworki
- Relevant correspondence, e.g. to GP's
- Any documentation relating to the complaint e.g.. financial assessment, OT assessment, care assessment, review of care needs, blue badge application form

## **The response**

The written response will need to demonstrate that the process has been fair and that all parties have been approached and their comments obtained. Unsubstantiated facts should not be included.

## **Format of the response**

### **1. Introduction**

Summarise the issues raised in the complaint and any subsequent issues raised in meetings/interviews.

### **2. Investigation process**

- Outline how the investigation took place.
- Identify yourself as the Investigating Officer. State if other parties were involved, e.g. internal/external Department
- Name people who were interviewed, giving their name, title and working location.
- State whether the services users records were examined.
- State if meetings/telephone conversation took place.

### **3. Findings**

The response is the main document of any complaint and may be seen by:

- Director;
- Service Assistant Director;
- Service Manager;
- Complainant;
- MP
- Councillor
- Local Government Ombudsman (should the complaints go for independent review).

The investigation findings should directly relate to the issues raised and reflect the evidence gathered.

Outline the findings as follows:

- Use the different issues in the complaint as sub-headings. Underneath each sub heading-;
- Present information from the complainant;
- Present information from responding parties, witnesses etc;
- Cite evidence from documents from Frameworkki;
- It is important to identify any conflicts in the evidence, why one version of events is likely than another whether there is evidence missing or whether there is corroborated evidence;
- There should be a statement as to whether each aspect of the complaint was upheld, partly upheld or not upheld. Although the conclusion should be based on facts. It is sometimes necessary to take into account additional factors. For example 'The level of service provision is correct but the paid carer was rude and dismissive and failed to communicate this in a way in which we would expect'

### **4. Recommendations and action plan.**

If any part of the complaint is upheld, the response must provide an apology and an action to address the problem. This may be appropriate even when the complaint has not been upheld. An example might be where there is insufficient corroboration to support an allegation about poor staff attitude.

Some of the remedies you may wish to consider are:

- Offer a local resolution meeting;
- Review or change the decision on the service given to an individual complaint;
- Change of practice at individual (staff) level through training or supervision;
- Revise procedures or policy to prevent re-occurrence;
- Compensation for specific loss

- Compensation for general distress or discomfort.

All MP enquiries will be responded to by the Director. To assist the Director to respond, all draft responses must be sent to the Senior Customer Care & Complaints Officer who will forward to the Director for approval.

**The final response/draft response should be signed off by the relevant Service Manager before being sent to the complainant.**

## Format for Local Complaints Response

Dear ...

Thank you for your letter dated ..... I am sorry that you have had cause to raise concerns regarding ....

The issues you have raised have been investigated by ....

- Give full information about how the investigation was carried out and from whom statements were taken.
- Provide clear explanations which address each issue raised.
- Do not make excuses or apportion blame elsewhere.
- Lend support to the explanation by reference policies, practice etc.,
- Offer apologies or statements of regret where appropriate. An apology is not an admission of liability. Offer reassurance that the problem will not reoccur if you are confident that this is so.
- Set out the action that will be taken to remedy any failings identified and indicate how this will rectify the situation.
- Offer to meet with the complainant if they require further information or are not happy with the response.
- Inform the complainant of their right to take their complaint further through DAOPS complaints procedure.
- Once draft response is approved by the Service Manager, send a copy to the complainant, and copy to the Senior Customer Care & Complaints Officer for recording on the CCC team database and future reference.

**ACTION PLAN ARISING FROM COMPLAINT**

THIS FORM MUST BE COMPLETED IF ACTIONS HAVE BEEN IDENTIFIED.

Name: \_\_\_\_\_

<b>Upheld Issues</b>	<b>Agreed Actions</b>	<b>Timescale</b>	<b>Lead</b>	<b>Progress against action</b>

# GUIDANCE - Dealing with unreasonably persistent complainants

## What is an unreasonably persistent complainant?

### Introduction

1 There have been examples of people pursuing complaints inappropriately. They are small in number, but they include writing or telephoning several people about the same complaint, writing several times a week, raising different issues while the original complaint is being dealt with or organising mass mailings. This behaviour can impede the investigation of the complaint and can have significant resource issues for the Council.

