

From: Clair Bell, Cabinet Member for Adult Social Care and Public Health
Richard Smith, Corporate Director of Adult Social Care and Health

To: Adult Social Care Cabinet Committee - 25 November 2020

Subject: **ADULT SOCIAL CARE AND HEALTH ANNUAL COMPLAINTS REPORT 2019/20**

Classification: Unrestricted

Previous Pathway of Paper: Adult Social Care and Health Directorate Management Team – 21 October 2020

Future Pathway of Paper: None

Electoral Divisions: All

Summary: This report provides Members with information about the operation of the Adult Social Care and Health Complaints and Representations' Procedure between 1 April 2019 and 31 March 2020.

Recommendations: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the content of this report.

1. Introduction

1.1 This report provides an overview of the operation of the complaints and representation procedure for Adult Social Care and Health during 2019/20. The report includes summary data on the complaints, enquiries and compliments received during the year in Appendix 1. It also provides examples of the lessons learned from complaints which are used to inform and improve future service delivery.

2. Policy Context and Procedures

2.1 The "Local Authority Social Services and National Health Service Complaints (England) Regulations 2009" places a duty on Local Authorities to have arrangements in place for dealing with complaints.

2.2 Associated with the Regulations, guidance was issued which outlines the three key principles of the procedure, **Listening** – establishing the facts and the required

outcome; **Responding** – investigating and making a reasoned decision based on the facts/information and **Improving** – using complaints data to improve services and inform the business planning and commissioning processes.

2.3 To ensure that the Regulations are complied with, a Customer Care and Complaints team is dedicated to managing feedback, including complaints, enquiries, compliments and informal concerns. The team aims to ensure that the good complaints handling principles for Local Authorities are followed, these are endorsed by the Local Government and Social Care Ombudsman (LGSCO):-

- **Getting it right:** do the simple things well - by complying with the law and following our own policies.
- **Being customer focused:** be clear - make the complaints process easy to find, use and keep complainants informed.
- **Being open and accountable:** there should be no surprises - our processes should be transparent and be honest when things have gone wrong.
- **Acting fairly and proportionately:** explain the thinking - base decisions on sound evidence and explain clearly why they were made.
- **Putting things right:** make amends - if something has gone wrong, apologise and take steps to put right any injustice caused.
- **Seeking continuous improvement:** complaints are a great learning tool - put systems in place to capture the lessons, which will help improve services.

2.4 Complaints should be encouraged and we should take the opportunity to listen to this direct feedback from our service users and their families. We must ensure a robust investigation and clear response is prepared, and then seek to learn from the experience and put the service user at the heart of our process.

2.5 A quote from the Local Government and Social Care Ombudsman, Michael King, in July 2020: “In the best authorities, complaints are never a back-office customer service function. They put public concerns right at the heart of their corporate governance to ensure the voice of the citizen is firmly embedded in their risk management and accountability systems.”

2.6 Complaints provide the opportunity to review how teams and systems are working and allow us to put things right if a mistake has occurred. The voice of the service user or their family is therefore valuable feedback which should be embraced in order to resolve the problem for the individual, but also allow a wider look into how we are delivering services. Adult Social Care is provided to vulnerable people, often at a time of crisis and we need to ensure that their experience of our services is as positive as it can be to support them with their particular social care need. Feedback should therefore be taken seriously and acted upon appropriately.

3. Total Representations received by Adult Social Care and Health (ASCH)

3.1 A total of 1,072 complaints were received during 2019/20 about services delivered or commissioned in relation to ASCH. Appendix 1 contains information about the number and type of complaints.

3.2 The figures show an increase in the number of **Complaints** received, year on year

Year	Complaints received	% increase	Clients receiving a service	% of clients or their representative raising a complaint
April – Sept 2020	389			
2019/20	1,072	41%	36,455	3%
2018/19	780	24%	35,385	2.2%
2017/18	637	0%	33,598	1.8%

3.3 Although the number of complaints received is rising, this should be viewed against the number of service users receiving a service from ASCH which amounts to 3% of complaints received from service users or their representatives.

