



Complaints Procedure

Adult Social Care

September 2018 Version 1.0

Business Support and Administration

Current Document Status			
Version	1.0	Approving body	Adult Social Care Directorate Leadership Team
Date	18 October 2018	Date of formal approval (if applicable)	
Responsible officer	Insert name and job title	Review date	Insert date review must be completed.
Location			

Version History			
Date	Version	Author/Editor	Comments
28 August 2018	0.1 Draft	G Mewton	First draft for consultation
25 September 2018	1.0	G Mewton	Amendments following Adult Social Care Directorate Leadership Team meeting

Comprehensive Impact Assessment Record					
Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date

Document retention	
Document retention period	E.g. 5 years in hard and electronic copies.

1. Purpose

These Operating Procedures set out what we will do when responding to complaints about Cornwall Council adult social care services.

2. Objectives

The objective of these procedures is to ensure we respond to complaints as:

- we should manage the process well
- our customers have a good experience of the complaints process
- we acknowledge when we have got things wrong, apologise and do what is needed to put things right
- we learn the lessons to avoid the same thing happening again
- we do all we reasonably can to support the person to understand and engage in the complaints process
- we do all we reasonably can to reach an outcome from the complaints process that is meaningful for the complainant

3. Operating Procedure Details

If a member of staff receives a concern by telephone, in person or in written form this should be sent to:

Adult Social Care Information Governance and Feedback Team
1st Floor East Wing
New County Hall
Treyew Road
Truro
TR1 3AY

Email: ascfeedback@cornwall.gov.uk

Initial screening

Initial complaint screening is undertaken by the Adult Social Care Information Governance and Feedback Team before the acknowledgement is sent. It allows us to:

- Review that the matter is one to be dealt with under this procedure. The Adult Social Care Complaints Policy sets out the scope of what is to be covered by these procedures
- To look at the significance or potential significance of the complaint for the complainant and for the organisation
- To gain an indication of the way in which we should deal with the complaint

Where any safeguarding issues are identified, the Feedback Team should immediately refer the concerns under the Adult Safeguarding procedure, as

appropriate.

Concerns resolved before the end of the next working day

If the relevant Head of Service considers that the issues can be resolved by the end of the next working day to the person's satisfaction the response will be made in the most appropriate way to respond to the person, this may be in writing or via the telephone. This will be the end of the process.

The Head of Service will ensure that the issues of concern and details of complaint and response are recorded on the Mosaic social care case management system.

It is expected that these concerns will be minor, non-complex issues and events resulting in minor inconvenience such as missed, delayed or cancelled appointments, or lack of information given, which have caused inconvenience but no harm.

Matters not being taken forward as a complaint

Where initial screening has identified that the matter is not to be taken forward under these procedures, the Information Governance and Feedback Team will:

- Confirm this decision with the relevant Head of Service
- Notify the complainant in writing and state the reason for the decision
- Make a record of the decision, the reasons for it, and the notification given to the complainant
- Consider if there are other processes that can be used to address the matter

Identifying the Responsible Person

The Responsible Person is the Head of Service for the assessment and care & support planning teams within the area of business that the complaint relates to. The Head of Service may delegate actions (Delegated Responsible Person) to others but the responsibility for the work will remain with them. The Head of Service will advise the Information Governance and Feedback Team if they have delegated actions and the name of the delegated officer(s).

The Responsible Person will ensure compliance with the regulations, and ensures that action is taken if necessary in the light of the outcome of the complaint.

The Information Governance and Feedback Team are responsible for handling the complaint in accordance with the Regulations.

Consent for complaints made on behalf of someone else

Where someone has raised the complaint on behalf of someone else, it is essential that we gain authorisation from the service user. If the service user lacks capacity then supporting information would need to be provided as to the reasons.

Consent when dealing with a formal complaint is important to ensure that we have the appropriate formal approval to access records in relation to the person with whom the subject of the complaint relates to.

It is also important to ensure that the consent gives permission for us to share the outcome of the complaint investigation when someone has raised a complaint on behalf of someone else.

If, for whatever reason consent cannot be obtained, we will make every effort to continue to investigate the complaint, making the complainant aware that there may be a limit as to the information that can be shared without formal consent in place. Just because consent cannot be obtained does not mean that a complaint investigation cannot proceed.

Acknowledging complaints

The Information Governance and Feedback Team will acknowledge complaints within **3 working days** of receipt. This acknowledgement can be by phone or letter. And will inform the complainant of the name of the Responsible Person.

The acknowledgement of the complaint will include an offer by the Responsible Person to discuss the complaint with the complainant.