2 The Local Government Ombudsman has issued a guidance note which aims to help local authorities formulate policies on unreasonable and unreasonably persistent complainants. This guidance, and the policies which are attached, closely follow that guidance. The policies may only be used by Chief Officers, and should be used with caution, after proper consideration of the complaint and of the matters set out in this guidance. It is expected that they will be used rarely.

### Definition

3 Unreasonable or unreasonably persistent complainants are those who, because of the frequency or nature of their contacts, hinder the Council's consideration of their complaints. They may have justified complaints or grievances, but are pursuing them in inappropriate ways, or are pursuing complaints which appear to have no substance or which have already been investigated and determined.

4 Where behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening, the Chief Officer may apply the policy on unacceptable behaviour, and the Council's procedures protecting staff from harassment and harm. These may restrict access to council premises or staff or seek injunctions to address the behaviour.

5 The Ombudsman makes it clear that raising legitimate queries or criticisms of a complaints procedure, for example if agreed timescales are not met, should not in itself lead to someone to be regarded as an unreasonably persistent complainant. And the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

## **Why have a policy?**

6 A policy will help ensure that complainants are dealt with consistently and fairly. This will be important should a complaint be made to the Ombudsman. It will save staff time. And it will be clear to staff what is expected of them, what options for action are available and who can authorise these actions.

## **Actions and behaviours of unreasonable and unreasonably persistent complainants**

7 The Ombudsman gives examples of actions and behaviours of unreasonable and unreasonably persistent complainants that frequently come to their attention. They include:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.

- Combinations of some or all of these.

### **Relationship with the complaints procedure**

8 Where the complaint has been concluded and the complainant refuses to take no for an answer, the Chief Officer may end all communication, and where appropriate refer the complainant to the Ombudsman.

9 However where the complaint is ongoing, there needs to be some continuing contact with the complainant. Before deciding whether to apply the policy, the Chief Officer must be satisfied that:

- (a) the complaint is being or has been investigated properly;
- (b) any decision reached on it is the right one;
- (c) communication with the complainant has been adequate; and
- (d) the complainant is not now providing any significant new information that might affect the Council's view on the complaint.

### **Matters to consider before applying the policy**

10 If the Chief Officer is satisfied on the points in paragraph 9, he/she should consider whether further action is necessary before deciding that the complainant should be designated as unreasonable or unreasonably persistent. The Ombudsman provides some examples:

- (a) If no meeting has taken place with the complainant, and provided that the Council knows nothing about the complainant which would make this unadvisable, consider offering the complainant a meeting with an officer of appropriate seniority.
- (b) If more than one department is being contacted by an unreasonably persistent complainant, consider setting up a strategy meeting to agree a cross-departmental approach; and designating a key officer to co-ordinate the Council's response.
- (c) If the complainant has special needs, an advocate might be helpful to both parties: consider offering to help the complainant find an independent one.
- (d) Before applying any restrictions, give the complainant a warning that if his/her actions continue the Council may decide to treat him/her as a unreasonably persistent complainant, and explain why.

11 The Chief Officer will also need to consider the effect of designating the complainant as unreasonable or unreasonably persistent if they are also a service user, and particularly if they can be described as vulnerable. The designation may have implications both for the complainant/service user and also for the staff who deal with him or her.

## Applying the policy

12 The policy will be triggered by the actions/behaviours listed in paragraph 7, or similar actions/behaviours.

13 The Council's response must be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council. The Ombudsman suggests the following non-exhaustive 'menu' of options from which one or more might be chosen and applied:

- (a) Placing time limits on telephone conversations and personal contacts.
- (b) Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
- (c) Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff.
- (d) Requiring any personal contacts to take place in the presence of a witness.
- (e) Refusing to register and process further complaints about the same matter.
- (f) Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence.

14 The decision on whether the policy will be applied to a complainant, what restrictions will be placed on contacts and for how long, and whether restrictions may be lifted or should continue, must be made by a Chief Officer.