3.4 One of the main reasons for the increase in complaints in 2019/20 was due to the increase in complaints relating to the Blue Badge Service. The reason for this was a change in the criteria set out by the Department of Transport, in August 2019, which extended eligibility to those with hidden disabilities, such as those suffering with dementia, autism and mental health issues in addition to those affected with a physical disability. There was a significant and immediate rise in applications which created a delay in processing. Complaints were received about the delay and also the decisions. Unfortunately, many people with hidden disabilities assumed they would be eligible, given the extension of the scheme, but did not meet the criteria and complained about the outcome. A total of 298 complaints about the Blue Badge service were received during 2019/20, an increase of 292% from the previous year when 76 complaints were received. Without this additional number of complaints received, the annual number of complaints received would be approximately 850.

3.5 A total of 379 **Enquiries** were received in 2019/20. The majority of these Enquiries were from an MP or Member on behalf of a constituent about an aspect of the service they received. Enquiries can also include instances where someone does not want to make a complaint but does want to formally raise an issue. This represents a steady increase in the last three years.

Year	Enquiries received	% increase / decrease
April – Sept 2020	197	
2019/20	379	10%
2018/19	345	25%
2017/18	276	- 23%

3.6 In 2019/20, 518 **compliments** were received. The compliments provide useful feedback where people have written to ASCH with positive comments about their experience of using the service. Compliments are usually received via the operational teams and staff are encouraged to complete a form with details of the message and staff associated with the good work.

Year	Compliments received	% increase / decrease
April – Sept 2020	254	
2019/20	518	8%
2018/19	480	- 5%
2017/18	507	18%

A few quotes from compliments received:-

- **Promoting and Supporting Independence and County Placement Teams:**
“I wanted to say thank you to you all for your compassion, empathy and negotiating skills. I am thrilled that my Mum can stay at xx, I just couldn't bear the thought of moving her as she is so fragile mentally and I am sure any move would also affect her physically as well. Thank you so much to everyone who was involved, I really appreciate your hard work behind the scenes.”
- **Safeguarding :** “I have had a lot of help from XXX she has supported me a lot and made me feel happy. She helps me when I get worried and anxious and tries to sort things out with me. I am happy where I am at the moment thanks to XXX”
- **Kent Enablement At Home:** - “The whole family wanted to share their appreciation of the service and how lovely all the girls have been with a special mention to xxx. The family feel the service has had a really positive impact on all their lives.”
- **Mental Health Team:-** “.. And to be honest YOU are a massive ✨ as you've listened, and I admit it took you some time lol but you gone way beyond your job, and yes I'm saying this with tears rolling down, good tears mind you ...”

- **Blue Badge team:-** “Thank you for your informative e-mail regarding the delay in renewal of a Blue Badge, I appreciate the volume of applications your team receive for this service”
- **Area Referral Management Service:** “I contacted Social Services on behalf of xxxx to see what help Social Services could offer this dear lady. I was attended by a lovely lady called xxxx she was so gentle and caring and went through the possible help that could be on offer. Her attitude throughout was compassionate and professional and left me full of hope that help was available if xxx wanted to go ahead. I compliment her and say well done. Thank you!”
- **Short Term Pathways Team:-** “Just a quick line to thank you for all the care and support that you both afforded to my Mother. Your professionalism and expertise has got her back on the road to recovery and without your help she would not be in a position that she is now. All your hard work over the last few weeks is greatly appreciated”
- **Autism Team:** - “There is a significant change to my life after my time with XXX and she was a brilliant worker who I had a great laugh with, I will miss XX. I honestly think this is an invaluable service and should be available more. The Service is doing amazingly. Funding should be made more available so more can be helped”
- **Sensory:-** “I just wanted to say thank you so much for all your help and everything you have put in place for my Nan has really helped her. I have really appreciated your help and you have been very supportive and done a wonderful job”
- **Lifespan Pathway 26+ Team** - “Mrs X and YY asked me to pass on their well wishes to you and to thank you for all you have done for YY. YY says that she is grateful for your helping her and wants you to know that she is doing very well. Both YY and her mum feel you are a very good Social Worker and are very grateful for all you have done”
- **Promoting and Supporting Independence Team:** “I spoke to a lady called XXX at the adult social care team this morning - she spoke to me for over an hour about a complicated and stressful situation to do with my mum and brother. She was down to earth, positive and incredibly helpful with good ideas and suggestions. Thank you so much x”

