

ADULT CARE AND WELL BEING OVERVIEW AND SCRUTINY PANEL 15 NOVEMBER 2021

COMPLIMENTS AND COMPLAINTS FOR ADULT SERVICES

Summary

1. The Adult Care and Well Being Overview and Scrutiny Panel is to be briefed on compliments and complaints relating to Adult Social Care Services.
2. Information on the process of monitoring compliments and complaints was requested by Panel members during the Panel's induction following the County Council elections.
3. The Strategic Director of People and the Cabinet Member with responsibility for Adult Social Care, have been invited to the meeting.

Background

4. Information in this report includes the formal complaint and compliments process, data on the types of complaints, time taken to resolve and how many are upheld, those dealt with by the Directorate and those dealt with by the Consumer Relations Unit. It also includes an overview of numbers and themes.
5. The Council is required to produce an annual report of compliments, complaints and comments received concerning adult social care, which is published on the Council's website and a copy of this year's report is attached at Appendix 1.

The Adult Social Care Process

6. The Adult Social Care complaints process has been produced in accordance with the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009
 - An individual can complain when:
 - they are in receipt of or have received a service.
 - they are a person affected, or likely to be affected by the action, omission or decision of the Authority.
7. A complaint can be accepted on behalf of the above when they:
 - have died
 - are unable to make a complaint themselves due to lack of physical or mental capacity
 - have asked a representative to make a complaint on their behalf.
8. Consent is sought before disclosing any personal or confidential information in compliance with GDPR. The Consumer Relations Officer (CRO) will consider

whether the person is acting in the best interests of the adult with care and support needs, and if considered unsuitable then the CRO will provide a written explanation. The CRO will discuss this decision with relevant operational managers as appropriate.

9. Reasonable attempts are made to check if the adult with care and support needs wants to pursue a complaint with alternative support or an advocate.

10. Anonymous complaints should be referred to the Consumer Relations Unit (CRU) and it is then for the CRO to decide if any further action should be taken.

11. Self-funders can only use this procedure in regard to the actions of the Local Authority. Complaints about care which they have funded themselves will be directed to the provider of their service or Local Government & Social Care Ombudsman.

12. Similarly, those in receipt of a self-managed Direct Payment can only complain about the involvement of Social Care. Any complaint regarding services purchased by Direct Payment will go directly to the Local Government & Social Care Ombudsman.

When Complaints may not be considered

13. Matters going before a court cannot be considered.

14. A complaint made one year or more after the complained about event taking place, need not be investigated, unless it would be unreasonable to expect the complainant to have made the complaint earlier, for instance if it was reliant on information becoming available; and notwithstanding the delay it is possible to consider the complaint effectively, efficiently and fairly. The CRO will make this decision. If the complaint is not accepted the complainant is notified in writing of the reasons why, and of their right to approach the Local Government & Social Care Ombudsman.

15. Complaints will not be considered where other procedures, or statutory processes exist, for example:

- Disciplinary proceedings.
- Adult - Safeguarding
- Complaints from staff about personnel issues.
- Criminal investigations.
- The Corporate Representations Procedure.

16. A complaint investigation will not run concurrent to any of the above processes.

17. **All** complaints however made or received must be forwarded to the Consumer Relations Unit. These include complaints received via MP's or Councillors.

What is a Complaint

18. A complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of actions by Adult Social Care, the discharge of, or failure to discharge, a Social Services function. If an expression of

dissatisfaction is more than an observation and requires either action or a response then it is deemed to be a complaint.

Types of Complaint

19. **Informal Complaints:** an informal complaint must be:

- a verbal complaint which is:
about a matter of low concern, where immediate intervention will resolve the issue or prevent the complaint escalating and:
- can be dealt with rapidly, within 24 hours or:
- Where the complainant has stated that they do not want to make a formal complaint.

20. If a complainant does not want to make a formal complaint, but the issues raised are of a serious nature, the CRO will decide how to deal with it.

21. **Formal Complaints:** complaints can be made either verbally or in writing. The complaint is acknowledged within 3 working days. The CRO risk assesses the complaint and sends the complaint to be allocated for investigation. Where a complaint is redirected to the Safeguarding process, the complainant must be advised.

22. Complaints are investigated independently of the complained about service area. A rota exists managed by Adult Social Care Managers who deal with low/moderate risk complaints. No formal complaint is to be dealt with outside of this process. All managers tasked with investigating complaints must have the relevant competencies to conduct investigations. If they do not feel adequately equipped to take on an investigation, they will contact the CRO for additional training. Managers and staff must make themselves available for interview, clearing a space in their diary if necessary, and requests for information should also be dealt with promptly.

23. Where an investigation identifies issues of performance and capability this will be raised immediately with the Team Manager. If management process or disciplinary is felt appropriate, then the complaint will be suspended pending the outcome of that process.

24. If the Authority has done all it can to resolve the complaint, and the complainant is not satisfied, they are directed to the Local Government & Social Care Ombudsman.

Process for Conflict Resolution and Mediation

25. The complaint process is flexible to allow for a variety of options to be used to reach an acceptable resolution.

26. All complaints are received by the CRO, and risk assessed. Based upon that risk assessment and preliminary discussion, the CRO will either assign the complaint to be investigated, conduct an investigation themselves, appoint an external investigator or the manager allocated the investigation upon contacting the complainant may look to set up a conflict resolution or mediation meeting to seek resolution.

