

**Adults, Health and Social Care**

# **COMPLAINTS AND COMPLIMENTS PROCEDURE**

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## 1. Introduction

- 1.1 The complaints process for all local authority Adults, Health and Social Care Services are defined in legislation and set out in **The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009**.
- 1.2 The regulations which were reformed and which came into effect in April 2009 are designed to be more flexible, less bureaucratic than in the past and more responsive to the needs of individual service users or their representatives. The focus of complaints handling should be on resolving rather than processing complaints.
- 1.3 This policy sets out the way in which Calderdale Adults, Health and Social Care will ensure that service user representations are received and responded to in accordance with statutory requirements.

## 2. Principles

- 2.1 The procedures put service users at the centre of efforts to resolve the issues which they have raised. Our aim is to work with them to identify what outcomes they are seeking and the best way of achieving this. The procedures emphasise the importance of listening to service user experiences and using their feedback to shape the way future services are provided.
- 2.2 The procedures emphasise our responsibility to ensure that there is equality of access for all complainants, with particular consideration for those people who may find it more difficult to use the process, eg: people with a disability, people whose first language is not English.

## 3. What is a Representation?

- 3.1 Representations received by the Complaints and Compliments Unit are categorised in one of the following ways:
  - **Comment**  
feedback provided by a service user or their representative which does not require action in terms of a response.
  - **Concern**  
feedback provided by a service user or their representative requiring immediate action rather than investigation.
  - **Complaint**  
feedback provided by a service user or their representative requiring an investigation and a written response.
- 3.2 Some representations are categorised as '*Management issues*' and are recorded on a separate complaints database as they fall outside the statutory complaints procedure. All management issues are passed to appropriate operational managers to investigate under Disciplinary and Grievance Procedures.

#### 4. Who can make a Complaint?

- 4.1 A complaint can be made by or on behalf of someone to whom the Local Authority have the duty or power to provide a service. This would usually mean a service user or a representative of a service user acting with their knowledge and consent. An individual acting for a service user who is assessed as not having mental capacity must be seen to be acting in the service user's best interest.
- 4.2 A complaint cannot be made under this procedure by a member of staff (unless they are a service user or the representative of a service user) or by a professional from another organisation or agency.
- 4.3 Individuals whose care is not arranged or provided by a Local Authority cannot complain under these procedures, however since October 2010 they can complain directly to the Local Government Ombudsman, who has been given additional powers to consider complaints from social care self-funders. An individual service user and anyone acting on their behalf can now raise a complaint with the Ombudsman who is able to investigate complaints and make recommendations to the service provider.

#### 5. What can be complained about?

- 5.1 Any complaint which is received must be in connection with the Local Authority exercising its duty of social care function. This could be about:

- *The quality or amount of service*
- *Charges for a service*
- *A decision relating to the provision of a service*
- *A failure to follow a correct procedure*
- *A delay in offering a service or a service not being provided*
- *The application of assessment and eligibility criteria*
- *The attitude or behaviour of staff*

- 5.2 Some matters may initially arise from a complaint, but would need to be dealt with through other procedures such as staff disciplinary or grievance proceedings, criminal investigation, Insurance or legal claims process or Safeguarding procedures. If at any point in dealing with a complaint it becomes apparent that there are issues that should be addressed through other procedures, that part of the complaint will be suspended and moved to another procedure as appropriate and the complainant informed.
- 5.3 Service users and their representatives cannot raise issues under this procedure about services that they arrange and pay for themselves through a direct payment or a personal budget. However issues can be dealt with under this procedure which relates to the Local Authority role in direct payments or personalised budgets, eg: in assessing for the amount of service or in the advice and assistance given in setting up such payments.
- 5.4 Complaints relating to other Council functions will be dealt with separately under the corporate complaints procedures. This would include complaints about planning applications, waste collection, highway maintenance etc.