15 The Chief Officer will keep a record of any decision to apply the policy. This will contain details of the actions/behaviours which triggered it, the restriction(s) to be applied and why they are considered appropriate and proportionate.

16 The Chief Officer will write to the complainant to say that contact is being restricted and why. The letter will say what it means for his or her contacts with the Council, how long any restrictions will last and that the complainant may write to the Chief Executive to have the decision reviewed. The letter will enclose a copy of the policy. Both the letter and the record of the decision will be placed on the case file.

17 The Chief Officer will copy the letter to the Chief Executive and, where appropriate, to officers who the complainant has contacted. Where the complainant has contacted Members,

the Chief Officer will copy the letter to the Head of Members Services and to the Leader's Office.

18 The Chief Executive will produce an annual return showing the numbers of complainants to whom the policy has been applied and the kinds of restrictions which have been imposed.

19 Where the complainant writes to the Chief Executive to have the decision reviewed, the Chief Executive will review the decision or refer it to another Chief Officer for review.

### **Matters arising after applying the policy**

20 Officers will keep a record of any contact with a person designated as an unreasonable and unreasonably persistent complainant.

21 When a decision is taken not to respond to further correspondence, any further letters, faxes or emails from the complainant should be checked to pick up any significant new information.

22 When unreasonable and unreasonably persistent complainants make complaints about new issues, these should be treated on their merits, and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

23 The relevant Chief Officer must keep any restrictions under review and arrangement for a check to be made in, say, six months on whether there has been any further contact from the complainant. If a complainant has no contact with the Council within that period, the Chief Officer should review the position and decide whether any restrictions placed on the complainant's contacts should be cancelled. The outcome of this review should be noted. If the restrictions are cancelled, urgent consideration should be given to re-introducing the restrictions if the behaviour which led to the original decision re-commences.

Russell Power  
Head of Law and Governance  
3 April 2008

## **POLICY - Dealing with unreasonably persistent complainants**

The Council is committed to dealing with all complaints fairly and to providing a high quality service to those who make them.

When dealing with complaints, the Council does not normally limit the contact complainants have with its staff and offices. However there are a small number of complainants who, because of the frequency of their contact with the Council's offices, hinder our consideration of their complaints. In such cases we will take action to limit their contact with our offices.

The decision to restrict access to our offices will be taken at Chief Officer level and will normally follow a prior warning to the complainant.. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- Requesting contact in a particular form (for example, letters only);
- Requiring contact to take place with a named officer;
- Restricting telephone calls to specified days and times; and/or
- Asking the complainant to enter into an agreement about their future contact with us.

In all cases where we decide to treat someone as an unreasonably persistent complainant, we will write to tell the complainant why we believe his or her behaviour falls into this category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it. If we decide to carry on treating someone as an unreasonably persistent complainant and we are still investigating their complaint six months later, we will carry out a review and decide if restrictions will continue.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with the complainant. In such cases, we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on file with no acknowledgement.

New complaints from people who have come under the unreasonably persistent complainants policy will be treated on their merits.

## **POLICY - Unacceptable behaviour**

The Council is committed to dealing with all complaints fairly and to providing a high quality service to those who make them.

When dealing with complaints, the Council does not normally limit the contact complainants have with its staff and offices. However the Council does not expect its staff to tolerate behaviour by complainants which is unacceptable, for example which is abusive, offensive or threatening, and it will take action to protect staff from that behaviour.

When the Council considers that a complainant's behaviour is unacceptable, we will tell them why and we will ask them to change it. If the unacceptable behaviour continues, we will take action to restrict the complainant's contact with our staff and offices.

The decision to restrict access to our offices will be taken at Chief Officer level. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- Requesting contact in a particular form (for example, letters only);
- Requiring contact to take place with a named officer;
- Restricting telephone calls to specified days and times; and/or
- Asking the complainant to enter into an agreement about their future contact with us.

In all cases where we decide to treat someone as an unreasonably persistent complainant, we will write to tell the complainant why we believe his or her behaviour falls into this category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

Where a complainant continues to behave in a way which is unacceptable, we may decide to terminate contact with the complainant and discontinue any investigation into their complaint.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of our staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.