The Responsible Person, or the relevant delegated officer, will attempt to contact the complainant by the next working day to discuss the complaint. The aim of the discussion is to clarify the complaint details and develop a Complaint Action Plan in consultation with the complainant. It may be necessary to discuss the complaint with the Information Governance and Feedback Team if the discussion provides additional information in relation to the handling of the complaint.

Whether or not a discussion takes place, the Information Governance and Feedback Team will send a Complaint Action Plan to the complainant within **5 working days** of receipt of the complaint. As a minimum, the Information Governance and Feedback Team will notify the complainant of the anticipated timescale for responding to the complaint.

The Complaint Action Plan

The Complaint Action Plan will be proportionate to the seriousness of the complaint and agreed with the complainant wherever possible.

The Complaint Action Plan will include the following:

- specific details of the complaint
- the desired outcome
- Who will be taking on the Responsible Person role in investigating the complaint
- Timescales for completion of investigation and written response

When setting and applying timescales, account should be taken that some people take longer to understand and process information than others. The Delegated Responsible Person should take reasonable steps to find out if this is an issue for the complainant and, if so, make reasonable adjustments to the usual timescales or revise any timescales already set.

Where the subject of a complaint is complex in nature or relates to a wide-ranging concern, the Responsible Person should consider seeking advice from Legal Services.

Investigation and timescales

The Delegated Responsible Person must gain a full understanding of the complaint and in order to do so will gather information by:

- interviewing the complainant, carers (if appropriate), staff and anyone else who can assist
- looking at relevant records and documents

If the complaint is being made on behalf of a service user they should be seen to confirm whether the complaint reflects their wishes and views. If they are not seen then an explanation for not doing so should be included in the report.

On the basis of this information the Delegated Responsible Person will form an opinion about whether the complaint is upheld or not and make recommendations about resolution or redress.

When the investigation is completed the response will be prepared, which might be in the form of a letter or of a stand-alone report. This will include:

- description of the complaint
- information about the process of the investigation
- the information gathered
- whether the complaint is upheld or not on the basis of the information
- recommendations for resolution
- recommendations for service learning and improvement

The Responsible Person will also be responsible for ensuring organisational learning takes place irrespective of whether or not the complaint is upheld.

The timescale for an investigation should be negotiated with the complainant but it should be usual for it to be concluded and a written response sent by the Responsible Person **by working day 20 from the completion of the Complaint Action Plan, but can be up to 65 working days for complex investigations.**

Ensuring appropriate independence

When investigating complaints we aim to have an appropriate degree of independence in the carrying out of the investigation. Determining how this is done is judged case-by-case.

We would want to avoid having an investigating officer who has had extensive direct involvement in the situation under investigation, but in most instances this would not preclude a Service Manager or Head of Service investigating a complaint arising in their service area.

If there are particular factors in a case that lead to a strong possibility of actual or perceived conflict of interest, consideration should be given to selecting an investigating officer from another part of the organisation. However, this should be balanced against the desirability of having an investigating officer with familiarity with the type of work, roles and responsibilities relevant to the matter being investigated. In most instances there will not be a difficulty with having the investigating officer drawn from within the same service area, such as a Service Manager from elsewhere who is managed by the same Head of Service.

Responses to complaints

As soon as reasonably practicable after completing the consideration of the complaint the directorate must send the complainant a written response, signed by the Responsible Person.

The signing-off process involves the Responsible Person writing to the complainant with:

- A description of the complaint
- An explanation of how the complaint has been considered
- The conclusions reached in relation to the complaint, whether the complaint is upheld or not on the basis of the information
- An apology where appropriate
- Confirmation as to whether the department is satisfied that any action needed in consequence of the complaint has been taken or is proposed to be taken
- Recommendations for service learning and improvement
- Details of the complainant's right to take their complaint to the Local Government Social Care Ombudsman

The Responsible Person will consider whether it would be useful to offer the complainant a meeting, or the complainant may request a meeting. The purpose of a meeting will be to:

- discuss the investigation report and any recommendations
- consider any action/ remedy to be taken to
 - resolve the complaint
 - improve practice
- discuss the action plan

The Responsible Person will facilitate this meeting.

Unreasonable and Unreasonably Persistent complainants

From time to time we will come across complainants who seek to raise a number of complaints or who become unreasonable in their conduct or expectations around contact. Whilst every effort should be made to address objectively any concerns that are raised, we must also seek to be proportionate and not to expose our staff to unreasonable situations.

Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, can impede the investigation of their complaint or can have significant resource implications for the Council

The Cornwall Council Unreasonable Customer Behaviour Policy has been formulated to deal with the small number of customers who make it necessary for special arrangements to be made.