## 6. Contracted Services

- 6.1 Calderdale Adults, Health and Social Care Services are often engaged in work with the independent sector in commissioning services for service users. When people have concerns about these commissioned services they have the same rights in getting those concerns addressed as users of Council provided services.
- 6.2 All commissioned services are required to have their own complaint procedures in place and ordinarily complaints would in the first instance be addressed directly by the service provider. If the matter is unresolved service users can choose to have their concerns addressed through the Council procedures.
- 6.3 The Contracts Manager will be informed of all complaints which are received in relation to contracted services.

## 7. Single Complaints Process

- 7.1 The complaints procedure reflects the requirements and principles of '*Making Experiences Count*' which is designed to ensure that there is a single complaints process across all Health and Social Care organisations. This will provide a unified approach to complaints about integrated services where complaints are made across organisations.
- 7.2 Calderdale Adults, Health and Social Care have a protocol for joint working on complaints with other agencies and organisations. The protocol has been agreed with the Calderdale NHS Primary Care Trust, Calderdale and Huddersfield NHS Foundation Trust, South, West Yorkshire Partnership NHS Trust and the Yorkshire Ambulance Service.

## 8. Persistent/Unreasonable Complainants

- 8.1 Very occasionally we may receive representations from complainants who seek to raise an excessive number of complaints or who become unreasonable in their conduct or expectations.
- 8.2 Whilst every effort will be made to address their concerns objectively we must also seek to be proportionate and not to expose council staff to unreasonable behaviour. Calderdale Council has a separate policy for responding to those individuals who are felt to be Persistent or Vexatious Complainers.
- 8.3 A decision to invoke the Persistent or Vexatious Complaints process must be made by the relevant Director following consultation with the Complaints Manager.

## 9. Mediation

- 9.1 For some representations it will not be appropriate or possible to resolve them through the process of investigation. Particularly where there has been a breakdown in the relationship between the service and the service user or in situations which are emotional. In these circumstances mediation is an option that should be considered.

9.2 The Complaints Manager will make the necessary arrangements, subject to the agreement of both parties. Mediation is not possible without the agreement of all parties concerned. Mediation by an independent mediator will allow both sides to:

- *express their own views*
- *think about how to put things right*
- *work together to reach a solution*

## 10. Advocacy

10.1 All complainants have the right to use the services of an Advocate when making their complaint. Complainant's can either use a service which they select themselves or ask that an Advocate be requested from RETHINK (formally Cloverleaf) with whom the Council have a contract. The Complaints Manager will make all complainants aware of this right.

## 11. Complaints and Compliments Unit

11.1 Calderdale Adults, Health and Social Care have a designated Complaints Manager who is responsible for facilitating the complaints procedures and for ensuring that representations are received and responded to in accordance with statutory requirements. This post is supported by a Complaints Administrator.

11.2 The Complaints and Compliments Unit is required to collect and collate accurate data on representations for reporting purposes, eg: annual report, committee/scrutiny panel reports and quarterly report for operational managers/teams.

11.3 All representations are logged on RESPOND, an electronic database at the Complaints and Compliments Unit before being passed to an appropriate manager. All responses to representations are monitored by the Complaints and Compliments Team and progress chased throughout.

## 12. Accessibility

12.1 A published leaflet '*Compliments, Comments and Complaints*' is available from all Adults, Health and Social Care Offices or can be obtained direct from the Complaints and Compliments Unit. The leaflet outlines the Complaints Procedure and has a tear off portion for people to enter complaint details and return, freepost, to the Complaints and Compliments Unit for action. The leaflet can also be obtained by accessing the intranet or Calderdale Council internet website.

12.2 A complaint or representation can be made in person, in writing, by telephone or e-mail to any Adults, Health and Social Care office. Every effort should be made by Council staff to assist people wishing to make a complaint and to inform them of the Adults, Health and Social Care Complaints Procedure.