27. Once the allocated manager has spoken to the complainant, they may feel that a low-level meeting is an option to enable the complainant to air their views and identify actions that may satisfy the complainant.

28. Where this is considered an option, the Manager can arrange the meeting and identify any potential actions that can be taken forward with the relevant service manager. Where it is possible to carry out the identified action, and the complainant is satisfied, then there is no need to conduct any further investigation.

29. A written response will still be required outlining issues discussed at the meeting, and agreed actions, and this will need to be signed off by the Quality and Safeguarding Services Manager. It will then be considered that the complaint has been dealt with.

30. If following the meeting, the complainant remains dissatisfied then the matter should be referred to the CRO to determine whether any additional investigation is required. Where the complainant refuses the option of a meeting and requests a formal investigation and response then this should be carried out.

Learning from Complaints

31. The manager dealing with the complaint should consider whether there is any learning; there are 3 types of learning:

- Team/Staff specific – for instance where there is a local issue with staff or a team not following or understanding procedures, policies, legislation or best practice. Training issues.
- Improvements/actions/innovations – where it is identified that improvements to procedures or practices either locally or directorate wide would be beneficial. Where there are service improvement issues, where action needs to be taken to restore the adult to the service they should be receiving.
- General learning/reminders – where issues identified are service wide, and a reminder needs to be issued to staff.

32. Any learning identified as a result of a complaint should be agreed with the manager responsible for the service area and noted Key Learning document prior to returning it to the CRO. They will then follow through on the learning points and evidence what actions have been taken. This document is sent to the CRO to log. The complaint will then be closed.

Withdrawing a complaint

33. A complaint may be withdrawn either orally or in writing at any time by the complainant, their representative or Advocate. Confirmation in writing must then be sent to the complainant that their complaint has been withdrawn.

Joint NHS Complaints

34. Where a complaint is received, and it is entirely a matter for the relevant NHS body, then within 3 working days the complainant is contacted to ask if they want their complaint redirected and consent obtained (GDPR). If the complainant is in

agreement then the complaint is forwarded immediately to the relevant NHS complaints manager, and an acknowledgement sent to the complainant detailing where and to whom their complaint has been sent.

35. Where a complaint is made which contains elements relating to both the Social Care and Health functions, then the complaints managers from each organisation shall determine which organisation should take the lead. Issues to consider are:

36. Once the lead organisation has been determined then they will take responsibility for directing the complaint in line with the complaint's procedure. The other involved organisations will cooperate with their investigation and provide relevant access to information and staff with due regard to Data Protection issues.

37. The Complaints Managers will liaise in regard to the progress of the complaint, and any response will be jointly signed by all involved organisations. The learning will be shared across the organisations concerned.

Provider Complaints

38. Where a complaint is about a commissioned service then in the first instance the complainant is directed to the provider. Where the complainant is adamant that they do not want to approach the provider, or the issue is serious, then they can access the complaints procedure straight away. Where the provider responds but the complainant remains dissatisfied, they can then enter the complaints process. If the complaint is accepted, then in most instances the CRO will investigate.

39. Where findings are made against a provider the outcomes will be shared with the Care Quality Team for follow up action.

Comments

40. A comment is a general observation about a service, or a service improvement suggestion. Comments are logged with the CRU. Where a comment is received, an acknowledgement is sent within 3 working days. The comment will then be responded to by the relevant manager within 35 working days. A copy of the comment and response must be sent to the CRU.

Compliments

41. A compliment is an expression of gratitude or satisfaction which is more than a simple thank you and should identify the area of good practice. Compliments should be forwarded to the CRU with the name and address of the adult with care and support needs. If the compliment is received by CRU we will acknowledge the compliment and send details to the staff member's manager if they are not already aware of it.

Points to Note

42. Less than 2% of total number of complaints received in 2020/21 were escalated to the Ombudsman.

43. The number of complaints has increased in Adult Social Care from 117 in 2019/20 to 123 in 2020/21.

44. The primary areas of complaint are in assessment, support planning and resource allocation: this is the core business of Social Work and includes assessment, support planning and resource allocation. Within this area, the largest areas of complaint are around communication and staff attitude and behaviour.

45. The other main area is contracted residential care and domiciliary care and financial assessments. There has been an increase in complaints regarding externally commissioned home care, and an increase in complaints regarding services that fall under Adult Safeguarding.

46. Financial Assessments and Direct Payments is an area that has also seen an increase in complaint numbers.

Purpose of the meeting

47. Members are invited to consider and comment on the information within this report and agree:

- whether any further information or scrutiny work is required at this time
- arrangements and frequency of future reports
- whether there are any comments to highlight to Cabinet Member

Supporting Information

Appendix 1 – Adult Social Care Statutory Representations and Complaints Procedure Annual Report 2020-21: Compliments, Comments, Complaints

Contact Points

Specific Contact Points for this report

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Background Papers

In the opinion of the proper officer (in this case the Assistant Director for Legal and Governance) the following are the background papers relating to the subject matter of this report:

- Agenda and Minutes from the Overview and Adult Care and Wellbeing Overview and Scrutiny 8 July 2021

Minutes and Agendas are available on the Council's website: [weblink to agendas and minutes](#)