3.7 In 2019/20, 298 **informal concerns** were received; these are concerns that were locally resolved within a short period of time, usually within 24 hours, by the Customer Care and Complaints Team, in consultation with the operational service. Someone raising an informal concern does not wish this to be logged as a formal complaint and is happy for their concern to be resolved via this route.

3.8 An example would be if someone called to explain that their mother’s carer had not turned up that morning which would need a quick call to the agency or social worker to find out what happened and resolve the issue in a swift manner. The person raising the concern is informed about the more formal complaints procedure if they wish to access this. It is recognised that local resolution is taking place in operational teams on a regular basis and this is part of the case work in trying to address concerns before they turn into formal complaints. This work undertaken at operational level is not at present consistently recorded.

Year	Informal concerns	% increase / decrease
April – Sept 2020	119	
2019/20	298	146%
2018/19	121	17%
2017/18	103	- 52%

4. Complaint outcomes

Year	Complaints closed	Upheld + partially Upheld	Not upheld	Withdrawn/ suspended/ another procedure
April – Sept 2020	381	47%	33%	20%
2019/20	1,063	66%	26%	8%
2018/19	716	66%	30%	4%
2017/18	633	72%	25%	3%

4.1 Each complaint response provides an explanation of the findings and outcomes and is individually prepared to take into account the audience and nature of the concerns raised. Sometimes there might be a misunderstanding of a situation and an explanation is required, on other occasions, an error has occurred which needs to be rectified and lessons learned. A summary of the outcome of each complaint is therefore recorded in the table above. The number of complaints upheld or partially upheld has consistently been at 66% for the past two years. We aim to respond in an open and transparent way, recognising if a failure has occurred or a service was not delivered in an efficient manner. An explanation is always provided and apologies offered in recognition of the impact on the service user or their family. Lessons are often identified as part of the investigation and these are listed to offer reassurance that we have taken the issue seriously and learned from the error.

5. Performance against timeframes

- 5.1 KCC aims to respond to complaints within 20 working days and although there is no requirement in the Regulations, for ASCH complaints, the benchmark of 20 working days is used within which to respond. Sometimes complaints can be complex and therefore additional time is required to either meet with the complainant or liaise with other agencies; when this happens and with the agreement of the complainant, an extension to the deadline is agreed.

Year	Complaints closed	% responded to within 20 days
April – Sept 2020	381	57%
2019/20	1,063	60%
2018/19	746	61%
2017/18	637	72%

6. Methods of engagement

- 6.1 All forms of communication are accepted and encouraged for people to make a complaint in the way they feel most comfortable. There has been a decline in the receipt of posted complaints with only 10% being received, with both email, 36% and telephone, 35%, being the most common forms of communication with the self-service via the website and online methods equating to 11% and the Contact Centre sending through 8%.