### 13. Locally Resolved Conflicts

13.1 It is accepted that resolving conflicts at a local level is to some extent a part of the wider social work task and it is important that such conflicts are not escalated into the complaints procedure unnecessarily. Staff should be encouraged to deal with issues which arise and which can be resolved immediately or within a short space of time (24 hours). Where any doubt exists staff should be encouraged to discuss this with the Designated Complaints Manager. As a general guide the decision to escalate a local conflict should be considered when:

- *the problem cannot be resolved straightaway*
- *the service user clearly says they wish to make a complaint*
- *the complainant is particularly vulnerable*
- *the problem may be minor but has occurred repeatedly*
- *the risks to the service user or organisation are high*

13.2 Each social work establishment, team or section should have a file of locally resolved conflicts and care should be taken to make sure that this is kept in accordance with Data Protection Guidelines.

### 14. Safeguarding Issues

14.1 The Safeguarding Manager will be notified of any complaints received that raise wider concerns in respect to safeguarding. The Safeguarding Manager and the Complaints Manager will meet to decide the best way to take the concern forward.

### 15. Independent Person

15.1 At the discretion of the Complaints Manager an Independent Person may be appointed in the case of the complainant being a vulnerable person or where there are issues regarding the mental capacity of the complainant or if there is a concern regarding a possible or potential conflict of interest.

### 16. The Complaints Process

16.1 Complaints received by the Complaints and Compliments Unit are logged and acknowledged within 2 working days. Depending on the nature of the complaint or the views expressed by the complainant the complaint will be categorised and investigated as either a **Service Provider Investigation** (Internal) or an **Independent Investigation** (External).

16.2 A **Service Provider Investigation** is dealt with by a relevant operational manager working within the particular service area which is being complained about, this may be an in-house service (provided by the Council) or a commissioned or contracted service.

16.3 The Complaints and Compliments Unit will seek to gather information from the complainant in relation to their complaint and where appropriate discuss with them how they think the complaint could be resolved to their satisfaction (establishing desired outcomes). A Complaint Resolution Plan is then developed which is in two parts:

- *Part One: details the complaint information and desired outcomes*
  - *Part Two: details the standard reporting format for the investigating officer to complete and return to the Complaints and Compliments Unit. This will include the findings/ outcome of the investigation, any learning and actions required in response to lessons learnt.*
- 16.4 The operational manager who has been asked to investigate is required to contact the complainant to discuss and agree how the complaint will be investigated and to establish a timescale for investigation. The timescale will begin on the date when the signed 'Part One' of the Complaint Resolution Plan is sent to the investigating officer for investigation.
- 16.5 The Investigating Officer should gather all the necessary information to assist them with the investigation by:
- *speaking with the complainant/service user and confirming the complaint*
  - *speaking with the relevant staff members*
  - *appropriately consulting any case record/files as necessary*
  - *reviewing relevant legislation or policies/guidance/procedures*
  - *seeking any specialist advice/information*
- 16.6 On completion of the investigation the investigating manager is required to respond to the complainant directly in writing. A draft of the response should be discussed with the Complaints Manager in order to ensure responses are comprehensive and of an acceptable standard.
- 16.7 The response letter should address the substance of the complaint and reach a determination about whether the complaint has been upheld or not upheld. Where appropriate the response should explain what actions will be taken in light of any learning. The response letter will also advise the complainant of what action they can take if they are unhappy with the outcome of the investigation (Local Government Ombudsman).
- 16.8 It should be noted that a complainant has the right to request an Independent Investigation at any time; this could be midway through the Service Provider investigation. If this occurs the Complaints Manager should be notified of this as soon as possible.
- 16.9 The Complaints and Compliments Team will notify relevant Heads of Service or senior management of all complaints that fall within their particular service area. In turn they are required to notify relevant staff that may need to be interviewed as part of the investigation.
- 16.10 When staff are interviewed in relation to a complaint they should be advised of their right to be accompanied by a supporter during the interview. This could be a colleague or line manager or a Union Representative, however, the support person should not be connected in any way to the complaint being made.