When the Responsible Manager believes the relationship with a complainant has become unworkable the Responsible Manager will raise the matter with the Information Governance and Feedback Team for review and the Information Governance and Feedback Team will review the matter and, if appropriate, will refer the matter to the Corporate and Information Governance Manager for consideration under the Cornwall Council Unreasonable Customer Behaviour Policy.

These are some of the actions and behaviours which can be problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint:

- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various departments or organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations

- the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

Options for action

Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the complainant's behaviour and circumstances into account. The objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly, without further distractions. Options include:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc.).
- Requiring the complainant to communicate only with one named member of staff.

Where a decision on the complaint has been made, you can tell the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer should be identified who will read future correspondence.

Referring complaints to the Local Government Social Care Ombudsman (LGSCO)

Relations between organisations and complainants sometimes break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through the organisation's complaints procedure. In these circumstances, the LGSCO may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted.

A complainant who has been treated as behaving unreasonably may make a complaint to the LGSCO about it.

Local Government and Social Care Ombudsman

Our responses to a complaint must include information about people's right to take the matter to the Local Government and Social Care Ombudsman if they remain dissatisfied.

If a matter that has been dealt with through our complaints processes is referred to the LGSCO, the Information Governance and Feedback Team

will pass it to the relevant Responsible Person to take the matter forward. The Information Governance and Feedback Team will oversee the response to the LGSCO within the required timescale.

Where the LGSCO makes a finding of maladministration, the relevant Head of Service will inform the Service Director.

Recording

All complaints dealt with by Cornwall Council must be recorded on the corporate complaints system (currently Lagan) and correspondence securely stored on the Electronic document and records management system (EDRMS).

Representations from Members of Parliament (MP) and Councillors

Complainants may take their concerns to their MP or Councillor. Where appropriate it would be usual practice to refer them to the statutory complaints process. The person dealing with the enquiry must check whether the subject matter constitutes a complaint under the criteria listed in the Complaints Policy.

Where the issue that has led to the enquiry is to be taken forward through the adult social care complaints process, the usual process will be

- The decision to use the complaints process is the resolution to the enquiry
- As the person has chosen to make a complaint via a Councillor or Member of Parliament, then that Member should be treated as an interested party to that complaint, unless there are good grounds for not doing so. The Responsible Person dealing with the complaint shall inform the Information Governance and Feedback Team of any such decision and the reasons for it

MPs and Councillors have certain rights to access information when they are acting as a representative of residents. Any personal information that is disclosed is provided for the limited purpose of assisting the data subject and cannot be used for any other purpose. We would normally assume consent of the resident if they have approached the councillor directly asking for help. However, where the data in question is of a particularly sensitive kind it may be prudent to seek the signed consent of the individual (data subject).

Complaints responders should be mindful that people may refer their representations to MPs or Councillors in order to attempt to obtain services more quickly and that, if not handled correctly, this could have implications for fair and equal access for all service users.

Learning

It is a vital part of the process that services learn from the representations that are made about their provision. The process that addresses complaints will identify any areas for improvement or learning and will make suggestions for the actions that will be taken. This will be addressed in the response. Where necessary, action plans will be drawn up and responsibilities assigned.

Responsibility for ensuring actions are taken to implement the learning from individual complaints sits with the Responsible Person.

The Complaints Manager will ensure there are process in place to give assurance across the service that we are acting on the learning from complaints.

Annual Report

The Regulations require an annual report on adult social care complaints. The Complaints Manager will produce a draft report for consideration by the Strategic Director for Adult Social Care. This report will be publicised in line with the requirements in the Regulations.

Monitoring, evaluation and review

Regular monitoring of complaints will be undertaken by the Complaints Manager. The Complaints Manager will report each quarter to the Strategic Director aggregated information on:

- Complaints received in the period
 - The number of complaints received
 - The types of complaint
 - Which services they related to
- Complaints completed in the period
 - The number of complaints completed
 - The types of complaint
 - Which services they related
 - The outcomes
 - Whether the timescales in the complaints plan were met
 - Any non-personal information about complainants that will help shape and improve services in the future
- Matters escalated to the LGSCO
 - The number and nature of issues escalated to the LGSCO in the period

The number and nature of any decisions by the LGSCO in the period

Document information

Contacts

Policy prepared by Business Support, Adult Social Care, September 2018

Further information

Information Governance and Complaints Team

Adult Social Care

Telephone: 01872 326640

Email: ascfeedback@cornwall.gov.uk

Alternative formats

If you would like this information in another format please contact:

Cornwall Council, County Hall, Treyew Road, Truro TR1 3AY

Telephone: **0300 1234 100** email: enquiries@cornwall.gov.uk

www.cornwall.gov.uk

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