7. Themes identified arising from complaints

- 7.1 The themes from complaints are recorded under the following set headings:-

Problem Category	Total	% of total	Upheld + partially Upheld	% upheld
Communication or information	308	28%	201	65%
Equalities and regulatory	6	0%	5	83%
Issues with service	21	2%	17	81%
Policy and procedure	110	10%	48	44%
Service failure	342	31%	245	72%
Service quality	92	8%	64	70%
Staff conduct cause	68	7%	44	65%
Disputed charges / value for money	142	13%	98	69%

- 7.2 **Communication** continues to be one of the main themes of complaints received and occurs across all services, examples are when a Case Officer did not keep in contact with a service user after her initial assessment and did not return telephone calls. Another example is when the family of a service user was left confused after they were not informed when a change in a domiciliary agency resulted in an increase in their mother's charge when the same care hours were provided.
- 7.3 A **service failure** is listed when an issue occurs which results in the service failing for some reason. An example is when a care provider gave notice of ending their care provision and an internal breakdown of communication occurred between the Client Support Service and the Community Purchasing Support Service, resulting in the family not being informed of the care ending and what alternative arrangements had been put in place. A further example of service failure relates to the delays in processing the Blue Badge applications. Additional resources were put in place to handle the increase, but this did not adequately address the backlog of applications which lead to delays in processing the applications within the expected timeframe.
- 7.4 Some complaints raise issues about the **quality of service** and these often relate to the quality of care provision. One was raised about a Kent Enablement at Home worker who did not adequately support the service user in their home. Other examples would be of care that is commissioned and provided by private Care Homes not meeting the expected standard.
- 7.5 Complaints were received about the change in **Policy** following a review of the Non-Residential Charging Policy which resulted in some service users having to pay more for their care. A "better off" calculation had previously been used when financially assessing service users and under this arrangement an individual's financial contribution towards their care was calculated, both as an individual calculation and a separate calculation by taking their partner's finances into account. Whichever of the two assessments resulted in the individual being "better off" was previously used as their financial contribution. The Care Act does not however permit a "better off" calculation being made and states that every person must be assessed as an individual. Any increase in contribution has however been brought in gradually to minimise the impact.
- 7.6 Issues relating to the **conduct of staff** are contained in some complaints and this includes comments about the behaviour of staff and how they present themselves. Where the complaint is upheld or an individual found to be at fault, then this is addressed by the manager through supervision and training.

8. **Learning the Lessons – creating opportunities**

- 8.1 A complaint provides an opportunity to resolve an issue where the service might not have been to the standard required or expected. Complaints provide valuable insights into some team practice issues to enable an improvement in the overall

service performance. It is important to encourage an open culture, that is receptive to feedback, recognising that things can go wrong at times for a variety of reasons, but this creates learning opportunities.

8.2 Whenever a complaint is upheld or partially upheld a lesson or further action is often identified to provide a remedy or put the person back into the position, they would have been in prior to the error occurring. Sometimes the feedback will be reminders to staff of practice issues and sometimes the lessons will lead to wider changes.

8.3 Regular lessons learned meetings took place during 2019/20 with managers from the services to discuss the points from complaints that could be used as learning opportunities and managers then cascaded these messages to their teams.

8.4 Some of the lessons/issues arising from complaints received in 2019/20 are as follows:

- A letter was sent to a service user with a learning disability who was unable to read with a request to agree or amend her care and support plan following a review three months previously. This led to a review in the way care and support plans were sent out by the Lifespan Pathway 26+ teams, including the need to consider visiting people to share and discuss their plans if they are unable to access this independently or without support. Staff were reminded to send plans out in a timely manner and use the correct letter templates to support this activity and to consider individual's needs.
- The son of a service user complained that his mother's period of respite care needed to be extended for a specific reason due to making adaptations to the home, to make it safe for her return and staff were not understanding the difficulties the family was encountering. The son also raised concerns that the OT assessment was inadequate, contained incorrect information and was not shared with the Housing Department. A full investigation was undertaken and agreement to extend the respite care was made. Staff were reminded to listen carefully to requests for respite and note all the details so appropriate consideration is given to individual cases. Staff were also reminded of the correct process to follow regarding Housing Needs Assessments to prevent delays in adaptations. The son was pleased with the resolution and was keen to be a voice for carers in similar situations and his details were passed to the Stakeholder Engagement Team.
- A request for an urgent assessment, support and respite care, due to carer breakdown was not picked up by the Area Referral Management Service for over two weeks. The service user was admitted to hospital in the meantime. This was addressed during a senior staff meeting and a consistent process was developed to ensure all requests are appropriately screened and communication takes place in a timely way.