- 16.11 An ***Independent Investigation*** is used where a complaint is considered to be of a more complex nature, or requiring a greater degree of formality and independence to resolve, and will be addressed through investigation by someone independent of the Local Authority. This decision will be made following discussion between the Complainant and the Complaints Manager.
- 16.12 The Independent Investigating Officer will meet with the Complainant to discuss and agree a formal '*terms of reference*' for the investigation which would include their desired outcomes and also agree a timescale for completing the investigation.
- 16.13 On completion of the investigation the Independent Investigating Officer will provide a formal report to the relevant Head of Service. An adjudication meeting will be arranged by the Complaints and Compliments Team between the Investigating Officer, Head of Service and the Complaints Manager. The adjudication meeting will discuss the investigation findings, any learning points and actions that need to be taken within the service.
- 16.14 The Head of Service as Adjudicating Officer will formally respond in writing to the complainant enclosing a copy of the investigation report. The response will inform the complainant of the Investigating Officer's conclusions, any action that will be taken and advice about what to do if the complainant is dissatisfied with the response. Where appropriate a Management Action Plan (MAP) will be developed by the Adjudicating Officer to ensure that recommendations are followed up within agreed timescales.

## 17. Roles and Responsibilities

### 17.1 Complaints Manager responsibilities:

- *managing, developing, resourcing and administering the complaints procedure*
- *overseeing receipt/investigation of complaints that cannot be resolved locally*
- *appointing investigation officers*
- *ensuring that there is no conflict of interest when investigating the complaint*
- *cooperating with other agencies as may be necessary to investigate complaints*
- *promoting local resolution*
- *monitoring the progress of the complaint investigation*
- *making recommendations to the local authority on actions to take following an investigation*
- *collecting and collating complaints data and providing management reports*

### 17.2 Investigating Officer responsibilities:

- *providing a comprehensive, open, transparent and fair investigation*
- *reading social work records to assist in coming to a conclusion*
- *interviewing staff and other people relevant to the complaint*
- *analysing information*
- *working within agreed timescales*
- *writing a clear investigation report*
- *offering recommendations where appropriate*
- *ensure equality issues are addressed*

17.3 To be able to provide accurate report/statistical information with regard to complaint handling within Health and Social Care it is important that investigators follow procedure and provide the Complaints and Compliments Team with information as required.

17.3 Adjudicating Officer responsibilities:

- *receive the investigation response*
- *formally respond to the complainant in writing*
- *outline what actions are to be taken in response to recommendations*
- *advise to the complainant of options if they remain unhappy with the response*

18. The Local Government Ombudsman

18.1 The Local Government Ombudsman (LGO) has powers to investigate alleged or apparent maladministration or service failure. Maladministration is defined as incompetent or dishonest management or administration, especially in public affairs.

18.2 A complainant has the right to approach the LGO at any time, however, the LGO would normally only consider investigating a complaint that has previously been investigated and responded to by the Local Authority. The LGO has the discretion to choose not to investigate a complaint if the injustice is considered to be only slight or they consider that there has already been a full and fair investigation.

19. Complaints Annual Report

19.1 Regulations require that each Local Authority prepare an Annual Report for each year which must:

- *specify the number of complaints received*
- *specify the number of complaints which were well-founded*
- *specify the number of complaints referred to the Local Government Ombudsman*
- *summarise the subject matter of complaints received*
- *highlight any concerns about the way in which the complaints were handled*
- *specify any actions taken to improve services as a consequence of those complaints*

19.2 The Annual Report prepared by the Complaints and Compliments Manager is required to be available as a public document. This is placed on the Council Website.

20. Compliments

20.1 Compliments which are received from service users or their representatives are logged by the Complaints and Compliments Unit. These are then forwarded to the relevant Head of Service who will write to the member of staff being complimented acknowledging and thanking them for their involvement. The compliment is then sent to Human Resources Section and is placed on the individuals personnel file.

20.2 In order to be able to process the compliment the information required must:

- *be in written form (e mail, letter, card).*
- *state who the compliment is to (name, title and service area etc)*
- *state the name of the person who is making the compliment*

20.3 Compliments which are received from other agencies/organisations or from members of staff complimenting other members of staff are not processed by the Complaints and Compliments Unit. These compliments will be forwarded to the appropriate line manager.

21. Complaints Process - Quick Guide