- Following a number of complaints and comments about queries on invoices and calls not being answered by the Client Financial Services Team (CFS), the call handling in CFS has been reviewed to increase the number of Officers available to take calls following the week when invoices are issued. The Contact Centre was also briefed in order to prepare for the additional calls following the issue of invoices.
- A complaint about the Approved Mental Health Professional (AMHP) service highlighted a delay in sending a “Nearest Relative” letter out after an assessment. Staff were reminded of the need to keep up to date with sending out “Nearest Relative” rights letters the day after the assessment and of the need to complete the relevant document in respect of the “Nearest Relative” during the assessment.
- A complaint about the delay and lack of support being provided to a service user after their discharge from hospital led to a review of the referral process from the Rapid Response team where a request for enablement support was made. This led to a new process being trialled, which has now been extended across the County, where the referrals are being sent directly to the Kent Enablement at Home (KEaH) service rather than waiting for a Contact Assessment via the Area Referral Management Service (ARMS). This has improved the efficiency and speed of the response.

8.5 A new series of lessons learned meetings will be arranged with the four new operational Areas, in addition to other service areas to review and share lessons from complaints.

9. Financial

9.1 In 2019/20 a total of £37,799.65 was paid to complainants as gesture of goodwill payments, financial settlements or adjustments. Gesture of goodwill payments are made in recognition of errors or where a delay had occurred that resulted in some injustice to the service user or family. The financial adjustments relate to where errors had occurred over charges, a lack of communication about a charge or an overpayment and it was considered appropriate to waive the charge as part of the resolution to the complaint.

9.2 This figure includes payments recommended as part of the Local Government and Social Care Ombudsman (LGSCO) enquiries. Most of the gesture of goodwill payments are under £500 and are in line with the financial remedy guidance set out by the LGSCO as part of complaint resolution.

10. Complaints received via the Local Government and Social Care Ombudsman (LGSCO)

10.1 Responding to enquires from the Local Government and Social Care Ombudsman is a significant aspect of the process and is the second stage of the procedure. Where a complainant is not satisfied with the response, they can contact the LGSCO to ask for their complaint to be independently investigated. The LGSCO will contact the Council to ask a number of questions and request copies of key documents such as complaint correspondence, assessments and care and support plans. Although the number of enquiries is not particularly high, each enquiry that is being investigated requires a considerable amount of time and effort to ensure a thorough and robust response from the council. The LGSCO gives the Council four weeks to respond to a full investigation request.

Year	Complaints received	Complaints closed that progressed to LGSCO	% of cases progressed	Not upheld (no further action / no maladmin.)	Upheld (maladmin./ injustice / no further action)	Other outcome (closed after enquiries/ premature/ withdrawn/	% of upheld against those cases investigated
2019/20	1,072	53	5%	7	15	31	28%
2018/19	780	38	5%	7	16	15	69%
2017/18	637	42	4%		11		

10.2 The table above explains that the LGSCO raised an investigation on 53 cases during 2019/20. This represents approximately 5% of complaints that progress to the LGSCO each year. The LGSCO found fault and upheld the complaints in 15 of these cases. This is an increase from previous years. There is further detail on page 6 of Appendix 1.

10.3 A summary of the faults found by the LGSCO that lead to injustice:-

- A lack of detail was found in a service user's care plans and the plans were not sufficiently updated to reflect changing needs. A personal budget was not provided and information on charging and invoicing was found to be inadequate. Charges were made for care that was not received and a failure to monitor whether the care agency was providing the care.
- The quality of care delivered to a service user by a provider commissioned by ASCH was found to be inadequate which resulted in injustice to the resident.
- A delay of two months occurred in arranging a Direct Payment, this resulted in a lack of support to the service user during this period.

- A Care Home commissioned by the Council did not treat the service user with respect and did not follow all of the details in the care plan. This caused distress for the service user and injustice.
- A service user's charges for care were not dealt with properly when backdated charges were applied that could not be afforded. The service user's needs were not reviewed prior to their Direct Payment being stopped.
- Insufficient advice and information was provided to the family of a service user in respect of the 12-week property disregard. As a result of this investigation action will be taken to prevent this situation from re-occurring and staff are reminded of their duties under the Care Act to provide information and advice in a timely manner.
- The recording of information as part of a safeguarding investigation was found to be irrelevant, unnecessary and uncorroborated. Staff have been reminded of the importance of only taking account of and recording information that is relevant within a safeguarding enquiry. A delay was also found in the response to the complainant's concerns occurred which was unacceptable and caused unnecessary distress.

10.4 Remedies are issued by the LGSCO that need to be taken forward which include sending apology letters to the service user or family, offering financial remedy, reviewing policies or procedures in recognition of the error and staff training. All recommendations have been taken forward in a timely manner.

10.5 The Customer Care and Complaints Team has reviewed the way the LGSCO requests are handled for ASCH and implemented a change to the process from 5 October 2020 to improve the response times and quality of submission. In addition, the LGSCO activity will be reported to managers on a weekly basis via the Active Complaint and Enquiry report. This will include all LGSCO cases and ensure senior management oversight as the report is also presented to DMT.

11. Changes to the management of complaints and enquiries

11.1 A number of changes have taken place during the past six months to improve the response times and the quality of the responses. The Customer Care and Complaints Team continues to work with and support the operational teams to aim to deliver an efficient service in response to complaints and ensure that the learning from complaints is fed back into the services to complete the complaint cycle. The changes include:-

- A review of responses leading to amended template letters and guidance notes being issued
- A reduction in the team deadline for preparing responses to improve timescales

- Introducing a clearer process for managing LGSCO enquiries
- Extending the use of the Icasework complaints database
- Consistent approach to the logging of compliments
- Confirming the arrangements for the quarterly lessons learned sessions
- Refining the reporting of active cases and corrective actions
- Developing an area on Knet for Customer Care and Complaints to include reports, procedures and policies, templates, guidance notes, LGSCO Decisions and other useful information
- Training sessions to be developed and continue to be delivered for operational staff.

11.2 There is clearer senior management oversight with a weekly slot at the Departmental Management Team to consider any issues on complaints or enquiries to ensure the voice of the service user is at the heart of the investigation. Consideration is given to any cases that are overdue or due within the next week and provides an opportunity for discussions on those that require a joint approach to ensure clear management of the investigation. This regular discussion allows increased senior management ownership of the process and individual cases.

11.3 The service will continue to seek improvements to the complaints and enquiry response times. It is recognised that Managers dealing with complaints are often balancing several priorities however it is important that complaints are responded to within timescales. It is important that follow-up actions are completed after a complaint is closed, for example making payments or undertaking assessments in a timely manner. A list of corrective actions is issued to Managers on a monthly basis.

12. Report Conclusion

12.1 In 2019/20 the Directorate continued to operate a robust and effective complaints procedure to meet its obligations under the statutory regulations. The Customer Care and Complaints team has logged, administered and managed complaints, enquiries and compliments and has managed the communication with the Local Government Ombudsman to ensure the Directorate is effectively represented and defended.

12.2 The changes implemented to the management of complaints and enquiries will continue to develop, as the Customer Care and Complaints Team works with Managers to provide an efficient journey through the complaint's procedure.

13. Recommendations

13.1 Recommendations: The Adult Social Care Cabinet Committee is asked to **CONSIDER** and **COMMENT** on the content of this report

14. Background Documents

None

15. Report Author

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